

0391

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Gavan, Rose

**DATE:**

02/25/91



3940

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10778.  
noty John A. Deal  
149 Broadway

Counsel, *W. H. H.*  
Filed *25* day of *July* 188*9*  
Pleads, *Not guilty*

THE PEOPLE  
vs.  
*Rose Gavan*  
I  
Arson in the ~~Second~~ Degree. [Sec: 487, Penal Code.]

*DE LANCY NICOLL,*  
*JOHN R. FELLOWS*

District Attorney.

**A True Bill.**

*Chas. S. Roberts*

*Part II May 20 1889*  
Foreman.  
*W. J. Mc*  
Inscribed and Registered -

Witnesses:

*John Mitchell*  
*And get Corley*  
*Chas. Mansfield*

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TORN PAGE

STENOGRAPHER'S MINUTES.

*W* District Police Court.

THE PEOPLE, &c., IN COMPLAINT OF

*James Mitchell*

*Rae Garant*

BEFORE HON.

*Chas. W. Dainton*

POLICE JUSTICE,

*July 16<sup>th</sup> 1887*

APPEARANCES:

For the People,

For the Defence,

*Marion Ottoburn*

*July 16<sup>th</sup> 1887*

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DISTRICT POLICE COURT.

THE PEOPLE  
ON COMPLAINT OF

*James Mitchell*  
agst.

Examination had *July 16* 18*91*  
Before *Chas. H. Painter* Police Justice.

*Russ Brown*

I, *George Ziegler* Stenographer of the *4* 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*

*Mitchell & Russ*  
as taken by me on the above examination before said Justice.

Dated *July 18th* 18*91*.

*George Ziegler*  
Stenographer.

Police Justice.

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Fourth District  
Police Court

James Mitchell  
- vs -  
Rose Gavan

Before Hon.  
Chas. N. Taintor,  
Justice

N.Y. July 16<sup>th</sup>, 1891.

No one appears for  
Complainant

Marcus Otterbourg, Esq  
for defendant.

James Mitchell, being duly  
sworn, testified as  
follows:

By the Court,

I am Fire Marshall of  
the City of New York. I  
caused the arrest of the  
defendant, because I thought  
she was guilty of arson  
in the second degree - of  
having set fire to the  
property in premises 920  
2<sup>d</sup> Avenue on the 11<sup>th</sup> of

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February, 1891. I received a message through my Clerk, calling me to a fire at 920 Second Avenue. He said the message had been received at headquarters. The fire started in three places on the fourth floor of No 920 Second Avenue. I went there about two and a half hours after the fire and made an inspection of the premises. I found evidences of fire under the front door leading from the hall into the front apartments. The fire had burned from the outside in and Kerosene had been used. I went into the rooms and discovered that there had been a fire in the closet in the kitchen and had burned out of there through

the open door into the sitting room. I found that a fire had started in the wardrobe in the bedroom and then burned into the sitting room. The sitting room was badly scorched and discolored. I found evidences of kerosene on the bed clothing.

Q. What evidence have you that the defendant committed this offense?

A. She was the only woman present at the time in those rooms. She was seen coming out of the back window on the fourth floor. Mrs. Bridget Curley, the housekeeper, saw her. Mrs. Curley was in the yard at the time, and the defendant was perched on the roof by

a man named Walsh, a roofer. The property was insured for five hundred dollars. I made a list of the property in the rooms, and I think the value of the property would not exceed one hundred and sixty dollars. I have a witness here who will testify that a trunk was carried into his room. The trunk was empty. The trunk was slightly burned on the outside.

Defendant's counsel objects to all the evidence given by the witness, except that he found evidences of perfume, and <sup>he believes</sup> where the fire started.

Obj. sustained.

## Cross Examination

By Mr. Otterbough:

Q What was the general appearance of the room you entered - the first room you entered?

A The first room I entered was the front room.

Q Had there been any fire in that room?

A There had been no fire in the room; it had burned out the base of the door. From there I went through the hall to the rooms occupied by the defendant. The room I entered at first in front was not occupied by the defendant.

Q The room you entered then was the room she occupied and there was no evidence of fire there?

A O, yes. The property was

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burned on the walls, the ceiling was blackened and the paint on the woodwork was blistered and darkened.

Q From your own knowledge would you now swear as to the real cause of that fire - what brought it about?

A I can't say exactly as to how it was set.

Q When did you first see this defendant?

A I saw her about five or six minutes after I first entered the room. She was not there and I sent for her; she was in the adjoining building.

Q Where did you go then?

A Into the kitchen and examined the closets. I found a fire had burned that closet out through

the door.

By the Court:

Q The fire was extinguished when you got there?  
 A Yes, sir. The frame work of the door in the kitchen was pretty nearly burned through and badly charred. Outside it was merely blistered and darkened. Then I went into the bedroom and examined the wardrobe and found some evidences there. The fire had started below and burned up the inside of the door, the top being badly charred and burned. On the outside in the sitting room it was blistered and

darkened.

By Mr. Attorney:

Q When you say "below" do you mean from the floor?

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A Yes, from the floor up.

Q Was there any part of it destroyed there?

A Very little - a few rags, two or three articles. There was very little debris, except the woodwork and flooring.

Q You don't know of your own knowledge who gave the first alarm of fire?

A Not of my own knowledge.

Q All that you have related here happened on the day the fire occurred?

A Yes, sir.

Q What time of the day was it when you went there?

A I think it was about five minutes after five. The fire took place about half past two.

Q You say you saw some evidence of someone there?

A Yes  
Q Where?

A On the bed quilts and bed covering, on the flooring and oil cloth of the front hall floor where the fire had burned under the door.

Q What is the room next to the one the defendant occupied?

A The room adjoining the one she occupied.

Q From the room in which you went first - there is a door leading from that into the hall?

A Yes sir, there is a door leading from that into the hall and also a door leading to the middle room.

Q After you arrived there - two hours after the fire - you couldn't give any

evidence as to whether  
those doors were closed or  
not?

A I couldn't.

By the Court:

Q The doors were opened  
when you arrived there?

A Yes sir

Q This fire in the front  
part of the house was  
in the hall?

A Yes sir

By Mr Otterbough:

Q From the outside in?

A Yes, sir

Q When did you first see  
the defendant?

A About six minutes after I  
arrived there. She was  
not in the house and I  
sent for her

Q Did you ask for any  
explanation then?

A She told me she was  
sitting in the room

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where the cross is on the diagram attached to the complaint. That she saw smoke coming out of the little door. That she supposed there was a fire burning and she went out of the window on the fire escape to go into the adjoining house.

Bridget Curley, swears,  
Testified as follows:

By the Court:

Q Where do you live?

A 302 East 49 St. I  
am a janitress of the  
house 302 East 49 St.

I know the defendant,  
Rose Garan. I saw her  
on the 11<sup>th</sup> of February,  
1891, about half past

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was in the afternoon. I saw her on the fire escape in the rear of the house.

I saw a little smoke in the window of her premises the rear window. I was standing in the yard at the time. I saw her come out on the fire escape. Then she went on the roof of the next house No. 300. Then I ran around to see if I could get somebody. I went upstairs in the house to the top floor where Mrs. Gavan lives.

all I saw was a little fire under the bottom of the door in the front.

Then I told a boy to go and tell somebody to call the firemen; the boy I spoke to was on the roof tearing the roof.

I don't know his name. I know him by sight. I didn't go into Mrs Gavan's rooms. I didn't see any fire only under the front door.

By Mr Mitchell

Q Did you try Mrs Gavan's door leading into her rooms?

A I don't recollect whether I tried it or not.

Q It was closed when you went up?

A Yes sir

By the Court:

I didn't see any fire in Mrs Gavan's premises.

From the Lallyway I went up to the roof and down the stairs. The boy I sent to give the alarm was on the roof at the time. There was another man working on the roof

besides the boy. I saw Mrs Gavan on the roof. She was lying on the roof and a man had her child. She looked as though she fell. I didn't see her fall. She was lying on the roof when I came up. When I was in the back yard I saw Mrs Gavan going out on the fire escape. She had her child with her in her arms. Then I seen the man take it out of her hands. The man was on the roof putting tar on the roof. That is all I know.

Cross Examination:

By Mr Otterbough:

Q You don't know whether Mrs Gavan's room was locked or not?

A I couldn't say

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Q It might have been open?

A It might, sir; I didn't try it.

Q It might have been unlocked?

A Yes, sir, it was not open. I couldn't say whether it was locked or not.

Q You don't know the boy's name you sent to give the alarm?

A No, sir.

Q Did he come back?

A He did.

Q You say there was a man working on the roof?

A A man a boy, fixing the roof.

Q This roof was over the house where this happened?

A No, sir, it was No 300 — the next house.

Q You were down in the yard and saw Mad Garrow or the fire escape?

A I did, sir.

Q Did you at that time also see a man on the roof and that somebody stretched out their hand and pulled Mrs Gavan on to the roof?

A I don't know that I saw that. I seen the man take the baby

Q After you ran up stairs was Mrs Gavan still on the fire escape?

A No, she was on the roof.

Q So you didn't see that man pull Mrs Gavan up on the roof?

A I didn't see

Q And you were looking up all the time?

A No, I ran up to the roof and found Mrs Gavan on the roof. When I saw the man take the baby I ran up to the roof and I found Mrs

Gavan on the roof.

Q So during the time you ran from the yard up stairs Mrs Gavan had changed her position and you found her on the roof?  
A Yes sir.

Q And there you found her lying down?  
A Yes sir.

Q Was <sup>not</sup> you told she had fainted?  
A I thought she was.

Q The baby was held in the arms of one of the men?  
A Yes, sir.

Q When you went up there you say you saw a little fire in the hallway?  
A Under the sill of the door.

Q Was this sill hollow?  
A Yes sir.

Q And the fire was under it?

A A little bit - just blazing a little

Q Was there only smoke?

A Not much smoke

Q And all you did then was you run away?

A Yes

Q You are janitors of that house?

A Yes

Q How long have you known Mrs Gavan?

A I couldn't say exactly - about a year.

By the Court

Q The sill of the door where you saw the fire - was that the door leading into the premises occupied by Mrs Gavan?

A She didn't occupy that room; she lives in the back

By Mr Otterbump

Q Who else was living on that floor at the time?

A Another lady lived in front

Q She was out?

A No

Q How do you know?

A I tried to open her door.

Q Who else lives on that floor?

A Only the two women

By the Court.

Q Before you went away from there did you go and

try Mrs Gavan's door?

A I didn't see.

Michael Walsh, sworn,  
testified as follows:

By the Court,

I live at 10 Jackson St.

I am a tin roofer. I was

engaged in repairing the

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roof of 920 Second Avenue  
on the 11<sup>th</sup> of February, inst.  
I saw the defendant there.  
I saw her in the afternoon  
about half past two.  
She was on the fire  
escape. She had her  
baby with her. I asked  
her if there was a fire.  
She said, yes. ~~But~~  
~~but~~ I seen smoke coming  
up through the roof and  
I went to see if it was  
the chimney and I seen  
the lady with her hand  
on the window sash  
trying to get in. I asked  
her if there was a fire  
down in the window of  
the adjoining house - I  
was working on the  
corner house - she lived  
next door - I said  
"Is the place on fire?"

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and she said "Yes". I asked her why she didn't go out the other way. She said "The door is locked". I asked her where the fire was. She said "I think in the hall". She said "Take my baby" ~~up~~ I took the baby up and helped pull her on the roof. The lady fainted on the roof. and another lady brought some brandy up and we gave it to her. I took the baby down and got some lady to take charge of it. I don't know that the defendant said anything else. She was not capable of saying anything else. Two women refused to take the baby and another slammed the door in my face and.

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said they knew enough about those parties - that they were a nuisance.

I then sent my son to give the alarm. I told him to give the alarm to the housekeeper. When my son came back I said "Did you give that alarm?" He said the housekeeper did? I said "you go yourself"

I went down in the premises No 970 2<sup>nd</sup> floor in about seven or ten minutes after I seen smoke. It was hard to tell where the smoke was coming from when I got there. It was curling around the ceiling. I saw the firemen there.

I didn't go in the room where the fire was

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I did not remain there until the firemen came. I saw I could do no good and went on the roof again. My son wanted to break open the door. I knew that would create a draft and said to let the firemen attend to it. I do not know which door my son wanted to break in. Two doors were closed and a padlock was on one. I went ~~back~~ go back on the roof until the firemen were done. Mrs. Gavan didn't make any statement to me.

### Cross Examination

By Mr. Ottobourg:

Q. Where was that padlock on the door?

A. The door belonged to the front.

Q. On the door of the family that was out?

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A Yes, sir.

Charles Margain, sworn,  
testified as follows:—

By the Court:

I live at 375 East 41 St.  
I am Assistant Foreman of  
Engine Company 21 of the  
New York Fire Department.  
I was called to a fire  
at 920 Second Avenue on  
the 11<sup>th</sup> of February. The  
alarm was received at  
2:27 P.M. On arriving at  
920 Second Avenue we went  
to the fourth floor and  
found a fire in the front  
room. We extinguished  
that fire and then we  
found fires in the rear.  
The fire in the rear was  
in a closet where the dials  
were—in fact the entire

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room was on fire at that time. The fireman and I - Mr Simondo - were the first to make an entry. I told Mr Simondo not to open the door until we got the line up. I am not positive whether Mr Simon burst open the door or not. On going up to this front room I thought at first all the fire was there. Afterwards I discovered smoke coming out of the crevices of the door in the rear into the hallway. There was no smoke at that time in the front. We waited for the hose to come up. Engine No. 8 had this hose up first.

at that time Mrs Garsons door was open, but I am not sure whether the fire

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Palmer opened it or not -  
I think he must have - but  
he closed it until the  
line came up; then the  
door was opened. I was  
present at the time. We  
could observe the flames  
coming out of the rear  
room. The fire appeared  
to be coming from the  
kitchen. I also saw a fire  
in the bed room of the  
rear premises - in the centre.  
There appeared to be three  
distinct fires - in the  
kitchen, bedroom and in  
the front room. The wood-  
work was pretty well charred.  
over the doors and the  
closet was pretty well  
burned out. In the bed-  
room the mattress smelled  
of kerosene. I examined  
the mattress. I was ordered  
by the Chief to ~~parade~~

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the mattress and put it  
one side. I did not  
see the defendant there  
at all. I think Pivener  
Salmon opened the door  
leading into the sitting room.  
I did not take any  
particular notice of the  
sitting room of anything  
that was in there. The  
fire appeared to be coming  
from the kitchen. The  
kitchen is at the end  
of the hall. you enter  
the sitting room to enter  
the kitchen and you then  
go through a door into  
the kitchen. I also  
observed a fire in the  
bed room. The bed room  
is right adjoining the  
sitting room. We searched  
that bedroom and found  
nothing but this bed that  
I spoke of. There was a

fire in the closet of that room. I did not smell any kerosene in the closet.

### Cross Examination

By Mr. Otterbaugh:

Q This mattress you examined where was the evidence of kerosene there?

A It was on the foot of the bed.

Q Was it where the seams were?

A No sir.

Q Where the mattress is sewed together?

A No.

Q From your own observation you would certainly not determine where that fire broke out?

A My opinion would be that it came from the kitchen - that is, one of the fires, the other from

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the bedroom and the third  
was at the front door of  
the other premises on the  
inside.

Q You mean that the fire  
was on the inside in the  
other apartments also?

A Yes, sir.

Q That was where the door  
was locked?

A Yes, sir.

Michael Salmon, sworn,  
testified as follows:

By the Court:

I live at 1009 Second  
Avenue. I am foreman  
of Hook & Ladder No. 2  
of the City of New York.  
I was called to a fire  
at 920 Second Avenue  
on February 11<sup>th</sup> last at  
about 2:30. When I got  
there I ran up the stairs

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to the top floor. When I got there I saw some fire in the front and I saw some man there with a big cloth trying to put out the fire and I pushed him one side and knocked the door off its hinges with an axe - that is of the front apartment. Another fireman belonging to my company got a pail of water and threw the water on the fire and put it out. We then went back to the rear - the smoke was coming out of the room - and I there must be some fire in there. We kept the door closed until we got the line up there and as I opened the door the blaze shot across the hallway. Then they came in with the line and put the fire out.

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The room was entirely charged with fire when I opened the door. I cut the floor up in front as I thought the fire might be coming up through the floor. I took a piece of the base off. Then I went to the rear room and I seen the room was full of smoke. As soon as they got the line up I opened the door. The boards were all charred. The bedroom is next to the sitting room. I observed a mattress in the bedroom. It smelled of Kerosene. I did not smell kerosene anywhere else. When I first arrived at the house the door leading from the hallway into the sitting room was open. I saw smoke and fire there. I

thought it came from the front.

### Cross Examination

By Mr Otterbaugh

Q You say that the fire was burning from the inside and you opened the door?

A No sir, I didn't. The blaze was going up along the casing about a foot high from the floor, along where the sill of the door was. I took the sill of the door, and this man was trying to put the fire out from the inside of the room. The door was half open.

Q Who was that man?

A I couldn't tell you, I pushed him one side and latched the door of its hinge with an axe. The fire was on the inside of

the room on the bottom  
of the casing.

Jacob Frank, sworn, tes-  
tified as follows:

By the Court:

I live at 41 East 76 St.  
I am Assistant Fire Marshal  
of the City of New York. I  
was called to the fire at  
920 Second Avenue on Feb-  
ruary 11<sup>th</sup>, 1891. I received  
a communication from  
Chief Fisher as to a sus-  
picious fire at 920 Second  
Avenue. I received the  
message about 3:30 in  
the afternoon. I arrived  
on the premises in about  
five minutes. I made an  
examination of the premises  
and found evidences of fire  
in the hall on the fourth

floor front. The fire was against the casing & ceiling. I also found there had been fires in the rear room left in the kitchen in a kind of an alcove and also between the front and rear rooms and in the bedroom. I found the oil cloth and sill of the door saturated and smelt of kerosene in the hall, top floor, front. I also smelt kerosene in the bedroom and some sweaters which I have in my possession smelt of kerosene. I scraped and cleaned out the floor of the closets and I found that the fire had run across the casings of the door, across the ceiling and towards the sitting room. The fire marshall then came in and I turned

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the case over to him and he continued the examination. In the kitchen I found the closet had been burned out. I did not find any evidences of kerosene there. I found evidences of kerosene in two places - on the sill of the front room door and on the comforters.

The fire in the front room door appeared as though it had been on the outside. I took the sill off and the door and then put it back in its original position. I found that the fire had burned from the outside in.

Cross Examination

By Mr. Atterbury

Q. When you came there the fire was out?

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A Yes, sir.

Q This damp condition of the computer - is that not some water mixed with the kerosene?

A I don't know.

Q You say you found it in that condition there?

A Yes, sir.

Q Had the hose been applied to that room?

A I don't know. I was not there.

Q Was the room all dry when you came there?

A Portions of the room, yes.

Q So water had been used in the room?

A I don't know.

Q Where did you find it - on the floor?

A Yes, sir, in the bedroom between the sitting room and the apartments in front.

Q Is that all that was on the floor there?

A Yes, sir, all of the comforts.

Q Nothing else on the floor?

A Burned wood.

Q And the mattress was in there too? Did you examine that mattress?

A Yes, sir.

Q What did you find there?

A Kerosene on it.

Q Did you examine the front room which was burned from the outside to see if there was kerosene there?

A Yes, sir, on the sill of the door and on the oil cloth in the hall.

Q And the door was broken in that room?

A Yes, sir.

Q Where were you when it was broken in?

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A No. 1, it shows it was  
broken in; the hinges  
knocked off.

Emma Malther, sworn,  
testifies as follows:

By the Court:

I now live at 916 - 2<sup>nd</sup> Ave  
I did live at 920 Second  
Avenue. I was at 920 Second  
Avenue the 11<sup>th</sup> of February  
1891. I was not there when  
the fire occurred. I know  
the defendant. I went out  
that afternoon. I left Mrs  
Guran's rooms about quarter  
to two. I had left my own  
rooms before. I locked my  
rooms. There was two doors; I  
had them locked; the kitchen  
door had a padlock on it.  
I occupied the front room  
on the top floor fourth

floor. I went in Mrs. Gavan's rooms to ask her to see after my dolls. I saw Mrs. Gavan in her rooms. I told her I was going out. I first heard of the fire from my husband; he came after me. My brother was going down to 45<sup>th</sup> Street and saw the fire engines and he went after my husband and then my husband came over to me.

### Cross Examination

By Mr. Otterbourg:

Q You are a married woman?

A Yes sir.

Q What does your husband work at?

A He is a brass finisher.

Q How long have you lived in that house?

A I had been there over a

floor. I went in Mrs Gann's rooms to ask her to see after my dress. I saw Mrs Gann in her rooms. I told her I was going out. I first heard of the fire from my husband; he came after me. My brother was going down to 45<sup>th</sup> Street and saw the fire engines and he went after my husband and then my husband came over to me.

### Cross Examination

By Mr. Otterbourg:

Q You are a married woman?

A Yes sir.

Q What does your husband work at?

A He is a brass finisher.

Q How long have you lived in that house?

A I had been there over a

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<sup>year</sup>  
Q. You have no children?

A. Yes, one.

Q. Are you insured?

A. No sir.

By the Court:

Q. Did you return to your premises after the fire?

A. Yes sir; the fire was out when I got there. When I got back Mrs. Garon's rooms were all upset.

My two doors were broken in. I saw a trunk in my room that didn't belong to me. I think it was

Mrs. Garon's; I saw a trunk like that in Mrs. Garon's bedroom; it was pretty dark in her bedroom.

A shirt and baby's cap was in the trunk that was in my room. I couldn't

tell whether it was the same trunk I saw in

Mrs Garra's bedroom — the room is so dark. I don't know what became of the trunk. I left it in the room.

Defendant's counsel admits it was Mrs Garra's trunk.

By Mr. Otterbourg:

Q Do you know who took that trunk in your room?  
A No, sir.

Louis Malther, sworn,  
Testified as follows.

