

0057

BOX:

384

FOLDER:

3580

DESCRIPTION:

Baker, James

DATE:

02/12/90



3580

0058

BOX:

384

FOLDER:

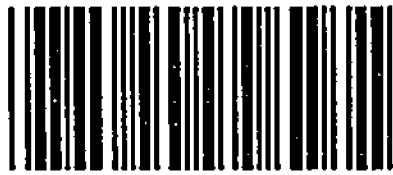
3580

DESCRIPTION:

Ferguson, John J.

DATE:

02/12/90



3580

0059

116

Witness;
Amos Anderson
off. Amos

Counsel,
Filed *12* day of *July* 1890
Pleas;

THE PEOPLE
vs.
James Baker
and
John J. Ferguson
Grand Larceny Second degree.
[Sections 628, 681, 552, Penal Code].

34
116 1/2
JOHN R. FELLOWS,
District Attorney.

A True Bill

James McKee
July 13/90 Foreman.
Per
Wm. J. J.
Both Ben 11/11/90
P.S.M.

0060

Police Court—

2nd District.

Affidavit—Larceny.

City and County } ss.:
of New York,

Arnold Underwalden

of No. 402 East 19th Street, aged 39 years,
 occupation Carpenter being duly sworn
 deposes and says, that on the 4 day of February 188 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:

One Box containing Carpenters Tools
 of the Value of Thirty five dollars

\$ 35.⁰⁰/₁₀₀

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 James Baker and John Ferguson

(both workmen) from the fact that deponent had
 said property in the building now under erection
 at 77-34 Greenwich Avenue deponent left said
 building at 12 O'clock and returned within
 20 minutes and then after discovered that
 said property was taken stolen and carried
 away. Deponent is informed by George
 Smith an officer of the 16th Precinct Police
 that he arrested said two defendants on 10th
 Avenue with a Box containing Tools in their
 possession deponent saw said property
 found in the possession of said defendants
 and fully identifies the same as the property
 stolen from deponent. Arnold Underwalden

Sworn to before me, this 5 day

of February 1880

Police Justice.

0061

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 33 years, occupation Police officer of No.

16 Precinct Police Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of Anna Auerhold

and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this

5

day of

July

1897

George Smith

[Signature]

Police Justice.

0062

Sec. 198-200.

2 District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

John J. Ferguson 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.

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.

John J. Ferguson
Mark

Taken before me this

5

day of May

1892

Police Justice.

0063

Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

James Barker 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 Barker*

Question. How old are you?

Answer. *30 years*

Question. Where were you born?

Answer. *New York*

Question. Where do you live, and how long have you resided there?

Answer. *553 1st Avenue 2 years*

Question. What is your business or profession?

Answer. *Laborer.*

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*

James Barker

Taken before me this

5

day of

February

1900

at New York

City

Police Court

James Barker

James Barker

James Barker

James Barker

James Barker

James Barker

James Barker

James Barker

James Barker

0064

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.....

Defendants
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, *each* and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *February 5* 18*90* *[Signature]* 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 h to be discharged.

Dated.....188..... Police Justice.

0065

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court--- / District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Arvola Anderson
vs. *H. O. E. 19*

1 *James Baker*

2 *John Bergesen*

3 _____

4 _____

Offence *Larceny*

John

Dated *July 5* 189*2*

Hogan Magistrate.

Henry Smith Officer.

16 Precinct.

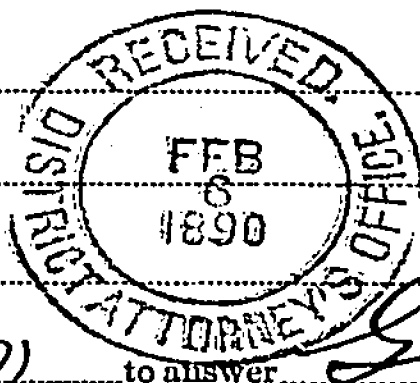
Witnesses *Sara off*

No. _____ Street.

No. _____ Street.

No. _____ Street.

\$ *500* to answer *JS*



Com

0066

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 Sadler and
John F. Ferguson*

The Grand Jury of the City and County of New York, by this indictment,
accuse *James Sadler and John F. Ferguson*

of the CRIME OF GRAND LARCENY IN THE *second* DEGREE, committed
as follows :

The said *James Sadler and John F.
Ferguson, both*

late of the City of New York, in the County of New York aforesaid, on the *fourth*
day of *January*, in the year of our Lord one thousand eight hundred and *ninety*,
_____, at the City and County aforesaid, with force and arms,

*one box of the value of five dollars,
and divers carpenters' tools, of a
number and description to the
Grand Jury aforesaid unknown, of
the value of thirty five dollars,*

of the goods, chattels and personal property of one *Arnold Andeholzen,*

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.

0067

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said

James Barker and John J. Ferguson

of the CRIME OF CRIMINALLY RECEIVING STOLEN PROPERTY committed as follows:

The said

James Barker and John J. Ferguson, both

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,

one box of the value of five dollars, and some carpenter's tools, of a number and description to the Grand Jury aforesaid unknown, of the value of thirty five dollars,

of the goods, chattels and personal property of one Arnold Underholder,

by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen, taken and carried away from the said

Arnold Underholder,

unlawfully and unjustly, did feloniously receive and have; the said

Barker and John J. Ferguson

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.

JOHN R. FELLOWS,
District Attorney.

0068

BOX:

384

FOLDER:

3580

DESCRIPTION:

Bannon, Thomas

DATE:

02/27/90



3580

0069

281

Witnesses:

David Sturback
Gabriel Ardon

Counsel, *J. J. Kelly*
Filed, *July* day of *1880*
Pleads,

THE PEOPLE,

vs.

Thomas Bannon

Forgery in the Second Degree.
(Sections 511 and 521, Penal Code.)

JOHN R. FELLOWS.

District Attorney.

A True Bill,

Samuel Moore

July 20/80

Foreman.

Henry J. Kelly

P. E. G. & 10 mo.

P. B. H.

0070

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK ss.

Police Court, 5 District.

David Overbach

49 years of age. Furniture dealer
of No. 340 Bway Street, being duly sworn, deposes andsays, that on the 28th day of January 1890
at the City of New York, in the County of New York, Thomas Barron

(now here) did feloniously make utter and forge with the intent to cheat and defraud. The annexed instrument in writing, which purports to be a check on the 5th Avenue Bank of the City of New York, for twenty six dollars, payable to the order of Thomas Barron this defendant made and signed by Patrick Norton and dated January 28, 1890, as deponent verily believes, from the fact that on the date above mentioned the said defendant came to deponent's place of business at the above address and presenting said check to deponent requested deponent to cash said check for him at the same time telling deponent that Patrick Norton whose name is signed to said check was a sub contractor for John D. Brinners, and that he had a contract on the subway, deponent believing the statements made to him by the said defendant, and believing that said check was good and that the signature thereto was genuine, cashed said check for the said defendant giving him the full face value of said check which was the said sum of twenty six dollars.

Deponent is now informed by Patrick Norton of no 154 East 61st Street whose name is purported to be signed to said check

0071

that he Norton keeps an account in said Bank. but that he never made or signed said check. or authorized any other person to make or sign said check for him, and that the signature to said check is false forged and fraudulent

Wherefore element charges the said defendant with forgery as aforesaid. and pray he may be held and dealt with according to law.

Served to before me
this 23rd day of May 1898

David Churbaek

[Signature]
Police Justice

Police Court, District,

THE PEOPLE, &c.,
ON THE COMPLAINT OF

AFFIDAVIT.

vs.

Dated

189

Magistrate.

Officer.

Witness.

Disposition.

0072

CITY AND COUNTY }
OF NEW YORK, } ss.

Patrick Horton

aged 47 years, occupation Contractor of No.

154 E 61st Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of *Dan Amberg*

and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this

day of

23
May
188*8*

Patrick Horton

Henry Murray

Police Justice.

0073

Sec. 198-200.

5 District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK,

Thomas Barron 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.

Thomas Barron

Question. How old are you?

Answer.

34 years old

Question. Where were you born?

Answer.

New York

Question. Where do you live, and how long have you resided there?

Answer.

248 E. 49th St. 7 Mos

Question. What is your business or profession?

Answer.

Contractor

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

Thomas Barron

Taken before me this

day of

July

18

Police Justice

0074

CITY AND COUNTY OF NEW YORK, ss.

POLICE COURT, 3 DISTRICT.

of No. 27th Precinct Police Officer, aged years,

occupation Police Officer being duly sworn deposes and says

that on the 20th day of February 1890

at the City of New York, in the County of New York Dependent arrested

Thomas Barron. (now here) on suspicion of having committed a forgery.

Dependent further says that he has not the proper evidence now in Court to make a complaint and asks that the said defendant be held a reasonable time to enable dependent to secure further evidence.

Edward H. Doyle

Sworn to before me, this

of

1890

day

Police Justice.

0075

Police Court-- District.

THE PEOPLE, & c.,
ON THE COMPLAINT OF

vs.
Thomas Banner

AFFIDAVIT.

copy

Dated

Feb 20 1880

C. Power Magistrate.

Levy Officer.

Witness,

Disposition

\$1000 Bail for
on Feb 23rd
9 1/2 O. M.

\$1000 Bail
Feb 21

0076

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 Five 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 23 1891 Wm. H. Brown 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.

0077

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court---

313 District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

David Amertach

34th Precinct
Thomas Barron

2 _____

3 _____

4 _____

Officer George

Dated Feb 23 1890

Murray Magistrate.

Doyle and Doran Officer.

27 Precinct.

Witnesses Patrick Martin

No. 154 & 614 Street.

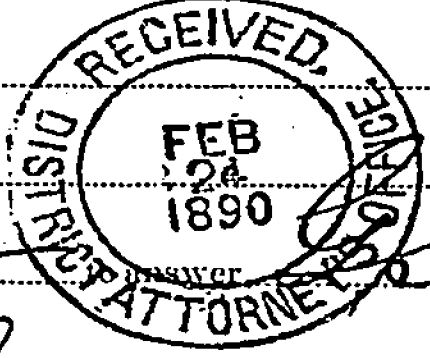
Michael Freund

No. 1250 3rd Ave Street.

_____ Street.

No. _____ Street.

\$ 1000 _____



Committed

0078

Fifth Avenue, cor. 44th Street.

No. *234*

New York, *January 28* 189*0*-

OF NEW YORK,

THE FIFTH AVENUE BANK

THROUGH THE NEW YORK CLEARING HOUSE ASSOCIATION.

Pay to

Thomas Barton

or Order,

Dollars.

Twenty Six

Patrick Norton

\$ *26.00* 7/11

10 25 50N 10012 X

0079

Thomas Lamson

~~Thomas Lamson~~

Germany

0000

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Thomas Bannon

The Grand Jury of the City and County of New York, by this indictment, accuse

Thomas Bannon

of the CRIME OF FORGERY IN THE SECOND DEGREE, committed as follows:

The said

Thomas Bannon

late of the City of New York, in the County of New York aforesaid, on the
twenty eighth day of January in the year of our Lord
one thousand eight hundred and eighty-ninety, with force and arms, at the City and
County aforesaid, feloniously did forge, and cause and procure to be forged, and willingly
act and assist in the forging a certain instrument and writing, to wit: an
order for the payment of money,
of the kind called bank cheques
which said forged bank cheque
is as follows, that is to say:

No. 234

New York, January 28. 1890 -

The Fifth Avenue Bank ^{of New York,}

Through the New York Clearing House Association

Pay to Thomas Bannon or Order,
Twenty six — Dollars
\$26.00/100
Patrick Norton

with intent to defraud, 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.

0081

SECOND COUNT:—

And the Grand Jury aforesaid, by this indictment, further accuse the said

Thomas Bannon
of the CRIME OF FORGERY IN THE SECOND DEGREE, committed as follows:

The said

Thomas Bannon

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, did feloniously utter, dispose of and put off as true, a certain forged instrument and writing, *to wit:*

*an order for the payment of money
of the kind called bank cheques*
which said forged bank cheque
is as follows, that is to say:

No. 234 New York, January 28. 1890—
The Fifth Avenue Bank ^{New York}
Through the New York Clearing House Association
Pay to Thomas Bannon — or Order
Twenty six — Dollars
\$26 00/100 Patrick Norton — ;

with intent to defraud

he

the said

Thomas Bannon

then and there well knowing the same to be

forged, 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.

JOHN R. FELLOWS,

District Attorney.

0082

BOX:

384

FOLDER:

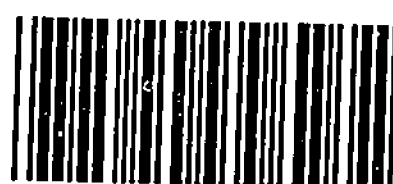
3580

DESCRIPTION:

Barker, James

DATE:

02/25/90



3580

0003

Bail fixed at \$5000.
R.B.M.

Witnesses

James Hernan ✓
Peter Cocorhan
E. J. Brinrofelte
Off. baby

Bailed by
Joseph H. Lamb.
263 West 25th St.

Counsel,

Filed

Pleads,

day of

188

THE PEOPLE

vs.

James Barker

Assault, second degree.
[Sec. 219, Penal Code]

JOHN R. FELLOWS,

District Attorney.

Indictment of Assault
in the Third Degree.

A TRUE BILL.

