

0995

BOX:

472

FOLDER:

4329

DESCRIPTION:

Neville, Michael

DATE:

03/09/92



4329

0996

BOX:

472

FOLDER:

4329

DESCRIPTION:

Dewart, William

DATE:

03/09/92



4329

0997

POOR QUALITY ORIGINAL

Witnesses:

John E. Sargent
Eugene W. E. Lake
Wm. Hunter
Off - Nelson - 22 P.

Subj. arrested
D. J. Sunday
No. 7 before
incc. comm. of
Aug. been twice in
prison. RBM

2-30-
Counsel,
Filed day of March 1892
Pleads, J. M. [unclear]

24 THE PEOPLE
191 [unclear] [unclear]
Michael Neville
and [unclear]
William DeWitt

Part 3 on Part II
March 14 1892
MARCH 14 DE LANCEY NICOLL,
District Attorney.

Part 3. March 14 1892.
Vol 2. Lued Resigned

A TRUE BILL.

J. M. [unclear]

Part 2 March 14 1892 Foreman.
Arrest and Commitment Attended
Burglary 3rd Degree
S.P. 1908 10 ms
March 25 1892, RBM

Burglary in the Third Degree. [Section 498, Penal Code.]

0998

NEW YORK COURT OF GENERAL SESSIONS

 :
 The People etc.,
 :
 against
 :
 Michael Neville
 :

City and County of New York, ss:-

A. H. PURDY being duly sworn deposes and says:

That he is the attorney for the said Neville; that on the trial of said defendant, in summing up to the jury, the District Attorney in substance said "DeWort has taken the witness stand and told his story. The defendant's story we have not heard."

Sworn to before me this)

22nd day of March 1892.)

A. H. Purdy
Robert G. Halling

Commissioner of Deeds

New York County.

0999

POOR QUALITY ORIGINAL

*Sullivan vs People
29 June 35*

COURT OF GENERAL SESSIONS

The People etc.,

against

Michael Neville.

A F F I D A V I T

Purdy & McManus,

Defendant's attorneys,

280 Broadway, N.Y. City

000

27

The People

Michael Neville

jointly

Court of General Sessions. Part I T
Before Judge Martine March 18. 1892

Indictment for burglary in the third degree.

jointly indicted with John De Hart.

Thomas McCretegan, sworn and examined. I live 453 West Forty Eighth St. and am in the liquor business; my place of business is 186 South Avenue corner of Forty Eighth St. on the first floor; it is a five story building. Have been in business going on eight years. I recollect the night of the 21st of February. Left the store at ten or eleven o'clock, leaving an employee of mine Shanley in charge. The property consisted of liquors, cigars, brandies and wines; there was about five or six hundred dollar worth on the first floor and there was a larger stock in the cellar. I returned to the store about nine o'clock in the morning. I saw the bolt was broken off the outer or storm door. There are two doors and there were marks of an instrument opposite the lock and the lock was burst off. There were marks on two doors; the bolt was sprung off from the wood work. I went to the Court the next morning and saw the defendant.

Cross Examined: The storm door is out on the sidewalk. Did you get a permit from the Board of Aldermen for putting that up there? I guess so. I would not swear, the man

that fitted up the place put it on.
Owen Shanley sworn and examined
I am in the employ of the complainant at
686 Tenth Avenue and was so employed
on the 21st of February. I was the last one to
leave the store at twelve o'clock. I saw that
the place was locked up; the storm doors
were all secured before I left the place. The
door leading into the hall is never opened.
There is a front door and a storm door
and there is a front door on the avenue.
There is a lock on each door and a bolt
and I both locked and bolted them and
I went out of the avenue door. There is a stock
lock and also a padlock on the outside. I
fastened that and took the key. I came around
on the next day in the forenoon.
Eugene McCabe sworn and examined
I am a bar tender and work for the com-
plainant. I was there on the 21st of February. I left
the store about half past six o'clock. I went to
my home No. 453 West Forty Eighth street.
This was Saturday night. I left the place and
Sunday morning about four o'clock I was
walking down the sidewalk and as I
passed the store of my employer I saw
that the door of the family entrance was
open. I heard voices inside. I stood on the

002

sidewalk about fifteen feet from the storm door; it was open at that time two or three inches wide. De Mart and Neville came out. I got hold of De Mart and asked him what took him in there? He said that he was looking for a drink and that he was not guilty of breaking the door; the second party walked away at a pretty lively gait - I brought him around and met a couple of parties there; they were after coming down the Avenue. I brought him in the store to see if anything was taken. De Mart and I went in there. I reported it to the officer on the beat when he came along. I understood he reported it at the station house afterwards about the breaking in of the place. I reported to my employer about the place being broken in. I went to the station house afterwards to identify De Mart. Was this man there when you went to the station house? I identified him as being about the height. I do not state positively that he was the man. Cross examined. I got up that morning about five minutes to four o'clock. I got up to clean the place. There was a ball across the ^{street from this} place ~~from~~ of my employer's saloon. I could not tell whether the ball was going on at that time or not. I don't

003

Know where he lives. I went down the street and met two men, Farman and Meehan I met De Hart in the family entrance and told them to come around and look at the place to see ^{how} it was broken. De Hart told me he had been to the ball I asked him who the party was that was with him, and he evaded the answer. He said he was a friend of his. Did he not tell you he had been to the ball and they came over from the ball to get a drink and found the place locked. I thought his explanation was reasonable and let him go; he remarked that he had no money to get a drink or something like that. I treated; we all took a drink and De Hart went away about his business.

Francis Lee sworn and examined I live at 423 West Fifty Second St. I am employed ^{about} by the Beth Railroad calling up conductors and drivers in the morning, bar tenders and anybody that wants to get up at five or six o'clock in the morning. My employment calls me in the section of the city between 48th and 58th streets and North and South avenues. I know the store that

004

is occupied by the complainant on the north east corner of 7th Eighth st. and Tenth Avenue. I left my house at a quarter to three o'clock and went to 80 1/2 Tenth Avenue. Had a slate there, to see if there was any orders for me. I continued calling there were up to No 530.

Did you have occasion through the night and at what time to pass this store No. 686 Tenth Avenue? Between half past three o'clock in the morning and four o'clock I was supposed to call the bartender Mr. M. McCabe. I should judge it was in the neighborhood of 20 minutes to four o'clock. I saw two men standing in front of the store on the Avenue; they were within four feet of it; they were not exactly up against the window or against the door. I have not seen the men since. This defendant has been pointed out to me today as one of the defendants. Did you talk with them? No. They were not doing anything; they seemed to be talking. The two men had light coats on. I did not call McCabe before I went to the saloon. It was a rainy stormy morning, and I was in a hurry. I passed the door and shook it with my hand. I was

005

not sure whether it was open or locked
I was walking pretty quick
Cross Examined. I am in the habit of waking up
the bartender at 20 minutes to four o'clock
every morning.

William M. Marcus, sworn and examined
I live at 458 West 10th street and am
a bricklayer. I was at a benefit party
on Saturday night the 21st Feb. on the
opposite side of 696 Tenth Avenue, the
Ligna store of the complainant. I saw
the defendant and Mr. De Hart at the party;
they were together; the party broke up about
four o'clock. I missed them about half
past three o'clock and I did not see
them after that; that is all I know.

Cross Examined. I know Skille for some time, he
lives across from this saloon. It was a
benefit party for a sick man; there was
dancing there. The music stopped at half
past three o'clock, and I missed the men
about five minutes after the music stopped.
I did not look at any watch or clock.
I had no reason to time them at all. I
cannot tell exactly what time they went
out of the ball room. I went out at four
o'clock. I had something to drink early
in the night. I did not accompany any

006

body home that morning after the ball.
 Eugene McCabe recalled. The door on the
 avenue was all right, but on the second
 door there was three or four marks like
 as if they were made by an iron; they were
 little marks, made as if with an ice pick
 or a pointed instrument. I never noticed
 those marks before. Was the inside door
 open or closed? It was closed, it was
 locked, and there was an iron bolt in-
 side. I tried to open it. I did not get in
 the store that way. I opened it from the
 inside. I went in by the avenue side.
 I did not lock the store up the night
 before. Left there about half past six o'clock.
 Michael Phelan sworn and examined.
 I am an officer of the 22nd precinct. I ar-
 rested the defendant on the 22nd of February
 in company with officer Stafford. I had a
 conversation with McCabe and afterwards
 went to Neville's house and arrested him
 at No. 691 South Avenue; he was in bed,
 it was about twelve o'clock on Sunday. I
 asked him what he was doing around
 Forty Eighth Street corner this morning. He
 first denied it, he said he was not
 there. I told him this place had been
 broken into, the liquor store of the com-
 plainant. I said, Somebody told the bartender

007

That you were with another party there. He asked me who the other party was and I told him De Wart. He asked me if De Wart was arrested? I says, "not yet". He says, "we went there to get a drink, we did not break any place open. I said to him, "the bar tender came, why did you walk away when he caught hold of De Wart? why didn't you wait to get a drink?" He says, "What do you take me for?" I took him to the station house, I sent after the bar tender, he could not positively identify him, he looked, he said, like the one that was along with De Wart. I had no further conversation with him about the case.

Walter Stafford sworn and examined.
I am a partner of officer Phalen and was with him at the time of the arrest of the defendant. I asked him if he was around at the complainants, and he denied it; he said, 'No.' I asked him if there was a certain party with him - the name I now forget - and he said, 'No.' We got him to chess himself and took him to the station house. Phalen had a conversation with him in the station house. When he was over in Court he said that he went into this saloon to get a drink.

Cross Examined: I was with Melan when he went to arrest the defendant William De Hart, sworn and examined for the defence testified. I have been a clerk in a drug store for the last five years. I worked for Hezeman Co 203 Broadway for two years and for J. Miller & Son across the way for a year and I worked in a drug store in Asbury Park last summer. I have never been arrested or convicted of any offence before. That Saturday night I went in this ball room about half past eleven o'clock and I met my friend Neville in there; we stayed there until the ball was over, it must have been four o'clock; we went over to the complainant's saloon at Forty Eighth street to get a drink; we went in the side door, it was open, and we tried the other door inside, and we thought probably the bar tender was in there. We says to ourselves, "we will go home if he is not inside. He both came out; he lived on Tenth avenue on the other side. I lived up Forty Seventh St. near Ninth avenue. The bar tender says, "What are you doing in here?" I says, "we need to get a drink. I stood there talking to the bar tender. He says, "This door has been

009

broken in." I says, "I dont know any-thing about that". I stayed there for a moment; we looked at the door and he went around. I says, "I would like to go in. I went in and had a drink. There was two other men outside; that made four of us inside altogether. I had about 30 or 40 cents in my pocket I dont know who the other two men I never saw them before in my life; they were waiting to get in. The bar tender treated first, then the other men treated and they commenced tantalizing me; they kind of got me mad and I would not treat. I went home. I was in there about 10 minutes. The officers came to my house. I was in bed, it was between one and two o'clock. I did not break in the complainants store; the door was open when we went there.

Cross Examined: I worked last for George E. Williams, Asbury Park last summer from the first of July till the middle of September. I have not done anything since that time. I have been trying to get a position but I could not seem to strike it. I live at home with my father; he is in the Metropolitan manufacturing Co. No 52 Cortland

POOR QUALITY
ORIGINAL

street, household specialties; he is a sort of
agent. I have a mother and three sisters.
my mother is here. I am 25 years old.
I have known Neville about five or six months.
I live home with my folks; they support me.
I did not pay anything for the ticket to
this party. I went in there all alone. I got
treated a few times in the bar room that
night and I paid for a few drinks. I did
not go to the ball with any young ladies
and did not leave with any. I danced
with some that night. Mother gave me
50 cents when I left home and I had 25
cents; she generally gives me from 25
to 40 cents a day when I asked her. I was
not with Neville the night before this ball.
I do not believe I had seen him for six
or eight weeks before that. I talked with
him through the evening at the ball. There
was a dim light in the liquor store of the
complainant. I and the defendant Neville
wore a light overcoats that night. The bar
tender said to me that he did not accuse
me of the burglary, but he thought it was
suspicious us being there. I said, I don't
know anything about it. I went around
on the Avenue side. The barkeeper
unlocked the door and four of us went
in. I don't know who the other two men

POOR QUALITY
ORIGINAL

were. Had seen McCabe lots of times before. I gave him my address and told him where I lived. and went home.

Superior McCabe, recalled by Mr. Townsend How long after you arrived upon the scene and saw De Hart and Neville the defendant did Neville remain? He did not remain at all, he walked away immediately and never said a word. I did not hear him bid "good night" to De Hart. I invited him around to the saloon. When he was coming out of the entrance first off I caught hold of him, and he said, "Leave go of me", don't be making a 'mug' out of your money, 'like that', and I released my hold of him. Then I says, "This place has been broken into," and he was standing right behind me and looked on. I examined the place. He said, "I am only after coming from the dance across the way. I went around in the saloon."

The jury rendered a verdict of guilty of an attempt at burglary in the third degree. The defendant was remanded for sentence.

012

POOR QUALITY ORIGINAL

4
Testimony in the
Case of
Michael Neville

filed
March 1992
30 U.



POOR QUALITY ORIGINAL

1013

Police Court—Fourth District.

City and County } ss.:
of New York,

Thomas M. Gontzart

of No. 453 West 48th

Street, aged 51 years,

occupation keeper of ground or floor of 686 Tenth Avenue 2nd Ward

deposes and says, that the premises No. 686 Tenth Avenue being a Five Story Brick

Building the ground floor of and which was occupied by deponent as a Liquor Store

and in which there was at the time no human being, by name

were **BURGLARIOUSLY** entered by means of forcibly breaking the
lock and bolt fastening the storm door
leading to the side door opening into
said premises and opening said
storm door

on the 21st day of February 1892 in the night time, and the following property feloniously taken, stolen, and carried away, viz:

A quantity of Liquors and Cigars
of the value of about Five Hundred
Dollars — (\$500.⁰⁰/₁₀₀)

the property of deponent

and deponent further says, that he has great cause to believe, and does believe, that the aforesaid **BURGLARY** was committed and the aforesaid property taken, stolen and carried away by

Michael Neville and William Devoat
(both now here) and while acting in concert with
each other.

for the reasons following, to wit: that deponent is informed
by Owen Shantey that at about the hour
of 11.50 P.M. on February 20th 1892 that he
Shantey securely locked and bolted the
aforesaid storm door leading into said
premises and also the front door of said
store.

and deponent is informed by Henry McCabe that at about the hour of 4 A.M. on February 21st 1892 he McCabe

1014

was coming down along on West 48th Street and saw said defendants coming out of said premises ^{through} the aforesaid door storm door and found ^{that} said storm door had been forcibly opened in the manner hereinbefore described whereupon he, McCabe, seized hold of said defendant Dewart, and said Neville did get away.