By the Court:

I lived at 920 Second Avenue on the 11<sup>th</sup> of February. I am the husband of the last witness. I am a screw maker. On the 11<sup>th</sup> of February, 1893, I started

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to work at seven o'clock  
and came home to dinner  
at twelve ten. I went  
back to work at half  
past twelve. While I  
was at work I was  
notified of some trouble  
about five minutes past  
three that there was a  
fire down in my house.  
I went to 930 Second  
Avenue and found my  
rooms in confusion. My  
room was on the fourth  
floor front. I asked  
the firemen to let me  
in. There was a trunk  
in my room. I do not  
know whose trunk it was.  
There was a white shirt  
and a little cap in it.  
I saw Mrs. Gavan there  
that day after the fire,  
she was coming down the  
steps from the roof. I

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asked her to sit down as I seen she was very pale. I spoke to her about how the fire originated but I couldn't get any satisfact-  
ory explanation. I said Mrs Garan "Don't you worry; are you insured?" she said "Yes" "Well" I said "Mrs Garan I am the loser I am't insured" and then I told her to come in and sit down and rest herself. I didn't have any further conver-  
sation with her. She did not say how the fire originated, not to my knowledge. In the room I said "I believe this is Mrs Garan's trunk" We were holding a conversation over the trunk. I was in my room on Sunday before the fire. I saw

a bundle carried away from the rooms of the defendant by her sister - Mrs. Lacy. I recognized her by her dress. It was a pretty large bundle; I don't know what it contained. I can't swear that she carried it out of Mrs. Gavan's rooms. She was on the second floor when I was going up; she was going down stairs. That is all I know about it.

### Cross-Examination

By Mr. Attorney:

Q What was in the daytime?

A Half past six or seven o'clock.

Q It was on Sunday two weeks ago?

A Sunday, a week ago.

Edward Palmie, sworn,  
testified as follows:  
By the Court:

I reside in Brooklyn.  
My business is agent for  
the Hanover Fire Insurance  
Company. I do not know  
the defendant personally.  
I know that the Hanover  
Insurance Company has  
insurance upon her property  
at 920 Second Avenue. I  
insured the policy myself  
as agent for the Company.  
The Policy is for Five  
hundred dollars (\$500).  
It is for the benefit of  
Patrick Gavan. The Policy  
was first taken out for  
the premises 1448 First  
Avenue and transferred  
on the 14<sup>th</sup> of August,  
1890 to 920 Second Avenue.  
The Policy was in force on  
the 11<sup>th</sup> of February, 1891

I have not made an examination of the premises since the fire. The loss has not been adjusted.

Cross Examination

By Mr Otterbourg:

Q Has not an inventory been taken of what has not been destroyed?

A I don't know anything about that. I don't know whether any examination of the premises has been made.

Q Is it not within your province to know?

A No, sir, that is the business of the adjuster of the Company.

Q By whom is he notified?

A As much as I know he was notified by a public adjuster named Rensfeld - or something like that.

Q Is that all you know — that the policy was issued for the benefit of Patrick Garon?

A Yes, sir.

Q When you issued that policy did you examine the premises?

A Yes, sir.

Q And you found it was a fair risk to insure it for five hundred dollars?

A I had it examined by the inspector of my office and he reported it all right and then we issued the Policy — that was in June, 1890

By the Court:

Q Do you know that the same condition existed on the 11<sup>th</sup> of February, 1891?

A I do not know.

Defendants counsel waives further examination

0443

(Gen. Sec.)  
District Police Court.

*James Mitchell*  
vs.  
*Rose Gannon*

STENOGRAPHER'S TRANSCRIPT.

*July 16 - 1889*

BEFORE HON.

*Chas. N. ...*

Police Justice.

*George H. ...*  
Official Stenographer.

*8.13.11 at 143 ...*

*374 ...*

38-291/4

270 U

THE PEOPLE  
vs.  
ROSE GAVAN.

COURT OF GENERAL SESSIONS, PART III.  
BEFORE JUDGE FITZGERALD.

Thursday, May 14, 1891.

Indictment for arson in the second degree.

Asst. Dist. Atty. Stapler for the People.

Messrs. Haire and Harvey for the Defendant.

A Jury was empannelled and sworn.

Mr. Stapler opened the case for the People.

JAMES MITCHELL, sworn and examined.

By Mr. Stapler. Q. Mr. Mitchell. what is your occupation?

A. At present I am Fire Marshall of the city of New York.

Q. Will you please tell the jury just what your duties are in that connection, what is your position, you are appointed by whom?

A. I am appointed by the Fire Commissioners of the city of New York.

Q. What is your duty? A. My duties are to examine into the circumstances attending every fire occurring in the city of New York, to discover if possible the cause and origin of each fire in cases in which I am convinced that there are facts sufficient to-----

Objected to.

By the Court. Q. You examine into the cause and origin of fires?

A. The cause and origin of fires.

By Mr. Stapler. Q. It is part of your duty to examine these premises, is it not, where fires occur?

A. It is part of my duty to examine the premises.

Q. Was your attention in the course of the discharge of your official duties called to a fire at 920 Second Avenue on the

11th of February, 1891, in this city?

A. It was.

Q. At what time in the afternoon was your attention called to such fire?

A. My attention was called to it by my clerk at about five minutes to five o'clock as near as I can remember.

Q. You did receive a communication?

A. A communication had been sent to my office in my absence; I was on my way home and by accident met my clerk, he told me that such communication had been sent to the office, calling my attention to that fire and requested an immediate investigation. I proceeded directly to the premises and arrived there as near as I can recollect it, about ten minutes past five; it took me about that time, it may not have taken me so long, I might have arrived between five and ten minutes past five on the premises, and then I made an examination of the premises.

Q. Will you tell the jury first --- describe those premises in there, the building.

A. The building is a four story brick building on the east side of Second Avenue one number from the corner of 49th Street; it is an ordinary building, I should say may be twenty to twenty-five feet wide, I did not take an accurate measurement, and four stories high. It is divided into apartments on the various floors; it was arranged for two families to a floor, each suite of apartments comprising two rooms and a small hallway. I went into the building and in looking for the fire I went to the fourth story, I found no burning until I reached the fourth story on reaching the fourth story I found that the three rear rooms -----

Q. You say you reached the fourth floor? A. Yes sir.

Q. Tell the Jury whether that diagram is a correct representation of the fourth floor rooms? (Diagram shown.)

A. It is a correct diagram, as far as the sub-divisions and arrangement of the doors, windows and walls is concerned; it is not correct as to measurements, I did not take accurate measurements; I made this myself from a close examination of the premises; the dimensions of the various rooms are not probably correct, not in due proportion, it represents the division of the floor upon which this fire occurred. It is divided into six rooms and a hallway --- the three rooms on that floor in the rear, that is this bed-room, this sitting-room and this small room that was called a kitchen but in which there was no stove or cooking done at that time, were occupied by the defendant; the front three rooms were occupied by Mr. and Mrs. Walther. Upon examining the premises I found in the hallway at this door leading into the front rooms the evidences of fire in the corner, at the lower corner of the door; the door was hinged on this side, this was the side where the lock and key were (pointing to the diagram) and at the lower corner and touching the floor I found evidences of fire and I found evidences of kerosene spilled over. The rooms were all open, the firemen had been there, the fire had been extinguished; the door into this room had been burst open and taken off the hinges into the front room ---- the door was there however and the evidences of fire on the side.

By the Court. Q. What do you mean by evidences of fire?

A. Burned wood. We have the door here and the

saddle, it was on the saddle, on the casing of the door, and there were evidences of kerosene on that door and on the flooring.

Objected to.

Q. Just state what you saw? A. There was the smell of kerosene and an oily appearance on the wood. The door leading into the back room -----

By Mr Stapler. Q. We may as well take that door up now. (The door was brought forward to the witness-stand.)

Witness: This is the door, this is the side upon which it was hinged, the fire charred and burned here, the corner of the door, burned on the saddle unde that and burned up on the door; there is a little burning on the other side also, the fire had burned in and had burned on the corner at the bottom of the door.

Q. Which way was the door hung? A. This is the way the door stood, this was the frame upon which it was hinged, the door opening in that way into the room against the wall and the fire was burning here at this corner on this saddle, slightly on the floor, very slightly on the outside of the floor of the hall and burned in apparently as far as I could judge from the examination.

Q. Mr. Mitchell, have you the saddle here? A. The saddle is here; this is the saddle which was under that door; this is the outside and this is the inside and this was out on the hall; the door was over this side and the hinge was above this; this was burnt in and there was kerosene, you can see the discoloration from it now, I do not suppose there is any odor as this occurred sometime ago, I cannot detect anything now but there was a very strong odor of

kerosene.

Q. What is the discoloration? A. This dark discoloration.

Q. In other words, that was the sill of the door of the front room to which I referred in my opening to the jury?

A. This is the inside room and this is the side of the hall and the door opened in that way. (Pointing to diagram)

Q. Tell the jury whether there was any evidences of fire beyond that in this room? A. None whatever.

Q. There was no fire in this room? A. No fire in that room at all, I think if you will observe it did not even burn to the edge of the saddle, the inside.

The court: Is there any question about this diagram?

Mr. Hairs: I did not look at it, I think we have one here just about the same; there is no question about the general plan of it, I do not know what is written on it.

Mr. Stapler: I will offer that in evidence.

The Court: There may be some memorandum of it.

Mr. Stapler: Just the diagram of the rooms I will put it evidence.

By the court. Q. This is the diagram of the fourth floor of the house No. 920 Second Avenue? A. Yes sir, the top floor upon further examination and on entering these rooms in the rear I found that there was a good deal, that there had been a good deal of fire in those rooms.

Q. You are speaking of the rear rooms? A. The three rear rooms.

By Mr. Stapler. Q. Those rooms are the rooms to which you refer?

A. Yes sir, the three rear rooms numbered on this diagram 1, 2 and 3; I found there had been a good deal of burning in those rooms. Upon a close examination I found

that in the room which is designated No. 1 as the kitchen, a fire had evidently, I base my opinion upon the evidence of -----

Objected to.

By the Court Q. Tell what you saw? A. I saw that a fire had been burning ----

Objected to.

Witness: I found the evidences of fire ----- Objected to.

Q. Tell us what you saw? A. I found that the closet in the kitchen room No. 1. had been burnt out; I found that a fire had burnt out of that closet and crossed the room and had burned -----

Objected to.

Witness: I found that there were evidences of fire----

Objected to.

Witness: I found discoloration.

Q. Describe exactly the appearance of the wood without characterizing it, the jury will infer? A. I found that the woodwork in this closet had been very much burned, burned almost entirely out.

By Mr. Stapler. Q. What did you find as to the floor?

A. I found that the floor in that closet had been burnt through at a point and that there was burning around that point, it extended a little in the floor of that closet.

Q. What do you mean, all the way down? A. Almost entirely through, I have some of the floor here which I can exhibit. I found that there was no burning on any other part of the floor in that room; I found the woodwork of the closet had been burned out, I found the ceiling discolored and blackened by heat and smoke, I found the

woodwork of the door leading from the door into this large sitting-room No.2 was badly burned, charred at the upper part of the framework.

Q. On the inside of the small room? A. In the inside of the small room.

Q. The room in which the closet was? A. Yes sir; I found an ice-box standing in that room very near this closet within a few inches of the entrance to this closet, the ice-box bore no evidences of fire whatever, it stood two or three feet perhaps.

Q. Which room was this? A. I am now speaking of the kitchen, the same room.

By the court. Q. Room No. 1? A. Room No. 1; that ice-box bore no evidence whatever of fire. I examined No.2, the sitting-room, I found that there had been a good deal of flame in that room and that the paper and paint had been very much blistered and blackened and injured by the fire; parts of the paper and portions of the wall had been burned off, and that the carpet was more or less injured by fire that was on the floor. I did not find that any of the woodwork of that room was charred, that is it was blistered and darkened but there was no actual burning of the woodwork to any depth in that room. I went into No.3, I found that there had been a wardrobe built into the end of that room and that wardrobe had been entirely burnt out and the door which was very near that wardrobe leading from No. 3 into No. 2 also bore evidences, the upper portion of it, of having been burned very much on the side of room No. 3, on the other side of room No. 2 it was blistered and discolored, ~~the paint~~ <sup>but not</sup> charred or burned

anything like to the extent that it was on the side of No.3.

I found also on examination that in this closet in No.3, the closet marked H. 4 on the plan, there was also evidences of burning on the floor, the bed-room which is marked No. 3 on the plan, there was also burning on the floor there. Those were the only two places in the rooms that I noticed any particular burning of the floor.

Q. Which two were those? A. That is in the closet which is marked No. 4 on the plan in bed-room No. 3 and in the closet of the kitchen which is marked No. 1 on the plan.

Q. At the extreme end of the apartment? A. One back here in that closet and one being here in this bed-room, the two walls intervening between the two points. I saw that there was a good deal of burning, and the pictures on the wall of the sitting room had been injured by fire, the pictures were pretty well burnt out of the frames; the bed was burned and the bureau and I perceived on the bed the odor of kerosene. I had those portions of the floor removed, not that evening but the next day I made a second visit to the premises having left them in charge of the patrolman, I had those places cleaned off and I had those portions of the floor cut out.

Q. Were those portions in the same condition when you had them cut out as when you first saw them? A. Yes sir, the same as when I first examined. (Witness produced portions of the boards.) This istaken from the closet in the kitchen, that is written on it, I had it take out in my presence. This was the front of the closet and this was the back of the closet and this was about in the center position in the closet; I took sufficient to show the burning in the

floor at that point.

Q. Which way did that extend? A. This was the rear wall of the closet and this was the front of the closet where the opening was into the closet; the door was there, I do not think there was a door to the closet, I think it was one of those open closets with shelves, I saw no door, I do not think there was any door. That was the furthest back. This is a portion taken from the clothing closet in the middle bed-room, room 3. This ran along the closet and this was in the center of the closet.

Q. That was from the center closet room No. 4, in the bed-room. A. The closet marked No. 4 in room No. 3.

Q. Now was any portion of the floor of that apartment burned in that way? A. I discovered no burning of the floor outside of those two closets---- the fire, the burning was all up and above the woodwork outside of those two closets. When I got there in the course of my examination I asked where the occupant of the room was; the patrolman was in there.

Objected to as immaterial.

By the Court: You asked that? A. Yes sir. Can I state that I saw the ~~premise~~ woman on the premises?

Q. Did you see the defendant? A. Yes sir, I saw the defendant.

By Mr. Stapler. Q. You found Patrolman Kerr in charge?

A. Yes sir.

Q. Was an inventory made of the articles found there in that room? A. Not at that time; Mr. Kerr is a member of the Fire Patrol which is an organization ----

By the Court. Q. He had entire charge of the building?

A. He was in charge of the building.

By Mr. Stapler. Q. In charge of the rooms by the Fire Patrol?

A. Yes sir, those particular rooms.

Q. You found him in charge of those premises when you got there at five o'clock? A. Yes sir.

Q. There was a bed in the back room, as I understand, and a bureau in the front room, is that right? A. No sir, the bed and bureau, the remains of them, had both been removed into the sitting-room; I found them there when I got there.

Q. And the bed clothing, is that here? A. Some of the bed clothing is here, yes sir.

Q. Are those portions of the bed clothing in which you found odor of kerosene? A. Yes sir.

Q. And you tell this Jury that when you examined that bed clothing ----- it is in that bag I think, behind you ---- that there was a strong odor of kerosene coming from it?

A. Yes sir, I examined the clothing which was on the premises and there was a very strong odor of kerosene upon them; I had them subsequently, not at that time, brought to my office, that is the next day.

Q. You may as well identify these things now? A. That is one portion, I think you probably will still detect an odor of kerosene; these have been in my possession ever since and have not been taken out of their packages until brought down here.

By the Foreman. Q. Was that on the bed? A. It was not on the bed when I saw it, of course the whole thing had been disturbed and upset in the room.

The bed clothing was exhibited to the Jury and they  
IO smelled it.

By Mr. Stapler. Q. You have had these in your possession tied up in that bag ever since? A. Ever since the day after the fire.

Q. They were in that condition when you saw them in that place? A. They were in that condition when I saw them in that place.

Q. You left them in charge of Kerr? A. Kerr had the whole premises in charge with instruction not to allow anything to be disturbed.

Q. Now Mr. Mitchell, do you remember what other articles there were in the kitchen, did you find any clothes there?

A. There was no clothes in the kitchen, there was an ice-box and some remains of table ware, plates, knives, etc.; there was no evidence at all of any clothing in the kitchen as far as I could discover.

Q. Now take the next room, tell the Jury what there was in that room? A. In the sitting-room there were some

remains of pictures, the cords of which had been burned, the pictures themselves had been burned, the frames remained they had fallen to the floor. It is hard for me to remember, I have a memorandum made on the premises if I would be permitted to refer to it.

Mr. Stapler: Can I have the witness refresh his recollection by referring to the memorandum?

The court: Yes.

Witness. I found a small table. I found a lounge all more or less injured by fire, four black walnut chairs, a rocker cradle to the best of my recollection, the remains of a bedstead and of a small bureau and some remains of bric-a-brac that had been on the mantelpiece, a sewing machine; there was a

clock and there were the remains of bed clothes and some remains of other little things that were broken, some glass ware, there was a lamp standing on a small table, there was I think two lamps, one of them was intact and the other I am not very sure about that but I think there were two and one of them was partially broken and the other was intact; and the other things I have mentioned, that is about all.

Q. Was an appraisement made of the value of the articles found in that room?

Objected to. Objection overruled. Exception.

A. There was.

Q. There was an appraisal of those articles subsequently made?

A. Yes sir, subsequently made. I forgot to mention

that there was a carpet on the floor of that room.

Q. And which room was that? A. The sitting -room, No. 2 on the diagram.

Q. After you got there, tell us whether you found the defendant, was the defendant there at that time? A. The defendant was not there when I got there.

Q. Did you or did you not send for the defendant?

A. I sent for the Defendant.

Q. You heard where the defendant was? A. I heard that she was in the adjoining house.

By the Court. Q. Did you see her A I did.

By Mr. Stapler. Q. She came into the room then? A. Yes sir.

Q. You were in her premises at the time? A. I was.

Q. Please tell the jury the conversation you had, just what you said and what she said? A. I asked her where she was when this fire broke out? She said that she was in

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her sitting-room and indicated to me the point at which she was sitting about and which I have indicated on this plan by a cross in the sitting-room, as near as she could indicate it, I could fix it from her description. She said that she was sitting with her child on her knee when she saw smoke issuing from the door of room No. 1 which is the small kitchen room; that she did not know what it was first, she waited a little while, she saw some more smoke and she became apprehensive that there was fire and that she took her child and went into that small kitchen from which the smoke came, opened the window and went out on the fire escape, endeavoring to get into the adjoining house.

This fire-escape is a balcony escape running across a portion of the two adjoining houses with the window of each house opening on it. She went out through that window on the fire escape and endeavored to get into the window of the adjoining house; she found that closed and that then she appealed to somemen that were working on the roof to assist her and her child in getting off and getting on the roof. I asked her why seeing the smoke coming out of

that small room, there would be no fire whatever in the sitting-room in which she was and no fire cutting her off from the door of her room opening on the hallway to the stairs, why she didn't go out through that door into the hall and down stairs with her child. To that question twice repeated she made no reply.

Further on she said she knew she could get into the window of the adjoining house from the fire escape. I endeavored to get a reply and I got none. I asked her if she was insured? She said yes, and told me the amount; I asked her where the policy was

and she hadn't it. but I must admit her exact reply to the rest of that question I do not recollect, as to who had that policy, she hadn't, somebody else had but who had it I don't recollect.

- Q. She did not produce it on the premises? A. She hadn't it on her person at that time.
- Q. And did she refer to any place on the premises where the policy was? A. No, she did not, some person else had it but who I do not recollect. I questioned her further in relation to the appearances and asked her if she had seen any fire in this room? She denied having seen any fire, indeed of having seen any fire anywhere until she saw smoke coming out of the small kitchen room; she went out on the fire escape.
- Q. She said she had no knowledge of any fire in the rear room or in the hall? A. Or in the hall.
- Q. You left Mr. Kerr in charge of the premises that night? A. Mr. Kerr was left in charge of the premises that night with instructions -----  
Objected to.
- Q. Will you be kind enough to tell the Jury whether you went into the front rooms on that floor? A. I did, sir.
- Q. Tell the Jury what you found? A. I went through these rooms all very carefully; there was no burning in any of these rooms in the front three rooms; the door communicating between room No. 6 and room No. 3 which are adjoining bed-rooms, one bed-room belonging to the front suite of rooms and one to the rear had been forced open by the firemen; there was a good deal of discoloration from smoke in that room but there was no burning.

Q. The firemen in going in had gone in from the two directions?

A. Objected to.

Q. But there was no burning of any part of that rear apartment? A. No burning in these front rooms.

Q. No burning on the floor or anything of that kind?

A. No sir.

Q. In any shape, manner or form? A. Not that I saw.

Q. You made a very careful examination? A. I made a very careful examination of the premises.

By the court Q. When you got there, Mr. Mitchell, as I understand you, there was one man in charge, the fire patrolman?

A. Yes sir.

Q. Whoever else had been there had gone away? A. The firemen had all gone; he was the only person on the premises when I got there except I should say that my assistant had arrived there two or three minutes in advance of me, Mr. Frank; he was not in the room when I got there but he came in a moment afterwards; he said he had been there, he had been going through the premises.

CROSS EXAMINED.

By Mr. Haire. Q. How long have you been connected with the Fire Department? A. Since December, 1888.

Q. You have been Chief? A. Simply fire marshall.

Q. You are in control of men, are you not? A. I am, yes sir.

Q. And have a certain number of men in the department under your control? A. I have a certain number of men whose duty it is to carry out my instructions in the investigation as to the cause and origin of fires.

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- Q. You say it was somewhere in the neighborhood of five or ten minutes past five when you reached the place? A. Yes sir.
- Q. When you first reached No. 920 who did you see below, anybody? A. I do not recollect having met anybody until I reached the fourth floor.
- Q. Do you remember whether you saw or conversed with anybody from the time you reached the house until you reached the fourth floor? A. The only person with whom I conversed on that occasion until I reached the fourth floor if I conversed with anybody, was the patrolman, I may have met him on the stairs.
- Q. If you saw nobody how did you know where the fire was, what floor, had you been told before that? A. No sir, I generally go through a building until I find the fire.
- Q. Did you stop at any one of the other apartments on the lower floors? A. I looked in as I went up on the various floors and saw evidences of water on the ceiling and so on.
- Q. And when you found the patrol where was he? A. To the best of my recollection he was in the room, I may have met him in the hallway, I will not be positive about that.
- Q. Did you have any conversation with him in regard to how he found the rooms before you made the examination that you have described? A. No, I did not ask him anything in relation to that.
- Q. Did he tell you anything about the condition in which he found the rooms when he came there? A. He did subsequently.
- Q. He did not before you entered the room? A. He did not before I entered the room.