PEN 11 mo

James McKee

See endorsement of District
Attorney within Foreman.

Part 3 Sept 14/92

Indictment dismissed

Part 2

G. J. R.

0084

POOR QUALITY
ORIGINALPOLICE COURT, 2nd DISTRICT,

of No. 221 West 27th Street, aged 38 years,
 occupation Plumber being duly sworn deposes and says
 that on the 19th day of September 1889
 at the City of New York, in the County of New York

~~that~~ James Barker did violently assault James Herman
who is now lying dangerously ill
at premises No 340 West 26 Street
and is unable to appear in Court
as set forth in the annexed certificates
as deponent is informed by his
brother James Herman
wherefore deponent prays that the said
James Barker may be apprehended and
held to await the result of said
injuries

Michael H. Herman

Police Justice.

0085

DOOR QUALITY
ORIGINAL

District.
L E, & c.,
COMPLAINT OF
Michael F. Kernan
vs.
James Barker
188 9
Magistrate.
Officer.
Witness,
\$5000. bail for Exp
Oct 2nd - 2:15 PM
" 5th 9:30 A.M.
" 12th 9:30 A.M.
" 22nd 9:30 A.M.
29th 10:00 A.M.
Disposition,
Exp 9 1/2 o'clock Sept 25
The Justice presiding
at this Court in my
absence will please
hear and determine
the within case
J. M. Henry
Police Justice

0086

STENOGRAPHER'S MINUTES.

2 District Police Court.

THE PEOPLE, &c., IN COMPLAINT OF
Nicholas J. Herman

vs
James Barker

BEFORE HON.

J. Henry Ford

POLICE JUSTICE,

Sept 24

1888

APPEARANCES:

For the People,

For the Defence,

On Motion to admit to bail

188

INDEX.

WITNESSES.

Direct Ex.

Cross Ex.

Re-Direct.

Re-Cross.

Henry B. Loomis
Philip Corcoran

1

4

W. L. Arnold

Official Stenographer.

0087

2 DISTRICT POLICE COURT.

THE PEOPLE,
ON COMPLAINT OF
Michael J. Hernan
James Barker

Examination had Sept 24 1889
Before J Henry Ford Police Justice.

I, W. L. Armistead Stenographer of the 2 District Police Court, do hereby certify that the within testimony in the above case is a true and correct copy of the original Stenographer's notes of the testimony of Henry B. Loomis Philip Corcoran as taken by me on the above examination before said Justice.

Dated Sept 25 1889

W. L. Armistead
Stenographer.

Police Justice.

0088

Examined Before Justice Ford
September 24/89
On Motion to admit to Bail
for the Defendant. A. H. P. Dwyer. Esq.

Henry B. Loomis being duly sworn
and examined by the Court before
and says:-

Q. When did you visit James
Hernan the injured man in
this case?

A. About quarter to three o'clock
this afternoon at 35 East 34th
street.

Q. Did you make an examination
of his condition?

A. I did so.

Q. What was the result of that
examination?

A. I found - I commenced to
make an examination for
external injuries. I arrived
at the house at 2 o'clock
at first they refused to allow

me to see the German patient.
 Then I sent for the Physician
 Dr. Stone, and from allowed
 to begin the examination, at
 the bedside. I took his
 pulse and temperature. He
 was lying down and turned
 over. Then I examined his
 lungs. I found his lungs
 were all right. He began
 to vomit, and kept on vomiting.
 I stopped the examination as
 the Doctor wished that I
 should not go any further.

2 What Doctor was that?

A Doctor Stone, his family
 physician.

2 He requested you to assist
 examination?

A He did, and I did not
 continue the examination.

2 From your examination that
 you made would you consider

~~that~~ ~~was~~ ~~not~~ ~~of~~ ~~danger~~ his life in danger?

A As he stands to day I should

say not.

2 Will you give a certificate that he is out of danger?

A No Sir, I should not - something may occur that is unforeseen.

2 Do you say that he is in a dangerous condition?

A That is hardly a fair question because I have not had a full examination. I have not made a sufficient examination I should say judging from the examination as far as I have made it that there is no immediate danger.

2 Will you say that it is your opinion that he is out of danger?

A I should not, as I have not had a full opportunity to examine him.

Given to before me this
24th day of September 1889

J. M. M. D. D.

O. B. C. C.

Peter

Philip Corcoran being duly sworn and examined by the Court before, and says: -
My name is ^{D. J. P.} Philip Corcoran,
I live at 424 West Twenty
Ninth Street.

2. What is your business?

A. I am a driver of a truck.

2. Were you present on the night that this trouble took place?

A. Yes.

2. Did you see the trouble?

A. Yes. Clarke 2 - Where was it?

A. - Bartters Saloon at
25th St. and Eighth
Avenue.

2. What time of the day or night?

A. About quarter to 7

2. Did you go into this place with the man who was injured?

A. Yes Sir.

4. 2. State what occurred

from the time you went
in until this difficulty
arose?

A I went into this place with
James Hernan and asked him
what he would have. He said
"I will take a small glass
of beer. ale." I said "Give me
a little whiskey." He said
when did you see Cannan,
George?" The bar keeper said
"I aint seen him since we
had the kick about the ticket"
He said "He will blame me
about that" George. The
bar tender said "I had
nothing to do with that"
Then James Hernan said
"If I was Jim Cannan
I would punch Jim Barker's
nose."

2 Who said that?

A James Hernan. Then I
turned around and I saw
both of them clinched.

2. Who were clinked?

A- James Barker and James Hernan.

2. Well?

A. I went to separate them.

2. Did you hear any words pass between them?

A. Yes, Mr Barker said "You would punch Jim Barker in the nose would you?" Barker had his hands over his face before that.

2. You turned around and saw what?

A. They were clinked.

2. Did you hear any conversation between them?

A. Not before that.

2. When they were clinked?

A. Barker got this Jim Hernan's back up against the bar.

2. What then did Barker say?

A. Then he gave him a turn down on the floor and Barker said "I will kill you you

son of a bitch! "I will kill you". He held him down like that. I saw nothing after that. His friends caught me and pushed me back.

2 What is his name?

A I do not know what his name is. He got hold of me. - one of his friends caught hold of me by the shoulder and elbow - and said "There is not going to be anybody killed here." He put a pistol to my head. Then I went to the side door where the policeman was. There was a couple of jurors said "Lock that brute up."

2 Have you told all that took place in the bar room?

A I have told all that took place in the bar room.

2 You say Barker clinched him and threw him?

7 A Barker clinched him and

threw him down.

2 What was done after that?

A. Barker got on top of him and kicked him. As he was getting up Barker kicked him a couple of times. He met him and kicked him.

2 Met him? what do you mean by that?

A. As he was getting up he kicked him. He said "You son of a bitch: I will kill you; get out of here."

2 How many times did he kick him

A. As near as I can say three or four times. I do not know what happened when I was out.

2 Have you told all that occurred?

A. I have told all that occurred.

2 What became of Herman?

85 A. He was taken to the house

of a friend in 9th Avenue
and 26th Street

Q What is his name?

A James Lee Duane.

Q Who took him there?

A He took him from the
corner away from me, and
fetches him to his house.

Peter Corcoran

Mr. Purdy - (counsel for Defendant)

I waive examination and
ask that Defendant be
held to await investigation by
the Grand Jury.

{ Arraigned before me this
25th day of September
1889 }
J. M. Murphy
Police Justice

0097

2

District Police Court.

Richard J. Herman

vs.

James Barker

STENOGRAPHER'S TRANSCRIPT.

Sept 25 1889

BEFORE HON.

J Henry Ford

Police Justice.

W. L. Ormsby

Official Stenographer.

0098

Sec. 151.

Police Court 2 District.

CITY AND COUNTY } ss. *In the name of the People of the State of New York; To the Sheriff of the County*
OF NEW YORK, } *of New York, or any Marshal or Policeman of the City of New York, GREETING:*

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police
Justices for the City of New York, by Michael J. Kernan

of No. 221 West 27 Street, that on the 19 day of Sept

1889 at the City of New York, in the County of New York, James Kernan

was violently Assaulted and Beaten by James Barker

Wherefore, the said Complainant has prayed that the said Defendant may be apprehended and bound to
answer the said complaint.

These are Therefore, in the name of the PEOPLE of the State of New York, to command you the said
Sheriff, Marshals and Policemen, and each and every of you, to apprehend the said Defendant and bring him
forthwith before me, at the 2 DISTRICT POLICE COURT, in the said City, or in case of my absence
or inability to act, before the nearest or most accessible Police Justice in this City, to answer the said charge, and to
be dealt with according to law.

Dated at the City of New York, this 23rd day of Sept 1889
J. J. Murphy POLICE JUSTICE.

0099

Police Court 2 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Michael F. Herman
vs.

James Barker

Warrant-A. & B.

Dated Sept 23 1888

J Henry Ford Magistrate

Alvin Wood Officer.

The Defendant

taken, and brought before the Magistrate, to answer
the within charge, pursuant to the command con-
tained in this Warrant.

Dated Sept 23 1888
Officer.

This Warrant may be executed on Sunday or at
night.

J. Henry Ford Police Justice.

Dated 188

having been brought before me under this Warrant, is committed for examination to the
WARDEN and KEEPER of the City Prison of the City of New York.

The within named

Police Justice.

0100

STENOGRAPHER'S MINUTES.

2 District Police Court.

THE PEOPLE, &c., IN COMPLAINT OF

James Hernan

VS.

James Barker

BEFORE HON.

Edward Hogan

POLICE JUSTICE,

Oct 29

1889

APPEARANCES:

For the People,

Asst Dist Atty Grosse
Charles Goldsies

For the Defence,

Arbuckle H. Paddy
J. H. Stiner

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N. L. Armistead

Official Stenographer.

0101

2 DISTRICT POLICE COURT.

THE PEOPLE,
ON COMPLAINT OF

James Herman

agst.

James Barker

Examination had

Oct 29

1889

Before

Edward Hyman

Police Justice.

I, W. L. Armbryst, Stenographer of the 2 District Police

Court, do hereby certify that the within testimony in the above case is a true and correct copy of
the original Stenographer's notes of the testimony of James Herman, Peter Corcoran,

J. Muller, John Carey, Augustine Robie, J. J. Simpson, Alex Lodemee,
James Barker
as taken by me on the above examination before said Justice.

Dated

Oct 29

1889

W. L. Armbryst
Stenographer.

Police Justice.

0102

Police Court
Second District

The People vs
James Herman
James Barker

Examination Before Justice Hogan
Oct 29 1889

James Herman, the complaining witness,
being cross examined by Mr.
Purdy, counsel for defendant.
Deposes and says:

Q What is your business?

A Paver and laborer, both.

Q Where do you live?

A At 221 West 27th St.

Q Do you know Mr. Barker
the defendant?

A I know him by sight six
or seven years.

Q Do you know the place,
Clark's?

A Yes sir, I have been in there
over a hundred times.

Q Have you seen Mr. Barker there?

A - Yes Sir. I have seen him there about five or six times.

2 - Don't you know that this place was frequented by Mr. Barker?

A - I have seen him there very often.

2 - You know that the room above was the Iammany Hall headquarters did you not?

A - Yes Sir.

2 - You knew that Barker was a member of Iammany Hall?

A - Yes Sir.

2 - And you knew that he was a frequenter of the headquarters and the saloon?

A - Yes Sir.

2 - On this night (in question) what time did you go into Clark's saloon?

A - I should say about seven O'clock or a little before

2. Where had you been before you went there?

A. At Mc Carrys.

2. Where is that?

A. At 26 W St, and 9th Avenue.

2. How many times had you been drinking that day?

A. About five or six times.

2. Mostly whiskey?

A. Whiskey and ale - I

generally drink ale. At Clark I had ale.

2. Where were you going when you stopped at Clark?

A. We were going down to the Fourteenth Street Theatre to purchase a couple of reserved seats. Corcoran asked me to take a drink and we went into Clark's.

2. You called for a drink?

A. Yes.

2. What was the first thing you said?

3 A. I asked George the bar tender

when he had heard from Cannan. He replied he had not seen him in some time, since the night he got the ticket. I said it was a shame Barker could not give him something better than a ticket for working on the street.

Q What next?

A Then I said "George, Cannan ought to have hit him a punch in the nose for offering that to him."

Q Hit who?

A Hit Barker.

Q Who said so?

A I said so.

Q Did you not say "If I was Cannan I would punch him Barker's nose?"

A No Sir.

Q Your witness, says you did?

4 A I said that Cannan ought

to hit him a punch in the nose for offering him the ticket.

2 Corcoran says you said this "If I was Jim Cannan I would punch Jim Barker's nose" You say you did not say that?

A No Sir. I said that Cannan ought to hit him for offering the ticket.

2 Did you not say you would fuck Barker if you was in Cannan's place?

A - That word never came out of me.

2 Did you say "If I was in Cannan's place I would break Barker's nose?"

A No.

2 You did not say you would break Barker's jaw?

A No Sir

2 Did you know Barker was in the room at the

time:

A No Sir.

Q You did not see Barker?

A No Sir.

Q You made none of those declarations?

A No Sir. No man woman or child heard me say so.

Q How many men were in that room?

A I cannot tell you - there seemed to be about six or seven.

Q Did you see George Muller?

A No Sir.

Q Did you see Augustin Robie?