Deponent further says that said defendant Neville, he is informed by Officer Michael Phelan of the 22nd Precinct Police that said defendant Neville did confess and admit to him, Phelan, in the presence of Officer Walter Stafford of the 22nd Precinct Police that he Neville, was with defendant Dewart when said Henry McCabe came along and took hold of Dewart as aforesaid.

Deponent therefore charges said defendants with acting in concert with each other with having committed said Burglary and asks that they may be dealt with as the law may direct.

Thomas W. Entegart

Dated _____ 188__ Police Justice

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

Dated _____ 188__ Police Justice

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

Dated _____ 188__ Police Justice

of the City of New York, until he give such bail.

Hundred Dollars and be 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

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

Police Court, District,

THE PEOPLE, vs.,
on the complaint of

Offence—BURGLARY.

vs.

1
2
3
4

Dated _____ 188__

Magistrate.

Officer.

Clerk.

Witnesses.

No. _____ Street,

No. _____ Street,

No. _____ Street,

\$ _____ to answer General Sessions.

Summons to appear on West 48th Street at 9:30 o'clock on 10/14/1887

Phelan Justice

[Handwritten signature]

POOR QUALITY ORIGINAL

1015

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 24 years, occupation Bar-tender of No. 408 West 54 Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of Thomas McEntegart and that the facts stated therein on information of deponent are true of deponent's own knowledge.

Sworn to before me, this 23 day of February 1892 Allen Shawley

[Signature]
Police Justice.

(3602)

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 23 years, occupation Bar-tender of No. 453 West 48 Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of Thomas McEntegart and that the facts stated therein on information of deponent are true of deponent's own knowledge.

Sworn to before me, this 23 day of February 1892 Eugene McCabe

[Signature]
Police Justice.

(3602)

POOR QUALITY ORIGINAL

10 15

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 40 years, occupation Michael Phelan
Police Officer of No. 22

Recruit Police Street, being duly sworn, deposes and
says, that he has heard read the foregoing affidavit of Thomas R. McEntegart

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

Sworn to before me, this 23
day of February 1892 } Michael Phelan

[Signature]
Police Justice.

POOR QUALITY ORIGINAL

1017

Sec. 198-200.

64 District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

Michael Neville 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. *Michael Neville*

Question. How old are you?

Answer. *24 years*

Question. Where were you born?

Answer. *Troy N.Y.*

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

Answer. *No 69, 125th Avenue & about 3 years*

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 am not guilty*

Michael Neville

Taken before me this *13*
day of *May* 18*94*
[Signature]
Police Justice.

1018

Sec. 198-200.

4

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK,

William Dewart 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. *William Dewart*

Question. How old are you?

Answer. *25 years*

Question. Where were you born?

Answer. *Luz Island*

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

Answer. *N^o 42 4 West 47th Street & about 1 1/2 years*

Question. What is your business or profession?

Answer. *Clerk*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I am not guilty*
Wm Dewart

Taken before me this *17* day of *November* 188*7*
[Signature]
Police Justice.

1020

POOR QUALITY ORIGINAL

Court of General Sessions of the Peace
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
against
Michael Neville
and
William De Warr

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

Michael Neville and William De Warr

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said *Michael Neville and William De Warr*, both

late of the *2nd* Ward of the City of New York, in the County of New York aforesaid, on the
twenty-first day of *February* in the year of our Lord one
thousand eight hundred and ninety-*two* in the *night* - time of the same day, at the
Ward, City and County aforesaid, a certain building there situate, to wit, the *store* of
one *Thomas Mc Entegart*

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 *Thomas*
Mc Entegart in the said *store*
then and there being, then and there feloniously and burglariously to steal, take and carry away,
against the form of the statute in such case made and provided, and against the peace of the
People of the State of New York and their dignity.

De Lancey Nicoll,
District Attorney.

1021

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against Michael Neville and William De Wark

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

Michael Neville and William De Wark

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said Michael Neville and William De Wark, both

late of the 22nd Ward of the City of New York, in the County of New York aforesaid, on the twenty-first day of February in the year of our Lord one thousand eight hundred and ninety-two in the night - time of the same day, at the Ward, City and County aforesaid, a certain building there situate, to wit, the store of one Thomas Mc Entegart

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 Thomas Mc Entegart in the said store then and there being, then and there feloniously and burglariously to steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

De Lancey Nicoll, District Attorney.

1022

BOX:

472

FOLDER:

4329

DESCRIPTION:

Newton, John

DATE:

03/09/92



4329

1023

POOR QUALITY ORIGINAL

No. 2000

Counsel,
Filed, 9 day of March 1890

Pleas, 90

THE PEOPLE

vs.

John Newton

[Section 528, and 529, Penal Code.]
(These Pleas are)
LANCEY, R. LANCEY, & LANCEY,
Attorneys at Law,
District Attorney.

THE LANCEY NICOLE
District Attorney.

A TRUE BILL.

John Habs

Foreman.

Heads J. J. Foley

Witness
John F. Driskimmer

.....
.....
.....
.....

25 24

1024

POOR QUALITY ORIGINAL

(1385)

Police Court - 2 District.

Affidavit - Larceny.

City and County }
of New York, } ss.

John F. Dorsheimer

of No. 521 West 21 St. Street, aged 35 years,

occupation Bookkeeper being duly sworn,

deposes and says, that on the 14 day of February 1892 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the day time, the following property, viz:

Good and lawful money of the United States to the amount and value of seventy five dollars and seventy three cents.

\$ 75.73

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 John Newton (nowhere) who has been known to deponent since last July as John Peasley. The defendant came to deponent on said date and asked deponent to cash a check purporting to be a check for seventy five ~~three~~ dollars and seventy-three cents on the First National Bank of Webster (N.Y.) drawn by H. E. Russell, dated Feb 12 1892. The defendant then told deponent that he defendant had received the said check in the ordinary course of business and that it was a good check, and deponent relied upon the said statement of defendant when deponent cashed

Sworn to before me, this 189 day of February 1892
Police Justice

1025

POOR QUALITY ORIGINAL

A. said check. Deponent subsequently
 went to the said bank and was
 informed by Charles A. Crane, the
 first paying teller of said bank, that
 the said check was worthless; that
 said H. E. Russell had no account
 in said bank and was not known there
 Deponent charges that the defendant
 fraudulently obtained the said money
 on said worthless check, and that
 defendant endorsed said check with
 a false name, and was guilty of
 the crime of larceny in thus obtaining
 said money from deponent for
 the reason that defendant knew
 that said check was worthless.

Sworn to before me this } John P. Dorsheimer
 6th day of February 1852 }
 J. P. Dorsheimer }
 Notary Public

1026

POOR QUALITY ORIGINAL

CITY AND COUNTY }
OF NEW YORK, } ss.

Charles A Crane

aged *25* years, occupation *Teller* of No.

76 Ender St Hoboken Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of *John J. Donohue*

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

Sworn to before me, this *6* day of *March* 189*2*

Charles A Crane

[Signature]
Police Justice.

1027

POOR QUALITY ORIGINAL

(1235)
Sec. 198-200.

2
District Police Court

CITY AND COUNTY OF NEW YORK, ss.

John Newton

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.

John Newton

Question. How old are you?

Answer.

47 years

Question. Where were you born?

Answer.

England

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

Answer.

234 N. 27 St. 1 month

Question. What is your business or profession?

Answer.

file cutter

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 Newton

Taken before me this *6* day of *August* 189*2*
Police Justice.

1029

POOR QUALITY ORIGINAL

No. 174 Hoboken, N.J. Feb 12th 1892
FIRST NATIONAL BANK OF HOBOKEN
 Pay to the order of John Peasey
Seventy Five Dollars ⁷⁵/₁₀₀ Dollars
 \$ 75 ⁷³/₁₀₀ H. E. Russell
James Stevenson, 15 Spruce St. N.Y.

1030

POOR QUALITY ORIGINAL

Mr. John Pearly
John A. Donohue

FOR DEPOSIT
IN THE
N. Y. CO. NAT. BANK

H. A. Wrench
H. A. Wrench

July 10
Tuesday 9-30 am

1031

POOR QUALITY ORIGINAL

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 Newton

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

John Newton

of the CRIME OF *Grand* LARCENY in the second degree, committed as follows:

The said *John Newton,*

late 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-*two*, at the City and County aforesaid, with force and arms, with intent to deprive and defraud *one John F. Dordman,*

of the proper moneys, goods, chattels and personal property hereinafter mentioned, and of the use and benefit thereof, and to appropriate the same to *his* own use, did then and there feloniously, fraudulently and falsely pretend and represent to *the said*

John F. Dordman,

That a certain paper recited in the words and figures following, to wit:

no. 176 *Madison, N.Y. Feb 12th 1892*
First National Bank of Madison
Pay to the order of John Pearson
Seven and 73/100 Dollars
\$ 75 ⁷³/₁₀₀ *H. E. Russell*
Pres

and upon the back whereof there was then

1032

POOR QUALITY ORIGINAL

and there a certain endorsement on
follows, to wit: "Mr John Benton,"
which said paper writing, so endorsed,
as aforesaid for the said John Benton
then and there produced and delivered
to the said John T. Dordainier, was
then and there a good and valid
order for the payment of money, and
of the value of seventy five dollars
and seventy three cents. —

By color and by aid of which said false and fraudulent pretenses and representations, the said

John Benton —

did then and there feloniously and fraudulently obtain from the possession of the said John

T. Dordainier the sum of seventy
five dollars and seventy three cents
in money, lawful money of the
United States of America, and of
the value of seventy five dollars
and seventy three cents,

of the proper moneys, goods, chattels and personal property of the said John T.

Dordainier,
with intent to deprive and defraud the said John T. Dordainier,

of the same, and of the use and benefit thereof, and to appropriate the same to his own use.

Whereas, in truth and in fact, the said paper writing which
for the said John Benton as aforesaid
then and there produced and delivered
to the said John T. Dordainier, was
not then and there a good and valid
order for the payment of money and

1033

POOR QUALITY ORIGINAL

was not of the value of seventy five dollars and seventy three cents, or of any value, but was then and there wholly fictitious, fraudulent and worthless.

Handwritten scribbles and marks.

And Whereas, in truth and in fact, the pretenses and representations so made as aforesaid by the said John Newton

to the said John T. Dordheimer was and were then and there in all respects utterly false and untrue, as he the said

John Newton at the time of making the same then and there well knew;

And so the Grand Jury Aforesaid, do say that the said

John Newton in the manner and form aforesaid and by the means aforesaid, the said proper moneys, goods, chattels and personal property of the said John T. Dordheimer

then and there feloniously did STEAL, against the form of the statute in such case made and provided, and against the peace and dignity of the said people.

DE LANCEY NICOLL,
District Attorney.

1034

BOX:

472

FOLDER:

4329

DESCRIPTION:

Nolze, Max

DATE:

03/25/92



4329

1035

POOR QUALITY ORIGINAL

The defendant has been once tried and the jury disagreed
Though a technical charge of manslaughter might be
made out, there are many mitigating circumstances
in the case which in my opinion render a verdict
of guilty so improbable that I do not feel
justified in putting the county to the expense
of a second trial. The defendant has been im-
prisoned since Oct 1891

I therefore recommend his discharge upon
his own recognizance
Feb 28/1893

Geo. W. Osborne
Deputy

I concur in the above recommendation -
Feb. 28/93

Vernon M. Davis
Asst Dist Atty

12/6/92
A. J. Camp
Counsel,
Filed Feb 25 of March 1893
Pleads Guilty

THE PEOPLE vs. Max Noke
H. D. P.
March 1/93
De LANCEY NICOLL, District Attorney.
Wichita, Kan. 25: 1692: (117)

TRUE BILL.
Part 3. May 26/92
Ind and jury disagree. For Foreman
sent on Part I Cal. July 1/92
The 20/92 by agent. V.M.D.

Witnesses:
Herman Noke
Officer Kennedy with Pa
Vernon Hatch
Officer Schuler 20th Feb

1891/1892
Max Noke to court had
the opinion filed
if the indictment
accused and had
the extreme clewency
of the court. It has
been met by the jury
his agreement. It has
been in custody for
many months. Evidence
I believe and fully that
are very many mitigating
circumstances which
in my opinion justify
the recommendation of

MANSLAUGHTER - 192 - of Penn Code]

1037

TESTIMONY.

Autopsy -
Roxworth Hospital 10, Pall Mall, Oct 5th 1891
Present Dr Otto H. Schultz, House Surgeon

Body well-nourished & muscular.
Rigor mortis & postmortem staining present.
On the right side of the ^{head} on a level with the top of the right ear and one inch in front of it, is a punctured wound ^{three} fourths of an inch in length & inclination downwards & forward. Over the right eye left eye there was a superficial bruise about the size of a silver quarter of a dollar.

Scalp & calvarium normal.
The wound above described enters the skull at the middle fossa by a compound fracture about half an inch in length and one eighth in width. There is a laceration of the temporo-sphenoidal lobe of the right hemisphere of the brain entering the right lateral ^{ventricle} which contains a large clot of blood. There is also a large clot at the base of the brain, and some softening of the brain tissue at the base of the right ventricle.

Thoracic and abdominal organs normal.

Sworn to before me,
this

Day of ¹⁸⁹
Lucius S. Murray

CORONER.