- Q. You first entered the room on that diagram, what number is it  
A. Marked No. 2.
- Q. That is the rear room and the largest room, is it not?  
A. That is the rear room and the largest room, yes sir.
- Q. Occupied by the defendant? A. Yes sir.
- Q. Did you see any evidence of fire in that room when you first went in?  
A. O, yes sir.
- Q. You spoke of paper on the wall being blistered in that room, did you not? A. I said some paper on the wall of that room had been burned, the painting of the doors and windows was blistered and discolored.
- Q. Did you see on the floor anything that was burned?  
A. The carpet had been burned in spots and injured very much by water and by passing over it I suppose.
- Q. Was there anything to indicate that there had been any fire upon the floor any more than the dropping of some embers or something of that kind?  
A. No sir, nothing.
- Q. Then the burning on the carpet was small burns?  
A. Not extensive, small, such as would occur by dropping from the wall.
- Q. Was anything in the burns upon the carpet in your opinion to indicate that there had been any fire in that room more than the carrying in of embers while throwing water upon the floor?  
A. No sir.
- Q. You spoke of paper being burned, was that the expression that you used? A. The papering of the wall in some places was burned and in other places blistered or curled you know, by the heat.
- Q. You have had a good deal of experience in fires?  
A. I visited a great many.

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- Q. You have witnessed a good many, have you not
- A. Well, not so many as I have visited subsequent to the occurrence of the fire.
- Q. You could tell from the appearance, could you not, the character of the fire which had burned or blistered it?
- A. I could form in my mind a very correct opinion.
- Q. A flame would have done that, would it not?
- A. Yes sir.
- Q. I understand it was all carpeted, that floor?
- A. That floor was all carpeted, I think, yes sir.
- Q. That room? A. Yes sir, that room.
- Q. Was there anything to show on the carpet or floor that there had been a fire in that room sufficient to burn the place as it was burned? A. No sir.
- Q. From your experience would you not say that the burning of the paper and the blistering was caused by a draft or flame being drawn through the room? A. That was my opinion.
- Q. And that flame might have come from one of the other rooms?
- A. According to my judgment it came from the other rooms.
- Q. So that in your opinion there had been no fire started or burning in this largest room occupied by the defendant?
- A. No sir, originally not.
- Q. You discovered no odor upon the wall in that room, did you?
- A. No sir.
- Q. Of kerosene or anything of that kind? A. No, there was an odor of smoke and burning.
- Q. You know where kerosene is, that would pass would it not, from one room to the other without permeating the entire

- building?           A. Yes sir, generally the odor of kerosene if you spill kerosene it fills the whole room.
- Q. This diagram of mine is a little larger and I want some marking done on it.           A. This is practically correct.
- Q. And proportioned about right. is it not, with the exception of the front room?           A. It may be, I think these room are a little small.
- Q. You think the two bed-rooms are a little small?
- A. Yes sir.
- Q. Did you make a measurement of the bed-rooms?
- A. I did not.
- Q. It is marked 6x 14 each?           A. Yes sir; I should say there was one omission from this diagram which differs from mine. There was a little window opening from this bed-room into that in the wall. You will see marked on mine there was a small square window.
- Q. Was there a small window opening from the sitting-room as you have termed it, into the bed-room?           A. Yes sir, into the bed-room there was a small window.
- Q. Glass in that window?           A. Yes sir.
- Q. Did you find that window closed?           A. Yes sir, that window was closed.
- Q. Where did you notice burned or charred wood in the first place when you went in, where did you first discover it?
- A. The first burned or charred wood I discovered in this room, that is the kitchen.
- Q. In that diagram it is marked B?           A. Yes sir, marked B;
- Q. That kitchen has one window in it, has it not, opening out on this fire-escape?           A. Yes sir, it has.

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- Q. And that window opens out to the south? A. That window opens on the east.
- Q. The easterly side of the house? A. The house runs east and west.
- Q. Directly opposite that window on the opposite side of the room there is this closet that you spoke of, is there not from which you took this piece of flooring? A. Yes sir.
- Q. This long slim piece? A. Yes sir.
- Q. That closet has no door? A. That closet had no door.
- Q. And that closet is correctly represented there, is it not? A. I think so, approximately so.
- Q. It is three feet in depth and two in width? A. Yes sir, about that size.
- Q. Were there not shelves in that closet at that time? A. There were no shelves at that time.
- Q. Was there a broken board there? A. There was some remains of burnt boards which apparently had been portions of shelving.
- Q. Look at that diagram and tell me whether or not at the head of the stairway at the hall and directly against the back under this closet there is not a water sink? A. There is.
- Q. Is there not a door opening in under that sink from the hallway? A. There is.
- Q. Between the back of that sink or that little closet which is formed by the closing of that door and this closet which is two by three, is there anything except a thin partition of boards? A. There was a partition, I think it was a lath and plaster partition, I would not be positive.

- Q. Mr. Mitchell, be sure about that?                    A. Well, I am not sure, if I was sure I would say it, my impression now is it was a thin lath and plaster partition.
- Q. Is it not a matter of fact that there was nothing but boards standing up endways just of thickness of board less than an inch?                    A. I wont be positive about it but I think that there was a thin lath and plaster partition, I may be mistaken about it, between the back of the sink.
- Q. Have you been there to examine the premises since?                    A. Not since two or three days after the fire.
- Q. Whereabouts was this ice-box standing?                    A. This ice-box stood with its back against this wall and within a few inches of that entrance to that closet.
- Q. It stood between the door opening from the large room into the kitchen and the entrance to the closet?                    A. It did, yes sir.
- Q. Above the ice-box there were no evidence of fire?                    A. No evidences of burning at all.
- Q. Was there any evidence of burning in the kitchen proper outside this closet to which you have referred?                    A. Yes sir, the upper part of the woodwork of the door was badly burned.
- Q. The upper part of the woodwork of the door leading into the sitting-room?                    A. Was badly burned.
- Q. On which side of the door was it, the sitting-room side?                    A. The kitchen side.
- Q. And that was the top of the door?                    A. That was the frame across the top of the door and a portion of the upright frame on each side.
- Q. The bottom of that door was not burned at all?                    A. It was

discolored, blistered by heat but not burned.

Q. This burning above in your opinion was it not from the flame?

A. From the flame from that closet.

Q. It would not cause in your opinion any fire that was started there at the door?

A. No sir.

Q. Was there any other evidence or any other sign of burning in the kitchen?

A. Yes sir.

Q. Where was that?

A. The flooring which has already been exhibited here.

Q. I am speaking of the kitchen principally now?

A. No sir,

I do not recollect there was any burning on the floor of the kitchen except perhaps little spots from droppings.

Q. This floor was old, was it not, running east and west, that is the boards of the floor run in the same direction the length of the house from front to rear, did they not, in this kitchen?

A. No sir, they run the other direction

they run parallel with the wall in that kitchen, if I recollect right, not crossways of the building but lengthways.

Q. This board that you have exhibited here was taken from this closet, was it not?

A. It was, yes sir.

Q. And the end which is not burned was nearer to the kitchen than the end which is, was it not?

A. Yes sir.

Q. In fact, was not this which was burned clear back to the back end of the closet?

A. Very near it, yes sir.

Q. Do you know whether the partition between the back of the closet and the bottom part of this sink was burned through?

A. No sir, it was not.

Q. Are you positive of that?

A. Pretty positive of

that because I made special examination to see whether that fire could have come from that stove under the sink by communicating into the kitchen in that way. If you notice the

- end of that board which was next the partition was not burned
- Q. Do you know whether that burned board did not extend back to the end of the partition wall? A. Evidently it extended back there because it has been cut off.
- By Mr. Stapler. Q. This was all taken out of the closet?
- A. Out of the closet, there was no portion of that board that extended beyond the partition in the back of the kitchen.
- By Counsel. Q. Who cut this out? A. That was cut out by Mr. Frank in my presence.
- Q. Where was he in the closet while he cut this out?
- A. He was in the closet, he must have been there to cut it out.
- Q. Is this the same length? A. Yes sir, there has been no alteration in that piece of board since it came into my possession.
- Q. He used an ax? A. Yes sir, he cut both ends, I don't know which he cut first.
- Q. And this was the top of it? A. That was the top of it.
- Q. The portion which is burned the most? A. Yes sir.
- Q. You are positive that this board has not been cut off since it was taken out A. No sir, it has not been, it has been in my office ever since.
- Q. You marked it yourself as having been taken out?
- A. Yes sir.
- Q. Supposing you are in the kitchen and extending it here over the stenographer in this direction, supposing this entrance to be two feet wide and this three feet in depth, this board laid in that shape, did it or not? A. So I recollect
- Q. With this end which is burned most towards the back of the closet? A. Yes sir, that is my recollection.

- Q. And the only cutting that was done on this board was done before it was removed from the floor?           A. So far as I am aware.
- Q. Look at the bottom side of that and tell me how those blows from an ax could come on the bottom board if it has not been cut off?           A. I do not know unless in turning that up the board did not break at once, it was struck on the back, but that board has been marked by me and has been in my possession and in my office since it was cut out, it was cut out in my presence.
- Q. You say there are evidences of cutting with an ax?
- A. Yes sir, it may have been cut partially on the top and a couple of strokes on the bottom to break it off.
- Q. In your opinion do you think that board could be raised up and struck that way from the bottom and these cuts be there?
- A. Very possibly, yes.
- Q. Did not you notice that the cutting did turn toward the long end?
- A. I did not have the ax, I do not know how it was struck but as far as I can positively swear that board was cut off in my presence and marked in the premises by me and it has been in my possession all the time in my office during the whole time.
- Q. In your opinion it is the same length that it was?
- A. In my opinion it is the same length that it was.
- Q. How large a place was burned on the floor where this board was taken from?           A. That is about the central position, there was perhaps a little greater width on each end of it at each side of it, I took that portion which was most burned.
- Q. Did you see any carpet upon the closet?           A. No sir.

- Q. Was there any carpet upon the kitchen?           A. No sir.
- Q. And this fire in the closet or the burning was the first that you examined?           A. That was the first in those rooms that I carefully looked at.
- Q. What did you next examine?           A. Then I went through the sitting-room and noted the character of the burning in the room, noted that there had been a good deal of flame in that room and smoke. that the walls had been, a portion of the paper had been burned and some of it curled up by the water and heat; I examined the door leading into the bed-room, I found that it presented about the same appearance in regard to burning, charring, blistering and discoloration that the inside of the door of the kitchen presented, that is when I speak of the inside I mean the side door next the sitting-room.
- Q. After you had made the examination in the closet and then examined the largest room occupied by the defendant which you have described, what did you next examine?
- A. Then I went into the bed-room.
- Q. This bed-room you have stated that there is a small window opening from the sitting-room of the defendant into this bed-room, that is somewhere near the wall between the hall and the two rooms, is it not?           A. It is in the wall separating the bed-room from the sitting-room, it was about I should say three feet.
- Q. Will you just make a cross with that red pencil about where you think the window was?           A. I think the window was about in that position, that is about the center of the window, and that was I should say about five feet, the bottom of that window was I should say about four or five feet from

the floor.

By the court. Q. A small window?

A. A small window.

By Counsel. Q. Probably a foot square?

A. Perhaps a little

more, it may have been a little longer than it was high.

Q. The door opening from the defendant's sitting-room into the bed-room is that indicated about right by the opening where the figure C is?

A. Yes sir, that is about right

I should say.

Q. You went in in that way when you went into the bed-room?

A. Yes sir, I went in in that way.

Q. Will you tell us what you found there?

A. I found

that there had been a good deal of fire in that room, especially in this ward-robe which is marked E here.

Q. As you passed through the door from the sitting-room into the defendant's bed-room this wardrobe or closet which you speak of would be at your left, would it not?

A. Yes sir,

it would be upon my left.

The door swinging into the bed-room swung to the right?

A. The door swinging into the bed-room swung to the right as shown on my diagram.

Q. As you go in from the larger room?

A. Yes sir.

Q. There were double doors, two doors opening from this bed-room into this wardrobe?

A. Yes sir, the doors were not on the wardrobe at that time, they had been taken off; it was a double door.

Q. So that when the doors were taken off from the front of the wardrobe it opened nearly the entire width of the room, did it not, in other words, there was but a little space in the wardrobe that was not included in the width of these doors?

A. Very little, the doors were very nearly as wide as

the width of the room; there was not much space from the hinges to the ends of the closets.

Q. The doors were both off the hinges?  
both off the hinges.

A. They were

Q. In this wardrobe you say you found some evidence of fire?

A. Yes sir.

Q. What did you find there?

A. I found that the wood-work of the upper part of the closet had been partially burned away, partially pulled away by the fire department, I found the remains of these doors in the sitting room and I examined them closely.

Q. Did you find any evidence of fire on the floor there in the wardrobe?

A. Yes sir, this board.

Q. That came from there, did it? (Pointing to a board.)

A. That came from there.

Q. That was a board cut off by your orders or was it there that length?

A. It was there that length pulled up.

Q. Did that run across the wardrobe or lengthways of it?

A. No, my recollection is that it ran lengthwise, running in that direction.

Q. Those wardrobes were about two feet in depth were they not, by six in width?

A. I suppose they were about that, I did not measure them accurately.

Q. Was that taken up from about the center of the wardrobe?

A. That was taken up from about the center of the wardrobe.

Q. Were there any clothes which could be burned, anything of that kind?

A. There was some slight remnants of burned clothes that time, not much.

Q. Was any portion of the floor in the bed-room burned?

A. No sir, not that I saw, there was discoloration of course.

Q. In your opinion was the site of the fire or the place where the fire was actually burning in the closet been located on the floor?

A. It had been located on the floor.

Q. On the floor of the closet?

A. Yes sir.

Q. About the center, was it not?

A. Yes sir, about the center.

Q. And this burning above would be the natural consequence of the flame ascending, would it not?

A. Yes sir.

Q. And the doors you say you found in the sitting-room to the closet?

A. I wont be certain that they were both in there but I saw the remains of both doors, one of them may have been in the bed-room, the other was certainly in the sitting-room, the one that was most burned had been removed in the sitting-room by the firemen.

Q. Did you examine those doors carefully?

A. Yes sir, I looked at the doors carefully.

Q. You spoke of discovering upon this door here a greasy substance noticing the odor of kerosene?

A. Yes sir.

Q. Did you discover anything of that kind on these wardrobe doors?

A. No sir.

Q. Were there any clothes shown you which purported to have been taken from that closet?

A. I saw no clothes whatever nothing that could be definitely distinguished as clothes.

Q. The closet was pretty well burned out, was it not?

A. Yes sir, the closet was pretty well burned out.

Q. There was no fire on the bed-room floor?

A. I think

not as far as I recollect.

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Q. In what portion of the bed-room was the bed? A. The bed had been removed before I got there, there was nothing at all in the bed-room except some remnants of the excelsior that was upon the bed and a small portion of what had been called the bureau, the wash-stand. there was some of that lying there.

Q. You do not know where the bed stood at the time of the fire?  
A. No sir, I cannot say positively.

Q. Whereabouts did you find this bedding which you have brought into Court? A. A portion of that when I saw it was lying in the sitting-room, one portion of it was in the sitting-room and another portion in the bed-room when I first saw it, afterwards I saw both portions in the sitting-room.

Q. Did you find any kerosene lamps about the house?  
A. Yes sir. I found a kerosene lamp on the table in the sitting-room.

Q. Was it broken? A. It was not, one of them was not broken, there was another which I think was damaged.

Q. Where did you find it broken? A. It was standing either on the table or the sewing machine, I wont be positive which.

Q. This bureau that you speak of, was it broken?  
A. Yes, it was broken, a portion of it lying around, it was hard to distinguish what it ws without close examination.

Q. I think you have described all the signs of fire that you discovered in these three rooms, have you not?  
A. Yes sir.

Q. About the fire that you found from the front door, was that the door leading into what you call the hall bed-room or kitchen in front or was it the door leading into the larger

- room? A. It was the door leading into the large room.
- Q. When you reached that door which leads into the large room, was it open or was it not? A. It was not only open but it was off its hinges.
- Q. It had evidently been broken off? A. It had been broken open and broken off its hinges.
- Q. That door is burned at the lower corner and at the side where the hinges were, is it not? A. Yes sir.
- Q. If this were the doorway which way would this open, supposing you were in the hall now? A. If I were in the hall and you were in the sitting-room that is the inner part, not toward the wall but towards the sitting-room; if this were the door leading from the hall into the sitting-room it would be in that position.
- By Mr. Stapler. Q. You would be then in the hall and the Counsel in the room? A. Yes sir.
- By Counsel. Q. The door would swing open this way? A. Yes sir.
- Q. The fire was here directly under the door? A. Directly under the door.
- Q. The door when closed lay between this long point and this second point? A. It would lie about along that line.
- Q. That is just where it would be, would it not? A. Yes, that is just where it would be.
- Q. Then the heavier part of the burning of this door<sup>sill</sup> was directly under the door, was it not? A. Directly under the door at that point, right there is the heaviest part of the burning.
- Q. Right directly under the door? A. Partially under the door and partially outside the door.

- Q. It is burned nearly as deep on the inside as the outside?  
A. Yes sir, as far as that very nearly.
- Q. The door is burned both on the outer and the inner side?  
A. Yes sir.
- Q. About as much on one side as on the other. is it not?  
A. No sir, I think it is burned a little more on the outer side than it is on the inner side.
- Q. Was there any evidence of fire having been built on either side of that door?  
A. There was no evidence of any material substance other than the indication of the smell of kerosene oil.
- Q. Did you see a padlock there?  
A. I did, sir.
- Q. Where was that pad-lock when you saw it?  
A. The padlock was in the possession of the occupant of that room, Mr. Walther; this is the padlock. (Showing it.)
- Q. This padlock was given you by Mr. Walther?  
A. By Mr. Walther.
- Q. That was locked at the time you received it?  
A. Yes sir, it was locked at the time I received it but I must state that Mr. Walther when he handed me -----
- Q. Go back just one moment, that board in the closet was it a short board or was it a part of the floor, was it lying loose or was it a part of the floor?  
A. This board was taken up as a part of the floor.
- Q. Was it removed?  
A. Yes sir, removed, it was not a loose board. it seemed to me to have been a patch at the time, left without any cutting.
- Q. Did you notice a window opening from the hall of the fourth floor into the bed-room which was occupied by this defendant?  
A. Yes sir, there was a window which was divided between

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the two inner bed-rooms, one half of it opened on the room occupied by the defendant and the other half opened on the room occupied by Mr. and Mrs. Walther, you will find it indicated on my diagram; it was cut in two by a partition, you have it here also.

Q. That window which opened into both of these bed-rooms, it was hinged on the side of this bed-room, was it not?

A. That I would not be positive of, I do not know whether it opened on hinges, the window was closed when I saw it.

Q. You do not know whether the hinges were on that side,

A. I do not.

Q. You do not know whether it opened on the wall when it opened?

A. No sir.

Friday, May 15, 1891.

JAMES MITCHELL recalled.

Cross Examination continued.

By Counsel. Q. I think about the last question I asked yesterday was in regard to the window which opens into both bed-rooms, one bed-room being the bed-room of the defendant and the other of the lady living in the front of the house?

A. Yes sir.

Q. You have not been to those premises since then have you?

A. Yes sir, I have.

Q. You can remember and tell me then whether that window opens out or not, ~~and is hinged on the side of Mrs. Gavin's room~~

A. That window opens out and is hinged on the side of Mrs. Gavin's room.

Q. And the fastening of the window is on the other lady's room?

A. The fastening of the window is in the other room.

Q. About what size is that window? A. I purposely did not measure it, I measured it by the eye, it is about fourteen ~~feet~~<sup>by</sup> eighteen inches, ~~I should think fourteen inches, that is one half of it~~

Q. Did you examine since the adjournment of the Court yesterday the partition between the bottom of the sink and the closet?

A. I did, sir.

Q. What did you find as regards the end of that partition?

A. The present partition is a board partition but I am still of the opinion that the original partition there on the kitchen side was a thin lath and plaster partition.

Q. Could you tell us from the condition in which the closet was in at the present time whether it had formerly been ---

A. No I could not very well, I looked at it with a view to determine that if I could.

Q. Did you examine on the inside of this little closet that is formed by the sink.

Q. What evidence of fire did you discover there?

A. None, I examined that originally at the time of the fire and there was no evidence of fire whatever in that small enclosure under the sink.

Q. There were some pieces of lath, did you look to see whether they were burned or charred?

A. They were not on that side, they were broken off irregularly, there was some three or four laths broken off irregularly.

Q. Was one end attached to the side of the building?

A. One end of them was attached to the hall side.

Q. Since then there has a new board partition been put up there, has there? A. Yes, there has.

Q. That extends nearly from the door to the sill, the length of the upright boards? A. Yes sir, the upright boards.

Q. You do not know whether those boards were in that shop before or whether it was lathed but you are of opinion that -----

A. That it was a thin lath and plaster partition that was burned back of that kitchen closet.

Q. And that opinion is based is it not upon an examination that you made in the first place? A. Yes sir.

Q. But your attention was not called directly to that matter?

A. No sir, not directly, except in making my investigation and examination as to the possibility of communication of fire between that space under the sink in the hall and the closet in the bed-room I did not look particularly at the condition of that partition, my recollection is that there were remains of laths there but there was no fire.

Q. There was no plaster there, was there? A. I think there was some plaster.

Q. Did you measure the <sup>depth</sup> of that closet ? A. No, I did not.

Q. The door entering from the largest room which was occupied by the defendant into the bed-room was very near to the end of the room in which the clothes closet was situated, was it not? A. Yes sir.

By Mr. Stapler. Q. The clothes closet was situated, as I understand it, in the bed-room? A. Yes sir, the south end of the bed-room.

By Counsel. Q. The clothes closet was on the southerly end of the bed-room? A. Yes sir.