A I do not know whether he was there or not.

Q Do you know J. J. Simpson?

A No Sir.

Q Do you know Alexander Ludewach?

A No Sir.

Q Do you know Robert Cannon?

A No sir.

Q Do you know James Clark the proprietor of the place?

A Yes sir.

Q Do you know E. B. Fine - he was bar-tender?

A Yes sir.

Q He was the one you was talking with?

A Yes sir.

Q You did not say according to your statement that if you were in Cannon's place you would punch Jim Barker's nose?

A I said Cannon ought to hit him a punch in the nose for offering the ticket. I did not say I would hit him a punch in the nose.

Q You said nothing of that kind?

A No sir.

Q Do you know that this

Now you was with was an
ex convict?

A No Sir

2 Is it not true that you
went into Clark's saloon
seeking out Barker in order
to do this very thing?

A I never did.

2 Why was it that you
went there then?

A I was in there and this
conversation came up between
the bar tender and myself.
I never gave Barker a
thought. I have been there
a hundred times before that
and never was seen in any
suspicious act.

By the Court

2 What kind of a ticket
was this?

A A laborers ticket to get
work in the street cleaning
Department.

2 Had Mr Barker given the man one of these tickets?

A He gave him a ticket.

2 Is there anything dishonorable or wrong in a man's working on the streets?

A No sir; there is not; but this gentleman expected better.

2 And because he did not get it you think that the man who gave him the ticket ought to be punished for it?

A No sir; I do not & I merely said Barker ought to have got a punch in the nose.

2 Why should a man get a punch in the nose for giving one of these tickets? Do you see any harm in giving these tickets?

A He never done me any harm.

9 2 You do not see any

01111

harm in it?

A. But, he should have given him better.

Q And because he did not give him better you think that he ought to have been punished?

A Those were merely a few idle words, and if he was a gentleman he would not have taken me up that way.

Sworn to before me this } James H. Hemen
29th day of October }
1889 }
E. H. Hemen
Notary Public

Peter
Whitely Corcoran being duly
sworn as a witness for the
people and examined by
Mr. Grosse, deposes and says:
his examination being read to
him as sworn to before Justice
Ford on the motion to

0112

admit to bail Sept 25/1899
My name is Peter Cocoran
I live at 424 West 26th
street.

Q What is your business?

A I am a driver of a truck.

Q Were you present on the
night that this trouble took
place?

A Yes.

Q Did you see the trouble?

A Yes.

Q Where was it?

A At Clark's Saloon at 25th
St and 8th Avenue.

Q What time of the day or
night?

A About quarter to 9.

Q Did you go into this place
with the man who was injured?

A Yes Sir.

Q State what occurred from the

A time you went in until the
trouble arose.

" A I went into the place

0113

with James Herman, and
asked him what he would
have. He said "I will take a
small glass of ale." I said
"Give me a little whiskey."
He said "When did you see
Cannan George?" The bar
keeper said "I ain't seen
him since we had the
kick about the ticket." He
said "He will blame me
about that." George the
bar keeper said "I had
nothing to do with that."
Then James Herman said
"If I was Jim Cannan
I would punch Jim Barker's
nose."

2. In that what he said
"If I was Jim Cannan
I would punch Jim Barker's
nose?"

A. Yes, and Barker said
"You would punch Jim
Barker's nose you son

of a bitch?" Then I
turned around and I saw
both of them clunched.

2 Who were clunched?

A James Barker and James
Herman

2 Well?

A I went to separate them.
Barker got Herman up
against the bar and bucked
him with his head a couple
of times

2 Did you hear any words
pass between them?

A Yes Barker said "You
would much Jim Barker
in the nose would you?"
Barker had his hands over
his face before that.

2 How did Barker assault
Herman?

A They were clunched before
I turned around.

2 You turned and saw what?

13 A They were clunched

0115

2 Did you hear any conversation between them?

A Not before that

Q When they were clucked?

A Barker got Jim Hermanns back up against the bar

Q What then did Barker say?

A Then he gave him a bump down on the floor and Barker said "I will kill you son of a bitch; I will kill you." He held him down like that. I saw nothing after that. His friends caught me and pushed me back.

Q What is his name?

A I do not know what his name is. He got hold of me. One of his friends caught hold of me by the shoulder and elbow or, and said "None is not going to be anybody killed here." He put a pistol to my head

0116

Then I went to the side door where the policeman was. There was a couple of Germans said "Look that brute up"

2. Have you told all that took place ~~at the time~~? in the bar room?

A. I have told all that took place in the bar room.

2. You say Barker clucked him and threw him?

A. Barker clucked him and threw him down.

2. What was done after that?

A. Barker got on top of him and kicked him. As he was getting up Barker kicked him a couple of times. He met him and kicked him.

2. "Met him" what do you mean by that?

A. As he was getting up he kicked him. He said

"you son of a bitch get out of here"

Q How many times did Barker kick him?

A - As near as I can say three or four times. I do not know what happened when I was out.

Q Have you told all that occurred?

A I have.

Q What became of Herman?

A - He was taken to the house of a friend on 9th Avenue and 26th St.

Q What is his name?

A James McQuade.

Q Who took him there?

A - He took him from the corner away from me and fetched him to his house.

Q With what did Barker kick Herman?

16 A With his foot.

0118

Q How was Barker dressed?

A I could not say.

Q Was he dressed in walking clothes - his boots on

A I could not say boots or shoes. I did not get time to look

Q He did not have his slippers on?

A I could not tell you that.

By Mr. Pandy

Q - He was. Could you say whether he was in his stocking feet.

A I am sure he was not in his stocking feet.

By Mr. Gross

Q. Could you say on what part of the body he kicked him?

A I could not say that. When he would get up he gave him a kick. Herman said

0119

to Barker, "You brute I would
not do that to a dog"

Cross Examined

By Mr. Purdy

Q You say Herman said "If
I was Jim Cannon I would
punch Jim Barker's nose"

A Yes

Q Are you sure that is so?

A - Well I mean that he said it -

I am positive

Q Will you mean that you
heard all the words that
Herman used

A That is the remark he made.

Q How long a conversation was
this between the bar tender
and Herman?

A About two minutes

Q But it takes two minutes to
say that?

A That was all there was to it.

Q Why what you have repeated
could be said in two
seconds now that all?

0120

A - That was all there was.

Q Did you hear Herman say
I would fuck Barker?

A No.

Q Sure?

A I never heard the remark.

Q He said nothing like that?

A I was right alongside of
him.

Q Did he not say "I will
break Barkers nose"

A He said "If I was in
Cannan's place I would
punch him in the nose."

Q Did he say I will break
Barkers jaw?

A No sir. Jaw was not the
word.

Q The next thing you saw was
the two men clinched?

A Yes.

Q You had not seen who
struck the first blow?

A No; my back was turned.

19 Q Have you been convicted of

0121

crime?

A I have been convicted twice
for being drunk and once
for stealing a watch, but
I was innocent of the stealing

Q Were you in the penitentiary?

A I was

Q How long ago?

A In 1883

By the Court.

Q - You say there was seven
persons there.

A - In my opinion there was
six or seven. Peter Corcoran

Sworn to Before me this
29th day of October 1889
J. H. [Signature]
Police Justice
The People's Court.

John Muller, being duly sworn
and examined, as a witness for
defendant deposes and says

20 Q Where do you reside?

0122

A at 422 West 26th St.

Q What is your occupation

A Clerk

Q Were you present on this occasion when Herman was in Clark saloon?

A Yes Sir

Q State what directed your attention to Herman?

A I came in with Robie. We were all standing there. After a while Herman and Cannan came in. We had some drinks. I heard Herman say if it was Jim Barker he would punch him in the nose. He said that not once but three times. Herman turned around and they both clutched and fell on the floor. Barker said "If you will behave yourself I will let you up." Herman said he would. Then Barker let Herman up and Herman

0123

Commenced again and struck Barker and they both fell again. Barker on top. When they got up Barker was covered with blood. Then Barber went and washed and Herman went out, as far as I know.

Cross examined by Mr. Gross,

Q - How far away was Herman
A Twenty feet or 25 feet.

Q Did Herman speak in a
loud tone - He was belligerent?

A Yes Sir. He spoke about
some tickets. He said,
he did not care who the
man was - if it was Jim
Barker he would punch
him in the nose.

Q How many times did he
say that?

A Three times.

Q Did he say anything about
breaking his jaw?

A Yes Sir

Q Said he would break Barker's
jail?

A Yes Sir

Objected to

Q Have you told all the
conviction you can now
recollect?

A Yes Sir.

Q Did he say that he would
fuck Barker?

Objected to

By the Court

Q - Did you hear the whole
of it?

A - I heard the majority of it.

Q What did Barker say?

A Barker had not addressed
a question.

Q What was the next thing
that was done?

A Herman turned around
and they got clean chucked.

Q Did Herman strike Barker?

23 A Yes Sir.

2 Where?

A Right in the forehead.

2 Then they clinched?

A - Barker fell on top - threw him and fell on top.

2 What took place after that?

A - Barker asked him if he would behave himself, if he would leave him up. Herman got up and hit Barker again, and they clinched again. When Barker got up he was full of blood.

2 His face covered

A Yes - his shirt. His head was cut.

Examined by Dr. Grosse

2 How large is this saloon?

A About ~~60~~⁶⁵ feet or so feet.

2 How long is the bar?

A About 60 feet.

2 Where were you standing?

24 A By the cigar buffet.

A In the front.

2 Where is the side door?

A On 25th street

2 How far from the cigar lighter

A About forty feet

2 Herman came in the side door?

A Yes.

2 How far from the side door did he stand?

A Right opposite the side door.

2 Who was with him?

A His friend Corcoran

2 What did Herman do.

A They got in an argument with the bar tender.

2 Right opposite the door?

A Opposite the side door.

2 What did the bar tender say?

A - I did not hear what the bar tender said.

2 Did you hear what Herman said?

25 A I did.

2 While all this took place what did Barker do?

A. Barker did not do anything.

2 Did he remain with you?

A. Yes Sir.

2 That was 40 feet away from Hernan?

A. Yes Sir.

2 Did not Barker do anything while this thing was going on?

A. No Sir.

2 When the commotion had ended what did Barker do?

A. Barker walked towards the closet.

2 Where is the closet?

A. In the rear of the saloon.

2 How do you know he walked to the closet?

A. Because I saw him.

2 Did you go with him?

A. No Sir.

2 Was that in the direction where Hernan stood?

0128

A Yes Sir.

Q Did you follow Barker?

A No Sir.

Q Did Barker go to the closet?

A No Sir.

Q How do you know Barker wanted to go to the closet?

A Because I saw him go towards the closet.

Q That was in the direction where Herman stood?

A Yes Sir.

Q He had not said anything to you?

A No Sir.

Q Then it was an inference on your part that Barker was going to the closet. It was your presumption - your inference?

A Yes Sir.

Q Had he passed Herman when you saw him next?

A He had just got alongside of him.

Q He stood face to Herman?

- A. Sideways
- 2 The next thing you saw was that both were clutched.
- A Hernan hit him: struck him right here in the forehead.
- 2 On which side?
- A Right here: right side.
- 2 Barker was struck on the right side of the face by Hernan.
- A Yes.
- 2 Did you see Hernan fall on the ground?
- A I saw Hernan and Barker fall together. Barker was on top.
- 2 Who got up first?
- A Barker asked Hernan if he would behave himself.
- 2 Whilst they were both on the ground Barker asked Hernan if he would behave himself if he would let him up?
- A Yes Sir: and let him up.
- 2 Then Barker let him up?
- 29 A Yes Sir

0130

Q What did Hernan do then?

A Hernan struck him again.

Q What happened then?

A Both clunched again and fell; Barker on top again.

Q What did Barker do?

A Barker got up covered - full of blood and he went to the wash room and washed the blood off.

Q Did not do anything on Hernan?

A No.

Q As that you saw Hernan strike Barker on the right side of the head; then you saw them clunched; both fell on the ground. Then Barker said "If you will behave yourself I will let you get up?"

A Yes.

Q Then Hernan got up and struck Barker again and both clunched again and

0131

both fell together?

A Yes.

Q Barker was on top?

A Yes.

Q That was all you saw?

A That was all I saw.

Q Then Barker got up and went where?

A To the wash room.

Q There was nothing else done?

A No sir.

Q Nothing else?

A Not as I know.

Q You did not see Barker strike Hernan?

A No sir.

Q You did not see Barker kick Hernan with his foot?

A No sir.

Q You are positive about that?

A Yes sir.

Q You are just as positive about that as you are

0132

about the distance between
you and Herman?

A Yes sir

Q Did you go near them?

A No sir

Q You remained where you
were?

A No I did not.

Q Where did you go?

A I walked about ten feet
from where I stood.

Q Ten feet - That would leave
you about ~~the~~ 30 feet
away from where they were?

A No; about 15 feet.

Q Who else was in the store?

A Robt. M. Clark, the bar
tender (George Fone), another
man I do not know; his name,
myself, Mr. Barker, Mr. Herman
and his friend. There was
an old gentleman Armons or
Armonson - nine in all.

Q Where was Clark standing?

~~32~~ A " with us at the cigar stand.

0133

Q Where was Robie?

A With me.

Q Where was Fine?

A Behind the bar.

Q Is Fine here?

A Yes.