1038

POOR QUALITY ORIGINAL

STATE OF NEW YORK,

927

CITY AND COUNTY OF NEW YORK, ss.

AN INQUISITION

Taken at the Coroner's Office
No. 124 Decon Avenue Street, in the 17th Ward of the City of
New York, in the County of New York, this 18th day of November
in the year of our Lord one thousand eight hundred and ninety-one before

LOUIS W. SCHULTZE, Coroner,

of the City and County aforesaid, on view of the body of Charles Schurr
now lying dead at

Upon the Oaths and Affirmations of
Nine good and lawful men of the State of New York, duly chosen and
sworn, or affirmed, and charged to inquire, on behalf of said people, how and in what manner the
said Charles Schurr came to his death, do upon
their Oaths and Affirmations, say: That the said Charles Schurr
came to his death by

October 5th 1891 at Roosevelt Hospital, from a wound of
the head and compound fracture of the skull, from
injuries received October 4th 1891, between 9 and 10 o'clock
P.M. in front of premises Hotel West 35th Street, New
York City, in a manner unknown to this jury.

In Witness Whereof, We, the said Jurors, as well as the CORONER, have to this Inquisition
set our hands and seals, on the day and place aforesaid.

JURORS.

Samuel Foster 235 E 3rd St.

P. Klentz 156 54th Ave

John Burke 344 6th Ave

Chas Witterman 275 6th Ave

Chas Rose 291 6th Ave

Frank Hibbard 222 E 122nd St

Henry Albers 186 6th Ave

M. Anderson 256 6th Ave

Coroner. L. S.

L. Friedenberg
Louis Friedenberg

1039

POOR QUALITY ORIGINAL

TESTIMONY.

Albert J. Weston, M. D., being duly sworn, says:
 I have made an autopsy of the body of
 Charles Schurr now lying dead at
 Roswell Hospital and from such autopsy,
 and history of the case, as per testimony, I am of opinion the cause of
 death is Homicide by penetrating
 stab wound of head at
 35th St & 10th Ave Oct 4th 1891
 Compound fracture of
 skull Laceration and
 compression of brain
 A. Weston, M. D.

Autopsy (cont'd)
 Cause of death
 Laceration and compression
 of brain - Compound fracture
 of skull from stab wound
 of head above described.
 Albert J. Weston M. D.

Sworn to before me,
 this 5th day of Oct 1891
 Lawrence M. [Signature] CORONER.

1040

POOR QUALITY ORIGINAL

MEMORANDA.

AGE			PLACE OF NATIVITY	WHERE FOUND	Date When Reported
Years	Months	Days			
20			<i>NY</i>	<i>Roswell</i>	<i>Oct 5th 91</i>

*was stabbed with the sword at
353 St. 10th St., Cal, 4th
John's 2nd St.*

*11th St. 10th St.
California
387 18th St.*

L. W. S.

1144

The Sun

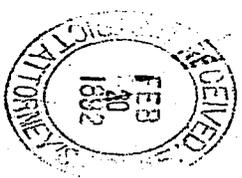
1891

AN INQUISITION

On the VIEW of the BODY of

Charles Schultz

*whereby it is found that he came to
to death by injuries received
in an unprovoked assault
to the jury*



Inquest taken on the
22nd
1891
day
before

LOUIS W. SCHOENFELDER, Coroner.

1041

POOR QUALITY ORIGINAL

From Roosevelt Hospital.

New York, Oct 5th 1891

To Coroners.....

Sir:

Please hold an inquest on the body of

Name: Charles Schurr Residence: 510 W. 49th St.

Age: 20 years.....months.....days. Admitted Sun + day, Oct

Father William Schurr 1st 1891, at 10 ¹⁵' o'clock P. M.

Nativity, N.Y.; of

Mother..... By Ambulance A

Life in U. S., Life in City. From 35th St and 10th Av B

Civil Bond: \$ Occup. Driver Examined by Dr.....

Suffering from symptoms of Brain Injury and Fracture
of the skull - impression in brain.

Said Injuries said to have been received at 35th St and 10th Av. about D
9¹⁵ O'Clock Oct 4th 91 when he is said to have been
stabbed with a knife by a man E

Death took place Mon + day, Oct 5th 1891 at 8³⁰ o'clock A. M.

The Autopsy revealed..... F

Remarks:..... G

D. Schurr M.D.
HOUSE SURGEON PHYSICIAN.

- Ad. +. State the day of the week.
- Ad. A. State whether by *Ambulance* or *Friends*.
- Ad. B. State whether from a *Precinct* or a *Residence* and give the name.
- Ad. C. State whether from *Natural Causes* or from *Shock* (conscious or unconscious) due to *Injuries*, and if so, give *name, place, date, number, character and Extent* of Injuries, always stating where indicated, whether *right* or *left*.
- Ad. D. State *when, where, how*, by what *means* or *persons* received, also whether *Accidental, Suicidal* or *Homicidal*; in falls, the distance, location and place; in *Burns* and *Scalds* the *circumstances* attending the same; in *runover* cases, the line of *Street Car, Railroad* or *Conveyance*; in *Weapons*, the character of the same, &c., &c., always giving such information as will lead to an accurate knowledge of the case and facilitate judicial inquiry and justice.
- Ad. E. State *name, date, place, character* and *results* of any *operation* or *amputation* performed.
- Ad. F. Give a short resume of the *Autopsy* with the *Pathological Diagnosis* and the *Cause of Death* at the End.
- Ad. G. State here any important facts not embodied in the above statements.

042

District Attorney's Office,
City & County of
New York.

Sunday night Oct 4/91
35th St bet 9th Ave -
south side at 9:30

- ~~I. Marvin C. Hatch.~~
- ~~II. George Fox.~~ ← Knife =
- III. Herman Koelze.
- ~~IV. Officer Scholles~~
- V. Off Hay
- ~~VI. Off Cooley~~
- ~~VII. Off Smith~~
- XIII. Capt Cross
- IX. Roundsman Campbell,
- ~~X. Mr Schum 510 W 49~~
- ~~Dr Weston~~
- Roosevelt Hospital -
- ~~Dr E. Dow~~

George Mastine  Recd

**POOR QUALITY
ORIGINAL**

043

List of Witnesses.

044

POOR QUALITY
ORIGINAL

Adolph L. Sanger,
Counsellor at Law,
115 Broadway.

New York, N.Y. 13 1892

My dear Mead -

Don't have

the right case set
down for any day next
week, as I have
my land bill, - some
case to try nearly every
day. - Will you arrange for
some time around the 26th or
27th - Yours truly,

Adolph Sanger

Please answer

045

POOR QUALITY
ORIGINAL

Adolph L. Sanger
Counsellor at Law
115 Broadway

New York N.Y. 13 1892

my dear Mead -

Don't have

the judge can set
down for any day next
week, as I have
my land bill, - some
case to try nearly every
day. - Will you be any
time around the 26th or
27th - - - Yours truly,

Ad Sanger

Please answer

046

POOR QUALITY
ORIGINAL

Per
Change

Jan.

1870

**POOR QUALITY
ORIGINAL**

047

Les
catalyse
—
Fals.
—
with
Papere

048

POOR QUALITY ORIGINAL

District Attorney's Office
City & County of
New York.

18

Thos J. Kennedy 23
Off Scholtz 20
Marion Hatch 463 9th Ave
Off John Carley 20 found knife
Dr George Smith 11th Prec
Capt Gross 11th Prec
Herman K...
Mr. Schurr found 510 W 491 - 11th Prec

William Campbell 1st Dist Ct.
Off ... 20th Prec ...
George ... was with ...
S.W. corner of 34th St & 10th Ave
Truckman -

Prosser Hospital

**POOR QUALITY
ORIGINAL**

049

Witness

Afternoon Session.

EXAMINATION OF CAPTAIN ADAM A. CROSS, continued:

CROSS EXAMINED BY MR. SANGER:

- Q I understood you to say before recess that you didn't know Charles Shore, the deceased? A No, sir.
- Q Never had had met him before? A Not to my knowledge, I suppose I have seen him but not to know him.
- Q And knew nothing about him? A No, sir, I didn't know anything about him.
- Q Knew nothing good about him? A Nothing good.
- Q Knew nothing bad about him?

THE COURT: That won't do, you can put the question, if he knew this man, knew his general reputation for peace and quietness.

- Q Were you acquainted with Shore's general reputation for peace and quietness? A No, sir, I didn't know him at all.
- Q I mean were you acquainted with his reputation for peace and quietness? A No, sir.
- Q You were going on to make some statement, and I supposed that what you were going to say had something in connection with his reputation, either as an orderly or disorderly person?

THE COURT: He says he doesn't know what his repu-

1051

CORRECTION

052

POOR QUALITY ORIGINAL

COURT OF GENERAL SESSIONS,
PART III.

-----x	
The People of the State of New York	: Before
	: :
against	: Hon. Frederick Smyth
	: :
M a x N o l z e .	: and a Jury.
-----x	

Indictment filed March 25th, 1891.
Indicted for Manslaughter in the Second Degree.

New York, May 25th, 1892.

APPEARANCES.

For the People Assistant District Attorney Vernon
M. Davis.

For the Defendant Mr. Adolph L. Sanger.

The jurors were called, examined and sworn.

Mr. Davis opened the case for the People.

053

POOR QUALITY ORIGINAL

M A R I O N H A T C H, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr Davis.

- Q Where do you live? A. No. 465 Ninth Avenue.
- Q What is your business? A. Furniture handler.
- Q For whom are you working? A. I am working for Floyd Grant at present.
- Q Where? A. 1520 Broadway.
- Q Did you know the deceased, Charles Schurr, in his lifetime? A. Yes sir.
- Q I call your attention to the 4th day of October, 1891, did you see him that evening? A. Yes sir.
- Q What time was it when you first saw him? A. It must have been about 20 minutes after seven.
- Q In the evening? A. Yes sir.
- Q Where? A. Down at the stable; I met him at the stable.
- Q Whereabouts? A. Down between 10th and 11th Avenue.
- Q What street? A. ^{35th} 36th Street.
- Q Whose stable was it? A. Walker was the owner of the stable.
- Q Where was the stable? A. Between 10th and 11th Avenue, near ^{5th} 34th Street.
- Q Did you remain with him some time? A. Yes sir, he came up to my house with me and we went out together. We just happened to meet Mr. Fox, our boss.

054

POOR QUALITY
ORIGINAL

3

- Q What is his name? A. George Fox.
- Q Where did you go with him? A. We went into Erhardt's saloon.
- Q What street? A. 3⁵th Street.
- Q What side of the way? A. The south side.
- Q Between what avenues? A. 9th and 10th.
- Q What time did you get there, to the saloon? A. It must have been about 3 o'clock or so.
- Q In the evening? A. Yes sir.
- Q Did you see this defendant Max Holze before that night?
- A. No sir.
- Q Did you see him that night? A. I saw him that night.
- Q Did you see his brother, Hermann Holze? A. Yes sir.
- Q What time was it you first saw the defendant? A. About a quarter after nine, the first time I saw him.
- Q In the night time? A. Yes sir.
- Q Where were you when you first saw him? A. I was standing behind a wagon.
- Q Where? A. In 3⁵th Street.
- Q Near the saloon? A. Well, two houses I think away from it, or one house.
- Q The wagon was standing in the street? A. Yes sir.
- Q You were standing behind it? A. Yes sir.
- Q What were you doing there? A. Making my water.

055

POOR QUALITY ORIGINAL

- Q Was anybody else there with you? A. No sir, I was all alone.
- Q At that time whom did you see? A. Hermann and Max Molze came behind me.
- Q When? A. About a quarter after nine.
- Q Tell the jury what they did. A. Well, I was standing there making my water and two parties came behind me. I didn't know who they were at the present time.
- Q Who were they? A. Hermann and Max.
- Q This defendant and his brother? A. Yes sir; they picked up a stone, and just after I was getting through making my water ^{they} walked towards the gutter like and ^{they} picked up the stone, and I says "You don't mean it for me?"
- Q Was the stone there? A. Yes sir.
- Q The stone was there? A. Yes sir, it hit me on the knuckles here and touched my hat a little too. After that they went down the street.
- Q In which direction did that stone go after it hit you? A. It went clean over my head towards a window.
- Q Towards what window? A. Towards a window.
- Q What is the name? A. I don't know the name.
- Q What kind of a store does he keep? A. A cigar store.
- Q On which side of the street? A. The south side.
- Q Did these defendants say anything at the time theyx threw

056

POOR QUALITY
ORIGINAL

5

the stone, or did this defendant say anything? A. I don't know which one made the remark.

Q Was there a remark made by anybody? A. Yes sir; "You son of a bitch, I will kill you;" that is what I understood him to say.

Q It was said by either one of them? A. Yes sir.

Q Either Hermann or the defendant? A. Yes sir.

Q They went down the street? A. Yes sir.

Q Then where did you go? A. I went into the saloon again.

Q Who was in there? A. The deceased was sitting at a table.

Q Charles Schurr? A. Yes sir; Fox was in the water closet.

Q Did you go out again? A. I called for Fox as I remember.

Q Did you go out again? A. Yes sir, I came out again and Schurr came out with me.

Q Where did you go? A. We went down the street after those two people.

Q You followed the defendant? A. Yes sir.

Q And his brother down the street? A. Yes sir.

Q Towards what avenue? A. Towards 10th Avenue.

Q And when you got there did you catch up with them? A. Yes sir, we caught up with them.

Q About where? A. It was right in front of the house where they live.

057

**POOR QUALITY
ORIGINAL**

6

Q What was the first thing that you saw done when you got there?

A. I went and jumped in and pushed the two of them and they separated.

Q Pushed who? A. Hermann and Max. Then we separated and Hermann tussled with me and Max tussled with Schurr.

Q Hermann got a hold of you? A. Yes sir, it wasn't exactly catching hold of one another, just a little tussling. I don't think we hit one another. I know I was knocked off my feet when I was pushed or hit.

Q Did he get hold of you? A. No sir, it was just like a run around between me and him; I could not say what the others were doing.