Q. This representation here which is marked E is a fair representation of the closet? A. It would be a fair

representation of the relative position.

Q. And the opening which is marked No. 6, what is that?

A. That is the door leading from the bed-room to the sitting-room.

Q. Showing you exhibit No. 1 I ask you if the opening where the figure 6 is is a fair representation of the position of the door leading from the large room into the bed-room?

A. It is.

Q. Is the opening which is marked No. 7 on that diagram a fair representation of the door leading from the defendant's bed-room into the bed-room adjoining which was occupied by the tenant in the front of the house?

A. Yes sir.

Q. I will ask you if the opening would represent the position of the door marked 8 between the bed-room and the large room occupied by the tenants in the front of the house?

A. Yes sir, that door was a wider door than any of the others, that was a double door, it is not so represented here it was a double door occupying a wider space than either of those other doors..

Q. Then between the large room of the defendant, her bed-room and the bed-room of the tenant in front and the front room of the tenant in front, there was an open passage ~~near the~~ when the doors were opened in a direct line.

A. Yes, when all the doors were opened.

Q. Did you examine the fastenings if there were any on the door between the room occupied by the defendant and the bed-room of the adjoining tenant?

A. I did not particularly.

Q. Did you upon the occasion when you first visited these premises and searched for such evidence as there might be, make

any examinaion of that door whatever? A. No, except to see that it was scorched and discolored by smoke and fire, I did not make any examination with a view to see whether it was forced or not.

Q. Did you see whether it was open or not? A. It was open when I got there, all the doors on that floor were open at that time.

Q. I call your attention to this, see if it will not refresh your memory, did you not look at that door and discover that it could be fastened from the front room or the room of the other tenant? A. No sir, I did not.

Q. You did not make that examination? A. I did not, I was not so through as to do that.

Q. But you have examined the window which opens into the hall? A. I did that yesterday evening, yes sir, this morning rather.

Q. I s it not a fact that the only place from which that window can be opened is in the bed-room of the tenant who occupied the front of the house? A. That window was closed on that side and could only be opened on that side if it were fastened.

Q. And could not be opened from the hall could it, unless ---- A. Unless it were forced and that loop-hole broken.

Q. There was no evidence that it had been forced? A. No, it was closed when I got there and none of the windows were opened.

By Mr. Stapler. Q. That was on the day of the fire, when you refer to this window being closed, you found it closed on the day you went there? A. It was closed on that day.

By Counsel. Q. Was the floor of the hall covered with oilcloth?



- Q. Did you examine the other side? A. Yes sir, I examined both.
- Q. To see if there was any oil there? A. Yes sir, that is about the position it was in (showing).
- Q. The corner of the door was burned off; it has been whittled a little since I saw? A. That has been rubbed in dragging it, it has not been whittled.
- Q. This door is burned considerable, is there anything to indicate from the nature of the burning as to which side of the door the fire was started on? A. My opinion is that the burning was started on the outside, I discovered on the end part of this saddle the kerosene had run in and extended to the outside and to the flooring under the oilcloth, there was no appearance of oil on the inside of the saddle and the discoloration of the oil can be still seen on the outside of the saddle and the smell by those who have sufficiently keen sense.
- Q. Is there not at the present time considerable evidence of oil at the other end of that? A. There was evidence of oil running along the whole outside of that saddle.
- Q. The entire length? A. Yes sir, the entire length.
- Q. Is there anything about the nature of the burning upon the door, the saddle by which in your opinion based upon your experience, you could tell whether that fire had burned rapidly or slowly? A. No sir, I could not tell how long that fire had been burning, there was only wood to feed upon.
- Q. Is it not a fact if at the time that fire had been built there kerosene oil had been used in the building of it and the oil extended the entire length of that saddle, as you

term it, would it have burned at once, that is, would not the fire have traced or followed the kerosene up instead of burning in that one place?                   A. That would depend upon the draught to a great extent.

Q. At the time of the starting or building of the fire if kerosene had extended along upon this saddle would not the fire at once have followed the burning of the wood where the kerosene was?

The Court: Was there any foreign substance there?

Counsel: He said there was none.

Witness: Allow me to state further to state that end of the door on which the fire was discovered was the nearest to the opening in the roof leading out and of course the blaze at first, the little fire at first would have drawn the draught in that direction and it would have gone towards that opening in the roof, towards the scuttle.

Q This was a reasonably cool day, was it not?                   A. It was, it was a day in February.

Q. Naturally all the windows in the house would be closed on a day like that, would they not?                   A. I suppose so.

Q. You have spoken about the evidence of fire or flame having scorched and burned the paper in the large room, if the door into the hall was closed and none of the windows up, would the fire as indicated in its character from the burning which you discovered in the small room, have burned the large room in the manner in which it was; in other words, would there not have been some opening or draught created before those flames could have gone into the room as they evidently did?

A. Of course I do not know how the windows were in that room but there was a stove and a chimney.

- Q. Admit that they were closed? A. There was a stove and a chimney in that room, there was neither in the bed-room.
- Q. Will you answer this question, you have already stated that there was no evidence of fire having been built or started in the sitting-room, the large room? A. Yes sir.
- Q. Now I ask you were those windows closed and were there no draught the fire would not have gone into that room in the manner in which it evidently did? A. If there had been no draught I do not think it would have burned in so suddenly and fiercely as it appeared to have done.
- Q. Would the character of the burning and the distance from where the fire was in the closet indicate that it had been a sudden draught? A. It would indicate that there was some draught drawing the fire into that room.
- Q. At the time the fire reached that room the small room must have been pretty well enveloped in flame and smoke, the kitchen room? A. I suppose so, there was evidence of considerable burning as I told you in the closet and the upper part of the door leading into the large room.
- Q. In the hallway you have spoken of the opening in the roof, was there not a skylight or glass opening?  
A. No sir, it was the exit to the roof, the ordinary exit that you find in tenement houses to the roof.
- Q. Did you examine that door, the exit whatever it may have been upon the occasion when you first visited the building?  
A. I looked up.
- Q. Do you know whether it had been broken in or whether it was simply open? A. It was open at that time.
- Q. As matter of fact is not that a glass door above there to let in light lying at an angle that way? A. No, I think it

is one of those covered doors, you go up and then go out of the door somewhat like a sentry box.

By the Court. Q. On the roof? A. Yes sir.

By Counsel. Q. You spoke a few moments ago about the character of that burning or the nature of it in case kerosene were upon the saddle depending something upon the boards?

A. Yes sir.

Q. Is there any place about the hall when all the doors opening into the various rooms were closed through which a draft could have passed except the roof? A. Granting that all

the windows and doors were closed?

Q. There are no windows in the hall, are there?

A. There is one leading into those rooms, into the two bed-rooms; if that was closed and all the doors were closed the draught would naturally be drawn to this opening in the roof it being at the end of the stairs, the draught from the street would have gone straight up.

Q. If that door in the roof were closed then there would have been no draught, would there? A. Provided it was closed sufficiently; if it did not fit very closely then there would be some draught or circulation.

Q. I suppose owing to the entrance below, coming up the stairway? A. Yes sir, that would naturally draw all the draught in the house toward it.

Q. That would have been the condition in which you naturally expect to find that hall with the doors closed?

A. Yes sir.

Q. In that condition would not the fire have followed in the track of the kerosene? A. I would naturally suppose that if it spread in any direction it would spread

in the direction in which the kerosene was spilt. From the fact that there was kerosene on that saddle and that the saddle was burned at but one end while the kerosene extended the entire length would you not from your experience say that the kerosene had been put there after the fire had been extinguished?

A. No sir.

Q. How would you account then for the fact that the saddle saturated with kerosene did not catch fire except in this one place?

A. I account for it from the fact that fire naturally burned up because of the draft.

Q. In this case it burned down as well as up, why would it not burn sideways when the board was saturated with kerosene?

A. It depends whether the match was applied to the saddle or to the door as to whether it burned up or down.

Q. This did not burn up very high?

A. Not very high.

it evidently had not gone very rapidly.

Q. Did not you think it strange that that flame did not follow the kerosene?

A. O no, I have seen other cases

in which it did not.

Q. Was it not very unusual?

A. Fire is sometimes

very eccentric in its way of burning, but in this case I attribute the fact that the fire burned up along that edge of the door to the fact that the doors of this hall were all closed, there was an opening in the roof at the head of the stairs to which the draught would naturally be drawn.

Q. If you were to know that there was no opening in the roof, that is, that this door was closed would you say that there was a draught then in your opinion to cause this to burn as fiercely as it did in a particular place?

A. For a very small burning space the flame must have been very hot, there was nothing that I call fierce burning it may have burned very slowly for ought I know.

Q. If you should learn that the door at the foot of the stairs opening into the hall was open and that the door on the roof was open, would you not say that it was more probable that that door was burned while it was open than while the door in the roof was closed?

A. I do not know that the door in the roof was not open when that was set.

Q. I know that, I am putting a hypothetical question, I want the benefit of your experience, we are now speaking upon the theory that they were open, if the doors were open would you not expect that it was more likely that the door was burned while they were open than while they were closed. I mean the door on the roof in particular?

A. If they were open of course going upon the theory that the doors were open, then it burned when they were open.

Q. Burned more fiercely, would it not?

A. Yes sir, probably burn more fiercely.

Q. From the character of that burning would you not be inclined to believe that the door on the roof was open at the time of the burning?

A I could not say, no.

Q. Do you think it is just as liable?

A. I think the burning on that door is not sufficient to indicate whether that door was open or not, I think it is sufficient to indicate that there was a draught controlling the flame but whether that place was open or not I cannot say from the evidences of the burning.

Q. If there was a draught controlling that flame was it not a draught passing under the door?

A. Not necessarily, no.

- Q. If that fire had been started at the foot of the door and a sudden draught occurred in the hall, would it not have burned in the manner in which it did, in your opinion?
- A. If there had been a draught in the hall it must feed upon it, if it had been blown out from the door it would not have burned at all, there was nothing to feed on.
- Q. Did you discover any evidence of oil on the cloth near this door?
- A. Yes, there was some evidence.
- Q. How far back from the door?
- A. Not very far, about an inch on the board under that oilcloth.
- Q. I understand you to say that you saw the defendant upon the occasion of your visit there?
- A. Yes sir.
- Q. You had some conversation with her, you sent for her I believe?
- A. Yes sir, I sent for her.
- Q. Did she or did she not at that time appear nervous and excited?
- A. Well, she was perhaps a little nervous, yes, not very nervous.
- Q. Didn't she tell you that the policy of insurance was with her sister?
- A. I stated yesterday that I could not recollect, she told me that it was not there but I do not recollect.
- Q. She told you somebody else had it?
- A. Yes sir, somebody else had it.
- Q. And did you have any conversation with other tenants of the house upon this occasion?
- A. Yes sir, I spoke to some of the tenants, the people in the front rooms who were then there, who came in there after I was in a little while, they were not in when I went up there.
- Q. Did you talk with the house-keeper?
- A. I talked with the house-keeper ---- no, not on that occasion, I subpoenaed

her and had her at my office the next morning.

Q. You did not have any conversation with her that day?

A. No, not that day. I subpoenaed her and took her statement.

Q. Did you ask any of the other tenants in the house if their furniture was insured? A. I did.

Q. How many tenants did you ask that question?

A. I think I only asked two.

Q. Do you remember who they were? A. The Walthers and Mrs. Barrett who was down on the floor below.

Q. The floor above is occupied by one family? A. Yes sir.

Q. They rent out rooms? A. Yes sir, I think they rent out rooms, they had some persons boarding.

Q. There was a good many people living on the floor below?

A. I do not know how many, there was certainly two, Mrs. Barrett and a young man.

Q. Did you learn how many families were living on the first floor? A. I did not.

Q. Have you learned who the owner of the building is?

A. Yes sir.

Q. Who is the owner, if you know? A. Theodore R. Fogg.

Q. Do you know whether the building was insured at that time?

A. It was, sir, I think the required amount but I cannot state it just now.

Q. Will you look it up later and let us know later in the day if we went to? A. Certainly.

Q. Did you see or talk with anybody else other than those you have stated in regard to this fire at that time?

A. I do not think I did, sir, other than to Mrs. Barrett.

I asked her some questions, I spoke to the Walthers, I spoke to my assistant and the patrolman who was in charge and to Mrs. Gavan.

- Q. You have subpoenaed all the persons with whom you have talked who have any knowledge of the burning? A. I have subpoenaed all who had any knowledge that I thought was valuable to the case.

Re-direct Examination.

By Mr. Stapler. Q. I want to put in these exhibits. This piece is from the closet in the kitchen marked Peoples' Exhibit B, the stick of wood taken from the floor of the closet in the kitchen, room 1 on the Peoples' diagram; the piece of wood from the floor of the closet in the bed-room, marked Room 3 on Peoples' Exhibit A and marked Peoples' Exhibit C, you call this a saddle (showing a piece of wood).

A. That I believe is technically called a saddle.

Q. It is really the door-sill?

A. The same thing.

Q. This is a piece of the door-sill taken from underneath the door leading to the front apartments on the top floor of the other tenant, marked Peoples' Exhibit D and the door entering into the front apartments marked Peoples' Exhibit E.

No answer.

Q. Did you go in the apartments below on that day immediately under? A. I walked through them, yes sir.

Q. You saw no evidences of any fire there in any part of the ceiling or any place at all in any of those rooms, the apartments on the third floor? A. No sir.

Q. And this deed, I suppose Counsel has no objection to my offering it in evidence), that is the deed of Theodore E. Fogg?

A. That is the deed which was handed to me of the legal representative of Mr. Fogg and embraces NO. 920 and 922 Second Avenue and 302 East 49th Street; he seems to be a resident of Philadelphia.

By Counsel. Q. That covers 920 does it? A. Yes sir.

By Mr. Stapler. Q. These premises are in the 19th ward of the city of New York? A. Yes sir.

Q. The defendant told you, as I understand from your evidence, that she passed out of the kitchen window on to the fire escape? A. Yes sir.

Q. So that that window must have been opened when she went out? A. Yes sir.

Q. In regard to this door-sill and the course of the fire, when kerosene is poured upon wood the rapidity of the burning would depend as one of the elements, would it not, upon the degree in which it had soaked into the wood, where there was more kerosene there would be more likely to be fire than where there was less? A. Yes sir.

Q. That mark there represents the sink in the hallway adjoining the rear of this closet? A. The back of the closet, that represents actually the shape of the sink, that is the position of it.

Q. You examined that sink I understand at the time of your first visit to these premises on the afternoon of the 11th of February to ascertain whether there was any evidence at all of any burning in that sink? A. Yes sir, I examined it more particularly the next morning because in the afternoon it was getting dark very soon, it was the month of February and I went the next morning and made a more thorough and complete examination.

Q. Did you find in the floor of that sink or any of the woodwork of that sink any evidences or traces of fire whatsoever?

A. None whatever.

By Counsel. Q. Was there not still evidence of fire in the floor of that sink, is it not black and charred at the present time?

A. No sir.

Q. Are you positive of that? A. I think not, I could not see it, I looked at it last night.

Q. Last night since the adjournment? A. Yes sir.

Q. Did you look at the floor closely? A. I think I did.

Q. How far is it from the door opening into the main room of the defendant to the door where this fire was opening into the room in the front? A. I should say it was about

fifteen or sixteen feet.

Q. That would be on a westerly course from the door of the defendant? A. Yes sir, the defendant's door

being an easterly door and the other door being a westerly door.

Q. Lying between these two doors were the two bed-rooms one belonging to each tenant? A. Yes sir, those doors

were set back, there was a shoulder out of each door, the doors werset in a little from the hall.

By Mr. Stapler. Q. How many feet was it from the front door leading to the front apartment which we have not here and the door leading into the defendant's apartment?

A. I should say from fifteen to sixteen feet.

Q. You found there was no evidence of fire in that hall except under this door that you have described?

A. No sir.

Q. None whatever between the rear portion of the closet in the

kitchen and this point here there was no evidences of fire whatsoever?                   A. No sir.

Q. No evidences of fire in the hallway at all as I understand it?                   A. No, there was some blackening of the

ceiling near the door leading into Mrs. Gavan's rooms.

When they were opened by the firemen of course the smoke came out.

Q.. You are the complainant in this case, you made the complaint before the police Magistrate in this case?

A. Yes sir.

JOSEPH GROSNER, sworn and examined.

By Mr. Stapler. Q. What is your business, Mr. Grosner?

A. I am superintendent of the industrial branch of the Metropolitan Life Insurance Company.

Q. And where is your place of business                   A. Nos. 1 and 3 Third Avenue.

Q. Was that your place of business on the 12th of February, 1891?

A. It was, sir.

Q. Did you see the defendant Rose Gavan at that place on the 12th of February, 1891?                   A. There was a lady there that

looked very like her, I could not say positively whether it was her or not.

Q. Give the Jury the best impression that you have in regard to it?                   A. There was a lady came in there it was be-

tween seven and a quarter past seven.

Q. Look at the defendant, what is your best opinion?

A. She looks very much like her.

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CHARLES MARGISON, sworn and examined.

- By Mr Stapler. Q. What is your occupation? A. Assistant foreman of engine 21.
- Q. Where is your station? A. The station is 216 East 40th Street.
- Q. Were you at your station on the 11th of February at about between two and half past two. A. No sir.
- Q. Where were you at that time? A. Detailed in command of Hook and Ladder Company, No. 2.
- Q. Where was that station? A. 50th St. and Lexington Ave
- Q. Were you there at between two and half past two on the 11th of February, 1891? A. Yes sir.
- Q. Did you receive there an alarm of fire? A. I did.
- Q. Between two and half past two; from what box did you receive it? A. No. 547.
- Q. Where is that box? A. 50th St. and Second Avenue
- Q. At what time did you receive that alarm? A. About 2.26.
- By the Court. Q. In the afternoon? A. Yes sir.
- By Mr. Stapler. Q. What did you do immediately upon receiving that alarm? A. We hooked up the horses and proceeded to the station.
- Q. The harness is fixed so that at once when the dispatch comes everything drops and the horses spring? A. Yes sir.
- Q. You went at once, did you? A. Yes sir.
- Q. In about how many minutes did you get to the corner where the box was? A. I should judge about two minutes.
- Q. In about two minutes you were at the corner of 50th Street and Second Avenue? A. Yes sir.
- Q. When you got there did you perceive smoke coming up from

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- any point? A. No, we could not see it from the front.
- Q. What did you do, how did you know where to go from; from there? A. We were directed by someone there to go to where the fire was.
- Q. You were told where the fire was? A. Yes sir.
- Q. You went down one block to 49th Street, you were at 50th Street and Second Avenue at the box, you went down one block? A. One block.
- Q. I understood it took you two minutes to get to 50th Street and Second Avenue? A. About two.
- Q. From that point you had only the distance to go down one block and turn the corner, is that right?  
A. That is about all.
- Q. You were on Second Avenue? A. At 50th Street we were on Second Avenue.
- Q. You had to go down one block, you went directly down to 920?  
A. Yes sir.
- Q. When you got down did you go upstairs? A. Yes sir.
- Q. What did you find on the top floor? A. I found the bottom of the front door on fire on the corner.
- Q. Look at that door and state whether the door is similar to the one that you see? A. I saw the fire burning there. (Pointing to the door.)
- Q. What did you do there? A. I ordered Fireman Salmon to take the door off.
- Q. And he took the door off? A. Yes sir.
- Q. What did you do? A. I stayed there until he took it off.
- Q. Did you go in the front apartments? A. Yes sir.
- Q. Do you know who opened the front apartment, did Officer

Salmon open the door, the rear apartments, Mrs. Gavan's rooms?

A. It was one of the men that was with me but I do not know who it was opened that door.

Q. You saw one of them open it? A. Yes sir, the door was opened.

Q. Tell the Jury what condition that place was in when you first saw it, the rear apartment? A. After we got that door open Chief Fisher arrived and assumed command of the fire.

Q. What I want to get at is whether you examined the front rooms first or the rear rooms first? A. The front, we did not notice any fire. Going up stairs my attention was called to this door being on fire, I thought of course the fire was there and ordered Fireman Salmon to take the door off; by the time we got the door off Chief Fisher had arrived upstairs and they went to work with the engine in the rear.

Q. When the door was taken off did you see any evidences of fire in the front room? A. No sir.

Q. There was no fire there at all? A. No sir, not in the front.

Q. Not in the front apartment? A. None at all.

Q. This is the diagram which we have in evidence ---- these are the stairs going up, this is the hallway, these are the front apartments here, those three rooms; that is the place where the door was taken off, that is the kitchen in front, this is the sitting room, this is the bed-room of the front apartments, these are the three rooms in the rear ---- now then, I understand you to say that when you examined these rooms here (pointing to the front rooms) there was no fire

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in these rooms at all? A. No sir, none whatever.

Q. Any fire in this bed-room, this room or in that kitchen?

A. No sir.

Q. Now how about the rear rooms, when you went to the rear rooms what did you find there? A. When we went in

there Chief Fisher and 8 Engine was there with a line, that is the water. After they got the fire so that we could get inside we had to overhaul it, the Truck Company.

Q. Did you see any fire in the bed-room of that rear apartment --- there were three rooms in the rear, were there not? A. Yes sir; there was a closet in this end,

that was all burned up and the bed partly burned up and fire over in there (pointing to the kitchen closet room No. 1.)

Q. Did you see flames burning in this room or had they been extinguished before you got in there? A. They were extinguished before I got in.

Q. By Captain Fisher, as I understand it? A. Captain Welsh with engine 8 had brought the line in there, we had to work our way with the water.

Q. No one could get into the bed-room? A. Not until they extinguished the flame.

Q. So that you did not go in there until after the water had played been ~~applied~~ on that bed-room? A. No sir.

Q. And also here? (Pointing to the kitchen.) The water was played on those two rooms? A. On those two rooms

Q. And then after that fire was extinguished in those two rooms what did you do? A. We went in with Hook and Ladder No.2 and pulled out some of the sidings in there.

Q. The closet in the kitchen? A. Yes sir; I think

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the boards were match boards; we had to tear that all down, it was all burnt out, this was all burnt out, we pulled that all down and overhauled that bed-room.