Q Where was Herman Simpson?

A He was in the reading room.

Q Where is the reading room?

A It is at the end of the saloon where the wash room is.

Q Is there a door opening to the bar room?

A Yes.

Q When a man is sitting in the reading room he can see into this place can he?

A Yes.

Q Was Barker standing with you?

A Yes Sir.

Q You were all standing by this lighter?

A Yes.

Q What conversation did you carry on?

0134

A Barker and I had some conversation.

Q What did Robie say to you?

A Robie and I came in together. He was with me.

Q Did he say anything?

A No Sir. He talked to me.

Q What did he talk about?

A We had business with Barker.

Q What business?

A About an appointment at Castle Garden.

Q What did Clark say?

A I do not know.

Q The bar keeper was not with you?

A No Sir.

Q What did Ludewach say?

A He was in the reading room.

Q There was nothing said to Herman?

A No Sir.

Q No remark made about Herman?

34 A - No Sir.

Q You were standing carrying on a conversation with the others?

A Yes

By the Court

Q What is your business?

A I am clerk at No 10 Greenwich St. The D L & W R R

Q How long have you been in that employment?

A About two or three years

By Mr. George Stiner

Q When Barker and Herman fell did these men do anything?

A They did not

Q They did not move?

A No Sir

Q They remained where they stood?

A Yes Sir

Q See the time?

95 A Yes Sir

0136

By Mr. Purdy:

Q You say when the conflict began you moved about ten feet?

A Yes.

Q Towards where these people were?

A Yes.

Q You could see them struggling?

A Yes.

Q These men were standing around?

A Yes.

Q Then in addition to the men you mentioned you saw a colored man there Robert Connor?

A Yes.

Q Did you see Coeoran there?

A Yes.

Q The man that came in with Herman?

A Yes.

96 Q Coeoran has sworn that

0137

Some one pointed a pistol at him and told him to go out, was that true?

A No Sir.

Q Did you see him go out?

A No Sir.

Q Did he go out while Herman went?

A They went out together.

Q Did anybody draw a pistol?

A No Sir.

Q You did not see one?

A No Sir.

By the Court

Q What was the condition of these men who were in the place, were they sober?

A As much as I can say they were sober.

Q You say you are in the railroad business?

A Yes Sir.

Q Employed at 10 Greenwich St.?

37 A Yes Sir.

0138

Q For the D. L. & W. R. R.?

A Yes Sir.

Q How long do you live in this district?

A In April - three years

Re-direct.

Q You say that the whole party did not move from the place where they stood when the fight was going on?

A They were attracted by the fight.

Q You stated that they remained where they stood?

A Yes

Q Is that true?

A Yes Sir.

By Mr. Purdy

Q What you mean is that nobody took part but those two men.

A That is all

Q You went about 10 feet?

38 A Yes

Q You stood looking on?

A Yes Sir.

By Mr. Stiner

Q Nobody took part in the fight but the two men actually engaged in it?

A That was all.

By Mr. Grosse

Q When you say the whole party remained where they stood you mean these men whose names you gave me.

A Yes.

Q Remained where they stood?

A They stood right around looking at the fight?

Q They remained where they were?

A Yes.

By Mr. Stiner

Q You mean that nobody interfered in the fight?

A Yes Sir.

Sworn to before me this } J. Z. Miller
29th day of October 1897.
C. J. Hall Justice

John Roney being duly sworn as
a witness for the Defendant
deposes and says: - I am a
Police Officer of the 16th Precinct
By the Steno

2. You have no personal knowledge
of this occurrence?

A No Sir, I did not hear of it
until the 21st.

2 When you heard of it did you
go to the home of the Complainant
Herman?

A Yes Sir

2 Did you have a conversation
with him?

A Yes Sir

2 When?

A I had a conversation with
him on Saturday night.

40 2 In relation to Defendant?

0141

A Yes. I took a written statement on Sunday.

Q Did he ask to have Barker arrested?

A No sir.

Q What did he say?

A I asked him if he had any grounds to arrest Barker and he said No. He did not think he was seriously hurt. I took a written statement and gave it to Capt. Grant.

Sworn to before me

John Carey

This 29th day of October

1889

Police Justice

Augustin Robie being duly sworn and examined as a witness for defendant deposes and says:-

Q Mr. Robie

Q Where do you live?

A At 422 West 26th St.

Q What is your business?

A Wood carved by trade

2 Do you recollect the night of this difficulty between Herman and Barker?

A Yes Sir; most perfectly.

2 With whom did you go to this saloon?

A With Mr Muller

2 State what took place in the saloon?

A As far as I can recollect, Mr Muller and myself went at Barker's invitation to have a drink. We stood with Barker and a couple of friends speaking while Herman and a party came in by the side door. As they went to the bar; while at the bar, Herman I believe he told us that Barker was no good. Any way; no good.

2 State what he said

A To go fuck himself - something like that. I am telling what

I saw myself. Herman was at the other end of the counter. We were at the cigar case. Mr. Barker walked toward the ~~closet~~ reading room - the water closet. and then this happened. There was a clinch between Barker and Herman. Barker was over Herman with his knee on his stomach - on his abdomen. Barker made the remark asking Herman if he would behave himself if he would let him up. Herman said yes. Then Herman was let up. When he was up there was another clinch, and then they were separated. I am not certain by whom. Barker had blood on his forehead and on his shirt front at the time. That is all I know of the affair.

2 Have you stated all that occurred?

A Yes Sir

Cross Ex.

By Mr. Grosse

Q - What is your present occupation?

A Wood carving

Q Are you a member of the
Tammam Society of Mr. Barker?

A No Sir.

Q How did you meet Barker
that night?

A I met Barker with Mr. Muller

Q Where?

A In Eighth Avenue.

Q What time?

A I should judge about half
past seven O'clock - it might
have been quarter past seven.

Q Are you working now at
your trade?

A Certainly.

Q You were at the cigar case?

A Yes. That is at the 8th
Avenue end. The saloon
extends down 25th St.

44 Q How long is the bar

A It is long - I do not know

2 Forty or fifty feet!

A It must be all that

2 And Herman and Corcoran
came in the side door and
stood opposite the side door?

A Directly across.

2 They were carrying on an
animated conversation?

A Yes.

2 They came in talking?

A Yes.

2 You heard them say what?

A They came in. Herman said
very loud that Barker was
no good

2 When he came in?

A He had been in about a
minute. They were drinking
at the time.

2 Was anybody with him except
Corcoran?

A No Sir.

2 Where was the barkeeper?

45-A Behind the bar

0146

Q Talking with Hernan?

A - The bar keeper served the drinks. I could not tell whether he was talking with them. I know he served the drinks.

Q Did Hernan make any remark before they got the drinks?

A Yes sir he did.

Q Before the drinks?

A Yes. I am pretty positive he did.

Q Before he was served with the drinks he made these remarks?

A Yes.

Q Did you see or hear the bar keeper have any conversation with Hernan?

A No sir. I did not pay any attention.

Q You could not see what was going on?

46 A Yes. I have told you that

I have seen it.

2 You could not hear the conversation between the bar keeper and Herman.

A I never heard it; at least it was not loud enough for me to hear.

2 Then you did not see where the bar keeper stood?

A He stood in front of Herman.

2 How long was he standing there?

A I should judge he was standing there about two minutes. I guess two or three minutes.

By the Court

2 - Did the two men go to the bar keeper

A They went to the bar.

2 Went to where the bar keeper was standing

A No sir, The bar keeper went to where they were

0148

By Mr. Grosse

2 - How long did the bar keeper stand near Herman.

A That is pretty hard to tell - I could not tell.

2 Why can't you tell?

A He was serving drinks they purchased of him.

Re Court - answer the question.

2 Why can't you tell?

A That is a difficult question. I cannot give you any decided answer.

2 Did you see the barkeeper serve the drinks to these two men?

A I cannot give you a decided answer on that.

2 Did you hear the barkeeper say anything, or did you see him talking to these two men?

A No Sir.

2 Did you see complainant Herman and Corean talking

together?

A Yes Sir.

Q You heard them talking?

A I heard them speaking together.

Q What did they say?

A I do not know.

Q What did Cocoran say?

A - I could not tell you.

I do not know what it was they were talking about.

Q You do not know what Herman said or what Cocoran said?

A No Sir: I know what Herman said.

Q What did he say?

A He said that Barker - Jim Barker was no good - and had better fuck himself and all talk like that.

Q You all heard it?

A We heard it.

Q In what position was Mr. Herman at the bar? What way was his face turned?

A Towards 8th Avenue. The other parties were towards 9th Avenue.

2 How long had Hernan and Coreoran been standing at the bar before this tussle occurred?

A It may have been two or three minutes.

2 What did Barker say.

A He never said a word.

2 Did not say a word?

A No Sir

2 What did he do?

A He walked to the reading room when Hernan turned on him and both clinched.

2 Did you see Barker go to the reading room?

A Yes: in that direction.

2 What happened then - What did you see?

A The first thing I saw they was wrestling together - both clinched together.

0151

Q What happened?

A - Barker threw him and fell on him with his knee on the lower part of his abdomen.

Q What then?

A Barker made the remark "If you will behave yourself I will let you up." Hernan said "yes." Hernan got up and they clinched again - a second round. They fell together, Barker on top again.

Q What happened next?

A They were separated. Hernan was put out of the saloon with his friend.

Q Did Barker do anything except throw Hernan on the floor?

A That is all I know of.

Q Barker was on top twice?

Q Barker threw Hernan on the floor?

A Yes Sir.

51 Q Barker was on top of Hernan?

0152

A - Yes.

Q And Barker said "If you will behave yourself I will let you up."

Q Then Barker let Herman up?

A Yes Sir.

Q Then they clucked again?

A They clucked again.

Q Barker threw him again?

A Yes Sir.

Q Then they got up?

A - Yes.

Q And Barker went to the back room?

A Yes.

Q What did Barker do?

A He washed the blood from his forehead and his shirt front.

Q You stood where?

A Near the cigar stand at the end of the counter.

Q How near was he when

52 you remained at the cigar

0153

stand:

A. I was talking with another party and we remained at the cigar stand.

Q You remained there?

A Yes.

Q You did not interfere in the fight?

A - No Sir.

By Mr. Parry

Q How many remained at the cigar stand?

A I should say there must have been about six or seven I cannot exactly tell

By Mr. Gross

Q Have you had conversation about this case

A Yes

Q With whom?

A Several friends.

Q What are their names?

A They are too numerous to mention.

53
72 Q Did you have any conversation

0154

with Barker?

A Most decidedly, I spoke to Barker afterwards

Q Did you have a conversation with the bar keeper?

A No sir - I do not know the bar keeper. I was not introduced to him

Q Did you say to anybody that you had received a subpoena and did not know what you were called for

A Most decidedly

Q You do not know why you were called?

A No.

Q You knew you had seen it?

A - Certainly. That was a joke on my part.

Sworn to before me this } Augustin Robie
30th day of October 1899 }

Police Justice

54 John J. Simpson being duly

sworn and examined as a witness for the defendant before and says: I live at No 307 West 25th St. James Saleoman

By the Stiner

2 Were you acquainted with Barker?

A I was.

2 Were you present at this difference between Herman and Barker?

A I was.

2 Where were you standing?

A I was in the reading room when it commenced.

2 State all that you saw and heard between Herman and Barker.

A I was sitting in the reading room and I heard the remark made by some one that Barker was no good and then there was another remark made that he would

punch Jim Barker in the nose
 Then I got up and went
 in the bar room. Mr Barker
 came back to the reading
 room and in passing Herman
 Herman struck him and then
 they clinched and fell. Barker
 was on top. Then Barker
 asked him if he would
 behave himself and Herman
 said he would. Then they
 got up, and then Herman
 hit him again. Then they
 clinched again and fell.
 There was some blows struck
 while they were on the floor.
 Then they were separated
 and Herman and his friend
 went out.

2 Did you hear any language
 used by any person that
 you can name, before you
 saw the blow struck, other
 than what you have stated here?

56 A I heard a remark made

0157

that was vulgar.

Q State it

A He said "I would fuck Barker."

Q Who said that?

A This man Herman.

Heron examined by Mr. Crosse

Q What is your business?

A Salooman

Q Where?

A J. J. Brown & Co. Bank at

Q Where do you live

A 307 West ~~1st~~ 25th St

Q Do you often go to this saloon?

A Yes Sir

Q How ~~often~~ long have you known Mr. Barker?

A Ten or twelve years.

Q You were very well acquainted with him?

A I know him when I see him.

57 Q Do you belong to the

Immunity Association of West
District?

A No Sir

2 Do you frequent their rooms?

A No Sir.

2 You was in the reading room?

A Yes Sir

2 When did you go in. What
down?

A I could not tell - I was
sitting there

2 How many hours had you
been there?

A Probably half an hour.

2 Was you reading?

A Yes

2 Where is the reading room?

A At the rear of the bar
room.

2 The doors are where?

A There was two doors from
the bar room to the reading
room.

2 Is the reading room the whole
width of the store?

A The whole width of the store.

Q Where are the doors?

A One door is on the north side and the other on the south side

(Diagram shown)

Q Where was you sitting?

A I was sitting at the door under the side door, nearer the bar room - near to the center of the reading room - a little way from the door towards the center

Q Then you heard Herman talking?

A Yes.

Q Making some remarks?