Q His running against you knocked you down? A. Yes sir; what they were doing in the street I cannot exactly remember.

Q Were you pushed down or did you go down? A. I may have been pushed; I don't think I was punched because I had no marks.

Q Did you get down on the ground? A. Yes sir, I was knocked off my feet some way or other, -- pushed.

Q Who knocked you off your feet, Hermann? A. Yes sir.

Q What did the other man and Schurr do? A. I could not say, they were tussling down below. It was as much as I could do to look out for the man I was with.

Q How far were they from you? A. I guess from here to the partition there.

058

POOR QUALITY
ORIGINAL

7

- Q You saw them tussling? A. Yes sir.
- Q Was it as far from you as to the farthest partition? A. That far about -- about a house or a house and a half away in distance.
- Q What did you see when you got up from the ground? A. When I got up from the ground the two had gone. I turned around and I saw Charles Schurr lying on the ground with his head on the curb-stone.
- Q How near about? A. Well, about from here to that stove.
- Q Did you go near to him then? A. We were running around; we turned around and whirled around, and I could not see how he got there.
- Q He got nearer to you? A. Yes sir.
- Q And he was lying on the sidewalk? A. No sir, in the gutter, with his head on the curbstone.
- Q Did you notice whether he was wounded or not? A. I went over and picked him up and laid him in my arms, and I noticed a wound here, and he was covered with blood.
- Q A wound in the right side of the head? A. Yes sir, the right side.
- Q He was covered with blood? A. Yes sir.
- Q Was he conscious or unconscious? A. Unconscious.
- Q Did you see any knife there? A. No sir, I didn't see any knife at all.

059

POOR QUALITY
ORIGINAL

8

- Q At the time you were tussling with Herrmann did you have any knife, stick or pistol in your hands? A. No sir, just the bare hands.
- I Q Did Herrmann have anything in his hands? A. No sir, not that I know of.
- Q Did you see anything in the defendant's hands at the time you were tussling? A. No sir, I didn't see what went on between those two.
- Q When you looked up both of the men had disappeared? A. Yes sir, they had disappeared.
- Q How long did you stay there with Schurr? A. About two or three minutes.
- Q Then did anybody come up while you were there? A. Yes sir.
- Q Who? A. Mr. Fox, our boss.
- Q What is his name? A. George Fox.
- Q Then what did you do? A. He came up to me and told me to go home, that he would look out for Charles Schurr.
- Q Did you go home? A. Yes sir.
- Q And left Schurr there? A. Yes sir.
- Q Did you see Schurr after that? A. Yes sir, I seen him lying in his coffin the day of his funeral; I was at his funeral.
- Q That was when? A. I think it was Tuesday.
- Q How many days after the 4th? A. This was Sunday evening, October 4th.

060

Q On the following Tuesday you saw him? A. Yes sir; I went out that evening because I was taken to the House of Detention and I was locked up.

Q You saw him in his coffin? A. Yes sir.

Q At his house? A. Yes sir.

Q What number? A. No. 510 I think the number is.

Q West 49th Street? A. Yes sir.

Q He was dead? A. Yes sir.

Q Had you ever seen this defendant before that night? A. Never.

Q Or his brother Hermann? A. No sir, never to my knowledge.

Q No trouble between you? A. No sir, never a word with the people before that.

Q Was Charles Schurr as tall as this defendant? A. No sir, Charles Schurr was about my height.

Q What is your height? A. Five feet three and a half I think.

Q How much do you weigh? A. I average 127 pounds.

Q Do you know how much Charles Schurr weighed? A. I guess he weighed about 125; I saw him weighed.

CROSS EXAMINATION by Mr Sanger.

Q After you addressed these two men what did they say to you when you came from behind the wagon--did you do anything after the stone was thrown? A. At that time I says, "Do you mean it for me?"

Q What did they say to that? A. I understood them to say,

061

10

"You son of a bitch, I will kill you."

Q They didn't say that, did they? A. I am pretty positive of it; that is what I understood them to say.

Q Did they start and walk off towards 10th Avenue? A. They did, sir.

Q Nothing further was said to you by these two men after that? A. No sir, nothing further.

Q They turned and went off about their business? A. Yes sir.

Q You then went into the saloon? A. Yes sir.

Q Whom did you first see there when you went into the saloon? A. Schurr.

Q That is the deceased? A. Yes sir.

Q You said to him, "Come out here, Charlie, and give me a hand"?

A. I called for Fox who was in the water closet.

Q You called for Fox to give you a hand? A. And Charlie came running out.

Q What did you say to him when you called for Fox? A. I said, "Come and give me a hand"; that is what I said.

Q And Fox didn't come, did he? A. No sir, he was still in the water closet.

Q Schurr did come? A. Yes sir.

Q What did you say to him? A. I didn't say anything; I went right down the street.

062

- Q What did you say to him? A. Nothing.
- Q He heard you call out for Fox? A. Yes sir.
- Q "Come and give me a hand"? A. Yes sir; he supposed there was something up.
- Q You said that to Fox and he came? A. Yes sir.
- Q The two of you went into the street? A. Yes sir.
- Q When you came out of the store where were those two men, Max Nolze and his brother? A. They were down around the house they live in.
- Q How far was that from the saloon where you and Schurr came from? A. No. 444.
- Q 444 is where Hermann Nolze lives? A. Yes sir.
- Q 407 was where the saloon was? A. No sir, No. 408 or 406.
- Q So that it was some ten or twelve houses away from you? A. Yes sir, more than that.
- Q You went after them, didn't you? A. Yes sir.
- Q They hadn't molested you, had they? A. After throwing the stone, no sir.
- Q They had gone about their business? A. Yes sir.
- Q You saw the two of them standing in front of No. 444 when you and Schurr went up to them? A. Yes sir.
- Q You caught hold of Hermann nolze and pushed him, and Schurr

063

12

caught hold of Max Nolze -- the two brothers were talking together?

A. Yes sir.

Q Did you get hold of Hermann Nolze? A. No sir, I didn't; I just ran into the middle of them and separated them and the tussle began.

Q You tussled with Hermann?

A. Yes sir.

Q And Schurr tussled with Max Nolze?

A. Yes sir.

Q Had you been drinking that evening? A. A little.

Q When did your drinking begin?

A. At supper time.

Q When was that? A. About 6 o'clock.

Q Did you continue drinking from six to nine o'clock?

A. No sir, two or three times.

Q How many?

A. Two or three beers.

Q Had Schurr been drinking?

A. I don't know what he drank before that.

Q I didn't ask you whether he drank any beer; I ask you whether he had been drinking?

A. I couldn't say.

064

13

Q Did you see him drink?

A. Yes sir, he drank two or three beers with me.

Q You don't know how many more he may have drunk before he drank the two or three with you?

A. No sir, I do not.

Q What was your object in running after these two men after you came out of the saloon?

A. Well, as these two hit me in the knuckles with a stone or the stone hit my knuckles, it kind of riled me up.

Q What was your object when you and Schurr went out of the saloon and chased these two men going towards Tenth Avenue?

A. To have a tussle.

Q Your object was to have a row? A. Yes sir.

Q And you got it?

A. Yes sir.

Q Did you carry a knife with you that evening?

A. I did, sir.

Q You found Schurr lying in the gutter when you got through tussling with your man?

A. They both had evaporated, went away.

Q After who went away? A. The two of them had skipped.

Q You don't know how he got in the gutter?

A. No sir.

065

14

Q Were his feet in the street?

A. Yes sir.

Q And his head lying on the edge of the gutter?

A. On the curb-stone.

Q You didn't see anything in the defendant's hands?

A. No sir, I did not.

Q You didn't see him strike him with anything? A. No sir.

Q You never saw them before?

A. No sir.

Q To your knowledge they never saw you before?

A. No sir, I don't think they ever seen me; I never saw them.

Q Neither of them ever saw you to your knowledge?

A. They may have seen me.

Q As far as you know there was no acquaintance between you?

A. No sir.

Q And there never had been any transactions between either of them and you?

A. No sir.

Q Either of these defendants?

A. No sir.

Q This defendant or his brother?

A. No sir.

056

**POOR QUALITY
ORIGINAL**

15

Q What kind of a night was it?

A. I could not say what kind of a knife it was.

Q A night, I mean?

A. It seemed to be a sort of a nice evening.

Q Was it dark?

A. Very dark.

BY MR DAVIS.

Q You were asked if you carried a knife?

A. Yes sir.

Q What kind of a knife did you have?

A. A little bit of a white handled penknife.

Q In your pocket or in your hand?

A. In my pocket.

Q Did you draw it?

A. No sir.

Q Had you any intention of drawing it?

A. No sir.

Q Have you got it now?

A. No sir, it is in the House of Detention.

067

1

16

G E O R G E W. F O X, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- 1
- Q. Where do you live? A. No. 423 10th Avenue.
- Q. What is your business? A. Boss carman.
- Q. Have you been the employer of the last witness? A. Yes, sir.
- Q. And also of Schurr? A. Yes, sir.
- Q. In his lifetime? A. Yes, sir.
- Q. On the night of the 4th of October, 1891, did you see the last witness and Schurr? A. Yes, sir.
- Q. Where? A. No. 408 35th Street.
- Q. Is that a saloon? A. Yes, sir.
- Q. Who was the keeper of it? A. I don't know his name.
- Q. What time was it you saw them there? A. Nine o'clock was the last I saw of them.
- Q. In the evening? A. Yes, sir.
- Q. Did you see this defendant Max Nolze? A. Yes, sir.
- Q. You saw him also? A. Yes, sir.
- Q. And the other one, Herman Nolze? A. That is right, I didn't see Herman, I saw this man.
- Q. Where did you see him? A. I saw him in front of the house in 35th Street where they lived.
- Q. About what time? A. About 10 or 15 minutes past nine.
- Q. Who else was there at the time? A. Schurr and Hatch.

2

17

Q. The deceased Schurr? A. Yes, sir.

Q. And Hatch? A. Yes, sir.

Q. You came out of the saloon? A. Yes, sir.

Q. And you went down to this place? A. I walked down towards where they ran.

Q. Did you go with Hatch and Scurr, or after them? A. Afterwards; they were running down the street and I walked down.

Q. When you got there tell us whom you saw? A. I saw Hatch and Schurr and the two Nolze brothers fighting.

Q. Also this man here, this defendant? A. Yes, sir. I said to him "You had better stop this here row or you will get arrested, some of you will get arrested". With that he made three or four passes at me; I thought I wouldn't like to get hit by a man of his size and I went to the other side of the street. Then everything stopped for a second or two and Nolze walked on the sidewalk.

Q. Which Nolze? A. The defendant. The deceased ran over to the defendant and wanted to hit him a blow -- the deceased did. With that the defendant hit the deceased and the deceased turned around a couple of times and fell on the sidewalk.

By the Court:

Q. Where was the deceased? A. First he was in the middle of the street. The deceased went on the sidewalk and made a blow

069

3

15

for the defendant; the defendant, which is Max Nolze, hit the deceased a blow; the deceased made a couple of turns up on the sidewalk and fell.

I Q. Where did he fall? A. Right near the gutter, his feet and legs were in the gutter, but the biggest portion of his body was on the sidewalk.

By Mr. Davis:

Q. You say that the deceased came from the street to the sidewalk towards the defendant? A. Yes, sir.

Q. And made a pass at him? A. Yes, sir.

Q. What did he make a pass with? A. With his fist, I think.

Q. Was there anything in his fist? A. I could not tell you that.

Q. Did you see anything in his hand? A. ~~xxxx~~ No, sir.

Q. You did not see anything? A. No, sir.

Q. No club? A. No, sir.

Q. No stick or stone? A. No, sir.

Q. Or knife? A. No, sir.

Q. Then this defendant made a strike at him? A. Yes, sir.

I Q. Did the defendant have hold of Schurr at the time he struck him? A. No, sir.

Q. Did Schurr have hold of him? A. No, sir.

Q. Did you see anything in the defendant's hand when he made that strike? A. No, sir.

Q. How was the strike made? A. Just like that (indicating).

070

4

Q. Like this (indicating)? A. Yes, sir, a side stroke.

Q. Where did it land upon the body of Schurr as far as you can judge? A. He was hit in the head, that is all I know.

Q. Then it was that he reeled around and fell? A. Yes, sir; he was hit in the face.

Q. Was that the last blow struck? A. Yes, sir, that was the last.

Q. What became of the defendant then? A. The defendant and his brother ran out and stepped into the house.

Q. When Schurr fell what did you do? A. I went over and caught hold of him to look at him.

Q. You saw his head there at that time? A. No, sir -- I saw the deceased was saturated with blood. *with water just then* Then Hatch came over.

Q. Then Hatch came over? A. Yes, sir.

Q. Did you see a wound upon Schurr? A. No, sir.

Q. How near the place on the sidewalk where the last blow was struck did Schurr fall? A. He was struck up near the stoop and he reeled around right to the gutter.

Q. Did Schurr have anything in his hands when you saw him lying there? A. No, sir.

Q. Did you see any knife or stone around there? A. No, sir.

Q. Any sticks around there? A. No, sir.

Q. From the time you got there until the time you left, did you see anything of that kind in the hands of Schurr? A. No,

sir.

Q. Or in the hands of Hatch? A. No, sir.

Q. You said you came up and told them to stop this? A. Yes, sir, I tried to pacify them.

Q. You came up to this defendant? A. Yes, sir.

Q. Did the defendant say anything to you when you said that?
A. No, sir.

Q. Were they having hold of each other, this defendant and Schurr when you came up and tried to separate them? A. Blow ~~for~~ blow it was.

Q. Standing up, blow for blow? A. Yes, sir.

Q. How did Schurr, the deceased, get out into the middle of the street? A. They were both in the middle of the street fighting -- the whole four of them were in the middle of the street fighting.

Q. Then was it on the sidewalk where the last blow was struck by the defendant? A. Yes, sir, it was.

Q. What became of Charles Schurr while you were with him? A. As soon as I saw that he was saturated with blood I thought it best to summon an officer and an officer came. He looked at him with a lamp -- or they brought out a candle -- and he saw he was hurt bad, and the officer went and telephoned for an ambulance.