Q. You pulled out the sidings, as you call it, in the closet in the bed-room and the closet in the kitchen?

A. We pulled down the closet at first, it was burned.

Q. And this closet in the kitchen? A. We overhauled that.

Q. What do you mean by overhaul? A. We go in with a stream of water, extinguish the fire, the wood-work is all torn, we take it down to see that there is no fire in the back of it.

Q. You found there was no fire in the back of this point here back of the closet, you took down all the charred wood was there? A. Yes sir.

Q. You found that the fire was on that side, on the side of the room? A. I think it was around in there.

Q. All around in the side of the room, the fire was in the room? A. Yes sir.

Q. It was not back on the outside? A. No fire on the outside.

Q. Tell the jury what you found in that bed-room, what was in the bed-room when you went in? A. There was that old closet and a bed and bed clothing and a mattress.

Q. That was in the bed-room at that time? A. Yes, whatever was in there we cleaned it all out, I think all that went into the kitchen or sitting-room.

Q. The room next to it you mean? A. Yes sir.

Q. Did you examine the bed, the mattress, at that time?

A. I did.

- x
- Q. Tell the jury what if anything you found in connection with that mattress?           A. The mattress particularly smelled of kerosene oil.
- Q. Did you take out the excelsior from the inside and smell that?           A. Yes sir.
- Q. You tell the jury you perceived the odor of kerosene, is that so?           A. Yes sir.
- Q. Did you examine the coverlets, the bed clothing?           A. No sir.
- Q. All you examined was the mattress?           A. Yes sir.
- Q. Was there any furniture in that room beside the bedstead and the mattress?           A. That I do not remember.
- Q. You do not remember?           A. No sir, we took the bedstead down and rolled up the mattress and set it in the sitting-room.
- Q. You took the bedstead apart and put the bedstead ----           A. Put them back in the sitting-room.
- Q. What else did you do there?           A. Then we went and done whatever overhauling was to be done there.
- Q. That is the duty of the Hook and Ladder Company?           A. That is the duty of a Hook and Ladder Company, overhauling everything after the fire is extinguished.
- Q. To see that there are no other hidden sources of fire left behind, is that it?           A. That is it, sir.
- Q. And after you did that you went away, is that right?           A. Yes sir.

## CROSS EXAMINED.

- By Counsel. Q. How long have you been connected with the fire department?           A. About fifteen years.
- Q. You have taken an active part in extinguishing a great

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- many fires, have you not?           A. Yes sir.
- Q. And that is your duty?           A. That is what I have to do.
- Q. When you first went into the hall you first saw the fire under the front door?           A. Yes sir.
- Q. There was but very little smoke in the hall at the time?           A. Very little at the time we went up.
- Q. And that door was immediately taken down?           A. Yes sir.
- Q. And the fire extinguished without difficulty, I suppose?           A. The front door?
- Q. Yes sir?           A. Yes sir.
- Q. And then you say Captain Fisher took command?           A. No sir, I said Chief Fisher.
- Q. And he directed the taking down the doors?           A. He directed all the work was done after he got there.
- Q. Did you hear him give the order to break in the other door?           A. Which other door?
- Q. The door at the back room?           A. I do not think that was broke open, I think it was opened without being broken.
- Q. You do not know about that?           A. I am not positive.
- Q. And did you at once go into the back room or over to the back rooms?           A. I did not, sir.
- Q. You remained in the hall?           A. I remained on the outside.
- Q. Which way was the hose brought up?           A. Up the stairway.
- Q. Was the hose used upon the fire in the front?           A. No sir.
- Q. Not at all?           A. No sir.
- Q. It was used on the fire in the rear?           A. Yes sir.

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- Q. More than one hose? A. That is all.
- Q. One stream?--- what portion of the rear was the water first turned upon, in the kitchen? A. I was not in there with the hose.
- Q. You were not in there? A. No sir.
- Q. You remained in the hall until after the fire was extinguished, is that it? A. Yes sir.
- Q. And when this fire was extinguished you did what you call this overhauling? A. Yes sir.
- Q. And do you know in what condition the closet which is off from the kitchen was left in at the close of the fire?  
A. I guess it was left in a pretty bad condition.
- Q. There is a partition between the closet and the hallway, is there not, that is the back of the closet from the kitchen backs right upto the east end of the hall, does it not?  
A. I do not know what you mean.
- Q. There is nothing between that closet that you speak of and the hallway except the partition with the sink at the bottom, is that correct? A. That is all.
- Q. Was that partition between the hallway and this closet taken out? A. No sir, it was the lining of the closet on the inside that was taken out.
- Q. That is the wood? A. The wood work.
- Q. Do you remember a sink in the hall there? A. Outside.
- Q. The north end would be towards the hall? A. Yes sir.
- Q. And the main fire was in the other end of the room in the closet, was it not? A. Yes sir.
- Q. You did not enter those rooms or that room until after the fire was put out there? A. No sir.
- Q. Now you have referred to three fires, one fire in the closet,

another in this bed-room and one at the outside of the door, whereabouts in your opinion from what you saw, did the fire in the closet arise, where did it start from?

A. I did not examine it closely, all we done was to put it out.

Q. You did not make a careful examination of it? A. No sir.

Q. Did you go into the bed-room adjoining? A. Yes sir.

Q. Did you discover any fire there? A. No sir.

Q. Did you go in that room before the fire was extinguished?

A. Yes sir I did.

Q. And you went in I suppose from the front way after this first door was taken down? A. Yes sir.

Q. How many firemen were there on that floor, do you know?

A. I do not know.

Q. The furniture was moved about for the purpose of enabling you to overhaul everything and take down any woodwork that was charred, was it not? A. Yes sir.

Q. Did you see anybody on that floor besides the firemen?

A. The only person I saw was an old lady on the stairs.

Q. And about what time was that, shortly after you got there?

A. That was as we were going upstairs to the fire.

Q. Have you seen that lady here to-day? A. Yes sir, I have seen her.

Q. Mrs. Curley, was it? A. I do not know what her name is, it was an old lady.

Q. Do you know whether she lived in the house or not?

A. Yes sir, I believe she is the house-keeper.

Q. What floor was she on? A. She was about three or four steps from the top floor, and I told her she had better get out of the way, she was standing there on the stairs as I

was going up.

Q. Between the floor where the fire was and the floor below or on the steps leading from the top floor to the roof?

A. On the steps leading to the top floor about three steps from the top, from the landing.

Q. She was the only person you saw besides the firemen?

A. That is all that I remember seeing.

Q. And were you the first person who reached the floor?

A. Yes sir.

Q. Who was the next, do you know?           A. I think Fireman Salmon.

By Mr. Stapler. Q. You do not know that this woman was the house-keeper?           A. I do not know it.

Q. It was an old woman whom you met on the stairs?

A. Yes sir, I did not know who she was at the time, I have only been informed since.

Q. When you were in that front room, that is to say, I am speaking of the front apartment, the bed-room of the front apartment was the door closed between that room leading into Mrs. Gavan's room?           A. I think it was; if it had not been closed the fire certainly would have come through.

Q. Do you remember noticing the window in that room, the little window on the side, did you observe that window?

A. No sir.

Q. The window leading into the hall?           A. No sir.

Q. You did not observe that?           A. No sir.

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JOHN S. FISHER, sworn and examined.

- By Mr Stapler. Q. Chief Fisher, you are connected with the fire department of the city of New York? A. Yes sir.
- Q. With what are you connected, an engine or a hook and ladder company? A. I am the chief of the 8th Battalion.
- Q. Where were you on the 11th of February, 1891, about between two and half past two in the afternoon? A. I was at the quarters of Hook and Ladder No. 2 corner of 50th Street and Lexington Avenue.
- Q. While you were there did an alarm of fire come? A. Yes sir.
- Q. From what box did it come? A. No. 547.
- Q. Where is that box? A. 50th Street and Second Avenue.
- Q. Immediately upon receiving the alarm did the Hook and Ladder Company go out? A. Yes sir.
- Q. In about what length of time did they reach 50th Street and Second Avenue? A. About two minutes.
- Q. From there did they immediately proceed to 920 Second Ave. A. Yes sir, right direct.
- Q. You went upstairs in 920 Second Avenue to the top floor, did you? A. Yes sir.
- Q. How soon after the Hook and Ladder Company came there did the Engine Company come? A. They came together.
- Q. They came together? A. Yes sir.
- Q. From what point did the engine come? A. It came right through 51st Street from Second Avenue and went straight down to where the fire was.
- Q. Where was the engine house from which it came? A. 551st Street between Lexington and Third Avenues.

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Q. Do you know whether the alarm was received at the same time it was received by the hook and ladder company?

A. Yes sir, the same time.

Q. You assumed command did you, of the fire forces over at this place, at this fire? A. Yes sir.

Q. You went upstairs on to the top floor? A. Yes sir.

Q. Tell the Jury what you observed on the top floor when you got there as to the condition of the floor as to the state of the fire? A. The floor was pretty heavily

charged with smoke; we found fire in the rear bed-room.

Q. If you are going to take the rear apartment first --- you found smoke in the hall? A. No smoke in the hall.

Q. You found smoke in the rear apartment? A. The rear apartment.

Q. Was it full of smoke? A. Yes sir, full of smoke.

Q. Just tell the Jury where you found the fire?

A. We found the fire after entering the building, at least we tried to get in at first but we had to give it a dash of water before we could enter.

Q. What room was that? A. That was in the back room.

Q. In the bed-room? A. Yes sir.

Q. You had to throw water before you could go in?

A. Yes sir.

Q. You threw water from the hose? A. Yes sir.

Q. You had taken hose with you as you went up? A. Yes sir; we gave it a dash of water that we could get inside in that room; after I got in I found fire in the rear bed room in the closet, burning out into this room; then from there I went around into the front room and opened the bed-room door the front bed-room door leading into the bed-room where the

fire was.

Q. You went around into the front apartment? A. Went into the front apartment, yes sir, came through in that direction.

Q. When you got into that front apartment around into that bed-room, tell the Jury whether or not the door leading from that front apartment into this other bed-room where the fire was was closed? A. The bed-room door leading into that bed-room was closed and a part of the bed was up against it, I had the bed removed, shoved one side, and the door opened and took the line around through that room to the fire to give it a dash with the water from that side as well as from the rear.

Q. When you made your entrance into the rear apartment was that door closed or opened? A. The door was closed.

Q. Was it locked? A. No, the door was not locked, the door was open, the door was closed, we tried to open the door but we had to close it because the smoke all came out in the hall; we had to close it, we had not our line, the hose, ready then, what we call a stream of water, but as soon as we got the stream of water we opened the door and went in on that door; the door was closed when we got upstairs, I did not see it locked.

Q. It was opened without any breaking? A. Yes, it was opened without any breaking.

Q. You opened it and had to close it because the smoke came out? A. The smoke came out into the hallway, we had to close it until we got the water ready to give it a dash.

Q. You put some water on and after you did that you got in?

Q. You went into the bed-room and you found fire blazing, as I understand, coming from the closet? A. Yes sir, from the closet, burning into the rear room, the sitting-room.

Q. And then you put that fire out by playing on it from that side, then you went around through the front room and there you found the door closed and a bed against the door, is that right? A. Yes sir.

Q. You pushed the bed away and opened that door and played on the fire from that side, is that right? A. Yes sir, from that side.

Q. Was that door locked, do you remember? A. I could not tell whether it was locked or not, it was closed.

By a Juror. Q. Did you have to break it? A. No, we did not break it, we opened it with an axe, pried it open, I don't know exactly how it was fastened, but it was fastened.

The Court: That is this door which is here in the court-room?

Mr. Stapler: No sir, it is the door between the rooms.

Witness: The door leading from the front room into the rear bedroom, that was on fire; we had to get in that way; you could get at the fire better because the fire was burning from the bottom up; by going through that room we could work at it better from that way because the rear room was all smoke; there was more smoke than fire there.

By a Juror. Q. How did you get into the front apartment?

A. We walked right in.

Q. The door was off? A. When I got there the door was open, it was opened by somebody.

By Mr. Stapler. Q. The last officer testified that the door was opened before you got there? A. Yes sir.

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Q. So that that door was open to the front room and you went in there, is that right? A. Yes sir, went in that way.

Q. Were you the first officer to go to the rear apartment door?

A. Fireman Welsh was there at the same time.

Q. But you and he were the first ones? A. Yes sir.

By a Juror. Q. Did you use an axe for that door? A. No sir, not to the reardoor.

By Mr. Stapler. Q. Now tell us about what the condition of the small room, the front room was and the kitchen in the rear?

A. After we got inside there and looked around and examined it. I went in through the room what they call the kitchen and there I found a fire blazing in the closet and burning from the bottom out up against the ceiling all along the ceiling, scorching all the woodwork out into the room. We took the line in from the front to the rear door and put that fire out.

Q. Then did you examine the condition of the property there, Officer, is that a part of your duty, did you observe anything there by sense of smell or sight?

A. There was a smell of kerosene, I did not make no personal examination.

Q. You tell this jury now, Chief, do you, that in those apartments there was a smell of kerosene which you perceived when you were putting out that fire? A. Yes sir, a smell of kerosene all through the place.

Q. Did you or did you not find any fire in the front apartments? A. Not in the front apartments, no sir.

Q. There was no fire there at all? A. None at all.

Q. How long did you remain in this place, Chief, putting out the fire? A. About fifteen or twenty minutes we got

all through overhauling and examining the place.

Q. Did you find anybody in there when you went in?

A. No sir.

Q. There was nobody there? A. Nobody there at all.

Q. While you were there did Patrolman Kerr of the fire patrol come?  
A. I did not see him.

Q. You did not see him? A. No sir.

Q. You did not see him there before you left? A. No sir,  
the fire patrol came there before I left.

Q. The fire patrol came there before you left? A. Yes sir.

Q. Nothing was taken from those premises while you were there.  
A. Nothing at all .

Q. You tell this jury that everything in those rooms was left intact while you were in command there, while you were in charge there?  
A. Yes sir, we would not allow anybody to take anything while we are there putting out the fire.

Q. In whose charge did you leave those premises when you went away?  
A. The insurance patrol took charge.

Q. That is, the fire patrol? A. The fire patrol.

Q. You left the premises in charge of the Fire Patrol?

A. Yes, when we go away they take charge of everything that is left.

Q. When you drew off your men you turned the premises over to them and they took possession, is that right?

A. They took possession, yes sir.

Q. Did you send a despatch to Fire Marshall Mitchell immediately after leaving the place?  
A. Yes sir, I sent a despatch for the simple reason -----

By the Court. Q. You did send a despatch? A. Yes sir.

## CROSS EXAMINED.

By Counsel. Q. How many of your men were in the building when you reached there on the top floor? A. I could not tell.

Q. Were there quite a number or only two or three?

A. The company generally has an officer and five men, that is our rules, they have got to have an officer and five men going to a fire.

Q. When this door was opened in the rear who was with you, Captain Welsh? A. Captain Welsh, we were all up pretty much the same time.

Q. Do you know who opened it first, the door leading into the rear rooms? A. Captain Welsh opened it first.

Q. He opened it first? A. Yes sir.

Q. Is he here to-day? A. Yes sir, he is here.

Q. Were any of the windows broken during that fire while you were putting it out? A. I do not recollect whether the windows were broken, but they were pulled down from the top to let the smoke out.

Q. Were any windows broken in the hall? A. There was somebody broke the little window leading into the bed-room, I saw the flame or the light through that little window, somebody broke open the glass in that window, hallooing, "put the line through the window."

Q. Do you know what time that was? A. It was about pretty much the same time you know when we got there, there was much time between the -----

Q. Was it before you went into the back room? A. Yes, it was before we went into the back room.

By Mr. Stapler. Q. You say then through this window going to the hall, this window which went into this bed-room part of it  
17 (the line) went into this bed-room where the fire was?

A. Yes sir.

Q. You saw through that glass fire burning in that room?

A. Yes sir.

Q. That window was closed at that time, was it not?

A. Yes sir.

Q. It was broken by some one for the purpose of putting a line through and in that way reaching the fire? A. Yes sir, we could put the water in, I would not let them put the line in that but I took it around to the front room.

JOHN WELSH, sworn and examined.

By Mr. Stapler. Q. What is your occupation, Mr. Welsh? A. I am foreman.

Q. Connected with what company? A. Engine No. 8.

Q. You are foreman of engine No. 8? A. Yes sir.

Q. You are in command of that engine company, is that right?

A. Yes sir.

Q. Where is your station? A. 165 East 51st Street.

Q. Were you there with your engine company on the afternoon of the 11th of February between two and half past two o'clock? A. I was, sir.

Q. Did you receive an alarm of fire? A. We did.

Q. At what time did you receive that alarm? A. I have got the record here.

Q. Look at it, please. A. 2.26 P.M.

Q. You immediately left your engine house did you, with your engine and the company? A. Yes sir.

- Q. Where did you go?                   A. We went to the building on fire, No. 920 Second Avenue; first we went with the apparatus to the hydrant between 48th and 49th Streets.
- Q. You put the hose to go to 920?           A. Yes sir, connected with the hydrant and ordered the company to stretch a line to the building.
- Q. You did stretch it and went upstairs?           A. I went upstairs and reported to the Chief in command of the fire, Chief Fisher.
- Q. Who has just left the stand?           A. Yes sir.
- Q. You were in charge of the hose line, as I understand?  
A. Yes sir.
- Q. What did you find there, tell the jury, you got upstairs on the fourth floor, where did you find the fire?  
A. On the fourth floor I went towards the front and the firemen with Chief Fisher. After examining the fire on the floor in the front room, at least near the door, and after we got through with that we discovered smoke coming out of the rear room; we opened the door and found fire and smoke in the rear room.
- Q. Can you throw any light upon the question as to who opened the rear door, did you break it open or did you open it?  
A. It was shoved open by the force of my body.
- Q. You pushed it open?           A. Yes sir, pushed it open.
- Q. Was anything broken?           A. I did not notice anything, I did not make any examination of the door.
- Q. You turned the knob and pushed in, is that it?  
A. Pushed it in.
- Q. You did not hear any breaking or any evidences of breaking there?           A. No sir.

- Q. Was there smoke in that room when you opened it?  
A. Yes sir, smoke and flame in there.
- Q. Did you not have first to put the water in that room before you could go in?  
A. Yes sir, we had to throw a stream in there before we went in.
- Q. Where did you go from that room?  
A. From that room we went into the rear on the west side, the south side of the building.
- Q. That is to say you went into the inner room, did you, the bed-room?  
A. Yes sir, the inner room, the bed-room.
- Q. Tell the jury in what condition you found that bed-room as to fire, was there any fire there?  
A. That bed-room was all full of fire on one end of it, that is the end toward the south wall.
- Q. Was there a closet there?  
A. A closet, there seemed to be a wardrobe full of clothes, etc.
- Q. And you placed the hose on that?  
A. Yes sir, we reduced the fire there and then went to the rear room.
- Q. Went to the kitchen?  
A. The kitchen.
- Q. What did you find there, tell the jury?  
A. Found considerable fire there.
- Q. In what place?  
A. Near the corner of the room.
- Q. What kind of a place was it, was it a closet?  
A. A kind of closet, yes sir.
- Q. You found the flame burning there, did you?  
A. Yes sir.
- Q. Burning up and out?  
A. Burning all around.
- Q. You extinguished that fire by playing water on it, did you?  
A. Yes sir.
- Q. Do you recollect whether the hose was put through the front apartment?  
A. Oh yes, that was taken around before we

went to the rear room.

- Q. And were you there when the door was opened from the front apartment?      A. I was there but did not see the door opened.
- Q. You did not see them open the door but you were there?
- A. No sir.
- Q. Chief Fisher told us how the door was opened?      A. I was directing the ~~line man~~<sup>line</sup>, he was in charge of the line, I was lightening the line up in the hallway so as to clear it.
- Q. You played on the fire in the closet in the bed-room of the other apartment.      A. Yes sir, in the bed-room of the other apartment.
- Q. Now was there or was there not any fire in the front apartment, in those three rooms in front, the bed room, the sitting room, or the kitchen, did you discover any fire in there?      A. No sir, except in the hallway.
- Q. At the bottom of the door?      A. Yes, at the bottom of the door.
- Q. That was the only evidences of fire that you saw, is that right?      A. Yes sir.
- Q. After the fire was extinguished the hook and ladder company took charge to overhaul the place, is that right?
- A. Yes sir, that is right.
- Q. They did overhaul it?      A. Yes sir.
- Q. While you were there was any property removed from that place whatsoever, did you see any property taken away from there?      A. No, I did not see no property removed.
- Q. And did you see the fire patrol come there while you were there?      A. Yes sir, they were there in my presence.

- Q. They came there while you were there? A. Yes sir.
- Q. How long were you there do you think extinguishing the fire? A. I should judge it took about fifteen minutes to extinguish the fire, I was there about half an hour before we left.
- Q. And then you left the place in charge of the Fire Patrol? A. The Fire Patrol.

By Counsel. Q. Did you open the door into the rear room?

A. Yes sir.

Q. You opened it by throwing your body against it?

A. Yes sir, by the force of the body.

Q. You could not turn the knob and simply open it?

A. No sir.

Q. It was either locked or fastened in some way?

A. It might have been expanded by the heat, it required a little force to open it.

ROBERT KERR, sworn and examined.

By Mr. Stapler. Q. What is your occupation? A. I belong to the New York Fire Patrol.

Q. Where were you on the afternoon of the 11th of February last? A. I was at the fire.

Q. Where were you before you went to the fire? A. I was standing on the corner of 52nd Street and Second Avenue.

Q. What attracted your attention if anything? A. No. 2 truck going through 50th Street into Second Avenue.

Q. Are you connected with the Fire Patrol? A. Yes sir.

Q. You are one of the men of the firepatrol, are you? A. Yes sir.

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- Q. You went after these trucks to the fire? A. Yes sir, I followed the truck to the fire.
- Q. Where was the fire? A. The fire was on Second Ave near 49th Street.
- Q. What did you do after you got there to that house, 920 Second Avenue? A. I went right upstairs with the firemen.
- Q. You were there during the putting out of the fire?  
A. Yes sir.
- Q. Did you remain in charge of the premises after the firemen left? A. I remained in charge of the premises after they left.
- Q. How long did you remain there? A. I think it was somewhere around fifteen or sixteen days.
- Q. Fifteen or sixteen days? A. Yes sir, somewhere about that.
- Q. What was the condition of the premises when you got there, were any firemen there? A. Yes sir.
- Q. They were there? A. Yes sir.
- Q. Had they made an entrance into the rear apartment?  
A. Yes sir, they had.
- Q. Had they extinguished the fire in the bed-room and in the kitchen? A. No sir, not quite.
- Q. They were playing the water? A. Yes sir, they were at work.
- Q. Were they playing water at the fire in the bed room?  
A. Yes sir, in the bed-room, I staid in the hallway .
- Q. You stayed in the hallway while they were putting out the fire? A. Yes sir.
- Q. You saw the flames in the bed-room, did you?