A Yes

Q Was anybody else talking?

A I heard the bar tender talking

Q What did he say?

A He said "Keep quiet"

Q Did you hear him say anything else?

0160

A Not as I know of

2 Then did you hear any conversation between the bar keeper and Herman?

A I heard the bar keeper say "Keep quiet."

2 Did you hear Corcoran say anything?

A No I did not.

2 You got up?

A I got up and came out into the bar room.

2 When did you get up?

A When I heard the conversation I got up.

2 What did you ~~say~~ ^{see} when you got up?

A ~~As~~ Herman was Mr Barker was coming toward me. He came toward the Reading room. When he passed Herman Herman struck him.

2 With what?

A With his fist.

60 2 Where did he strike him.

0161

A Struck him on the head

Q Then what?

A Then they clinched.

Q How did they come to be clinched?

A The same as when any man is struck he will defend himself - They clinched.

Q Did Barker attack Hernan or did Hernan attack Barker?

A They clinched and fell.

Q Who was on top.

A Barker was on top.

Q What happened next?

A Barker asked him ^{if he would} to let him up. and he said yes

Q Then Hernan was in the grasp and power of Barker?

A Yes; I suppose so.

Q What did Hernan say?

A He said he would.

Q What did you see next?

A Hernan struck him again.

61 Q What was next?

0162

A They clucked, and went down again. There was some blows struck

Q Who struck the blows?

A It was very promiscuous. Both struck

Q With their fists?

A Their fists.

Q Did you see anything else?

A I saw nothing else. There was no weapon used.

Q How near did you stand?

A About six feet away.

Q Where were the other parties in the room?

A They were all around

Q Where?

A In the bar room

Q Did they stand near the cigar stand

A Not at that time

Q They did not stand there?

A No.

Q Are you positive about that that they did not stand near

0163

the cigar stand?

A I did not notice anybody near the cigar stand.

2 Did they stand near where this struggle was - the tussle?

A They were within six or eight feet.

2 And that is certain. You are positive about that?

A As near as I can judge

2 They were not standing near the cigar stand?

A Not at that time

2 When both were on the ground?

A No.

2 Did you see any kicking with the feet?

A No sir: I did not.

2 If at any time of that struggle Barker had kicked Herman would you have seen it?

A Most assuredly I would

2 You did not see it?

63 A. There was no kicking done at all.

0164

2. If the condition of Herman would prove that he had been kicked would you still say that?

Objected to and withdrawn.

By the Court.

2 - Were there threats made by any person in that room to kill any one - within your hearing?

1. No; not that I heard of. I did not hear any such thing.

2. Was anybody kicked there at that time by anybody during that disturbance?

A. No Sir.

2. Could it have been done without your seeing it?

A. No Sir.

2. What was your condition - were you sober?

A. Yes Sir.

2. Had you been drinking?

A. I had been drinking. I was as sober as I am now.

2. How long have you known the complainant?

A I have not had any personal acquaintance with the complainant at all.

2 Did you know him before this night to know who he was?

A No sir; I did not know him by name.

2 You never had any trouble with him?

A No sir; I do not know as I ever spoke to him in my life.

2 Have you any interest in this case in any way except as a citizen to tell what you know of this case under your oath?

A I have not

2 Read the statement made by the complainant in his affidavit in this case and say if you have any knowledge whether

the allegations there made by the complainant are true?

A. They are not true.

2. What parts of the affidavit of complainant are not true?

A. The kicking part of it is not true. The killing part of it is not true.

2. Was anything said to the complainant Herman, by any one present, that was offensive, or likely to provoke a quarrel?

A. No Sir.

2. Did you see a pistol drawn by anybody. Was there a pistol drawn?

A. I did not see any. There was no weapon drawn at all.

2. You are sure there was no weapon drawn?

A. I am sure.

Examined by Mr. Groves

65-2. You say that this affidavit

of complaint is not true!

A I do.

2 Have you read it through carefully?

A I have.

2 You call it untrue as a whole?

A Yes.

2 What is untrue?

A As far as the Kicking part is concerned, that is untrue. The Kelling part of it is untrue.

2 (Reading from the complaint in this case) "James Herman of No 22 West 27th St. being in the city of New York being duly sworn says:-" Is that true?

A I do not know about him being duly sworn.

2 You cannot say it is not true?

A No.

§6 2 "That at the city of New York

to wit on the 19th day of September 1889, James Barker of the said city of New York did, with intent to kill this deponent, assault him" Is that true?

A. No.

Q. You are positive about that?

A. Yes.

Q (Reading) And did violently beat and strike him with his hands and fists. Is that true?

A. Yes; that part is true.

Q "And threw him to the ground." Is that true?

A. Yes; they clutched.

Q "and did, with the toes of his boot, by means of force likely to produce death, kick this deponent in and about the abdomen and his sexual organs" Is that true?

A. No that is not true.

67 Q "And by reason of such

injury to the same, and so
 maintained that the same are
 entirely useless as members or
 organs of Depew's body? Is
 that true?

A That is not true

Q And that by ~~persons~~ means
 of said injury and maiming as
 aforesaid, this Depew has
 been and still is sick and
 maimed and disabled as
 aforesaid? Is that true?

A No

Q "And has been exposed to
 great danger; and come near
 being killed." Is
 that true?

A No.

Q Now I put you the question
 that was withdrawn before, "If
 Mr. Herman as a consequence
 of this tussle or wrestle
 or assault which took place
 in Clark's saloon with Barker
 went to the hospital, and was

there treated for these injuries that are mentioned here: That the Physician should say that this was caused by means of kick, do you still say that the affidavit is not true?

A. Certainly, I will

2 Did you carefully attentively and zealously look at this fight?

A. I saw all there was of it

2 You did not miss any single part of it?

A. I saw it all.

2 How did you look at it?

A. I do not understand

2 Did you look at the heads of the men?

A. I looked the same as I would at any fight and saw them tussling

2 Could it not be that while Barker was getting up he kicked Herman with his foot

A. No. He could not have kicked him without my seeing it.

0171

2 Have you talked about this case before you came here?

A Mr Barker asked me if I had seen this occurrence and I told him I had.

2 Anything else?

A - Mr Purdy asked me what I saw about it and I told him.

2 Did you have any conversation with Barker?

A No Sir.

2 He simply asked you if you had seen it?

A I had two minutes conversation with Barker about it.

2 What conversation did you have with Mr Purdy?

A I ^{was} asked ^{by} him if I had seen it, and he questioned me as to what I had seen - what I knew of the case.

2 Did you have any conversation with anybody else?

70 A No Sir

0172

Q Please two persons only.

A Yes.

Q Have you been in this saloon after?

A Yes.

Q Did you have any conversation with anybody in the saloon - was it not talked over in the saloon?

A No Sir.

Q Nothing was said!

A I had no talk about the case.

Q Did you hear anything?

A No.

Q The closet is in the reading room and you must pass through the reading room to go to the closet?

A Yes. John J. Simpson.

Sworn to before
me this 29th
day of October
1889

[Signature]

71

The Diagram referred to
is accepted as a general
Sketch of the saloon and
is annexed marked
"A. O. J. Oct 29. 1889"

Alexander Ladouceur being
 duly sworn as a witness for
 defendant depose and says:

By Mr. Stinner

Q Where do you reside?

A 156 West 27th St.

Q What is your business?

A Sailorman

Q Where?

A I am out of work at present.

Q Where were you last employed?

A At 37th West 12th St.

Q Were you acquainted with
 Barker and Herman?

A I know the gentlemen.

Q On the night in question
 were you in Clarke Saloon?

A Yes Sir

Q State what was said and
 done?

A Herman came in and he
 used these expressions. "God
 damn Jim Burke & he is
 no good" and similar language.

72 Q What was it?

0174

A "Barker is no good" He is
a son of a bitch" "I am
going to fuck him" Barker
did not take any notice. He
went to go out the other
way. Then he struck Barker
and they wrestled and they
fell and Barker was
on top and he said "Now
will you behave yourself if
~~you~~ I let you up. Then
when he was let up. he went
for Barker again. Then
Barker threw him. Then
Barker got up and went
out to the water closet. He
toiled room. Barker was
bleeding.

2 Is that all that occurred?

A Yes.

Questioned by Mr. Grosse

2 How long have you known
Barker?

73 A I could not tell you.

0175

Q About?

A About seven years.

Q Did you meet after?

A No Sir.

Q Did you go after to Clark's
Saloon?

A I go down there about
three or four times a week.

Q Do you belong to the
Jimmey Hall Association?

A No Sir.

Q You often met Barker in
this saloon did you not?

A I saw him there when I
was in there that is all.

Q When did you go there this
night?

A It was the 19th of September
about between 7 and 8
clock.

Q Who was in the saloon when
you came there?

A There was several gentlemen
there. I do not know them
by name.

Q Did they remain?

A Yes Sir

Q Did those gentlemen who were in there remain until the fight was over?

A They all staid there together.

Q Where was Barker?

A He was at the corner by the cigar stand

Q He was already in.

A He stood at the stand with Clark. There was Muller and three or four gentlemen there. I was not in their company.

Q Where was Muller?

A In the middle of the saloon.

Q Near Barker?

A No.

Q Who was with Barker?

A Clark I think. I should think he was with him.

I did not take notice. at the present time I do not.

0177

remember who was with him.

Q Miller and who else stood in the middle of the room?

A I could not say how near they stood.

Q They did not stand near Barker?

A How near they stood to Barker I could not tell. I do not know anything about it. I never took notice until the fight commenced.

Q You did not stand with Barker? That you know.

A I did not stand next to Barker.

Q How far away from the cage stand did you stand - about?

A About 10 or 15 feet.

Q Did you engage in conversation with anybody?

A No Sir.

Q Stand alone?

A Yes Sir.

96 Q How far away was Miller

0178

A I could not state.

2 When you said before that Muller was near you that was not true?

A I said Muller was in the same place, but how near to me I could not state.

2 You testified that Muller stood near you. Can you tell where Muller stood?

A The place is very large. I know that he stood there in the saloon. He may have stood in the middle or centre I could not swear.

2 You cannot say anything positive about the relative positions of different persons?

A That is that.

2 About where these people stand?

A Barker & Clark stood near the cigar stand.

77 2 - Were they the only two

persons who stood near the
cigar stand?

A I could not swear to that

Q You said that before. Then
you said something that
was not true?

A Not to my knowledge

Q Do you know that you
are under oath?

A Yes Sir

Q Do you know the penalty
attached to a false oath?

A Yes Sir

Q Where did Miller stand,

A I cannot state exactly
what part of the room he
stood - in the middle of
the saloon - that is all I can
say.

Q And you stood alone.

A I stood there

Q Did you speak with Miller?

A I did not speak with him

Q You said you did.

75 A I beg your pardon -

Q The stenographer read that you conversed with him and it is my memory that you said so

A I never say Mr. No sir. I beg your pardon I said never said so because I did not

Q You were reading the paper?

A Yes sir

Q You were not engaged in anything else except reading the paper?

A No sir

Q Did you know Herman?

A No sir.

Q Never saw him before?

A Only that night?

Q Where did he come in?

A The side door.

Q Did you see him come in?

A I saw him - I did not know who was with him. I saw the two gentlemen come

0181

in the side door and I saw
the same two standing by the
door bar before the remarks
about Barker.

Q You paid attention to what
happened?

A Because of the language
they used.

Q When did Herman make
these remarks - just when
he came in.

A I know he stood up and
spoke to the bar tender about
a ticket.

Q About what?

A A ticket - I don't know.

Q Then these remarks were
made in talk with the
bar tender.

A Yes about the tickets.

Q What remarks did he make?

A That Barker was no good;
that he was a son of a bitch.

Q What else?

So A. I said that before.

A. Say it again.

A. That Barker is no good;
that he is going to fuck
him; that Barker is a son
of a bitch.

Q. What else did you hear?

A. That is all I know. That
is the language was used.

Q. What you say now did not
happen you you think did
not happen.

Objection to

Objection sustained.

Q. You paid close attention to
all that happened in that
room that time, and you say
you heard everything?

A. Yes Sir.

Q. You are sure that nothing
happened there that you did
not hear or see?

A. Nothing.

Q. Now that was all that
was said.

81 A. Yes. That was all that was

said.

2 Nothing more could have been said?

A No - I say not to my knowledge not that, I heard.

2 Everything that was said and done you heard and saw?

A Yes Sir.

2 Especially what Herman said - he spoke in such a loud voice that everybody could hear?

A Yes; everybody could hear

2 How did Herman go for Barker?

A With his fist I suppose.

2 You suppose - did you not see?

A I saw. yes.

2 What did he do?

A He struck Barker.

2 In the chest?

A Yes.

82 2 What did Barker do?

A - He prevented Hernan from striking him and they clinched, and they fell on the floor and Barker on top. They both fell together.

Q When Hernan went for Barker he struck him at the chest or shoulder and then Barker put his hand forward and they clinched and fell?

A Fell on the floor.

Q That is all you saw?

A Yes.

Q You looked on attentively

A Yes.

Q Then they both fell?

A Yes.

Q Who was on top?

A Barker. Then Barker said "If I let you up will you behave yourself?" And Hernan let him up. They fell down together. Barker raised himself up; of course he was on top.

Q Then Hernan said what?