Q. Did you stay there until the ambulance came? A. Yes, sir.

072

6

21

- Q. Did you see the doctor at the ambulance? A. Yes, sir.
- Q. Dr. Taylor? A. I would not know him.
- Q. Is that the gentleman? A. Yes, sir, that is the gentleman.
- Q. As far as you can recollect? A. Yes, sir, it was a young man I know.
- Q. Did you go to the hospital? A. I did not go with the ambulance, no, sir.
- Q. Did you see Schurr at the hospital? A. Yes, sir.
- Q. What hospital? A. Roosevelt Hospital.
- Q. When did you see him there? A. About half past two in the morning.
- Q. The following morning? A. Yes, sir, Monday morning.
- Q. Was he unconscious? A. Yes, sir.
- Q. You saw him afterwards when he was dead? A. Yes, sir.
- Q. Where? A. At his home.
- Q. In 49th Street? A. Yes, sir.
- Q. 510 West? A. Yes, sir.
- Q. How did you go down there with the intention of having any fight with these two men? A. No, sir.
- Q. At the time you got there was there anybody else there but the two Nolzes, Hatch, Schurr and yourself? A. That is all.
- Q. Were there anybody else attacking this defendant? A. No, sir.
- Q. After Schurr fell do you say the defendant ran into his own house? A. Yes, sir.

073

7

22

- Q. Did he have any difficulty in getting in? A. There were two or three people on the stoop.
- Q. On the stoop? A. Yes, sir.
- Q. Did anybody prevent him from going in? A. No, sir.
- Q. Was there any crowd to prevent him from getting through?
A. No, sir.
- Q. To either avenue? A. No, sir.
- Q. Nobody preventing this defendant from going into his house?
A. No, sir.
- Q. You did not attempt to stop him? A. I was on the opposite side of the street.
- Q. Did you strike the defendant or his brother? A. No, sir.
- Q. Did you raise a hand to assist in any way? A. No, sir.
- Q. Did you have anything in your hands? A. No, sir.
- Q. Did Hatch? A. No, sir.

CROSS-EXAMINATION by Mr. Sanger.

- Q. Did you hear Hatch when he came into the saloon call out for you to give a hand? A. Yes, sir.
- Q. You were not in the ~~saloon~~ saloon itself at that time? A. No, sir.
- Q. How soon after he called out did you come out? A. About five minutes I guess.
- Q. As much as that? A. Yes, sir, four or five minutes.
- Q. When you came out you followed Hatch and Schurr towards 10th

074

8

23

Avenue? A. Yes, sir.

Q. Did you see them fighting with each other? A. Yes, sir.

Q. Who was Hatch fighting with? A. Herman I believe his name is.

Q. Herman Nolze? A. Yes, sir.

Q. And Schurr was fighting with Max Nolze? A. Yes, sir.

Q. Were they striking blows at each other? A. Yes, sir.

Q. Pretty thick and fast? A. Yes, sir.

Q. You saw the deceased fall? A. Yes, sir.

Q. Can you tell in what way he fell, in what direction? A. Yes, sir, he made a couple of revolutions and fell right across that way, his body on the sidewalk and his legs and feet in the gutter.

Q. Did he fall on his back or side? A. Right on his back, he might have hit on his side and rolled over, but I found him on his back.

Q. Did you see the defendant hit the deceased before he fell? A. Yes, sir.

Q. Can you tell in what way he hit him -- the manner in which the blow was struck? A. No, sir, I could not tell you a diagram of his hand when he was working it, but I just saw him hit the blow.

Q. You don't know the direction of that blow, do you? A. No, sir, I do not.

075

9

24

Q. You don't know what part of Schurr's body that blow struck, do you? A. Yes, sir.

Q. Were you examined at the Coroner's inquest? A. Yes, sir.

I Q. Do you remember this question and was this answer made by you:

You were asked in what way did he hit him, that is in what way did the defendant hit the deceased, "can you tell us"?

And you answered "No, sir". Was that true then? A. I could not tell, but I know he hit him in the face or head.

Q. You say it was very dark? A. Yes, sir.

Q. They were raining blows upon each others body, all parts of each other's body? A. Yes, sir.

Q. You saw nothing in the defendant's hand? A. No, sir.

Q. No knife? A. No, sir.

Q. Or any other weapon? A. No, sir.

Q. Do you remember this question being put to you at the Coroner's inquest and your answer to it: "Did you see where he struck himself, that is where the deceased struck himself", and your answer was "Unfortunately he struck himself on the forehead"; do you remember that? A. No, sir.

I Q. Do you remember making that answer? A. No, sir.

Q. Do you remember this answer: "I went down the street; four men were fighting; I heard no noise, no cries or anything like that". Do you remember that? A. Yes, sir.

Q. Is that true? A. Yes, sir.

076

POOR QUALITY ORIGINAL

10

25

- Q. Did you see the defendant's arms around Schurr? A. No, sir.
- Q. The following question was put to you at the Coroner's inquest: "Did you see Max's arms around Schurr?" and your answer was "Yes". Was that question put to you and did you make that answer? A. No, sir, I don't remember that.
- Q. Or any such answer being made by you? A. No, sir.
- Q. You don't remember that? A. No, sir.
- Q. Do you remember this question: "He was holding him with his two arms?" and your answer was "No clinch, it was blow for blow"? A. Yes, sir.
- Q. You remember that? A. Yes, sir.
- Q. "I could not say that, it was so dark you could not see anything"? A. Yes, sir.
- Q. Do you remember that? A. Yes, sir.
- Q. As a matter of fact you didn't see how the blow was struck?
A. I saw him strike him in the face somewhere.
- Q. That is all you saw? A. Yes, sir.
- Q. It was too dark for you to see anything else? A. Yes, sir.
- Q. Is it true you were very close up to both these parties at the time the blow was given? A. Yes, sir, right opposite, across the way.
- Q. How close were you? A. About fifteen feet.
- Q. Fifteen feet? A. Yes, sir.
- Q. Do you remember this question put to you at the Coroner's in-

quest "You were very close up to him" and your answer was "Yes". Do you remember that? A. No, sir, I don't remember that.

Q. You don't remember that? A. No, sir.

Q. And this question followed "He struck at you?" and your answer was "Yes". Do you remember that? A. So he did, yes, sir.

Q. And you mean to tell this jury you were fifteen feet away?

A. Yes, the altercation was in the middle of the street first. After this thing was subdued in the middle of the street the defendant walked on the sidewalk.

Q. Then you walked after him? A. Yes, sir; after he made a couple of passes at me I walked to the opposite side of the street, that is the north side, and the defendant walked on the south side of the street; while standing by his door the deceased then ran over, and just as I turned around I saw the deceased make a blow at the defendant; the defendant turned around and made a blow at the deceased. That is what I said at the Coroner's inquest.

Q. That is true? A. Yes, sir.

Q. The defendant went away to the opposite side of the street?

A. Yes, sir.

Q. The deceased followed him and struck him? A. Yes, sir.

078

12

27

By Mr. Davis:

- Q. At the Coroner's examination were you asked this question:
"Who was holding him with his two arms?" and did you answer
"There was no clinch, it was blow for blow? A. That is what
I said at the Coroner's inquest.
- Q. Then this question "He struck at you? A. Yes, sir"? A. Yes,
sir.
- Q. "When he struck at you he had no weapon in his hand? A. No,
sir." Did you make that answer? A. No, sir, I said I didn't
know whether he had anything in his hand or not. That is
what I said.
- Q. What do you say now, had he anything in his hand? A. No,
sir, I don't know whether he had or not.
- Q. Was there any gas lamp near that place? A. There was down
by the church three houses away.

By the Court:

- Q. Lights in front of the church? A. Yes, sir, two lights.
- Q. How far away? A. About 75 feet.
- Q. And the others were how far away? A. One hundred feet.
- Q. 100 feet the other way? A. Yes, sir.
- Q. There were other lights on the corner of the street? A. Yes,
sir.

079

13

28

A N D R E W S C H O L E S, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- Q. What precinct, officer? A. The 20th.
- Q. On the night of the 4th of October, 1891, were you on post near 35th Street and 9th and 10th Avenue? A. Yes, sir.
- Q. Did you see this defendant that night? A. Yes, sir.
- Q. Did you see Herman Wolze, his brother? A. Yes, sir.
- Q. What time was it that you first saw the defendant? A. About half past 10 or a quarter of 11.
- Q. Did you see the deceased, Charles Schurr? A. No, sir.
- Q. Where did you see the defendant first? A. In his brother-in-law's house.
- Q. Where? A. No. 444 West 35th Street.
- Q. Who is his brother-in-law? A. Herman Wolze.
- Q. Is that his brother-in-law? A. His brother.
- Q. Had you received up to that time any information regarding the commission of this homicide? A. Yes, sir.
- Q. From whom? A. From Officer Carley and Officer Kennedy.
- Q. What time did you receive that information? A. As they were taking Herman Wolze to the station house.
- Q. What time was that? A. About somewhere around a quarter past 9, between a quarter and half past.
- Q. Where did you meet them? A. Corner 36th Street and 10th

Avenue.

- Q. You were then on post? A. Yes, sir.
- Q. After you talked with these officers what did you do? A. They were taking Herman Nolze to the station house.
- Q. After you talked with these officers where did you go? A. I went around to 35th Street in front of his brother's house, No. 444.
- Q. Whom did you see? A. I wanted to find out whether I could find anything about this defendant.
- Q. You went there? A. Yes, sir; I stopped in front of the stoop on the sidewalk and while I was there Herman Nolze's wife came down.
- Q. Did you speak with her? A. Yes, sir.
- Q. After talking with her where did you go? A. I went upstairs in her room.
- Q. When you got up to the door outside, what did you do? A. She came to the door; the door was locked.
- Q. She knocked at the door?
- Mr. Sanger: I object to anything this lady may have said to this officer.
- Q. Was the door open? A. Yes, sir.
- Q. Who was inside the room? A. Max Nolze.
- Q. This defendant? A. Yes, sir.
- Q. Did you go in? A. Yes, sir.

15

30

- Q. Did the woman go in? A. Yes, sir.
- Q. What was said inside the room when you got in there? A. He happened to have the young one on his arm; she took the young one from him and I took him right out of the house.
- Q. Did he say anything then? A. Yes, sir.
- Q. What did he say? A. He wanted to know what business I had to come up stairs in his brother's house and arrest him; I told him he knew all about it or he would find out what the case was when he got around to the station house.
- Q. Did the wife say anything in his hearing and presence?
A. No, sir; she said it down stairs to me.
- Q. Was it in his presence? A. No, sir.
- Q. The wife spoke to you before you went up? A. Yes, sir.
- Q. You brought him out of the room? A. Yes, sir.
- Q. You took him to the station house? A. Yes, sir.
- Q. Did you go with him alone? A. Yes, sir.
- Q. On the way to the station house did you have any talk with him? A. Yes, sir.
- Q. What was it? A. Well, he just simply gave me the same argument as much as to say -- he said I had no business coming up stairs in his brother's house and taking him out of his rooms without a warrant. I told him I did not need any warrant to arrest him.
- Q. What did he say to you to that? A. He said, "All right, I

002

**POOR QUALITY
ORIGINAL**

16

31

will go with you.

- Q. How was he dressed. Did he have a coat on? A. He had a sort of a light coat and a soft felt hat, a light hat.
- Q. What station house did you take him to? A. 37th Street between 9th and 10th Avenue.
- Q. Did you search him? A. No, sir.
- Q. You did not search him? A. No, sir, officer Kennedy searched him.
- Q. In your presence? A. Yes, sir.
- Q. Was there anything found on him? A. No, sir.
- Q. In the station house did you or anybody else in your hearing have any talk with him? A. No, sir.
- Q. Did you notice whether he had any talk at all? A. No, sir, he did not have any.
- Q. Did you notice whether he had any wounds? A. He had not.
- Q. He had none? A. No, sir.
- Q. Any bruises? A. No, sir.
- Q. On his face or otherwise? A. No, sir, I did not see any whatever.
- Q. Did he complain of any in your presence? A. No, sir.
- Q. Did you see him after you took him to the station house -- did you bring him to Court? A. No, sir.
- Q. Did you see him afterwards? A. Yes, sir, I saw him at the Coroner's inquest.

003

17

32

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

CROSS-EXAMINATION by Mr. Sanger.

Q. Did you examine his body for the purpose of ascertaining whether there were any bruises on him? A. No, sir.

J O H N E. C A R L E Y, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

Q. What precinct do you belong to? A. The 20th.

Q. On the 4th of October, 1891, were you in West 35th Street between 9th and 10th Avenue, at the house or near the house of Herman Nolze? A. Yes, sir.

Q. Had you previously arrested him? A. Between the hours of 9 and 10.

Q. At night? A. Yes, sir.

Q. That would be October 4th? A. Yes, sir.

Q. What day was that? A. I could not exactly say; it was Sunday evening, October 4th.

Q. Previous to going there had you seen Herman Nolze, the brother of the defendant? A. Yes, sir, when I went up stairs I saw Herman Nolze.

Q. Did you arrest him? A. Yes, sir; officer Kennedy and I fetched him out of the house.

Q. Where did you take him to? A. To the station house in 37th

Street.

- Q. Did you search Herman? A. He was not my prisoner.
- Q. Did you search him? A. No, sir.
- Q. Was he searched in your presence? A. Yes, sir.
- Q. Was anything found on him? A. No, sir.
- Q. After arresting Herman where did you go? A. I went back and I saw that this boy who was injured was taken to the hospital.
- Q. You went back where? A. To 35th Street, No. 444.
- Q. Did you see Charles Schurr, the man who was injured? A. Yes sir, I saw him lying on the walk.
- Q. Did the ambulance come while you were there? A. Yes, sir.
- Q. Was he taken away in the ambulance? A. Yes, sir, he was taken to the Roosevelt Hospital.
- Q. Did you go with detective Smith to these premises in 34th Street afterwards? A. Yes, sir, the day after.
- Q. That would be Monday? A. Yes, sir, I went Monday afternoon.
- Q. What time did you go? A. We went around there between 4 and 5 o'clock in the evening.
- Q. Where did you go? A. We went in the yard, in the rear of the houses on 34th and 35th Streets.
- Q. Which house did you go into first? A. No. 444 West 35th Street.
- Q. That is the house occupied by the brother Herman? A. Yes,

005

POOR QUALITY ORIGINAL

19

34

- Q. Where did you go in that house? A. We went in the back yard.
- Q. What did you do there? A. We searched to see if we could find a knife there.
- Q. Did you find any in that back yard? A. No, sir.
- Q. After you had searched there and didn't find any knife did you make any other search?