A. No sir, only the smoke.

Q. You saw the smoke? A. Yes sir.

Q. After the fire was extinguished did you go inside?

A. I did, yes sir.

Q. What if anything did you perceive there, what did you see or what did you smell, tell the Jury anything which you learned through your senses??

A. At first you could smell nothing but smoke, but afterwards when the patrol came there and we started in to work, to clean up the place, everything we got hold of seemed to be as if it was saturated with oil, with kerosene oil, everything we handled.

Q. You went into the bed-room, did you? A. Yes sir.

Q. You found the mattress? A. No sir, the mattress was taken out into the room by the firemen.

Q. The mattress had been taken out into the sitting -room?

A. Yes sir, into the sitting-room.

Q. Did you smell that mattress? A. Yes sir.

Q. Was the mattress torn open any? A. On the top side, yes sir.

Q. Was the excelsior there? A. Yes sir.

Q. And did you take out that excelsior? A. Some of it.

Q. Did you examine it? A. No sir, that was examined by the gentleman of the insurance.

Q. You did not examine it then yourself? A. No sir, only got hold of the outside of it, that was all, on the tick.

Q. Did you perceive any odor, can you tell the jury whether or not you perceived any odor there? A. Yes sir I did.

Q. What was the odor which you perceived? A. It smelled like kerosene.

Q. Had the bedstead been removed? A. No sir.

Q. The bedstead when you got in there was in the bed-room, the rear room? A. Yes sir.

Q. That was taken apart and brought into the front room? A. Yes sir.

Q. What other furniture do you remember being in the bed-room? A. Nothing only a few bed quilts.

Q. Did you examine those bed quilts? A. Yes sir, I gave them to the Fire Marshall.

Counsel: We will admit those are the bed quilts.

By Mr. Stapler. Q. It is admitted that those are the bed quilts which you examined and which you gave to Mr. Mitchell?

A. Yes sir, Mr. Mitchell, the fire marshall.

Q. What did you perceive was the condition of the bed quilts? A. They were saturated right through.

Q. Saturated with kerosene? A. Yes sir.

Q. You perceived an odor of kerosene on the bed quilts? A. Yes sir, and on my hands.

Q. Did you go into the kitchen, that rear apartment? A. I did, yes sir.

Q. Did you find there had been any fire there? A. Yes sir, in the pantry where they kept the dishes.

Q. In the closet in that place there? A. Yes sir.

Q. What furniture was there in the sitting -room? A. In the sitting-room was a sofa, a table, a stove a sewing machine and two chairs.

Q. Do you remember what furniture there was in the kitchen? A. There was not any, nothing in there but an ice-box, a coal scuttle and an old basket.

Q. What other things did you find there, did you find anything

in the sitting-room, in the middle room?

A. There was, I suppose they call it an oil can --- them glass ones covered over with tin and it was broke, it stood alongside the stove between the stove and the bedroom in the sitting-room and kerosene oil in it.

Q. Was there some of the kerosene oil still left in it?

A. Yes sir, there was.

Q. Did that room have a carpet on? A. Yes sir, a kind of reddish carpet.

Q. Did you observe any other articles, any bric-a-brac, any vases or anything of that kind? A. No sir, only one that stood on the mantel-piece.

Q. What was that? A. That was just merely a little vase.

Q. About how large? A. It stood about that high and about that big around (illustrating).

Q. That was the only ornament that you found there?

A. There was other little ornaments such as little dogs and the likes of that, they were all broke lying on the mantelpiece.

Q. China dogs you mean on the mantelpiece? A. Yes sir.

Q. There was this one vase? A. Yes sir, one vase standing about that high. (Illustrating).

Q. And only one? A. Only one, yes sir.

Q. Did you find any evidences of anything else there broken? in the way of china or glass. A. No sir, only a spittoon

Q. There was nothing else, you are entirely clear, you made a careful examination? A. I did and went down in the yard to see if I could find anything in the yard; there was nothing there only the rubbish that was throwed out.

- Q. The fire patrol took possession of the premises when the firemen went away? . Yes sir.
- Q. Nothing was removed from that floor of the property in that place, was there? A. No sir, not during the time I was there.
- Q. Now have you told us everything that you remember being there, was there any pictures on the walls? A. Well, there was plain pictures.
- Q. They were in frames I suppose? A. Yes sir.
- Q. Did you find any clothing there? A. Very little, I believe there was only two dresses, looked like dresses, what was left of them; no other kind of clothing.
- Q. No other kind of clothing? A. No sir.
- Q. No men's clothing? A. No sir, no men's clothing or anything of the kind ----- no pillows and no feather beds.
- Q. No bolsters and no feather bed? A. No sir.
- Q. The only bedding furniture was that mattress and those two bed quilts, is that so? A. Yes sir.
- Q. No sheet? A. I believe there was one sheet in the back, if I am not mistaken.
- Q. You did not find any other sheets there?  
A. No sir, I believe I gave them to Mr. Mitchel with the rest of the things.
- Q. Did you find any boots or shoes there? A. There was one pair of shoes.
- Q. Only one pair of shoes? A. Yes sir.
- Q. Did you find any hats or bonnets, caps or head wear?  
A. No sir.
- Q. Did you find any baby linen and baby clothes?  
A. No sir.

- Q. There was a trunk there?           A. Yes sir. there was a trunk, that was removed into the front room with one white shirt in it.
- Q. Was anything else in there?        A. No sir.
- Q. No underclothing of any kind?       A. No underclothing of any kind.
- Q. Did you see a policy of insurance anywhere there?  
          A. No sir, not on the premises.
- Q. No paper of any kind?            A. No sir.
- Q. Any books of any kind?            A. No sir.
- Q. Any ink stand and pens, do you remember that?  
          A. That I did not take notice of.
- Q. You cannot say as to that?        A. No sir, I cannot speak to that.
- Q. Kitchen utensils, did you find those things there?  
          A. There was a few saucepans and there was a teapot and there was a coffee pot.
- Q. Any knives and forks?            A. Well, I seen two or three laying on the floor, that was about all .
- Q. Any spoons?                    A. I seen one tablespoon but no teaspoons.
- Q. No teaspoons?                    A. No sir.
- Q. You saw Fire Marshall Mitchell there that afternoon, did you not?  
          A. I did, yes sir.
- Q. Were you sent by him to go and bring the defendant to him?  
          A. Yes sir.
- Q. You went and where did you find her?        A. I found her next door.
- Q. Had she been in those apartments before that that afternoon?  
          A. During the time I was there until I saw the

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Fire Marshall?

Q: Yes sir?

A. No sir.

Q. She had not been there at all?

A. No sir.

Q. You were there immediately after the firemen came in and while they were still playing on the fire?

A. I went upstairs with the line when they went up.

Q. You went up behind them with the hose?

A. Yes sir.

Q. That was the first time she had been there?

A. Yes sir, when I went after her.

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BRIDGET CURLEY, sworn and examined.

By Mr. Stapler. Q. Mrs. Curley, where do you live?

A. No. 302 49th Street.

Q. East 49th Street? A. Between First and Second.

Q. How far is that from the corner of Second Avenue?

A. Not very far, sir.

Q. No 300 is the corner house, isn't it, 302 is next to the corner house, you live in 302, you are the house-keeper, I understand?

A. Yes sir.

Q. You have charge of 302 and 304 East 49th Street?

A. No. 300 and 920 Second Avenue.

Q. No. 920 is right around the corner of 49th Street on 2nd Avenue on the east side ----- you have charge of three houses, is that right, No. 920 and then ~~of~~ 300 and 302 East 49th Street?

A. Yes sir.

Q. Now were you in the yard of the house 302 on the afternoon of the 11th of February?

A. Yes sir.

Q. What were you doing there, Mrs. Curley? A. Filling dirt.

Q. About what time was it, tell the jury about what time were you there?

A. I think it was between one and two.

Q. Between one and two in the afternoon? A. Yes sir.

Q. Was your attention attracted by anything in the rear of 920, did you see anything in the rear of 920 and if so, what, while you were in the yard?

A. I did, sir.

Q. Please look at the jury and tell the jury just what you saw?

A. I saw smoke.

Q. And where was the smoke coming from? A. Out of the window.

Q. Out of the window, the rear window? A. In the rear window.

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- Q. In the rear window of 920? A. Yes sir.
- Q. On what floor? A. On the top floor.
- Q. Now how long had you been in your yard when you saw that smoke? A. I did not see it at all until I was showed it.
- Q. You did not see the smoke? A. Some young man showed it to me.
- Q. Some young fellow showed you the smoke? A. Showed me the smoke.
- Q. The smoke was coming out of the window was it, into the air? A. Yes sir.
- Q. Did you see anything else then at that time? A. Yes sir.
- Q. Just tell the Jury what you saw? A. I seen a woman standing on the fire escape.
- Q. And do you know this defendant here, this Mrs. Gavan? A. That is the woman I seen.
- Q. That is the woman you saw standing on the fire-escape? A. Yes sir.
- Q. What did you do after that? A. Then I did not do no more only I was working the same as I always was, and then I looked up again and she was there still and then I went upstairs to the roof.
- Q. What stairs did you go up to the roof? A. The stairs in 300.
- Q. You went up in 300 East 49th Street, is that right? A. That is right.
- Q. You went into the hallway of 300 East 49th Street, went upstairs and went on to the roof, is that right? A. That is right.

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Q. When you got on the roof what did you see? A. I seen a woman <sup>lying</sup> ~~lying~~ there.

Q. What woman did you see? A. Mrs. Gavan.

By the Court. Q. On the roof? A. Yes sir, on the roof.

By Mr. Stapler. Q. That woman? (Pointing to the defendant.)

A. That woman, sir.

Q. The defendant was lying on the roof, is that right?

A. Yes sir, that is right.

Q. And who else was on the roof at that time?

No answer.

By the Court. Q. The roof of 300? A. No, the house she lived in 920.

By Mr. Stapler. Q. She was on the roof of the house she lived in, is that right? A. That is right, sir.

Q. Now then who else was up there at that time?

A. There was nobody there when I went --- myself and another woman, only her and me.

Q. Was there a man there at that time? A. Yes sir.

Q. Who was he? A. The tar man.

Q. The roofer? A. The roofer.

Q. Now then did he have Mrs. Gavan -----

A. He had Mrs. Gavan's baby, the roofer, the tar man.

Q. The tar man had Mrs. Gavan's baby? A. Yes sir.

Q. Now then what did you do after that Mrs. Curley?

A. We reported for the firemen to come.

Q. You sent somebody, did you, to have the firemen come?

A. Yes sir.

Q. Who did you send? A. The young fellow, the tar man's son.

Q. Then what did you do? A. I went away as fast as I could.

0525

Q. You went down stairs, did you? A. I did, sir.

Q. Into what house did you go? A. I did not go in the house where the fire was <sup>at all</sup> ~~until~~ I went down in 300 on the corner.

Q. When did you go up into the top floor of 920?

No answer.

By the Court. Q. You went out of 300? A. Yes sir.

By Mr. Stapler. Q. Did you go upstairs into 920? A. I did, sir, right across the roof.

Q. You went across the roof? A. Yes sir, I was ~~helped~~ helped by a man and went down.

Q. Did you go into 920 Second Avenue from the roof?

A. I did, sir.

Q. You did that? A. Yes sir.

Q. After you left this woman and the roofer on the roof you went down stairs onto the top floor of 920, is that right?

A. ~~No~~ Yes sir.

Q. You went back and sent for the firemen, is that it?

A. A. I did not go back.

Q. You went up and found Mrs. Gavan on the roof, didn't you?

A. I did indeed.

Q. And then you sent the tar man's son for the fire department, is that right? A. That is right.

Q. You say you went into 920, did you go down stairs, did you go down the same hallway? A. I went down and I thought to push the door in and I could not, to see what was the matter and get a pail of water to put the water on it.

Q. To put the water on what? A. On the fire.

0526

- Q. Where was the fire? A. I saw the smoke.
- Q. Did you see any fire? A. I seen a little fire under Mrs. Walther's door.
- Q. That is to say, under the door of the apartment, the front room? A. That is right, that is so.
- Q. There was a little fire down at the corner, was it? A. Right in the corner of the room, like that.
- Q. It was just burning there? A. Burning a little.
- Q. Burning a little? A. Yes sir.
- Q. And you tried to push the door in? A. I did, and could not.
- Q. The door was locked? A. I do not know, sir, I did not turn nothing, only I could not push it in.
- Q. You tried to push it in and you could not push it in? A. No sir.
- Q. Then you went to get some water, is that it? A. That is it.
- Q. Where did you go to get some water? A. I thought to get it but I halloed to the fellows to get it for me, I could not get it, I got so excited.
- Q. Do you remember what you did after that, did you go up on the roof again? A. I did, sir, but I did not see Mrs. Gavan no more, I had nothing more to do with her.
- Q. You went up on the roof then and went down into 300? A. Down in 300 I went.
- Q. Trying to get some water? A. I could not get it, I did not know what to do, I got very excited.
- Q. And then how soon did the firemen come after that? A. They come very quick indeed.
- Q. Very quickly after that? A. Yes sir.

Q. Before you got down stairs did they come? A. Yes sir, I was down stairs when I seen the firemen carrying up the water through the hall.

Q. You saw that fire burning at that door going into Mrs. Walther's room? A. Yes sir.

Q. Then you went back upon the roof and Mrs. Gavan and the tar man had gone, is that right? A. That is right.

Q. And then you went down stairs right down stairs, down through 300 and when you got down there you found the firemen there. A. Yes sir.

Q. And the firemen were going up in 920, is that right? A. Yes sir, that is right.

Q. That is the story of what you know about this case? A. Indeed it is.

By the Foreman. Q. You seen the fire burning from that door looking from the door on the roof? A. No, you could not see from the roof.

By the court. Q. You came down into 920? A. I did, sir.

Q. You say you saw fire in Mrs. Walther's room? A. At the door I did.

Q. Tell the Jury where you were standing at that time when you saw this fire A. I was coming through the hall--- I was down in the yard working.

Q. When you saw the fire? A. I saw the smoke when I was in the yard.

By the Foreman. Q. Were you in the hall? A. No, I was upstairs - - a little tiny fire.

By the court. Q. There are several halls in the house, is there a hall on each floor? A. Yes, this was the top hall where the fire was.

Q. Where were you when you saw the fire under Mrs. Walther's door?  
 A. I came running up looking for the fire, because I saw a little smoke.

Q. You saw it?  
 A. Yes sir.

Q. Where were you when you saw it?  
 A. Right outside her door.

By Mr. Stapler. Q. That roof door was one of these straight doors, wasn't it?  
 A. Yes sir .

Q. And the steps come up this way and you go down like that, is that so? (Illustrating.)  
 A. Yes sir.

Q. Then there is a sort of roof over this place?  
 A. That is right.

Q. You were standing outside that door when you saw the fire burning?  
 A. I was, yes sir.

Q. In regard to the time you recollect at the police examination, you said it was between two and half past two?  
 A . I could not exactly tell the right time.

Q. It was somewhere about that time?  
 A. I told it as well as I could.

Q. When the matter was recent in your mind you testified it was between two and half past two:  
 A. Yes sir.

CROSS EXAMINED.

By Counsel Q. When your attention was called to this smoke, Mrs. Curley, you looked up and saw the defendant out on the fire-escape, did you?  
 A. Yes sir.

Q. Was she in front of the window of the next building, what is that, 922?  
 A. She was in ~~the~~ front of the window she lived in.

0529

- Q. She went to the other window, didn't she?           A. No sir,  
she was at that window, I don't know no more about it, I  
ran from down stairs up stairs.
- Q. You saw the smoke coming out of the window, didn't you?  
A. Yes sir.
- Q. It was pouring out quite thickly, wasn't it?  
A. Very thickly in one window.
- Q. That was the window she came out of, wasn't it?  
A. There are three window in her dwelling place.
- Q. There are three windows?           A. Yes sir.
- Q. The window next to hers the smoke was coming out very  
thick?           A. Not the window where she was but the window  
above that again there was heavy smoke coming down.
- Q. Now were you excited when you saw that smoke?  
A. I was so excited I did not know where I was.
- Q. Don't you think you were so excited so that you were mis-  
taken about the window the smoke was coming out of?  
A. No, I am not mistaken..
- Q. Did you see the roofer at the time?           A. I did sir; --  
no, I did not see the roofer.
- Q. You did not see him then.           A. No sir.
- Q. As soon as you saw the smoke coming out you ran upstairs  
through your house, did you?           A. No, I did not.
- Q. What did you do?           A. I stayed working at what I was  
doing and did not mind the smoke, I thought it was the roof  
man was making the smoke.
- Q. You thought it was the roof man?           A. Yes sir.
- Q. When did you get excited?           A. I got excited at the  
moment I seen it, I did not know what it was.

0530

Q. Then you saw it the first time you looked up?

A. No, I did not think nothing about it.

Q. Then as soon as you did see it and think something about it you quit work and went into thenhouse?

A. I ran upstairs.

Q. And as I understand it, your house is on what street?

A. 49th Street.

Q. And you went up on the roof of your house, did you?

A. Not my house but 300, the corner house.

Q. From that you could walk right across the roof over to 920?

A. Yes sir.

Q. When you got up there this defendant was there, wasn't she?

A. Yes sir. she was lying on the roof.

Q. Had she fainted away? A. I could not tell you, I did not go over near the lady, to the woman.

Q. Did she look white? A. Indeed she did look bad too.

Q. Looked very bad? A. She did.

Q. Was the baby there at that time? A. No, the man had the baby down through the house, he gave it to some woman.

Q. The roof man had taken the baby away? A. Yes sir, he offered the baby to me, I would not take it, I was afraid I would drop it.

Q. You were so excited you were afraid you would drop it?

A. That is so.

Q. That is the reason you refused to take it and the only one?

A. Indeed that is the reason.

Q. Did he come back before you left Mrs. Gavan, did the roof man come back to Mrs. Gavan before you went away?

A. I could not tell you that but I know he left the baby secure, I don't know whether he did or not, then the

crowds was coming.

Q. Did you see him with Mrs. Gavan on the roof at all?

A. I did, sir.

Q. And did you after you saw Mrs. Gavan up there on the roof, did you stay on the roof until you saw this roof man with her again?

A. A woman came and lifted her up, I think..

Q. Well, Mr. Welsh, the roofman lifted her up too, didn't he?

A. He did.

A. And tried to revive her, didn't he? A. He did indeed.

Q. How long do you think you were on the roof there before

you went down into 920? A. I could not tell you, I could not exactly say that.

Q. Do you think it was five or ten minutes? A. Oh, as much as that.

Q. As much as ten? A. I think so.

Q. And during that time different people came up and worked over Mrs. Gavan, didn't they? A. Yes sir.

Q. So it was some little time after you got on the roof before you went down into 920, wasn't it? A. Yes sir.

Q. And when you went into 920 was anybody else on the top floor in the hall? A. I did not see one when I went down there.

Q. You did not see anybody else down there? A. No sir.

Q. Was Mrs. Gavan on the roof of 920 or 922 when you saw her, 922 is lower than 920? A. Well, they are both alike, she was on the corner house.

Q. The corner house? A. Yes sir.

Q. Not 920? A. No sir, she was on the corner house.

0532

Q. And that roof is about that much lower than the other?

(Illustrating.) A. Yes sir.

Q. You did not see her get from the fire-escape onto the roof?

A. Oh no sir.

Q. You did not see any of that? A. No sir, I did not see it.

Q. That took place while you were running upstairs?

A. That took place when I was running upstairs.

Q. Do you know how many women were living in 920 at that time?

A. There was three families.

Q. Two on the top floor? A. Two on the top floor.

Q. How many on the second? A. Four families, one on the second, there was another coming in to-morrow.

Q. Well, did any of the families there have any boarders?

A. No sir, that I know of.

Q. You do not know about that? A. No sir.

Q. Do you know how many families there were on the first floor?

A. I know there was only one woman there.

Q. And one on the second floor? A. Yes sir.

Q. You have told all that you know about this or all that you recollect? A. Indeed I did.

0533

Yes, good friends, one of the emergent questions of

0534

Testimony in the  
case of  
Rose Gamm  
filed Feb.

1891

270~~42~~

See: Rose Gamm: one of the witnesses present in the

0535

Police Court, 14th District.

City and County of New York, } ss.

James Mitchell

of No. 159 East 67th St - Street, aged 51 years, occupation Fire Marshal

being duly sworn, deposes and says, that on the Eleventh day of February 1891, at the City of New York, in the County of New York, at or about the hour of 2 o'clock

and twenty-seven minutes in the afternoon one Rose Gavan, a married woman, did wilfully set fire to and burn the house known as No. 920 on 22 Avenue, a dwelling house, in which there were at the time human beings, with intent to destroy the said house the same being in violation of Section #487 of the Penal Code of the laws of the State of New York.

That deponent believes and charges that the said Rose Gavan did set fire to and burn said building from the fact that there were two separate and far removed fires set in the rooms occupied by the said Rose Gavan on the 4th or top floor of said building; to wit, on floor of wardrobe of bedroom (marked X on plan) and on floor of chair in kitchen (marked O on plan), and that a third fire was set in the hallway of said fourth floor at the base of the door of one of the rooms of the adjoining apartments; that the said Rose Gavan was the only person on the said 4th floor when the fires were set, and that kerosene oil was used in setting the fire in the hallway, as aforesaid, and that the mattress and bed covers in the rooms of the said Rose Gavan were found to be saturated with kerosene oil when the rooms were entered after the fire, and that the property contained in the rooms of the said Rose Gavan was insured in her husband's name for the sum of \$500., which in the opinion of deponent was greatly in excess of the value of the property contained in said rooms.

All of which deponent sets forth on information and belief.

James Mitchell

Sworn to before me this 13th day of February 1891

Notary Public

0536

Fire Department of the City of New York.