A He said "Yes" He got up. Then afterwards he went for Barker again. They both fell together; not far away. Barker got up and went right to the door. He was bloody.

Q That was all you saw?

A That was all.

Q Where did Hernan go?

A Hernan went out.

By the Court,

Q - Was there any kicking?

A No Your Honor; there was no kicking.

Q You are positive of that?

A Yes Sir. I only saw that Barker and Hernan struck.

Q I ask you whether there was any kicking by either of these men?

A No Sir.

Q Neither one?

84 A - No Sir! I did not see

anybody Kicking

2 You are sure of that?

A Yes Sir.

2 Could there have been any Kicking and you not see it?

A I do not think there could Your Honor, because I could see what happened.

By Mr. Gross

2 - Was there any threats made to kill this gentleman?

A No Sir.

2 Was there any threats made to kill any one, did you hear any threats made?

A No Your Honor.

By Mr. Gross

2 - Where did you stand while the fight was going on?

A At that time I stood by the about as far as that (indicating)

8-5 2 You moved did you?

0187

A I went to look

2 Where did the others stand?

A They were all standing about
How far I could not say.

2 They did not remain where
they stood before?

A - They stood anywhere I
suppose

2 They were in the place
where the fight took place?

A Yes Sir

Sworn to before me this

29th day of October 189

W. H. Hall

Notary Public

W. H. Hall

James Barker the Defendant,
being duly sworn and examined
as a witness in his own behalf
deposes and says: I am a
manufacturer of Vinegar. I live
at 363 West 19th St

2 On this occasion you were
in the saloon of Mr Clark

A. Her Pri

2. State what occurred; as concisely as possible: all the conversation that took place - what attracted your attention to persons in the place.

1. Well; I was standing by the cigar counter just about going to get a cigar and drinks. We were talking, Mr. Clark and myself and Muller. I saw these two men come in by the side door. They went to the bar and took a drink. One said to the bar keeper "where is Barker?" Is he around? He is no good. I would like to fuck him a couple of times; to take his pants down. "The bar tender said 'You ought not to talk like that' about Barker." Then they said I was "no good"; that I ought not to have given the ticket. I paid no attention to it at all. Then I

Went to go to the water closet - as soon as I got up alongside of him, this man Herman, he hit me on the forehead. Then we clinched and we both fell together. I fell on top I suppose. The first blow he struck me was on the forehead. I was struck in three or four places. I was bleeding. I said "Will you behave yourself if I let you up" and he said "yes" and I let him up. As soon as he got up he hit me again and I struck him. Of course we clinched. I hit him two or three times and he hit me, whilst we were down. We passed blows. That was all there was about it. The thing lasted only about two minutes. Then I went to wash myself from bleeding and Herman went out.

0190

2 - Had you seen Herman before?

A I had never seen either of them before or conversed with them in my life.

2 You had no trouble with Herman?

A No trouble at all

2 You were passing on the way to the urinal when you were struck?

A From going to the water closet. He saw me coming and turned right around and struck me right here on the head. I could not get away. I could not get away from him at all. a powerful young fellow like that is a formidable man.

2 How old are you?

A 58 years

Continued by Mr Grosse

2 You say you did not pay
89 any attention to what he said?

0191

A No. I hear so much of that sort of thing. There is so much kicking about things like that that I paid no attention.

Q You did not hear it?

A Oh yes: I heard it.

Q You did not mind it?

A No. I paid no attention.

Q With whom were you engaged in conversation. Who was in your company?

A I was talking to Clark.

Q Who else?

A I think Muller was very near.

Q You was talking?

A I was. I paid no attention to Herman.

Q Do you know what you were talking to Muller about? ^{down at}

A About some appointments at Castle Garden.

Q When you stood there?

90 A Yes.

0192

Q Who else was in your immediate vicinity?

A Of course there were other people under the bar room

Q Anybody else except Robie Clark and Muller?

A That is about all - Corcoran and Herman

Q When you started to go to the water closet where was the bar keeper?

A He was behind the bar.

Q Where.

A I think he went to wait on a couple of men. I did not pay any attention

Q The bar keeper had been talking?

A Yes; I heard the whole conversation.

Q What did he say?

A He tried to keep them from talking

Q Did you hear his language?

Q1 A. He said Herman had not

0193

ought to talk that was about
Parker. Herman commenced
to say "He is no good" and
all that

Q When you went towards the
water closet Herman was still
in the same place?

A He was at the bar about
10 feet from the end of the
bar.

Q Then he was in the place
where it happened?

A As I was passing he did
not let me pass but struck
me

Q He struck you where?

A In the forehead.

Q Then you went for him?

A I had to go for him because
I could not get away
from him

Q You went for him?

A No: he went for me.

Q He struck you?

Q2 A He struck me. and

0194

we clucked.

2 Of course if you had not gone for him you would not have clucked?

A I did not go for him at all.

2 You threw him down?

A We clucked, and both went down together.

2 You were on top?

A I think I rolled myself on top. We went down and struck the floor together. We were lying on the floor and I rolled on top.

2 Then you allowed him to get up?

A I said "Will you ^{you} keep still? What do you want to make such a trouble for? If you will keep still I will let you up." He said "All right." I let him up. As soon as I let him up he went for me again and struck me. Then we clucked.

0195

and went down. He must
have had a ring on his
finger.

Q You say he must have had
a ring on his finger?

A He must have had something,
I was cut with something

Q Hit you on the head?

A Several times on the head
and the side of the face.

By Mr. Stiner

Q Has the complainant sued
you in a civil action?

A He has brought a civil action
for \$5000

Q And served the complaint
upon you?

A Yes

By the Court

Q- Do you know that you
are accused of kicking the
complainant?

94 A I do. I never kicked him.

0196

Q - Did you kick him?

A - No Sir.

Q How old are you?

A 58 years

Q What was your condition on that day as to sobriety?

A Judge: as sober as I am now.

Q Do you say you did not know the complainant before?

A No Sir. I would not recognize him.

Q There was no ill will?

A Not at all.

Q A ticket has been spoken of. What was that ticket for?

A For labor; for sweepers on the streets. I got some tickets sent to me.

Q These tickets had been given to whom?

A They had been given to me by the Street Cleaning Commissioner.

Q They were to be given to men who wanted employment?

95 A Yes. I did not give them

0197

out. I left them with the bar tender. There was a committee on Patronage that took charge of the tickets.

Q As far as I understand the conversation with the bar tender the complainant and his friend were talking about those tickets?

A About those tickets.

Q That seemed to be the cause of their trouble?

A Yes. James Barker -
Defendant Rests.

Mr. Pardy - I move for the discharge of Mr. Barker on the ground that no evidence has been brought before Your Honor to show that a crime has been committed.

Asst. District Attorney Grosser opposed the motion to discharge the defendant.

0198

James Herman the defendant recalled by Mr. Grosse

Q - Did you strike Mr. Barker first when he passed you?

A No Sir. He came and took me unknownst to myself. I was talking to the bar tender at the time.

The Court. The evidence in this case has been taken most fully. The friends of both parties have had ample time to tell all that there was of this occurrence. The evidence has been taken by the stenographer of the court. It cannot be said that either side has not had a fair chance here. - This examination has now occupied about two hours and a half. I shall pass upon the evidence in the same way as if the complainant and defendant were entire strangers to me. I will take all the facts into consideration as soon as the transcript of the

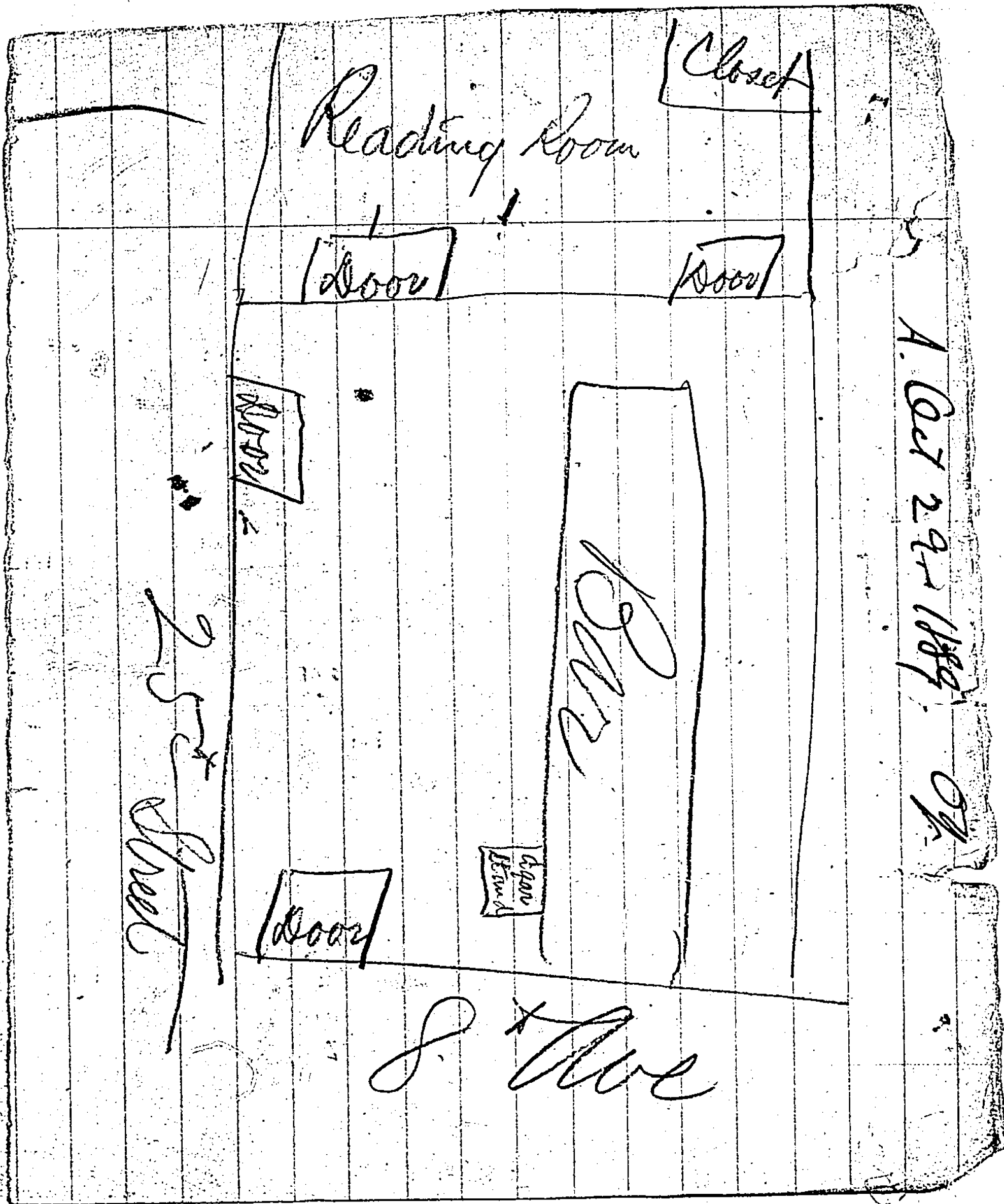
0199

Testimony is furnished by the stenographer
and then render my decision

Adjourned.

9th

0200



A. Oct 29 1889

of

10201

Will you be any more known to me?

There being no sufficient cause to believe the within named guilty of the offence mentioned, I order he to be discharged.

I have admitted the above named to bail to answer by the undertaking hereto annexed.

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.

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

District.

Offence,

188

Magistrate.

Officer.

Clerk.

Street,

Street,

Street,

Sessions

0202

STATE OF NEW YORK,

City and County of New York:--ss:--

JAMES HERNAN, of No.

221 West 27th Street in the City of New York, being duly sworn says: That at the City of New York, to wit, on the 19th day of September 1889, James Barker, of the said City of New York, did; with intent to kill this deponent, assault him, and did violently beat and strike him with his hands and fists, and violently throw him to the ground, and did, with the ^{heels} ~~toes~~ of his boot, by means and force ^{and also did} likely to produce death, ^{and} kick this deponent, in and about his abdomen and his sexual organs, and by means of such kicks and injuries produced as aforesaid, did disable and injure his sexual organs, to wit, his testicles, to such an extent, that the said testicles were broken and bruised by reason of such injury to the same, and so maimed that the same are entirely disabled and useless as members or organs of this deponent's body, and that by means of the said injury and maiming as aforesaid, this deponent has been, and still is sick, maimed and disabled as aforesaid, and has been exposed to great danger, and came near thereby being killed, all of which was done by the said James Barker, without cause, provocation or justification, and in violation of the laws of this State and the Statute in that case made and provided.

29th sworn to before me this day of October 1889.

James Hernan
E. J. Hogan
Police Justice

0203

Sec. 198-200.

CITY AND COUNTY }
OF NEW YORK, } ss.

District Police Court.

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.

James Barker

Taken before me this
day of Dec

188

POOR QUALITY
ORIGINAL

0204

filed 2 Dec/89

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 ~~Five 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 188

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

James Barker

guilty of the offence within mentioned, I order him to be discharged.

Dated *Mr 21* 1889

W. H. Hagan

Police Justice.

POOR QUALITY
ORIGINAL

0205

Bailed pending appeal

by John Slaffey

328 W. 18th St.

Joseph W. Lamb

263 W. 25th St.

Police Court

District.