Objected to.

A. We went through other yards along the line of the houses, Nos. 446, 448 and 450, all the way down I guess to No. 454 or 456.

- Q. You found no knife there? A. No, sir.
- Q. What did you do then? A. We went to 34th Street and went into the yards on 34th Street.
- Q. Right back of these premises? A. Yes, sir.
- Q. Back of No. 444? A. Yes, sir, back of all of them from No. 444 down. We went into the back yards of the houses on 34th Street and searched the yards there and on the roofs of the houses. Then we came back again to 35th Street and went on the roof of a house in 35th Street, and on a lower roof from that roof we saw a knife on an extension of a house on 34th Street and we called to a servant girl to see if it was a knife.
- Q. You saw a knife on an extension of a 34th Street house?
- A. Yes, sir.

006

**POOR QUALITY
ORIGINAL**

20

35

- Q. That extension ran towards 35th Street? A. Yes, sir.
- Q. How near to the premises occupied by Herman Molze was this extension? A. It was in an opposite direction.
- Q. Was it in the rear of his house? A. It was in the rear of a 35th Street house.
- Q. Was it below it or above it? A. It was below it.
- Q. How many houses? A. It was towards 10th Avenue, I guess six houses.
- Q. Did you get that knife? A. Yes, sir.
- Q. You got upon the roof? A. The girl got upon the roof.
- Q. Did you get the knife? A. Yes, sir.
- Q. You got it? A. Yes, sir.
- Q. What kind of a knife was it? A. It was a large knife with a deer-horn handle.
- Q. Is that the knife you got? A. Yes, sir, that is the knife.
- Q. What did you do with that knife? A. I gave the knife to officer Smith and he took charge of it after that.
- Q. You did not see it after that? A. No, sir, this is the first time I have seen it.
- Q. Did you examine the blade? A. Yes, sir.
- Q. Which blade did you examine? A. The large one.
- Q. Did you find anything on it? A. Nothing but rust as I could see.
- Q. Nothing but rust? A. Yes, sir.

007

21

36

No cross-examination.

G E O R G E S M I T H, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- Q. What precinct are you attached to? A. The 11th precinct.
- Q. Were you with the last officer, Officer Carley? A. I was.
- Q. When he was looking for this knife? A. Yes, sir.
- Q. Did you take charge of the knife? A. Yes, sir.
- Q. Is that the knife? A. Yes, sir, that is the knife.
- Q. What did you do with the knife? A. I gave it to Captain Cross.
- Q. You gave it to the captain? A. Yes, sir.
- Q. When you went back to the station house? A. Yes, sir.
- Q. That was the last you saw of it until you brought it here?
- A. That is the last I saw of it.
- Q. Did you have any talk with the defendant about this case?
- A. No, sir.
- Q. Nothing at all? A. No, sir.

No cross-examination.

J O S E P H S C H U R R, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- Q. Where do you live? A. No. 510 West 49th Street.

- Q. Did you live there on the 4th of October, 1891? A. Yes, sir.
- Q. Was Charles Schurr, the deceased mentioned in this indictment, your son? A. Yes, sir, he was my son.
- Q. When did you last see your son alive? A. At 3 o'clock he went out, Sunday, October 4th.
- Q. When he went out? A. Yes, sir.
- Q. October 4th, 1891? A. Yes, sir.
- Q. When you next saw him where was he? A. He was home.
- Q. When you saw him next after that Sunday at 3 o'clock where was he? A. He was in the hospital.
- Q. Did you see him at the hospital? A. Yes, sir.
- Q. You saw him there? A. Yes, sir.
- Q. What hospital? A. Roosevelt Hospital.
- Q. When did you see him there? A. At 12 o'clock at night.
- Q. Was he lying dead then? A. I don't know.
- Q. You could not talk with him? A. No, sir.
- Q. He was unconscious? A. Yes, sir.
- Q. He could not speak to you? A. No, sir, he could not speak.
- Q. Did you speak to him? A. No, sir.
- Q. Did you say anything at all to him when you got to his bed?
A. No, sir, I saw I can't speak to him.
- Q. You saw you could not speak to him? A. Yes, sir.
- Q. After you saw him at the hospital where did you see him?
A. He was brought home.

009

23

38

- Q. You went to the Roosevelt Hospital and saw him there at 12 o'clock at night? A. Yes, sir.
- Q. When was he brought home to your house? A. On Tuesday morning, the 6th.
- Q. And was buried when? A. On Wednesday, the 7th, I guess.
- Q. When you saw him at the hospital did you see any wound on his head? A. I saw nothing at all.
- Q. When he came home did you see anything? A. Yes, sir.
- Q. Where was he cut? A. On the right hand side.
- Q. The right hand side of the head? A. Yes, sir, and the other side was bruised.

No cross-examination.

H O W A R D C. T A Y L O R, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- Q. Are you a physician and surgeon? A. Yes, sir.
- Q. Are you attached to the Roosevelt Hospital? A. I am.
- Q. On October 4th, 1891, were you there? A. I was.
- Q. Did you receive a call for the ambulance to go to West 35th Street between 9th and 10th Avenues? A. I did.
- Q. Did you go there? A. Yes, sir.
- Q. What time did you get there? A. About 10 o'clock.
- Q. Did you find a man wounded there? A. Yes, sir, I found a

090

POOR QUALITY ORIGINAL

24

man wounded there.

Q. Whereabouts was he lying? A. With his head on the sidewalk.

Q. What part of the block? A. It was a little ways from 10th Avenue.

Q. About how far? A. Not more than a quarter of a block I should think.

Q. On the south side? A. Yes, sir.

Q. Did you examine his wound then to see how he was wounded?
A. I did.

Q. What did you find? A. There was a wound on the right side of his forehead, going down through the bone.

Q. About what locality? A. There (indicating).

Q. Was that an incised wound or otherwise? A. An incised wound.

Q. Going through the bone? A. Yes, sir.

Q. And into the cavity of the skull? A. Yes, sir.

Q. Was it such a wound as could have been made by the blade of that knife? A. It was, yes, sir.

Q. Where did you take him to? A. To Roosevelt Hospital.

Q. Did he subsequently die at the Roosevelt Hospital? A. Yes, sir.

Q. When did he die? A. On October 5th.

Q. From your examination of the wound are you able to state what the cause of death was? A. From the examination of the wound

091

and his symptoms, I think so.

Q. What was the cause of death? A. Probably compression of the brain from haemorrhage.

Q. Haemorrhage caused by what -- that incised wound? A. Yes, sir, I should judge so, that is my idea.

Q. Under what name was that person whom you have described admitted to the hospital? A. Charles Schurr.

Q. And of what age? A. I don't know, somewhere between 20 and 30, about 20 I should think.

Q. About what height? A. Medium height, five feet six perhaps or eight.

Q. What weight should you say? A. One hundred and twenty-five pounds, roughly.

Q. An inquest was subsequently held on that body? A. I don't know anything about it, it was I believe.

By the Court:

Q. Was there an autopsy in the hospital? A. There was, I believe.

Q. You were not there? A. No, sir.

Q. Do you know who made the autopsy? A. No, sir, I do not.

CROSS-EXAMINATION by Mr. Sanger.

Q. Could that wound which you saw have been made by some sharp substance besides a knife? A. I should think it might have been.

092

41

By the Court:

Q. It was what physicians call an incised wound? A. Yes, sir.

Q. And an incised wound is made by some sharp cutting instrument?

A. Ordinarily, yes, sir.

By Mr. Sanger:

Q. This wound might have been made by some sharp substance besides a knife? A. I think so.

Q. A sharp stone might have made it? A. I think so.

C Y R U S E D S O N, a witness called on behalf of the People,
being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

Q. Dr. Edson, you are a physician and surgeon? A. Yes, sir.

Q. And a chemist? A. I am a physician.

Q. Did you produce this knife this morning in Court? A. Yes, sir.

Q. When did you receive it and from whom did you receive it?

A. I received it in a sealed envelope from a messenger from the District Attorney's office, October 19th, 1891.

Q. With any instructions? A. To examine it for blood stains.

Q. Did you make an examination of the blade of the knife? A. I did, sir.

Q. What did you find? A. I found on the blade of the knife stains from blood, containing corpuscles corresponding to ~~the~~

1093

42

those found in human blood.

CROSS-EXAMINATION by Mr. Sanger.

Q. Are you prepared to state that the stains which you found on that blade might not have been stains other than the stains of human blood? A. No, sir, I am not prepared to state.

Q. The stains might have been the stains of something besides stains of human blood? A. They might have been stains possibly from some other kind of blood.

By the Court:

Q. You mean by that that the stains were blood, were they not?

A. Yes, sir.

Q. Whether it was the blood of an animal or the blood of a human being you cannot state? A. I can state that it corresponded to the stains of human blood.

Q. The blood of some animals and of human beings is pretty much alike? A. Yes, sir, so close that a man would not be justified in swearing to a distinction between them.

By Mr. Sanger:

Q. Did you examine any other than the one blade you are now testifying about? A. I only examined the large blade.

Q. Why didn't you examine the other blades? A. Well, I thought that the examination of the large blade was sufficient for the purpose.

Q. You were only instructed to examine the large blade? A. No,

1094

POOR QUALITY ORIGINAL

Q. sir, I was instructed to examine the knife for blood.

Q. And having found it on one blade that satisfied you?

A. Yes, sir.

Q. You confined your examination to the large blade? A. Yes, sir.

Q. Do you know how long the stains had been on that blade at the time you examined it? A. No, sir.

Q. You do not? A. ~~Yes~~ No, sir.

Q. They might have been there for some days or weeks, might they not? A. Yes, sir.

Q. Or months? A. Yes, sir.

Q. You cannot state that these stains were fresh stains or stains that had been there a few days from your examination? A. No, sir, I cannot state.

By a Juror:

Q. Would stains of ten or eleven days make a more serious impression upon the blade by rust or anything than it would for a longer period? A. It would be apt to do so. I have examined blood stains that were five or six years old and obtained corpuscles from them.

By the Court:

Q. If the blood was fresh you could distinguish that, could you?

A. Yes, sir, if it was a few days old.

By Mr. Sanger:

Q. When did you make that examination? A. I made the examina-

095

POOR QUALITY ORIGINAL

tion during the week following October 19th.

By Mr. Davis:

Q. Is that the envelope which was sealed? A. Yes, sir -- I opened that and sealed the envelope.

Q. It is the envelope in which the knife was sealed? A. Yes, sir.

Q. The one which you now hold in your hand? A. Yes, sir.

The knife was marked People's Exhibit No. 1 for identification.

The envelope was marked People's Exhibit No. 2 for identification.

A L B E R T T. W E S T O N, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

Q. Are you a Coroner's physician? A. Yes, sir, I am.

Q. Did you make the autopsy upon the body of Charles Schurr at the Roosevelt Hospital during last October? A. I did.

Q. On what date? A. I think on the 5th.

Q. The 5th of October, 1891? A. Yes, sir.

Q. Just look at this paper which I show you, and state whether that is the inquisition and the result of the autopsy? A. Yes sir.

Q. Can you state the date now? A. On the 5th, at 10 o'clock in

096

POOR QUALITY ORIGINAL

the evening.

- Q. At Roosevelt Hospital? A. Yes, sir.
- Q. Will you state the result of that autopsy? A. On the right side of the head, on a level with the top of the right ear, one inch from the front of it, was a wound three quarters of an inch in length, and extending in a direction slightly downward and forward over the left eye; there was a superficial bruise about the size of a silver quarter of a dollar-- the approximate size -- the wound which I will describe penetrated the skull by a compound fracture, about half an inch in length and about one-eighth of an inch in width; it also entered the brain through what is known as the temporal sphenoidal lobe of the right hemisphere; entered what is known as the right lateral ventricle. This cavity contained a large clot of blood and there was also a clot of blood at the base of the brain. There was some softening of the brain tissue at the right ventricle. The other organs of the body were in a normal healthy condition.
- Q. What was the cause of that man's death? A. His death was caused by laceration and compression of the brain from the stab wound which has been described.
- Q. An incised stab wound? A. Yes, sir.
- Q. Could that wound have been made by the blade of the knife which I now show you, People's Exhibit 1 for identification?

A. Yes, sir, it could have been made with that knife.

CROSS-EXAMINATION by Mr. Sanger.

Q. Could it have been made by any other substance besides that knife, any other sharp substance? A. It could have been -- if it was made it could have been made only by an instrument of that character.

~~xxxxxx~~
Q. Would not a sharp stone make a wound of that character? A. No, sir.

Q. Will you tell me the size of that fracture? A. The fracture was from a half to three quarters of an inch in length.

Q. In length? A. Yes, sir.

Q. That is across the outside? A. Yes, sir.

Q. Extending on the forehead towards the eye? A. From about the point here in front of the ear slightly downward and forward.

Q. That would be how much in length, an inch or two? A. No, sir; my notes say it was three quarters of an inch in length on the skin -- it was three quarters of an inch in length.

By the Court:

Q. And that was downward and slightly forward? A. Yes, sir, that was the direction of the cut.

Q. Through the bone? A. Yes, sir, through the bone into the substance of the brain.

By Mr. Sanger:

Q. Do you call that a compound fracture? A. Yes, sir.

098

POOR QUALITY
ORIGINAL

47

- Q. Could that fracture have been occasioned by a fall upon some sharp substance? A. No, sir.
- Q. Some sharp protruding substance? A. No, sir, it could not.
- Q. You don't mean to say positively that a man could not fall upon some sharp protruding substance and inflict an injury of a similar character? A. I don't believe he could.
- Q. You would not say he could not, under oath? A. I don't believe he could, I don't see how he could; I can't imagine any such condition.