BUREAU OF FIRE MARSHAL.

(Form No. 3.)

(157 & 159 EAST 67th STREET.)

State of New York,  
City and County of New York, } ss.

Mrs. Bridget Curley  
of No. 302 East 49th Street

being duly sworn, deposes and says: I am housekeeper and

have in my charge three houses, one of them being No. 920 2<sup>d</sup> Avenue - On Wednesday the 11<sup>th</sup> inst. (yesterday) at about two hours of 2.30 P.M. I was in the yard of No. 920 2<sup>d</sup> Avenue engaged in cleaning up the yard and putting the ashes into a barrel. While so engaged I saw a smoke issuing from the windows of the rooms on the 4<sup>th</sup> floor occupied by Mrs. Gowan & her husband - I thought at first that the smoke came from the roof where men were engaged in taring the roof - A minute or two later, on looking up again, I saw that the smoke was increasing - I then went up stairs to the 4<sup>th</sup> floor. I saw no smoke in the hall, and I endeavored to force open her <sup>(Mrs. Gowan's)</sup> door, but could not do so - I then went to the door of the front room which was also locked - I there saw a small fire burning under the corner of that door - I then became alarmed and went on the roof where the men were, and asked the boy who was there to go and give an alarm as there was fire in the house - He did so, and I immediately went down stairs - When I reached the roof I found Mrs. Gowan and her child there. The roofer was holding the child and Mrs. Gowan was lying down - I should have said before, that while I was

Subscribed and sworn to before me

day of

John J. ...

0537

in the yard, before going up stairs, I saw Mrs  
Gavan get out of her kitchen window on  
to the fire escape and hand her baby up  
to the man on the roof - She followed at  
once, being assisted up by the same man  
who took the child from her -

I was not in Mrs Gavan's rooms before the fire  
started or while it was burning and, therefore,  
don't know how or where it originated -

Subscribed and sworn to  
this twelfth day of  
February 1891, before  
me -

Bridget <sup>the</sup> Curley  
mark

Jas. Mitchell  
Justice of the Peace

Sworn to before me this  
13<sup>th</sup> day of February 1891  
John H. Ryan  
Police Justice

0538

Sec. 198-200.

District Police Court

CITY AND COUNTY OF NEW YORK, ss.

Rose Garau

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. Rose Garau

Question. How old are you?

Answer. 25 Years

Question. Where were you born?

Answer. Ireland

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

Answer. 930. 5 Avenue 6 Months

Question. What is your business or profession?

Answer. Married

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 I know nothing about it I was glad to get out of the place when I saw it was fire

Rose Garau

Taken before me this 13

Notary of the City of New York  
Charles W. ...

Police Justice

0539

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named defendant

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

Dated February 13 1891 Charles N. Sinton 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.

0540

Police Court--- District. 213

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*James Mitchell*  
*159 East 70th St*  
*Rose Garau*

1 \_\_\_\_\_  
2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

Offence *Drunk*

Dated *February 13* 189*1*

*Ryan* Magistrate.

*Charles P. Severino* Officer.  
Precinct.

Witnesses *Bridget Conroy*

No. *302 East 70th St.*

*Mrs Louis Walther*  
*920 - 2 Avenue*

No. *Roberts Ferry* Street.

*Fire Patrol No 2 130 St + 6 Ave*  
*Chief Wm. J. Fisher 131 St.*

No. *Chas. Marston* Street.

*Engine 24 40 St + 13 Ave*

\$ *2000 to answer J.S.*  
*5000. Ex Feb 16 - 10 am*

BAILED.

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

*Witnesses*  
*Michael Salmon*  
*Hook + Ladder No 2*  
*126 E. 50 St*  
*Edward Palmer*  
*Hanover Fire Ins. Co*  
*H. Nassau*  
*Jacob Frank*  
*Fire Headquarters*

0541

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Rose Fagan*

The Grand Jury of the City and County of New York, by this indictment, accuse  
*Rose Fagan*  
of the CRIME OF ARSON IN THE *second* DEGREE, committed as follows:

The said *Rose Fagan,*  
late of the *Nineteenth* Ward of the City of New York, in the County of New York aforesaid, on the *seventh* day of *February* in the year of our Lord one thousand eight hundred and *eighty-ninety-one*, at the *day* time of the said day, a certain *dwelling-house* of one *Salinda Fagan,* there situate, there being then and there within the said *dwelling-house* some human being, to wit: *a certain infant* *child whose name is to the Grand Jury unknown,* feloniously, wilfully and maliciously did set on fire and burn, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid, by this indictment, further accuse the said  
*Rose Fagan*  
of the CRIME OF ARSON IN THE *second* DEGREE, committed as follows:

The said *Rose Fagan,*  
late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, with force and arms, in the *day* time of the said day, a certain *dwelling-house* of one *Donis. Wallner,* there situate, there being then and there within the said *dwelling-house* some human being, to wit: *a certain infant child whose name is to the Grand Jury unknown,* feloniously, wilfully and maliciously did set on fire and burn, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,  
~~JOHN R. FELLOWS,~~  
District Attorney.

0542

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Giarusso, Thomas

**DATE:**

02/16/91



3940

0543

Wm. H. C. Capp

Counsel,

Filed

16<sup>th</sup> day of July 1881

Pleas,

McQuilly 17

Assault in the First Degree, Etc.  
(Sections 217 and 218, Penal Code).

THE PEOPLE

vs.

B

Thomas S. Swann

(2 cases)

N.D.

DE LANCEY NICOLL

JOHN R. FELLOWS

District Attorney.

A True Bill.

Chas. B. Folsom

Part II February 24<sup>th</sup> Foreman.

On Recomp. of Foreman

indict. dis. B.M.

Wm. H. C. Capp

Witnesses:

The defendant  
having been acquitted  
upon the trial of this other  
indictment in which his name  
was practically the same as in  
this case. I recommend the  
dismissal of this indictment  
upon the facts  
presented before me.

0544

Police Court \_\_\_\_\_ District.

City and County } ss.:  
of New York, }

of No. 81 James Street, aged 24 years,  
occupation Bar tender being duly sworn  
deposes and says, that on the 24 day of December, 1888, at the City of New  
York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by James  
Giarrusso (now being who discharges  
the contents of a barrel of  
a loaded revolver at the body  
of deponent, a ball from  
said revolver striking de-  
ponent on the right arm;  
said assault was committed

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without  
any justification on the part of the said assailant :

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer  
for the above assault, etc., and be dealt with according to law.

Sworn to before me, this 22 day }  
of December, 1888 } William Nelson  
James  
Police Justice.

0545

Sec. 198-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Thomas Giannese* 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. *Thomas Giannese*

Question. How old are you?

Answer. *24 years*

Question. Where were you born?

Answer. *Italy*

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

Answer. *140 Mulberry Street. 4 years*

Question. What is your business or profession?

Answer. *Fruit vendor*

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 Giannese  
Answer*

Taken before me this

*22*  
day of *November* 188*8*

Police Justice.

0546

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 Lewis*  
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 *Dec 22 1890* *A. J. White* Police Justice.

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

Dated *Dec 30 1890* *A. J. White* 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.

0547

Bourne  
identified by  
Ferrite. CO

BAILED.

No. 1, by

P. Venturini

Residence

67 Mabley Street.

No. 2, by

Residence

Street.

No. 3, by

Residence

Street.

No. 4, by

Residence

Street

Police Court---

District. 5

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

William Nelson

vs.  
James Cannon

2

3

4

Office

Ed. Cannon

Dated

May 22 1880

188

Magistrate.

W. C. Cannon

Officer.

Precinct.

Witnesses

Officer

No.

Compt. to Prison

Street.

No.

Detention

Street.

No.

\$ 500 to answer

Street.



27. 10  
30. 10  
Annot  
M. J. Cannon

0548

Sec. 192.

First District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }  
OF NEW YORK, } ss.

An information having been laid before Andrew J. White a Police Justice of the City of New York, charging Tommaso Guarnese Defendant with the offence of fel. Assault 4th Degree

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 hearing thereof having been adjourned,

We, Tommaso Guarnese Defendant of No. 140 Mulberry Street; by occupation a Fruit Vendor and Ven. Luigi Pasquale of No. 62 Mulberry Street, by occupation a Saloon Keeper Surety, hereby jointly and severally undertake that the above named Tommaso Guarnese Defendant shall personally appear before the said Justice, at the 1st 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 Six Hundred Dollars.

Taken and acknowledged before me, this 29 Tommaso Guarnese day of December 1897. } Rosario Venturieri  
A. J. White POLICE JUSTICE.

0549

CITY AND COUNTY OF NEW YORK } ss.

Sworn to before me, this 19th day of Dec 1891  
J. W. D. Police Justice

Venanzieri Pagnola

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 Five Hundred 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 House and lot of land situated at No 298 Mulberry Street New York City valued at Thirty Nine thousand dollars mortgage of Four thousand dollars

District Police Court.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Undertaking to appear during the Examination.

vs.

Taken the ..... day of ..... 18

Justice.

Sapavake Dentori-eri

0550

CITY AND COUNTY } ss.  
OF NEW YORK,

POLICE COURT, \_\_\_\_\_ DISTRICT.

*William J. Connor*  
of No. \_\_\_\_\_ Street, aged \_\_\_\_\_ years,  
occupation *Police Officer* being duly sworn deposes and says,  
that on the \_\_\_\_\_ day of *December* 188*9*  
at the City of New York, in the County of New York, *William Nelson*

*was* a material witness  
for the People against one  
*Thomas Guinness* charged  
with felonious assault  
and depredation believing that  
said Nelson will not ap-  
pear when needed forays  
he be committed to the  
House of Detention for  
witnesses

*William Connor*

Sworn to before me, this \_\_\_\_\_ day of \_\_\_\_\_ 188*9*

*J. W. [Signature]*  
Police Justice

0551

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Tommaso Guaruso*

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

*Tommaso Guaruso*

of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said *Tommaso Guaruso*

late of the City of New York, in the County of New York aforesaid, on the *twenty-first* day of *December* in the year of our Lord one thousand eight hundred and ~~eighty-nine~~ *one* with force and arms, at the City and County aforesaid, in and upon the body of one *William Nelson* in the peace of the said People then and there being, feloniously did make an assault and to, at and against *him* the said *William Nelson* a certain pistol then and there loaded and charged with gunpowder and one leaden bullet, which the said *Tommaso Guaruso* in *his* right hand then and there had and held, the same being a deadly and dangerous weapon, wilfully and feloniously did then and there shoot off and discharge, with intent *him* the said *William Nelson* thereby then and there feloniously and wilfully to kill, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

*Tommaso Guaruso* of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said *Tommaso Guaruso*

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of the said *William Nelson* in the peace of the said People then and there being, feloniously did wilfully and wrongfully make another assault, and to, at and against *him* the said *William Nelson* a certain pistol then and there charged and loaded with gunpowder and one leaden bullet, which the said *Tommaso Guaruso* in *his* right hand then and there had and held, the same being a weapon and an instrument likely to produce grievous bodily harm, then and there feloniously did wilfully and wrongfully shoot off and discharge, 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.

W/68 C/EP

Counsel,  
Filed 16 day of July 1889  
Pleas, August 17

THE PEOPLE  
vs.  
Tomaso Sianasso  
(2 years)  
N.Y.

Assault in the First Degree, Etc.  
(Fetters.)  
(Sections 217 and 218, Penal Code).

DE LANCEY NICOLL,  
JOHN R. FELLOWS,

District Attorney.

Witnesses:  
William Nelson  
James O'Connor

A TRUE BILL

Chas. B. Stovack

Part II, Foreman, January 24/91-

Book 3  
Index and Acquitted

W. H. W.

0553

Police Court— 1st District.

City and County } ss.:  
of New York, }

of No. 31 Hamilton Street, aged 24 years,  
occupation Painter being duly sworn

deposes and says, that on the 21 day of December, 1892, at the City of New York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by Thomas  
Giannuso (now being who discharged  
the contents of a barrel of  
a loaded revolver which he  
then held in his hand at the  
body of deponent, one of the  
bullets striking deponent on  
the left side and said as-  
sault was committed with

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without any justification on the part of the said assailant :

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer for the above assault, etc., and be dealt with according to law.

Sworn to before me, this 22 day  
of December, 1892.  
A. J. White William Davis  
Police Justice.

0554

Sec. 188-200.  
CITY AND COUNTY } ss.  
OF NEW YORK, }

District Police Court.

*James Giarnese* 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 Giarnese*

Question. How old are you?

Answer. *24 years*

Question. Where were you born?

Answer. *Italy*

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

Answer. *140 Mulberry Street 4 years*

Question. What is your business or profession?

Answer. *Trunk maker*

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 ever faithfully  
James Giarnese  
Murr*

Taken before me this

*22*

day of *December* 188*5*

Police Justice.

0555

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.....

Rependans  
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 Nov 22 1890 A J White Police Justice.

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

Dated Dec 30 1890 A J White 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.

0556

BAILED,

No. 1, by G Venturoli  
Residence Co 2 7th Avenue Street.

No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

Police Court--- District 5

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

William Harris  
37 Avenue St  
Thomas James

2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

Dated Dec 22 1891

White Magistrate.

Connor Officer.

H Precinct.

Witnesses officer

No. Campbell House Street.

of Retention

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

§ 5710 to answer G S

Ex. Dec. 24/24

29.10



Officer  
Connor

Noted

0557

Sec. 192.

First District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }  
OF NEW YORK, } ss.

An information having been laid before Adrian J. White a Police Justice  
of the City of New York, charging Tommaso Gammossa Defendant with  
the offence of Fel assault & Battery

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 hearing thereof having been adjourned.

We, Tommaso Gammossa Defendant of No. 148  
Mulberry Street; by occupation a Fruit Vendor  
and Venturi Pasquale of No. 62 Mulberry  
Street, by occupation a Sutton Keeper Surety, hereby jointly and severally undertake  
that the above named Tommaso Gammossa Defendant  
shall personally appear before the said Justice, at the 1st 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 Five  
Hundred Dollars.

Taken and acknowledged before me, this 23<sup>rd</sup> day of Dec, 1898 } Tommaso Gammossa  
Venturi Pasquale  
A. J. White POLICE JUSTICE.

0558

CITY AND COUNTY } ss.  
OF NEW YORK,

day of *March* 18*96*  
*John J. [Signature]*  
District Police Justice

Sworn to before me, this

*Venturik Pasquale*  
the within named Bail and Surety being duly sworn, says, that he is a resident and *free*  
holder within the said County and State, and is worth *Two* Hundred 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 *House and lot of land*  
*situate at No 238 Mulberry Street and*  
*York City valued at Thirty Two Thousand*  
*two hundred dollars. Mortgage of Twenty Four*  
*Thousand dollars*

District Police Court.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

vs.

Undertaking to appear  
during the Examination.

Taken the ..... day of ..... 18

Justice.

*Pasquale Venturieri*

0559

CITY AND COUNTY } ss.  
OF NEW YORK,

POLICE COURT, \_\_\_\_\_ DISTRICT.

William J. Connor  
of No. 44 Beecher Street, aged \_\_\_\_\_ years,  
occupation Police Officer, being duly sworn deposes and says,  
that on the 22 day of December 1889  
at the City of New York, in the County of New York, William Davis

knows here is a material int-  
ress for the People against  
Thomas Giurusso charged  
with felonious assault  
and depredation believing that  
said Davis will ever appear  
when needed from he be  
committed to the House  
of Detention for witnesses

William Connor

Sworn to before me, this

22 day

of December 1889

Police Justice

0560

**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 Giarusso*

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

*Thomas Giarusso*

of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said *Thomas Giarusso*

late of the City of New York, in the County of New York aforesaid, on the *twenty first* day of *December*, in the year of our Lord one thousand eight hundred and ~~eighty nine~~ *ninety one* with force and arms, at the City and County aforesaid, in and upon the body of one *William Davis* in the peace of the said People then and there being, feloniously did make an assault and to, at and against *him* the said *William Davis* a certain pistol then and there loaded and charged with gunpowder and one leaden bullet, which the said *Thomas Giarusso* in *his* right hand then and there had and held, the same being a deadly and dangerous weapon, wilfully and feloniously did then and there shoot off and discharge, with intent *him* the said *William Davis* thereby then and there feloniously and wilfully to kill, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid, by this indictment, further accuse the said *Thomas Giarusso* of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said *Thomas Giarusso*

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of the said *William Davis* in the peace of the said People then and there being, feloniously did wilfully and wrongfully make another assault, and to, at and against *him* the said *William Davis* a certain pistol then and there charged and loaded with gunpowder and one leaden bullet, which the said *Thomas Giarusso* in *his* right hand then and there had and held, the same being a weapon and an instrument likely to produce grievous bodily harm, then and there feloniously did wilfully and wrongfully shoot off and discharge, 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.

0561

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Gillen, James

**DATE:**

02/27/91



3940

0562

W 262

Witnesses:

May Gehr  
Phen Perry

Counsel, by *John L. Kelly*  
Filed *27* day of *July* 188*9*  
Plead *W. J. Kelly*

Grand Larceny, *et al.* Degree.  
(From the Person.)  
[Sections 528, 531, Penal Code].

24 THE PEOPLE

*Person of*  
*James Sillen*

DE LANCEY NICOLL

~~JOHN W. PHILLIPS~~

*Part 2 - March 9/91 District Attorney.*  
*Plead attempt Rob Larceny*  
*John & Mrs. R. M.*

A TRUE BILL.

*Chas. B. Roberts*

Foreman

*March 5/91*  
*G. S. B.*

0563

Police Court—2—District.

Affidavit—Larceny.

City and County }  
of New York, } ss.

of No. 246 East Avenue Street, aged 43 years,  
occupation Housekeeper being duly sworn

Mr Mary Gohrs

deposes and says, that on the 19 day of January 1887 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 :

and deponent

a handkerchief  
and a bunch of Keys of the  
value of one dollar \$1

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 Gellan, (now here)

for the reason that deponent was in the  
crowd viewing the procession at 144  
Street and 24th Avenue, and deponent  
felt the hand of the deponent  
in her dress pocket, and de-

ponent is informed by Robert  
Thomas Perry that he saw deponent  
commit said act James Gellan

Sworn to before me this 20 day of January 1887  
of James Gellan  
James Gellan  
Police Justice

0564

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 26 years, occupation Thomas Perry  
Police of No.

9th Street Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of Mary Gehr

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

Sworn to before me, this 20 }  
day of February 1890, } Thomas Perry

Gottfried Fink  
Police Justice.

0565

Sec. 198-200.

District Police Court.

CITY AND COUNTY OF NEW YORK, ss.

*James Gillen* 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. *James Gillen*

Question. How old are you?

Answer. *24 years*

Question. Where were you born?

Answer. *Boston*

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

Answer. *Columb. Hotel 1 Duvoisin St - 9 mo*

Question. What is your business or profession?

Answer. *Waiter*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty*

*James Gillen*

Taken before me this

*20*

day of *February* 188

*William B. ...*

Police Justice.

0566

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

*James Keller*

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 Jan 21 1891 *J. Henry Ford* 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.

0567

Police Court---

238  
District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Mary Gahr  
716 First Avenue  
James Gilles

Offence  
Alcohol  
at barney bro

Dated

Feb 20  
Ford  
Perry  
9

1881

Magistrate.

Officer.

Precinct.

Witnesses

No.

Street.

No.

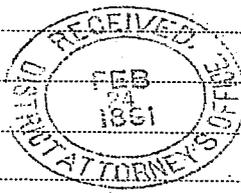
Street.

No.

Street.

\$ 500 to answer

918  
1881  
Chm



BAILED.

No. 1, by

Residence

Street.

No. 2, by

Residence

Street.

No. 3, by

Residence

Street.

No. 4, by

Residence

Street.

0568

**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 Gillen*

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

*James Gillen*  
of the CRIME OF GRAND LARCENY in the *second* degree, committed as follows:

The said *James Gillen*

late of the City of New York, in the County of New York aforesaid, on the *nineteenth* day of *February* in the year of our Lord one thousand eight hundred and ~~eighty~~ *ninety-one*, in the *day* - time of the said day, at the City and County aforesaid, with force and arms,

*one handkerchief of the value of fifty cents and five keys of the value of ten cents each*

of the goods, chattels and personal property of one *Mary Gersck* on the person of the said *Mary Gersck* then and there being found, from the person of the said *Mary Gersck* then and there feloniously, ~~did~~ *attempt to* steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

*De Lancey Nicoll,*  
*District Attorney.*

0569

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Gleason, Ernest

**DATE:**

02/18/91



3940

0570

Witnesses;

*A. M. Smith*  
*John Harvey*

*No. 190*  
*Elizabeth a*

Counsel,

Filed

*27*  
day of *July* 1891

Pleas,

*Not guilty*

THE PEOPLE

vs.

*Ernest Sleason*

*Ernest Sleason*  
*Second degree*  
*Murder*  
[Section 498, 476, 538, 152, 1.]

DE LANCEY NICOLL

~~JOHN R. FELLOWS~~

District Attorney.

A True Bill.

*Chas. B. Burch*

Foreman.

*July 24/91*  
*Charles Ray Eley*  
*Elmer R. P.*

0571

Police Court—2 District.

City and County }  
of New York, } ss.:

Daniel M. Jewett

of No. 425 West 21<sup>st</sup> Street, aged 30 years,

occupation Excusee J. L. Jewett Estate being duly sworn

deposes and says, that the premises No 221 West 24<sup>th</sup> Street,

in the City and County aforesaid, the said being a four story brick

dwellings  
and which was occupied by deponent as a not occupied  
~~and in which there was at the time a human being, by name~~

were **BURGLARIOUSLY** entered by means of forcibly breaking

open the basement door with some  
force

on the 14 day of February 1881 in the day time, and the

following property feloniously taken, stolen, and carried away, viz:

a quantity  
of plumbing work of the value  
of about one hundred dollars

the property of J. L. Jewett Estate

and deponent further says, that he has great cause to believe, and does believe, that the aforesaid  
**BURGLARY** was committed and the aforesaid property taken, stolen, and carried away by

Ernest G. Leason

for the reasons following, to wit: Deponent saw the said

premises <sup>was</sup> securely locked and closed,  
and deponent is informed by Albert  
M. Cudner the agent of the suspects,  
and deponent is informed by William

0572

H. Hanes, now here, on office of the  
20th Precinct Police, that he arrested  
the defendant in the act of carrying  
away a part of said plumbing <sup>materials</sup>, and  
the defendant, upon his arrest  
admitted that he had stolen the  
said plumbing materials from the  
said place.