PEOPLE &c.,
COMPLAINANT OF

James Kerman
James Baker

Offence

BAILED,

No. 1, by

Residence

Street

No. 2, by

Residence

Street

No. 3, by

Residence

Street

No. 4, by

Residence

Street

Date

188

Magistrate

Officer

Precinct

Street

Street

Street

to answer

0206

POOR QUALITY
ORIGINAL

The Arrests of James Barker
1860. The Party Refused to was
arrested charged with violating the
the U.S. Revenue Laws was indicted
not tried

~~1871 Arrested for assault with
intent to kill~~

1887 Arrest for assault & battery
in Washington D.C. The Party
afterwards began a civil suit
and obtained Judge John J. Lee
costs

0207

Notes of the Assault of James Barker
on James Herman on the 15th September
After the Assault on me by James Barker
my Brother went to the Captain of the
1st Becket and asked him to arrest
Barker he made the answer that all
we wanted was money. This looks very
suspicious that the Captain was protecting
this man.
2nd The Sunday following the Assault
Detectives Carey & Logan in taking me
to Corcoran's Station they asked him
if he could identify the man that
man that put the pistol to his head
he said he could. They went with
them to Clark's Tavern where the
Assault was committed and identify
the man. But the Detective Logan said
next week if possible, they never came
around afterwards does this not look
suspicious that those two detectives
were in league with this man Barker
3rd On account of his influence
4th On the day of my Examination
John Duffy, Barker's Bondsman walked
deliberately out of the Examination room
and gave points to witnesses while
another was examined.
5th One of Barker's witnesses the night

0200

Before the Examination went in to
a Liquor Store and told the Bartender
in Confidence that he was drunk in
the Back Room and did not see what
had occurred

0209

The People
vs
James Barker

The following amendments are desired by the people in the above case

quoted

'n

11
'n

On page 106 leave in the remarks of the Court - commencing with the words "The Court" and ending with "as repeated"

On page 103 strike out words "exception"

" " 104

" " 104

" " 351

" " "

" " "

" " "

" " "exception"

" " "exception"

" " "exception"

" " "exception"

" " "exception"

" " "exception"

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" " "exception"

" " "exception"

to the jury to insert "truth" in p. 360

in page 361 from words "Mr. Howe" in p. 361 to

the words "The Court" in p. 363

W. J. Howe
District Attorney

Proposed case to be amended
as above specified

W. J. Howe

0210

Court of
General Sessions

The People
~~vs~~

James Barker

First and Second
to Third and Fourth
Series

Deborah K. Hall
Deborah K. Hall

0211

SUPREME COURT, FIRST DEPARTMENT

JUNE 1891

Chas H. Van Brunt, P. J.

George C. Barrett,

Edward Patterson, J. J.

THE PEOPLE &c.,

agst

JAMES BARKER

"

"

"

"

"

"

No. 67

Appeal from judgment of the Court of General Sessions convicting the defendant of the crime of assault in the third degree.

Mr. W. F. Howe of counsel for Appt

Mr. M. Semple of counsel for Rspt.

VAN BRUNT, P. J.

Upon an examination of the record in this case we do not find any exceptions to the admission or exclusion of testimony, but it is claimed upon the part of the appellant that the prosecution of this case was conducted in such a manner that the rights of the defendant were seriously invaded in that statements were made reflecting upon the character of the defendant and dwelt upon in the address of the District Attorney to the jury in respect to which no evidence was offered, neither would evidence have been admissible. The record submitted to us, however, presents but one or two instances in which the District Attorney seems to have trespassed upon the rights of the defend-

0212

ant viz: the reference to a newspaper article which was not admitted before the jury stating its character, and characterizing the reputation of the defendant in the community as vile, when there was not only no evidence whatever before the jury to that effect but the only evidence that was offered tended to exactly the opposite conclusion. The statement of the District Attorney that his remark was merely argumentative and that he would give to the jury the reasons for his assertion tended perhaps to show that it was not intended to be more than a comment upon the evidence.

It is probably true that more references occurred upon the trial to these outside and improper matters than appears upon the record, otherwise the learned Judge who presided at the trial would not have thought it necessary to devote so large a portion of his charge to admonishing the jury to refrain from considering these extraneous questions in determining the guilt or innocence of the defendant. These circumstances however were not of a sufficiently grave character in themselves to justify the Court in interfering with the verdict. But in view of the weight of the evidence in favor of the defendant and the character of the verdict, it would appear that some influence other than that which would properly result from a consideration of the evidence determined the verdict.

This will appear from a brief consideration of the main features of the case, and of the fact that the com-

plainant stands absolutely uncorroborated in respect to every material point in the case and pointedly contradicted by the only witness to the assault examined on his behalf in respect to one of its prominent features.

The story of the complainant is that upon the 19th of September 1889 the complainant and a companion by the name of Corcoran went into a saloon at the corner of Eighth Avenue and 25th Street for the purpose of taking a drink, they being on their way to the 14th street theatre which was situated in 14th street just west of the Sixth Avenue; that they went to the bar and ordered their drinks; that at this time there were five or six men at the other end of the room, but the complainant did not notice that the defendant was among them; that the complainant commenced a conversation with the barkeeper in respect to a man of the name of Kinnan and the complainant said to the barkeeper that Mr. Kinnan "ought to hit Mr. Barker a punch in the nose for offering such a thing to him" (referring to a ticket that the defendant had given to Kinnan for the Street Cleaning Department) that as soon as he made that remark he was grabbed by Barker, who butted him and struck him under the mouth with his fist and threw him on the floor; that the complainant was in a dazed condition from the violence of the assault, but while lying on the floor saw Barker standing up about to kick him and that his intention was to kick him in the privates, and he said to him "Dont do that; no one but a brute would do that", whereupon de-

02 14

defendant kicked him three or four times, the first time in the privates. During this scuffle the complainant was not sure whether he hit Barker or not but he believes that he did. The complainant further testified that he did not know how he got up but was kind o' dazed and that his friend Corcoran fetched him out of the store and he went to another liquor store and a doctor was brought to him. It further appears from the medical testimony that the complainant was severely injured in one of his testicles and was confined to his bed for a considerable period of time because of such injury.

Corcoran was examined as a witness and testified that he was in the saloon with the complainant and that the complainant stated to the barkeeper that if he was in Kimman's place he would punch Jim Barker in the nose; that witness turned away to get a piece of cheese from the bar and when he turned back he saw the complainant and the defendant clinched, and saw the defendant butting him with his head and knocking him down on the floor; that when he got the complainant on the floor defendant said "You son of a bitch, you will lick Jim Barker will you" and punched him twice; and that as he (defendant) was getting up he kicked the complainant who then got up and went to the side door, and as he stood in the door said: "Nobody would do that but a brute" and then Barker "pulled out" and kicked him again.

0215

This was all the evidence in reference to the assault upon the part of the People.

The defendant was the first witness examined on his own behalf. He testified to being in the saloon on the night in question when the complainant and Corcoran came in and went up to the bar and called for a drink and commenced talking to the bar keeper, and the ticket for the Street Cleaning Department was spoken of, and complainant said "We don't want that ticket; my friend won't use no ticket like that; Barker ought to stick that ticket up his ~~ass~~ *arse*". If I was in this man's place I would punch Barker in the nose; Barker is no good &c"; that Barker ^{then} walked from the end of the room where he was, going towards the complainant for the purpose of going to the washroom or water closet and that as he got opposite to the complainant, the complainant turned around from the bar and said "Here's the son of a bitch now" and struck him on the left side of the head so powerful a blow that he staggered; that they then clinched and the defendant threw the complainant, and he fell on the iron rail at the foot of the bar and they rolled off together on the floor where the defendant held the complainant until he promised to keep still if he would let him up, whereupon defendant let him up and as soon as he got up he struck the defendant again and the defendant threw him again on the floor; and that during the encounter several blows were exchanged, the defendant however denying that he kicked

0216

complainant at all.

On behalf of the defendant five witnesses were examined who were present in the saloon at the time of the encounter, all of whom testified to the commencement of the assault by the complainant, to the fact of abusive language having been used by the complainant (although they differed somewhat as to its phraseology some stating more than others, and also differed as to the side of the head upon which the first blow was struck, and as to whether when complainant fell, he fell upon the iron rail at the bottom of the bar) and all concurring that the defendant did not kick the complainant, contradicting him in fact in respect to all the main features of the assault as testified to by him.

The variance in the testimony of these witnesses is urged by the learned District Attorney as an evidence that they were not testifying truly as to what they had seen but simply for the purpose of shielding the defendant from the consequence of his acts. But this criticism does not seem to me to be well founded; because it is seldom that even two witnesses will agree in respect to the details of a transaction such as this was where there is necessarily so much excitement and confusion and the parties are acting with the greatest quickness and where the observers are differently placed.

The story of the complainant in reference to what

0217

occurred at the time he was kicked by Barker certainly does not commend itself with great force to the judgment. He states that before Barker kicked him at all, he saw that he intended to kick him in the privates and that he had time enough to say "Don't do that; no one but a brute would do that" before the kick was delivered. This story seems to be simply incredible even if it is physically possible to do the act in the manner testified to by complainant, as to which there is much doubt, to say the least.

The complainant's witness Corcoran tells an entirely different story in reference to the transaction of the kicking. He says that as defendant was getting up he kicked the complainant. Exactly how the defendant was able to do that he did not explain. ~~Then~~ He then says that the complainant got up and was standing in the door when he made the remark testified to, and that Barker then kicked him again. He was positive that the complainant was standing at the time he made the remark, and defendant was going to kick him, and that it was after all the trouble that occurred on the floor - a condition of affairs absolutely and pointedly different from and incompatible with that which had been sworn to by complainant.

If this evidence is true, then the complainant testified falsely as to a material part of this assault in respect to which it is not to be conceived that he could honestly make so radical an error, and therefore his testimony

02 18

in other particulars, when contradicted as it was by a multitude of witnesses, should not have been entertained by a jury.

It is to be observed that he is the only witness as to who struck the first blow, upon the part of the People, as Corcoran did not see the commencement of the assault. And yet the jury seem for some reason to have given credit to the testimony of the complainant although impeached in a material point as already suggested, not only by the defence, but also by the only witness to the assault called on his behalf. And it would appear from the verdict of the jury that they did not believe this part of his story, because if this injury was inflicted in the manner claimed by him then he certainly had suffered grievous bodily harm at the hands of the defendant in the commission of an outrageous assault and the defendant was clearly guilty of an assault in the second degree. But the jury found a verdict of assault in the third degree, in which the element of grievous bodily harm is wanting. The jury thus having found that the complainant testified falsely in respect to what he evidently considered a material part of his evidence it seems remarkable that they should have believed his story as to the commencement of the assault although contradicted by every witness who saw it.

Ordinarily a defendant cannot complain that a verdict has been rendered of a lesser degree of crime than the facts warranted; but in the weighing of testimony in a case

like the one at bar, where it appears (if only from the charge of the court) that extraneous matters had been brought into the case by counsel and thus the jury attempted to be prejudiced, and the verdict apparently being plainly against the weight of evidence, the nature of the verdict necessarily gives some insight into the influences which operated upon the jury in the rendition thereof. If the defendant was guilty at all he was guilty of an unjustifiable assault resulting in grievous bodily harm and the rendition of a verdict for a lesser offence seems under the evidence in this case to indicate either a misconception of that evidence by the jury or some prejudice against the defendant.

Under such circumstances, justice would seem to require a new trial in order that the guilt or innocence of the defendant may be determined upon evidence and not upon suggestion.

I concur, Geo. C. Barrett

I concur, Edwd. Patterson.

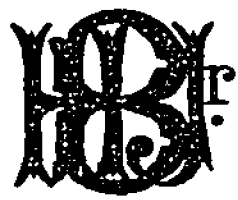
0220

My May 19-190
To whom it may concern.
We have
known James Barker for
several years, and believe
him to be a truthful man
and a reputable man =
= honest.

Yours truly
David McCadam
Thos. M. Aubrey
L. W. Higgins

0221

POOR QUALITY
ORIGINAL



212 SECOND AVENUE.

New York City

May 17th 1930.

Charles

I deem it my an act of
justice to ex-Alderman
James Barker to say
that I have known him
well for upwards of ten
years, last past, and
that from my personal
knowledge of him, together

0222

POOR QUALITY
ORIGINAL

with what I have been
told by relatives and friends
residing in the neighborhood
of his home I sincerely be-
lieve Mr. Barker to be a
man of integrity and in
good standing and repute
among his neighbors and
much respected for his de-
votion to his family.

Respectfully Yours
Henry Bischoff, Jr.

To.
Hon. Rufus B. Cowing

0223

POOR QUALITY
ORIGINAL

Wyo. May 16-1890

This is to certify that I have
known Mr James Barker
as honest and reputable
and engaged in a
reputable business for
more than ten years
last past. he is the
father of most respectable
children

P Henry Orger.

0224

XXXXXXXXXXXXXXXXXXXXXXXXXXXXX
X
Second District Police Court. X
X
X
-The people ect. on complaint of X
X
X
-----James Hernan.----- X
X
-----against----- X
X
-----James Barker.----- X
X
XXXXXXXXXXXXXXXXXXXXXXXXXXXXX

The testimony in this matter is against the position that any crime was committed by the defendant. Of all the witnesses, present at the time and observing the transaction, but one, Peter Corcoran, has the least thing to say which can be construed into an assault by the defendant. The complainant's allegations in his complaint are wholly unsubstantiated, save by Corcoran's testimony.