By the Court:

- Q. If a knife, a sharp knife such as that were held in that way and a man fell on it with the side of his head and the knife penetrated into his head -- it might be done that way?

A. Yes, sir.

- Q. It could not be done with a sharp stone? A. No, sir.

By Mr. Sanger:

- Q. ~~xxxxxy~~ He might knock against it and inflict a similar wound? A. Yes, sir, certainly he might.

A D A M A. C R O S S, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Davis.

- Q. You are a police captain of what precinct? A. The 11th precinct.

099

**POOR QUALITY
ORIGINAL**

48

- Q. You saw this defendant on the evening of the 4th of October, 1891? A. No, sir.
- Q. When did you first see him? A. On the morning of the 5th.
- Q. Where? A. In my office, in the 20th precinct station house.
- Q. Did you talk with him at that time? A. Yes, sir, I did.
- Q. Before you had this conversation with the defendant did you have in your possession the knife which I show you? A. No, sir.
- Q. Will you proceed and state what the conversation was? A. At that time I took the statement in writing. I can refer to that and tell.

By the Court:

- Q. Did he make that statement to you? A. Yes, sir.
- Q. Did you reduce it to writing? A. Yes, sir, at that time.
- Q. In his presence? A. Yes, sir.
- Q. You can refer to it? A. This is the original statement as it was made to me: Max Holze, age 22 years, of No. 511 West 49th Street, states, that at about 9.45 P. M., October 4th, 1891, he and his brother Herman, aged 20 years, of 444 West 35th Street, were walking along West 35th Street on the south side between 9 and 10th Avenues, having just returned from Grow's brewery in West 28th Street -- when we saw three young men standing in the street alongside of a wagon. As we passed one of them said, "You

100

49

where are you going?" I said in reply, "Go to hell". One of them said in answer, "Go on, you " We continued on towards my brother Herman's house at 444 West 35th Street. Just as we reached my brother's house a man whom I afterwards learned was Charles Schurr struck me with his fist in the face and knocked me down. His friend struck my brother and assaulted him. I started to run away and the man Schurr followed me and again hit me, knocking me down. I then picked up a piece of rock with sharp edges and struck the said Schurr in the head with the same which I still held in my hand. Schurr then fell down and I left him lying there. I went in my brother's house. I went in the cellar of the house and took off my coat and hung it on a chair so that when I went out the police would not know me. I then went out to my home and got a coat and hat and then returned to my brother's house and I was arrested.

Q. That is the statement that he made to you? A. Yes, sir, on the morning of the 5th of October prior to being taken to the Police Court.

I
By Mr. Davis:

Q. What time? A. About 9 o'clock, or 8.45.

Q. Did you have any other talk with him ~~xxxxx~~ prior to his being taken to the Police Court? A. No, sir.

Q. Did you have any afterwards? A. Yes, sir. I asked that the

Magistrate remand the prisoner back to my custody until the afternoon. When he was brought back ---

- Q. Did he come back? A. Yes, sir; he was remanded back to the station house and I then had a conversation with him. His statement corresponded to the statement he made in the morning with little variances and differences. He was taken to Court and committed without bail to await the action of the Coroner and the Grand Jury.
- Q. Did you see him again after that? A. Yes, sir, on Thursday, October 8th.
- Q. Your first talk with him was on Monday, the 5th? A. Yes, sir.
- Q. And your second talk was in the afternoon when he came back? A. Yes, sir.
- Q. The third was on Thursday, October 8th, 1891? A. Yes, sir.
- Q. Where? A. In the Tombs, city prison.
- Q. Had ~~xx~~ you at that time seen this knife? A. Yes, sir.
- Q. Who have it to you? A. Officer Smith.
- Q. You received it from officer Smith? A. Yes, sir.
- Q. Will you state the conversation you had with the defendant, the third one? A. I called at the Tombs city prison, accompanied by Roundsman James Campbell of the Tombs Court squad. I asked the Warden if he would permit me to see the prisoner Max Nolze. I showed the prisoner this knife and asked him if

102

51

it was his. I told him that from inquiries I had made I had become satisfied that the injury had been inflicted by a knife instead of a stone. I told him that I had found this knife on the extension of a house in 34th Street almost in the rear of his brother's house, and that I had reason to believe that it was his knife. At first he denied it and said that he had never seen the knife. Then I told him that I could ~~prove~~ prove by his sister-in-law that it was his knife, that she had used it, that she had borrowed it from him and that there could be no question about its being his property. He then admitted to me ---

Mr. Sanger: I object to any further statement on the ground that it was made under duress.

By the Court:

- Q. You made no threats? A. No, sir.
- Q. You made no threats to this man at the time he made this?
- A. No, sir, I was particularly careful not to do so.
- Q. Did you hold out any inducements to him? A. I did say to him that I thought he ought to tell me the truth about it.
- Q. Is that all? A. Yes, sir. I said, "I don't want you to lie and tell me this is your knife if it is not. If it is your knife I wish you would tell me so -- I think there will be no difficulty in showing by your sister-in-law that it is your knife". He went on to explain to me that it was his knife

and that he threw it away on the night in question.

Objection overruled. Exception.

By Mr. Davis:

Q. Is that a statement taken down by you? A. Yes, sir, this was made directly at the time -- I made it in a little book and subsequently changed it to this paper.

Mr. Sanger: I object to the witness giving any testimony from that memorandum.

By the Court:

Q. Can you state what he said to you in the Tombs prison without looking at that memorandum? A. I have already stated about all that was said at that time.

Q. Have you stated all you recollect him saying at that time? A. Yes, sir.

By Mr. Davis:

Q. Was there anything said by him as to whether or not he had used that knife on the night of October 4th, 1891? A. He did not make that admission. He said it was a knife he had on that occasion, and that he threw it away as he was going over the fence. He said that was a knife he had, but I have not any recollection of his having said he used it. He admitted it was his knife.

Q. And that he threw it away? A. Yes, sir.

Q. Over the fence? A. As he was going over the fence.

104

53

Q. Did you have any further conversation with him? A. Yes, sir; there was some conversation as to the reason of his having denied at the outset that he used the knife.

Q. What was that? A. He did not want to convict himself.

Q. Did he say that? A. Yes, sir; that he knew if he said that he would be liable to get into trouble. I told him I thought he ought to tell the truth, as I could show by his sister-in-law it was his knife, and he finally says "Yes, that is the knife". He also admitted that he threw it away on the evening of the affray and at the time he was going over the fence.

Q. Have you had any further conversation with him at all? A. No sir.

Q. Did you bring that knife to the District Attorney's office?
A. Yes, sir.

Q. Whom did you give it to? A. Mr. Shalby.

Q. The stenographer of the Grand Jury? A. Yes, sir, by direction of the District Attorney.

Mr. Davis: I offer the knife in evidence.

The Court: You have a right to cross-examine before the knife goes in.

By Mr. Sanger:

Q. Did you know Charles Schurr, the deceased? A. No, sir.

The Court: You can cross-examine in reference to the knife. I will admit the knife unless some-

105

POOR QUALITY
ORIGINAL

54

thing comes out on your cross-examination to prevent my doing so.

- Q. You told this defendant that he had better admit the knife was his because you could prove it on him? A. I told him if the knife was his I would like him to tell me the truth, but if the knife was not his I didn't want him to say so.
- Q. Didn't you tell him you could prove it was his by his sister-in-law? A. Yes, sir.
- Q. And that he might as well admit it to you? A. Yes, sir.
- Q. How long were you in conversation with the defendant before he admitted the knife was his? A. I presume I was in the prison ten minutes, I possibly may have been talking to him three or four minutes before I said "You might as well tell the truth."
- Q. And after all this persuasion on your part, and the statement as to your being able to prove the knife on him he finally said it was? A. I told him his sister-in-law said it was his knife, that she often used it and borrowed it from him, and I would have no difficulty in showing it was his knife.

Mr. Sanger: I object to the admission of the knife in evidence.

The Court: I will admit it.

Exception.

106

**POOR QUALITY
ORIGINAL**

55

The knife referred to was marked in evidence as People's Exhibit No. 1 of this date.

The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and took a recess until 2 o'clock P. M.

1

37

Aft ernoon Session.

EXAMINATION OF CAPTAIN ADAM A. CROSS, continued:

GROSS EXAMINED BY MR. SANGER:

Q I understood you to say before recess that you didn't know Charles Shore, the deceased? A No, sir.

Q Never had had met him before? A Not to my knowledge, I suppose I have seen him but not to know him.

Q And knew nothing about him? A No, sir, I didn't know anything about him.

Q Knew nothing good about him? A Nothing good.

Q Knew nothing bad about him?

THE COURT: That won't do, you can put the question, if he knew this man, knew his general reputation for peace and quietness.

Q Were you acquainted with Shore's general reputation for peace and quietness? A No, sir, I didn't know him at all.

Q I mean were you acquainted with his reputation for peace and quietness? A No, sir.

Q You were going on to make some statement, and I supposed that what you were going to say had something in connection with his reputation, either as an orderly or disorderly person?

THE COURT: He says he doesn't know what his repu-

108

2

57

tation is.

Q Don't know of our own knowledge, about that? A No, sir.

Q Had you ever met the witness Marion Hatch before? A No, sir, not to my knowledge.

Q Have you ever heard of him? A No, sir. Not by ~~that~~ name.

Q Not by that name? A No, sir, nor by any other name.

Q Did you see the witness in Court this morning? A Yes, sir.

Q Did you ever meet or hear of the witness George W. Fox?

A No, sir. I know there was a fox had an express wagon on the corner, I think, of 34th Street and Ninth Ave., but I didn't know him.

Q Did you ever tell the defendant that some of these people including Shore had been bothering you for a long time?

A I did say that there had been complaints from that location in 35th Street, and I presumed that it was some of these people.

Q There was a gang up there, wasn't there, known as the Stable Gang? A Yes, sir, and they had given us some trouble.

Q They had given you a great deal of trouble? A Yes, sir., and I had directed the officers on the post to make it interesting for them.

RE DIRECT EXAMINATION BY MR. DAVIS:

Q Neither Hatch nor Fox nor Shore, to your knowledge was engaged with this gang, as it is characterized by the defendant's

109

3

58

counsel? A I didn't know who they were.

Q How long had you been there in that precinct? A Well, I had been there -- was this in November?

Q This was in October? A I had been there nearly a year.

Q Nearly a year, then? A But those complaints had only recently come in, they came in just previous to this altercation.

Q Now, you saw the defendant for the first time on the morning of the 5th, is that right? A Yes, sir.

Q At that time were there any marks on his face, any bruises or wounds? A No, sir, not that I discovered.

Q None that you saw? A No, sir.

RE CROSS EXAMINATION BY MR. SANGER:

Q Did you examine his body for the purpose of discovering any bruises or wounds? A No, sir, not his body, but I didn't see anything on his face.

Q You didn't examine any portion of his body for the purpose of ascertaining whether he had been wounded? A No, sir.

BY MR. DAVIS:

Q Did he complain of any?

Objected to as immaterial, irrelevant.

BY THE COURT:

Q Did you hear him say anything about being hurt or wounded?

4

A I have no recollection of his having referred to it at all or complained of it. 59

BY MR. SANGER:

Q In your statement made to the defendant with reference to this Stable Gang that you say had been bothering you in that precinct, do you remember telling him that you were sorry he didn't kill the whole crowd of them as they had been bothering you for quite a while? A No, I don't recollect it.

Q You won't say you didn't make some similar statement to him with reference to getting rid of that gang as they had been bothering you for sometime? A I have no recollection of having said anything of that kind.

BY THE COURT:

Q You would not be likely to say it, would you? A No, I don't think so.

BY MR. SANGER:

Q As a matter of fact there were gangs in that neighborhood that were giving you a good deal of trouble?

Objected to.

THE COURT: Objection sustained. we are not trying the neighborhood now.

Defendant excepts.

5

60

EDWARD J. SHELBY, sworn as a witness on behalf of the People, testifies as follows:

DIRECT EXAMINATION BY MR. DAVIS:

Q You are employed in the District Attorney's office? A Yes, sir

Q How long have you been there? A Since --

BY THE COURT:

Q You were there in October? A Yes, sir.

BY MR. DAVIS:

Q Look at People's Exhibit 1, this knife, did you receive that from the District Attorney? A As far as I recollect, I received it from Capt. Cross, in the District Attorney's office.

Q What did you do with the knife when you received it? A I sent it with a letter to Dr. Cyrus Edson, of the Board of Health, and requested him to examine as to whether there was any evidence of blood on it, and report to the District Attorney.

Q Before sending it did you enclose it in an envelope? A I did sir.

Q And seal the envelope? A Yes, sir.

Q Address it in your own handwriting? A Yes, sir.

Q Look at People's Exhibit 2 for identification, is that the envelope in which you enclosed it? A That is the envelope and that is my handwriting on it.

6

61

Envelope offered in evidence.

Admitted and marked Exhibit No.2 of this date.

PEOPLE REST.

MR. SANGER: Does your Honor think that there is enough evidence to compel the defendant to go into his defence?

THE COURT: Yes, I think there is abundant evidence.

MR. SANGER opens to the Jury.

HERMANN NOLZE, sworn as a witness on behalf of the defence, testifies as follows:

DIRECT EXAMINATION BY MR. SANGER:

- Q Mr. Nolze, do you understand English? A Yes, sir.
- Q The Defendant is your brother? A Yes, sir.
- Q Do you remember the night of October 4th, 1891? A Yes, sir.
- Q Were you with your brother that evening? A Yes, sir.
- Q Do you remember being in a saloon in that neighborhood that evening? A No, not in the neighborhood exactly.
- Q Just state what occurred that evening between you and your brother first? A When we went in the Brewery first off?
- Q Yes? A It was about six o'clock, and I went up to 49th St.