R.M. Jewett Ex

15

*D. T. W. W. W.*  
D. T. W. W. W.  
Peace Justice.

Police Court District.

THE PEOPLE, & c.,  
ON THE COMPLAINT OF  
vs.  
Burglary  
Degree

Dated \_\_\_\_\_ 188

Magistrate.

Officer.

Clerk.

Witnesses:

Committed in default of \$ \_\_\_\_\_ Bail.

Bailed by \_\_\_\_\_

No. \_\_\_\_\_ Street.

0573

CITY AND COUNTY }  
OF NEW YORK, } ss.

William F. Haney  
aged 32 years, occupation Police Officer of No. 20th Precinct Police Street, being duly sworn, deposes and  
says, that he has heard read the foregoing affidavit of Daniel M. Jewett  
and that the facts stated therein on information of deponent are true of deponent's own  
knowledge.

Sworn to before me, this 15th day of February 1898, } William H. Haney

W. J. McMahon  
Police Justice.

0574

CITY AND COUNTY }  
OF NEW YORK, } ss.

Albert M. Audner  
aged 50 years, occupation Real Estate Agent of No. 225 West 20th Street, being duly sworn, deposes and says, that he has heard read the foregoing affidavit of Samuel M. Jewett and that the facts stated therein on information of deponent are true of deponent's own knowledge.

Sworn to before me, this 15th day of February 1890, } W. T. Mahon

W. T. Mahon  
Police Justice.

0575

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK,

Ernest Gleason 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. Ernest Gleason

Question. How old are you?

Answer. 18 years

Question. Where were you born?

Answer. New York

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

Answer. Waverly Lodging House. 8th Ave - near 28th Street

Question. What is your business or profession?

Answer. Piano Maker

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 guilty of taking the lead.

Ernest Gleason.

Taken before me this

day of February

1891

H. J. ...

Police Justice.

0576

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

*Defendant*

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

Dated *Feb 15* 18*91* *W. J. ...* 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.

0577

203

Police Court--- 2 --- District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Daniel M. Jewell*  
*425* vs. *W 21st*  
1 *Ernest Gleason*

*Binglan*  
Officer

Dated *February 15th* 19*91*

*McMahan* Magistrate.

*Haney* Officer.

*120* Precinct.

Witnesses *Alfred M. Albert M. Ardner*

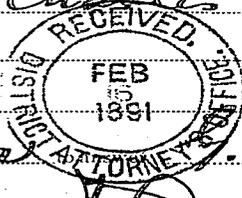
No. *325 West 20th* Street.

*Peter Van Gile*

No. *129 Charles* Street.

No. \_\_\_\_\_ Street.

§ *2002* \_\_\_\_\_



*Comptroller*

BAILED.

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

0578

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Ernest Gleason

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

Ernest Gleason

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said

Ernest Gleason

late of the Sixteenth Ward of the City of New York, in the County of New York  
aforesaid, on the fourteenth day of February in the year of our Lord one  
thousand eight hundred and ninety - one, with force and arms, in the  
day time of the same day, at the Ward, City and County aforesaid, the  
~~dwelling house of one~~ a certain building, to wit

the building of one Daniel M. Jewett

there situate, feloniously and burglariously did break into and enter, with intent to  
commit some crime therein, to wit: with intent, the goods, chattels and personal property  
of the said Daniel M. Jewett in the said  
building ~~in the said dwelling house~~ then and there being, then and  
there feloniously and burglariously to steal, take and carry away, against the form of  
the Statute in such case made and provided, and against the peace of the People of the  
State of New York and their dignity.

0579

SECOND COUNT—

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

Ernest Gleason

of the CRIME OF Grand LARCENY in the second degree, committed as follows:

The said Ernest Gleason

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, in the day- time of said day, with force and arms,

two hundred pounds  
of lead pipe of the value of fifteen cents each pound, fifty pounds of lead of the value of ten cents each pound, one boiler of the value of twenty five dollars and divers other plumbing materials, (a more particular description whereof is to the Grand Jury aforesaid unknown) of the value of fifty dollars

of the goods, chattels and personal property of one Daniel M. Jewett

in the ~~dwelling house~~ building of the said Daniel M. Jewett

in the building  
there situate, then and there being found, ~~from the dwelling house~~ aforesaid, then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

De Nancy Nicoll,  
District Attorney

0580

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Gleason, John

**DATE:**

02/20/91



3940

*M. J. B. Co*

Counsel,  
Filed *20* day of *Feb* 188*9*  
Plsads, *St. Louis*

THE PEOPLE  
*2-28-89*  
*John Gleason*  
[Section 49, 506, 528, 531]  
*Surgeon in the second degree*  
*and*  
*the first degree*

LE LANCEY NICOLL,  
JOHN R. FELLOWS

District Attorney.

A True Bill.

*Chas. S. B. B. B.*

Post III February 1891.  
Pleas S. L. L. L. L.  
S. P. S. Y. S. B. B.

Witnesses:

*Margaret Steag*

0582

Police Court— District.

City and County } ss.:  
of New York, }

of No. 819 9th Avenue Street, aged 39 years,  
occupation married being duly sworn

deposes and says, that the premises No. 819 9th Avenue Street, 32 Ward  
in the City and County aforesaid the said being a three story dwelling  
with store and apartments in rear of store  
and which was occupied by deponent as a Butcher & Egg business apartment  
and in which there was at the time a human being, by name Margaret Steiger  
and Ferdinand Steiger  
were BURGLARIOUSLY entered by means of forcibly opening the  
shutters and window in the rear  
of said store and apartments and  
leading into deponent's bedroom

on the 7 day of February 1891 in the night time, and the  
following property feloniously taken, stolen, and carried away, viz:

Our pair  
of pants in the pockets of  
which there was good and lawful  
money of the United States to the amount of  
seventy dollars

the property of deponent's husband Ferdinand Steiger  
and deponent further says, that she has great cause to believe, and does believe, that the aforesaid  
BURGLARY was committed and the aforesaid property taken, stolen and carried away by

John Gleason

for the reasons following, to wit: that at about the  
hour of 9 P.M. on the 6 day of February  
1891 deponent retired to bed leaving  
said premises securely fastened  
that at about the hour of 4.30 A.M.  
on the 7 day of February deponent  
was awakened by some one in  
deponent's bedroom, deponent on  
awakening discovered a man in said

0583

bedroom and saw a pair of pants under his left arm the said man left said room on defendant giving the alarm. Defendant on investigation found that the premises had been entered by forcibly breaking open the shutters on a window in the rear of said premises and then breaking the catch on said window and also discovered that said pair of pants containing the said sum of money was missing. Defendant was informed by Officer William G. Boyle of No. 22 Precinct Other that he had arrested the said defendant and deponent fully and positively identifies the said defendant Gleason as the person deponent saw in her bedroom on said date.

Sworn to before me this 12 day of February 1891

Margaret Steiger,  
John Ryan  
Police Justice

Dated 1888 Police Justice

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

Dated 1888 Police Justice

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

Dated 1888 Police Justice

of the City of New York, until he give such bail.

Hundred Dollars and he committed to the Warden and Keeper of the City Prison

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of

committed, and that there is sufficient cause to believe the within named

It appearing to me by the within depositions and statements that the crime therein mentioned has been

Police Court, District

THE PEOPLE, &c.,  
on the complaint of  
vs.  
1  
2  
3  
4

Offence—BURGLARY.

Dated 1888  
Magistrate.  
Officer.  
Clerk.  
Witnesses,  
No. Street,  
No. Street,  
No. Street,  
\$ to answer General Sessions.

0584

Sec. 198-200.

4 District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*John Gleason* 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.

*John Gleason*

Question. How old are you?

Answer.

*73 years*

Question. Where were you born?

Answer.

*New York City*

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

Answer.

*444 West 54th St - 3 mos.*

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.*

*John Gleason*

Taken before me this *1st*  
day of *July*  
*John J. Ryan*  
Police Justice

0585

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Alfred

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

Dated July 12 1891 John H. Ryan Police Justice.

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

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

0586

203

Police Court--- District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Margaret Stenger*  
vs. *John Brown*

*Officer*  
*Drumhady*

2  
3  
4

Dated *February 12* 1891

*Ryan* Magistrate.

*H. S. Boyle* Officer.

*30* Precinct.

Witnesses *Call Officer*

No. Street.

No. Street.

No. Street.



\$ *2000* answer *Et*

*2000 Et 14-9 am*

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

0587

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*John Ferguson*

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

*John Ferguson* —

of the CRIME OF BURGLARY IN THE ~~second~~ DEGREE, committed as follows:

The said *John Ferguson*,

late of the ~~second~~ *second* Ward of the City of New York, in the County of New York aforesaid, on the ~~seventh~~ day of ~~February~~ *February*, in the year of our Lord one thousand eight hundred and ~~eighty~~ *eighty-one*, with force and arms, about the hour of ~~six~~ o'clock in the ~~night~~ time of the same day, at the Ward, City and County aforesaid, the dwelling house of one *Ferdinand Steiger*,

there situate, feloniously and burglariously did break into and enter, there being then and there some human being, to wit:

*the said Ferdinand Steiger and one Margaret Steiger,*

within the said dwelling house, with intent to commit some crime therein, to wit: the goods chattels and personal property of the said *Ferdinand Steiger*,

in the said dwelling house then and there being, then and there feloniously and burglariously to steal, take and carry away;

against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity,

0588

SECOND COUNT—

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

*John Ferguson*

of the CRIME OF LARCENY in the second degree, committed as follows:

The said *John Ferguson*

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, in the month time of the said day, with force and arms,

*one pair of trousers of the value of seven dollars, and the sum of twenty dollars in money, lawful money of the United States of America and of the value of twenty dollars*

*[Large handwritten flourish]*

of the goods, chattels and personal property of one *Ferdinand Klug*.

in the dwelling house of the said *Ferdinand Klug*.

there situate, then and there being found, from the dwelling house aforesaid, then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

*John Ferguson*  
*[Signature]*

0589

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Graham, William H.

**DATE:**

02/11/91



3940

0590

70105,

Witnesses:

*Harry Perry*  
*Harry Perry*

Counsel,

Filed

Pleads,

*A. A. Hendry*  
day of *July* 1887

THE PEOPLE

vs.

*William H. Graham*

*W. H. Perry*

*Grand Larceny, and degree*  
**MISAPPROPRIATION**  
(Sections 528 and 537 of the Penal Code).

**DE LANEY HULL,**

**JOHN R. BELLONS**

District Attorney.

**A True Bill.**

*Chas. B. Stobach*  
Foreman.

*July 13/91*

*Charles G. Foley*

*Edman*

0591

Police Court 2<sup>d</sup> District. Affidavit—Larceny.

City and County of New York, ss: Henry J. Piercy

of No. 207 Thompson Street, aged 37 years, occupation Contractor being duly sworn,

deposes and says, that on the 24 day of December 1890 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:

Good and lawful Money of the United States issued to the amount and of the value of Thirty

the property of Adams & Co. and in deponent's Care and Charge

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 William S. Graham (now gone)

from the a/c. That on said date the said Graham was in the employ of deponent as driver and collector of the said sum. Graham admitted and confessed in deponent's presence that he did on said date collect the said sum of money from Mrs. Matloff of No. 324 East 29<sup>th</sup> Street, Superior Court says that the said Graham has since failed and neglected to make any return of said sum of money to deponent. Therefore charges that the said Graham did unlawfully appropriate the said sum of money to his own use and benefit in violation of Law and prays that the said Graham may be held to answer.

Henry J. Piercy

Sworn to before me this 24 day of December 1890 at New York Police Justice.

0592

Sec. 198-200.

*W.* District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*William H. Graham* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h<sup>is</sup> right to  
make a statement in relation to the charge against h<sup>im</sup>; that the statement is designed to  
enable h<sup>im</sup> if he see fit to answer the charge and explain the facts alleged against h<sup>im</sup>  
that he is at liberty to waive making a statement, and that h<sup>is</sup> waiver cannot be used  
against h<sup>im</sup> on the trial.

Question. What is your name?

Answer. *William H. Graham,*

Question. How old are you?

Answer. *24 Years*

Question. Where were you born?

Answer. *New York.*

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

Answer. *231 East 41<sup>st</sup> St. New York.*

Question. What is your business or profession?

Answer. *Driver*

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 collected the money, I  
was instructed and lost the money  
from my pocket*

*Wm H Graham*

Taken before me this *11<sup>th</sup>*  
day of *May* 189*7*  
*Wm Jackson*  
Police Justice.

0593

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 Two 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 February 2 1891 W. M. Drake 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.

0594

Police Court--- *D* District. *74.6*

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Henry Percy*  
*207 S. Thompson St*  
*William H. Graham*

*Lanceny*  
Offense

2  
3  
4

Dated *February 29* 18*91*  
*McMahon* Magistrate.

*Journey* Officer.  
*15* Precinct.

Witness *Mrs. Hutloff*  
No. *324 E. 29th* Street.

*Richard A. Anglan.*  
No. *339 6th Ave.* Street.

*Michael J. Conroy*  
No. *15th Avenue* Street.

\$ *1000* to answer *Yes*

*RC*  
*4-2*  
*and*

BAILED.

No. 1, by .....

Residence ..... Street.

No. 2, by .....

Residence ..... Street.

No. 3, by .....

Residence ..... Street.

No. 4, by .....

Residence ..... Street.

0595

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*William N. Graham*

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

*William N. Graham*  
of the CRIME OF *Grand* LARCENY, in the *second degree* committed  
as follows:

The said

*William N. Graham,*

late of the City of New York, in the County of New York aforesaid, on the  
*twenty-fourth* day of *December* in the year of our Lord  
one thousand eight hundred and *eighty-ninety*, at the City and County aforesaid, being  
then and there the clerk and servant of *one Henry C. Percy,*

and as such clerk and servant then and there having in his possession, custody and control  
certain moneys, goods, chattels and personal property of the said *Henry C. Percy*

the true owner thereof, to wit:

*the sum of thirty*  
*dollars in money, lawful money*  
*of the United States of America,*  
*and of the value of thirty dollars:*

the said

*William N. Graham*

afterwards, to wit:

on the day and in the year aforesaid, at the City and County aforesaid, with force and arms,  
did feloniously appropriate the said *sum of money*

to his own use, with intent to deprive and defraud the said

*Henry C. Percy*

of the same, and of the use and benefit thereof; and the same moneys, goods, chattels and  
personal property of the said *Henry C. Percy*

did then and there and thereby feloniously steal, against the form of the statute in such case  
made and provided, and against the peace of the People of the State of New York and  
their dignity.

**DE LANCEY NICOLL,**  
**JOHN R. FELLOWS,**  
District Attorney.

0596

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Grant, Edward J.

**DATE:**

02/10/91



3940

0597

*W. H. R. A. Wade*  
*W. H. R. A. Wade*

Counsel,

Filed

day of

1899

Pleds,

THE PEOPLE

vs.

*Edward J. Grant*

Assault in the First Degree, Etc.  
(Sections 217 and 218, Penal Code.)

DE LANCEY NICOLL,

JOHN R. FELLOWS,

District Attorneys.

**A True Bill.**

*Robert B. Storch*

*Went to Grand Jury 11/18/99. Foreman.*

*Indictment returned.*

Witnesses

*James Jones*

0598

Police Court— 7 District.

City and County } ss.:  
of New York, }

of No. 164 East 37th Street, aged 33 years,

occupation Stable Keeper being duly sworn

deposes and says, that on 13 day of February 1887 at the City of New York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by Edward Grant, (now here) of the Police Department, on the head with an Iron Bar Cutting deep wounds

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be ~~apprehended~~ and bound to answer for the above assault, etc., and dealt with according to law.

Sworn to before me, this 13 day }  
of February 1887. } James Lyons

W. J. Mahon Police Justice.

0599

Sec. 198-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Edward Grant.* 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 ~~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. *Edward Grant.*

Question. How old are you?

Answer. *35 Years.*

Question. Where were you born?

Answer. *Charleston S.C.*

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

Answer. *283. 7th Ave. 3 Years.*

Question. What is your business or profession?

Answer. *Porter*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty*

*E. Grant*

Taken before me this 13  
day of February 1899  
*W. M. ...*

Police Justice.

0500

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named

*defendant*

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

Dated *July 13* 18*91* *W. M. ...* 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.

0601

204

Police Court--- N. District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*James Lyons*  
*167 East 31st*  
*Edward Lyons*

Officer *Adams*

2 \_\_\_\_\_  
3 \_\_\_\_\_  
4 \_\_\_\_\_

BAILED,

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

Dated *February 13* 18*91*  
*M. Mahan* Magistrate.

*Samuel Gray* Officer.  
Precinct.

Witnesses *James W. ...*  
No. *339 2.20* Street.

*Bernard ...*  
No. *257* Street.

*Thos. ...*  
No. *648* Street.

\$ *1000* to answer.

*1000 bail 2/14 9 am*



0602

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Edward J. Grant*

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

*Edward J. Grant*  
of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said

*Edward J. Grant*  
late of the City of New York, in the County of New York aforesaid, on the  
*thirteenth* day of *February* in the year of our Lord  
one thousand eight hundred and *ninety-one*, with force and arms, at the City and  
County aforesaid, in and upon the body of one *James Lyons*  
in the Peace of the said People then and there being, feloniously did make an assault  
and *him* the said *James Lyons*  
with a certain *iron bar*

which the said  
in *his*  
dangerous weapon, then and there wilfully and feloniously did strike, beat, cut, stab and  
wound,

*him* the said *James Lyons*  
with intent thereby then and there feloniously and wilfully to kill, against the form of the statute in  
such case made and provided, and against the peace of the People of the State of New York  
and their dignity.

SECOND COUNT—

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

*Edward J. Grant*  
of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said

*Edward J. Grant*  
late of the City and County aforesaid, afterwards, to wit: on the day and in the year  
aforesaid, at the City and County aforesaid, with force and arms, in and upon the body of  
the said *James Lyons* in the peace of  
the said People then and there being, feloniously did wilfully and wrongfully make  
another assault, and *him* the said

with a certain

which the said

*Edward J. Grant*  
in *his* right hand then and there had and held, the same being a weapon and  
an instrument likely to produce grievous bodily harm, then and there feloniously did  
wilfully and wrongfully strike, beat, cut, stab and wound, against the form of the statute in  
such case made and provided, and against the peace of the People of the State of New York,  
and their dignity.

*De Lancey Nicoll,*  
*District Attorney.*

0603

**BOX:**

427

**FOLDER:**

3940

**DESCRIPTION:**

Green, Charles

**DATE:**

02/25/91



3940

0604

W 231

Witnesses:

*Allen Sheldon*

Counsel,  
Filed  
Plends,

*W. F. Deby*  
day of *July* 1891

THE PEOPLE

vs.

*I*

Grand Larceny  
Degree. [Sections 528, 530, Penal Code.]

*Charles Green*

DE LANCEY NICOLL,  
District Attorney.

*5-24-1891*

A True Bill.

*Chas. B. Barbach*

*July 25/91*  
Foreman.

*Charles J. Deby*

*James R. Deby*

0605

Police Court— 2 District.

Affidavit—Larceny.

City and County of New York } ss.

of No. 5 Avenue Hotel Street, aged 43 years, occupation Superintendent. being duly sworn

deposes and says, that on the 29 day of November 1891 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the day time, the following property viz :

A bracelet containing nine diamonds and a quantity of other jewelry and diamonds all of the value of Six thousand dollars

the property was in the care and charge 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 Charles Green (now here)

for the reasons that said property was in the rooms in said hotel and belonged to guests and said property having been missed and had been stolen. The deponent was employed in said hotel as a bell boy and suddenly left his employment and disappeared. Deponent is informed by Samuel J. Sheldon (now here) that he arrested the defendant at Saginaw Michigan and found a quantity of diamonds in his possession which property has been identified by the owner as stolen as aforesaid Edward McPhillips

Sworn to before me, this 29 day of February 1891. Wm. Nichols Police Justice.

0606

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Samuel G. Sheldon*

aged *44* years, occupation *Detective sergeant* of No.

*300 Mulberry* Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of *Edward W. Phillip*

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

Sworn to before me, this *20<sup>th</sup>* day of *February*, 189*7* } *Samuel G. Sheldon*

*W. T. Mahon*  
Police Justice.

0607

Sec. 198-200.

District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK.

*Charles Green* 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. *Charles Green*

Question. How old are you?

Answer. *20 Years*

Question. Where were you born?

Answer. *California*

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

Answer. *5<sup>th</sup> Avenue Hotel 10 months*

Question. What is your business or profession?

Answer. *Bell Boy*

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 guilty of the  
charge*

*Chas. Green.*

Taken before me this

*20<sup>th</sup>*

day of *February* 1891

*J. J. Mulvaney*

Police Justice.

0508

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

*defendant*

*One hundred* ~~One hundred~~ *hundred* Dollars,..... and be committed to the Warden and Keeper of the City Prison; of the City of New York, until he ~~give~~ *give* such bail.

Dated *Feb 20* 18*91* *W. M. Mahon* 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.

0609

238

Police Court--- 2 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Edward M. Philip*

*Charles Green*

2  
3  
4

*Manufacturers*

BAILED,

No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

Dated *July 20* 18*91*

*M. Mahon* Magistrate.

*Ward and Sheldon* Officer.

Witnesses *Call officers* Precinct.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.

\$ *1000* to answer *G.S.*



*Tom*

06 10

COURT OF GENERAL SESSIONS OF THE PEACE OF THE CITY AND COUNTY  
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Richard Tyeen*

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by this  
indictment, accuse *Richard Tyeen* —

of the CRIME OF GRAND LARCENY in the *first* degree, committed as follows:

The said *Richard Tyeen*,

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

*one bracelet of the value of one  
thousand dollars, and divers other  
articles of jewelry of a number and  
description to the Grand Jury  
aforesaid unknown, of the value  
of five thousand dollars.*

of the goods, chattels and personal property of one *Edward McPhillips* —

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.

*Richard Tyeen*  
*Attorney*