It seems clear, from the whole evidence, that the defendant was in the saloon, which is in the building with and underneath the meeting-room of the political association of which the defendant is a member, when the complainant and Corcoran entered and the complainant immediately began a tirade of abuse as if seeking to provoke a quarrel.

From the evidence before me, it is plain, that, the defendant took no notice of the complainant or the words used by him, until the complainant struck him. Even the witness Corcoran, does not claim that the defendant struck the first blow. With the exception of the witness Corcoran, they all agree, that after the first blow Hernan and Barker clinched and both fell to the floor, Barker being on top, where, according to the testimony of the witness John J. Simpson, who was not in the company of either Hernan or Barker, both complainant and defendant struck each other.

0225

The five witnesses testify, that, the defendant asked the complainant, if he would behave himself if he would let him up and upon promising to do so, defendant let him up, when the complainant immediately struck the defendant, and they clinched and fell to the floor.

This is the testimony, aside from that of the complainant's companion, who, by his own admission, has served a term in the penitentiary for larceny, and also admits having been arrested more than once.

The witnesses for the defense, are citizens engaged in lawful occupations, and they all testify that the complainant was the aggressor, by striking the defendant blows on the face, and, that the defendant only defended himself.

The complainant and his witness Corcoran, do not agree, as to the words used by the complainant, when they entered the saloon. Corcoran testified, that Hernan said; "If I was Jim Cannan I would punch Jim Barker's nose" Hernan denies that, and says that he said; "Cannan ought to hit him a punch on the nose" meaning Barker.

Officer John Carey, of the 16th. Precinct Police, testified, that he visited Hernan two days after the alleged assault and "asked him if he had any grounds to arrest Barker, and he said no."

Hernan testified, that he drank five or six times that day, whiskey and ale, and was drinking at the time of the difficulty.

I think, from all the testimony, that, Hernan, under the influence of liquor, entered the saloon and displeased with Barker, used the language attributed to him and upon seeing Barker, committed the assault upon him. That the complaint, is an after-thought, is proven, by the officers testimony and I cannot but conclude, that this proceeding, is in aid of the civil suit begun by the complainant, against the defendant, for damages, alleged to have been occasioned by this same assault; and I do not think that the Criminal Courts, should be used in that way.

The case is dismissed and the

0226

*Pratt, J. H.
Hess, J. H.
Chapman
C. J. H. H.
Hess, J. H.
Hess, J. H.*

Police Justice.

HOAGBETSO CH. 1023.

is discharged.

The case is dismissed and the defendant

0227

Copies

Police Department of the City of New York,

Precinct No. 16

New York, Sep. 25th 1889

This certifies that James Her-
man 344 West 26th St. has
been carefully examined by me
this day - Pulse 118 - Temperature
100 $\frac{1}{2}$ - His condition has
greatly improved since for-
mer visits - Contusions dis-
appearing - Tumefaction re-
duced at least one half -
and almost free from constitutional
disturbance - There is evidence of
inflamed testicle still existing,
but in my opinion unless some
unexpected danger supervenes
he is likely to recover.

B. W. McLeod
Surgeon of Police

0228

N. Y. Sept. 23 - 1889.

This is to certify ~~that~~
that in consultation with
Dr. Thom. Stone, I made
an examination of James
Herman residing at
344 W. 26th St., and
confirm his diagnosis
viz. Traumatic Orchitis
Traumatic Epididymitis
Traumatic localized
Peritonitic contusions
on Buttocks and
contused wounds of
face. He is suffering great
bodily pain, and at best
will probably be maimed
for life.

Eugene J. Brerofalla M.D.
344 9th Ave

0229

OFFICE HOURS;
9.30 to 10.30 A. M.
1 to 2 P. M.
7 to 8 P. M.

THOMAS STONE, M. D.

340 West 27th Street,

Between 8th and 9th Avenues.

TELEPHONE CALL, 341 21st St.

New York, Sept 23 1889

I hereby certify that
Gas Herman has been
in my care since Sept.
19th/89. That he is seriously
ill from traumatic
Orchitis, Epididymitis,
local peritonitis, cuts and
contusions on lower jaw,
and contusion on left
hip -

Thomas Stone M.D.

0230

Police Department of the City of New York,

Precinct No. 16

New York, September 24th 1889

This certifies that James Herman
344 West 26th St has been visited
and examined by me this day.
That his pulse is 120 - temperature
 $100\frac{2}{5}$ and that his condition
is about the same as recorded
in certificate of yesterday without
any development of new or dangerous
symptoms -

P. W. McLeod
Surgeon of Police

0231

Police Department of the City of New York,

Precinct No. 16

New York, September 23rd 1889

This certifies that James
Huron born in U.S. - aged
33 years residing at 344 W. 26th
St. was carefully examined by
me this day at 11.30 A.M.
- that he is suffering with contusion
of right eye, contusion and
abrasion of lower lip & jaw -
contusion and tumefaction
of scrotum with inflamed testicles -
with considerable constitutional
disturbance shown by pulse 120
and irritability - with difficulty
of passing urine - with temperature
98° Also that he is possibly suf-
fering from internal injury and that
prognosis is as yet uncertain.

C. B. W. McLeod, Surgeon of Police

0232

Police Department of the City of New York,

Precinct No. _____

New York, _____ 1888
3 58

This is to certify that I
have just examined Mr.
Jas. Hannan at No 344
West 26 St. I find his
pulse 112 Temperature
 $99 \frac{4}{5}$. He has con-
-usions about the
jaw. and about the
throat. I exam-
-ined his lungs and
found them normal
While doing so he
began to vomit and
his physician Dr Stone
asked ^{me} to ~~to~~ ^{to} ~~decs~~
make no further
Examination at the

0233

Police Department of the City of New York,

Precinct No. _____

New York, _____ 188

present time, as he
was afraid his vom-
iting would become
uncontrollable.

I complied with his
request and made
no further examination
from the superficial
examination of the
case which I was
allowed to make. I should
say that there was
no immediate
danger.

H. P. Spooner M.D.

58 E. 34 St.

0234

Police Department of the City of New York.

Precinct No. 16

New York, October 5th 1889

This certifies that James
Herman 344 West 26th has
been visited by me this
day - He continues to improve
but is not able to leave
his room - He may not
be able to go out for
some time - perhaps one
week or more -

B. W. McSweeney, S.
Surgeon of Police

0235

Police Department of the City of New York,

Precinct No. 16

New York, Sep. 28th 1889.

This certifies that James Herman
344 West 26th was visited by
me this day - that he is
steadily improving and is
likely to recover.

B. W. McLeod M.D.
Surgeon of Police

0236

New York Oct 11. 1889.

This is to certify that James Hernan
residing at 344 West 26th Street, is now
out of danger, as far as life is concerned.
He is not yet convalescent, owing to great
weakness, and is still under treatment for
the bruised testicle. This will require a
long period to recover, if such an event
can under the best circumstances be
anticipated.

Thos Stone, M.D.
Dufrenoy & Brainerd, N.Y.

0237

Police Department of the City of New York.

Precinct No. 16

New York, October 10th 1889

This certifies that James Harmon
3444 West 26th. was visited by
me this day. He slowly im-
-proves - Is not yet able to
lean his room - In my opinion
he will not be in condition to
go out for at least a week
perhaps longer.

J. W. McLeod M.D.,
Surgeon of Police.

0238

DR. H. P. LOOMIS,

Office Hours:
Until 10 A. M., 6 to 7.30 P. M.

56 East 34th Street.

This is to certify that - I
have this afternoon in
conjunction with Police
Surgeon McLeod. Exam-
ined Jas. Herman of
344 W 26 St. - I find
his condition very much
improved from yesterday
Unless some unforeseen
complication arises I should
consider that the patient's
condition points to a speedy
recovery. And as far as
one can, predict - in
such cases he is out of
danger

Sept 25th

H. P. Loomis

0239

Sec. 192.

2

District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }
OF NEW YORK, } ss.

An information having been laid before Henry Ford Esq a Police Justice
of the City of New York, charging James Barker Defendant with
the offence of Assault

and he having been brought before said Justice for an examination of said charge, and it having been made to
appear to the satisfaction of said Justice that said examination should be adjourned to some other day, and the hear-
ing thereof having been adjourned,

We James Barker Defendant of No. 303 West 19th Street; by occupation a Vinyl Manufacturer
and John Suffy of No. 328 West 14th
Street, by occupation a Distiller Surety, hereby jointly and severally undertake that
the above named James Barker Defendant
shall personally appear before the said Justice, at the 25th District Police Court in the City of New York,
during the said examination, or that we will pay to the People of the State of New York the sum of 25
Hundred Dollars.

Taken and acknowledged before me, this 25th day of Sept 1888
Henry Ford POLICE JUSTICE.

0240

CITY AND COUNTY } ss.
OF NEW YORK, }

Sworn to before me, this
day of
March 1888
John S. Suffer
District Justice.

the within named Bail and Surety being duly sworn, says that he is a resident and
holder within the said County and State, and is worth Twenty Dollars,
exclusive of property exempt from execution, and over and above the amount of all his debts and
liabilities, and that his property consists of

Lot 2 Land situated at No 328
West 4th Street in this city
valued at Seventeen thousand
Dollars clear

John Suffer

District Police Court.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Undertaking to appear
during the Examination.

188

day of

Taken the

Justice.

0241

Police Court

Second District

Sept 25 1889

The People vs
Michael J. Herman
James Barker

The defendant Barker is
detained in the custody of
Police Captain Grant pending
an examination on complaint
against him for assault
upon James Herman, who
is now suffering from said
assault and unable to appear
in court. All the affidavits,
physicians certificates and testimony
with reference to said assault
are herewith transmitted in
answer to the within writ.

J. M. Murphy

Police Justice

POOR QUALITY
ORIGINAL

0242

Herman witnesses in the Barker Case
Geo. Turkenton 249. West 30th. This is the
Bar tender who, Mr. Turkenton one of Barker's witnesses
told before going to court on the morning of the
Examination that he was drunk in the back
room of Clark's liquor store at the time of the
assault and did not see it. and did not
know anything about it.

Michael Herman 221. West Myrtle went
to Captain Galt and told to arrest Barker
But he said we did not want him arrested
all we wanted was money,

Frank Lued 236. E. Ave. This is the
man that put out cocaine with a pistol
to his head

Lawrence Stone 360. West 25th

John Murray 311. West 27th

These two men have since heard
was then the time it was assaulted.

James Murray, this man was assaulted
by Barker ~~the~~ when he kept the Liquors
Store on 16th Ave 17th st. And his wife will
~~also~~ swear to the fact

0243

To the Honorable Rufus B. Curing.

City Judge.

We the undersigned, residents of the City of New York respectfully represent.

That we have known James Parker for a number of years, and have found him honest, truthful and reliable. He has been a merchant in the City for several years past and his mercantile credit is good amongst business men. He is about 60 years of age and the father of a family.

We believe that the disgrace of conviction, followed by incarceration in the Tombs, should be considered a degree of punishment calculated to vindicate the majesty of the law.

We therefore unite in asking that these facts be taken into consideration in passing sentence.

All of which is respectfully submitted.
New York May 16th 1890

William H. Owen and
229 and 231 Washington St N.Y.
B. J. Thurber May 20th 1890
E. H. Gay and Co 117-119 Nassau St

0244

A. B. Jimmes 84 Hudson St. N.Y.
 Burkhalter & Co 90-94 Hudson St
 Max. Weiss 372-374 Greenwich St.
 Bonnet & Plummer & Co.

Chas W Peck buyer for
 F. H. Leggett & Co 48 Chaumont St
 G. J. Reese 626 & 628 W 48th St

Erwin M. Cronk 148 & 150 - 6th Ave.
 J. P. Robertson 139 West 48th St

S. Lichtenstein & Co 81-83 Barclay St

Walter & Mente 227 Washington St

Wm E Power 249 Washington St

A. C. Derby & Co 626 West 39th St

H. C. Dodge & Co 605-1/2 West 36 Street
 et J. Hicks " " " "

F. Behre & Bro 255 Washington St

R. J. Dean & Co 302 Greenwich St

James F. Harris 153 Chambers St.

Robinson & Co 49 Broad St

Wm H. Stafford 17 Centre St

William Co 12 Centre St

James Stafford 26 South Street

Radcliffe & Palmer 53 Broadway

State Line

0246

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 Dardar

The Grand Jury of the City and County of New York, by this
Indictment accuse *James Dardar*

of the crime of *Assault in the second degree,*

committed as follows:

The said

James Dardar,

late of the City of New York, in the County of New York, aforesaid, on the
nineteenth day of *September,* in the year of our Lord one thousand
eight hundred and eighty-*nine*, at the City and County aforesaid,

with force and arms, in and upon one
James Herman, then and there feloniously
did unlawfully and wrongfully
make an assault, and beat the said
James Herman, with both the hands and
feet of him the said James Dardar, in
and upon the shoulders and private parts
of him the said James Herman, then and
there feloniously did unlawfully and wrong-
fully strike, beat, kick, turnise and
wound, and threaten then and there
feloniously did unlawfully and wrongfully

0247

in full agreement to the same upon the
said James Vernon; 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.

John R. Kellogg,

Attorney at Law