113
7

I was in the brewery feeding the horses first. 62

Q You were a driver, weren't you? A Yes, sir. And I went up to 49th Street, where I deliver beer and I met my brother Max, and we ~~said~~ ^{stayed} there and had a couple of glasses of beer, and after that the saloon keeper asked me if I wouldn't get a couple of kegs of beer for him, he was short of beer -- it was a warm evening -- so I said, Yes, and I took my brother Max along and we went down and I put ten quarters of beer on the wagon and brought it up, and I put the horses down in the stable again. Then I started on my way home, it was about a quarter past nine then.

BY THE COURT:

Q You delivered the beer, did you? A I did, sir.
Q Then you went back to the stable? A Yes, to stable the horses.
Q Did your brother go with you? A Yes, sir ---- and then I got another brother in 35th Street, an eldest brother of mine, he keeps a cigar store there, we are not friendly with him, and when we passed his store my brother made the remark and said, that *Son of a* is not worthy that we talk to him, because we are not friendly with him.

BY MR. SANGER:

Q Meaning your other brother? A That eldest brother of ours.

BY THE COURT:

Q He called your brother A Yes, sir ----

114

8

63

Then I passed 414, there is a stable there and a wagon standing in front of the door, and this man Hatch was standing behind that wagon and he heard when my brother said this word --

BY MR. SANGER:

Q Did your brother pick up a stone before that and throw it towards the cigar dealer's store? A No, sir, Hatch came up to him or to us, and said, "Who are you calling a *Son of a bitch* and my brother picked up a stone, and says, this is the man and threw the stone in front of my other brother's store.

Q On the other side of the street? A No, the same side of the street, and it was not in the direction of Hatch at all.

BY THE COURT:

Q Then your brother threw the stone after his brother's window?

A Near the window, in front of the window.

BY MR. SANGER:

Q Under the window? A Yes, sir, and then we turned away, and Hatch went away, and we walked down to the house where I live.

Q After Hatch came up to say and said "What do you mean", you said you didn't mean him? A Yes, that is so.

Q Did you tell Hatch who you did mean? A Yes, sir.

Q What did you tell him? A I told him we meant the eldest brother of ours, and I told him some reasons, too. Then we stood in front of the door where I lived, No. 444.

115

9

Q Then, did you go from where Hatch was standing down towards 10th Avenue? A Yes, sir.

Q In the direction of where your own house was? A Yes, sir.

Q And what was the number of your house? A No. 444.

Q Go on and state what occurred? A Then, we stood in front of the door and all at once we were talking together, me and my brother, and all at once, those three or four men were behind us and Hatch says, We will show you who you call a ~~Son of a~~ and the fight began and it was about four seconds or five seconds when the whole thing was over.

Q Who got ahold of you? A Hatch got ahold of me.

Q Who else? A There was a man, but I didn't know the other man.

Q They both got ahold of you? A Yes, sir.

Q Who got ahold of your brother? A Fox and Shore.

Q Fox and Shore? A Yes, sir.

Q What happened to you? A They knocked us both down, I got up and picked up my hat and ran toward the door, I ran upstairs and during that time my brother hit Shore and that's all I seen about it.

Q After you got up, you say you were knocked down by these two men? A Yes, sir.

Q After you got up and went away what did the two men do who were upon you? A They ran toward where my brother was.

116
10

Q And you tried to get into the house? A Yes, sir.

THE COURT: Let him tell it himself.

Q Tell the story? A And I went into the house and I didn't see anything else of it, and my brother ran right after me.

Q Your brother ran after you to follow you into the house?

A Yes, sir.

Q Your brother ran after you, what then happened, did you see?

A No, sir.

Q You didn't see anything more? A No, sir, I went into the house and I didn't see anything more.

Q After you were thrown down you got up and ran towards the house? A Yes, sir.

Q Then you say the men who were on you ran towards your brother? Shore was hitting my brother three or four times, and my brother hit him and he fell down.

Q And you ran into the house? A Yes, sir.

Q Did you see your brother run away? A No, he couldn't.

Q Why couldn't he? A They were all on him.

Q The four were at him then? A Yes, sir.

Q Did they strike him? A Well, I only seen ---

THE COURT: What did you see the four men do?

A I seen the man Shore hitting him.

BY THE COURT:

Q This dead man? A Yes, sir.

11

66

Q You saw him hit your brother three or four times? A Yes, sir.

Q And then you ran into the house? A Yes, sir.

Q And you didn't see anything else? A No, sir.

BY MR. SANGER:

Q You had never seen those men before, had you? A Yes, sir.

Q You had seen them? A Yes, sir.

Q Who were they? A One man I didn't know at all, but there is Hatch, Shore and Fox, I knew them fellows for years. They hung out in that stable there.

Q Is that where the people that are called the Stable Gang are in the habit of coming?

Objected to. Objection sustained.

THE WITNESS: Not exactly that.

Q You never have been arrested before, have you? A No, sir.

Q After this affair, were you then arrested? A Yes, sir.

Q Where did they take you? A Down in the Tombs.

BY THE COURT:

Q Didn't they take you in the station house, first? A Yes, sir.

BY MR. SANGER:

Q They took you to the Station House? A Yes, sir, Jefferson Market.

Q And from there they took you to the Tombs? A Yes, sir.

Q And from there what did they do to you? A The Tombs they put me in the Tombs, after Jefferson Market.

118
12

Q How long did you stay in the Tombs? A ~~Three~~ Three weeks. 87

Q And then from there? A They took me to the House of Detention.

Q How long did they keep you there? A Five months.

Q Did you have a wife living at the time you were put in the House of Detention? A Yes, sir.

BY THE COURT: ---- What about it.

MR. SANGER: I want to show that this man was kept in the House of Detention for five months, and his wife and child died in the meantime.

THE COURT: I will exclude it.

Q When did you get out of the House of ~~Detention~~ Detention, Mr. Nolze?

A The 24th of March.

Q The 24th of March, this year? A Yes, sir.

CROSS EXAMINATION BY MR. DAVIS:

Q Mr. Nolze, your brother here, and you and your brother who kept the cigar store have the same mother? A Yes, sir.

Q Is she living now? A Yes, sir.

Q And what were the words that your brother used that night, with reference to the one who keeps the cigar store?

A He says he is a *Son of a Bitch*

Q What else did he say? A That he is not worth to talk to, that's all.

Q That he is not worth talking to? A Yes, sir.

119

Q And was that said loud enough for Hatch to hear? A Oh, yes.

Q Then your brother picked up a stone? A Yes, sir.

Q How big a stone was it? A About a stone like my fist.

Q About as big as your fist? A Yes, sir.

Q Just hold your fist up to the jury (The witness does so).

Q And he threw it, did he? A Yes, sir.

Q In the direction in which your brother's store was? A Yes, sir.

Q Did he throw it before or after he used this expression?

A After.

Q Right away after? A No, Hatch came out first and asked who he meant by those words there, he says, this is the man we mean, and he threw the stone in front of my brother's store.

Q Had he picked up the stone at the time he called your brother that name? A No, sir. ~~xxxxxxxxxxxxxxxxxxxx~~

Q He picked it up afterwards? A Yes, sir.

Q Then he threw it? A Yes, sir.

Q Where did it strike? A It struck in front of the door, exactly in front of the door and window.

Q How far away --

BY THE COURT:

Q Was ^{your} brother there at the time? A No, sir.

Q He wasn't there at all? A He was not, he was sitting inside, the door was open.

120

POOR QUALITY
ORIGINAL

14

67

Q Didn't you shout this out loud enough for him to hear it?

A I couldn't say exactly, it was two houses away from him.

Q When you called out something at him? A Yes, sir.

BY MR. DAVIS:

Q How far away was your brother when he threw the stone towards the windows of your other brother's store? A That was in front of 414, and the store is 410.

Q On the same side? A On the same side.

Q Where did your brother get that stone? A He picked it up on the sidewalk, it was laying on the sidewalk.

Q Did he stand on the sidewalk when he threw it? A Yes, sir.

Q And then you and your brother went down the street? A Yes, sir.

Q How many glasses of beer had you drank that day? A I couldn't say that exactly.

Q Well, give us some idea? A About twelve, something like that.

Q Twelve? A All day, from the morning to night, that was about all.

Q When did you take the last glass of beer before your brother threw the stone? A Well, about a half hour before.

Q Where were you then? A Up in 49th Street.

Q With your brother? A With my brother.

Q Did he drink with you? A He drank with me, yes, sir.

15

Q How many beers did you drink there? A About three there.

Q About what time? A That is between 7 and 8 o'clock.

Q Between 7 and 8 o'clock you drank about three? A Yes, sir, and then we made that trip to get the beer.

Q Between seven and eight o'clock, how many beers did you and your brother drink? A I couldn't say that any more, I don't know.

Q Well, let's try to recollect? A During the time we were up there in that saloon we had about three glasses of beer.

Q Now, fix a time, seven o'clock in the evening, and eight o'clock in the evening, between those two hours, how many beers do you think you and your brother drank, just give us a rough guess? A That's about all, three at that time.

Q Three between seven and eight o'clock? A Yes, sir.

Q Now, after eight and before you met Hatch, how many did you drink? A I couldn't tell you that, I don't know, I don't remember exactly, I didn't count the beers I drank.

Q Between eight and nine o'clock, how many do you think you and your brother drank?-- As near as you can get to it, I don't want you to state exactly. A Maybe one more, that's about all.

Q That makes four, doesn't it? A It makes four, yes.

Q Do you mean to say that after seven o'clock, and the time when your first met Hatch, you and your brother had only drank about four glasses of beer? A Maybe we drank beer before seven o'clock.

122

16

71

Q Not after seven? A After seven, no. We didn't drink any more than about four glasses of beer.

Q Now, between six and seven, how many glasses of beer did you and your brother drink? A I don't exactly ^{know} how many beers I drank, I don't know.

Q One glass between six and seven in the evening? A Maybe I didn't drink any beer at all, I was on the car going up, then, ~~xxxxxx~~ I met a friend on the 49th Street corner, and I was talking with a friend of mine there for a while before I went in the saloon.

Q Now, take twelve that Sunday, from twelve o'clock down to the time you met Hatch, how many beers did you and your brother drink? A From twelve o'clock to four o'clock I was sleeping, then I went down in the brewery and fed my horses.

Q Now, from four to six, how many did you drink? A I drank none at all then, there was no beer on tap in the brewery. They don't work sundays.

Q You mean to say you didn't drink any beer from twelve to six? A No, sir.

Q How many before that did you drink? A Well, in the morning I got maybe, six or eight.

Q Then all that day from the beginning of the day down to the time you met Hatch, you had drank perhaps ten or twelve beers? A Yes, sir.

123

POOR QUALITY
ORIGINAL

17

72

- Q. Was your brother with you most of the time? A. No, only after seven o'clock.
- Q. After seven o'clock? A. Yes sir.
- Q. You drank three with him after seven o'clock? A. Three or four.
- Q. Whereabouts did you get those? A. Up in 49th Street.
- Q. Did you drink any whiskey that day? A. No sir.
- Q. Did your brother, in your presence? A. Not that I know of, the time he was with me.
- Q. At the time your brother picked up that stone, was he somewhat under the influence of liquor? A. He was, a little, yes.
- Q. And were you? A. No sir.
- Q. You were perfectly sober? A. I was sober.
- Q. And your brother was a little under the influence of the beer, if that about right? A. Yes sir.
- Q. And where did you stable your horses? A. Down in 23th Street, West 23th Street, in the Brewery.
- Q. And you lived in 35th Street? A. Yes sir.
- Q. How long had you lived there? A. I lived there for the last eight years.
- Q. And I suppose in the evenings you used to go out to the street, didnt you? A. Very seldom.

124

13

23

- Q. You did not? A. Very seldom I used to go out in the neighborhood there.
- Q. In Summer evenings? A. I would go to work three o'clock in the morning, and I am glad when I get home six, and I go to bed.
- Q. Did your brother live there? A. No sir.
- Q. Where did your brother live? A. He lived with his parents in 49th Street, 511.
- Q. How much do you weigh? A. About 175 pounds.
- Q. How tall are you? A. Five feet eight inches.
- Q. How much does your brother weigh? A. I could not tell you exactly what he weighs, I never heard much about it.
- Q. Now exactly, but have you ever heard of his being weighed?
- A. About 180, 185, something like that.
- Q. How tall? A. Five feet eleven inches, something like that.
- Q. He is taller than you, isn't he? A. Yes sir.
- Q. Now, when you went down you say four people came after you?
- A. Three or four, I could not exactly say, but there was four men at us, I don't know if that man, that one man had exactly something to do with it or if he only was mixed up in it.
- Q. You are sure there were three? A. I am sure there were three, yes, because I know those three, the other fellow

125

POOR QUALITY
ORIGINAL

19

24

I didnt know, see.

Q. And there were no other people around there at that time, were there? A. What is that?

Q. There were no other people around there at the time? A. No, I didnt see any

Q. There was nobody with you, was there? A. My brother.

Q. You and your brother? A. That is all.

Q. And four other people? A. Yes sir.

Q. Three of whom you are sure had something to do with it? A. Yes sir.

Q. What was the first thing that was done by these men when they came up, - by Hatch, for instance? A. We were standing in front of the door looking toward 10th Avenue, and they came from 9th Avenue, and Hatch hollered out, "I will show you who you call a 'Son of a bitch'", and the tackling began. They knocked us down and I got up, picked up my hat and ran toward the house.

Q. You were knocked down? A. Yes sir.

Q. Who knocked you down? A. Hatch.

Q. He was the only one who knocked you down? A. I could not say if I got two strikes or one.

Q. Dont know whether you were struck twice or once? A. I could not say exactly.

126

POOR QUALITY
ORIGINAL

20

25

Q. You dont know whether Hatch knocked you down? A. Because Hatch was right behind me, I turned around and I could see Hatch.

Q. He was the only one you saw at that time? A. There was another strange man, a man I didnt know, and then I seen Fox---

Q. What was that strange man doing when you fell? A. He was standing in front of me there.

Q. Did you see him hit you? A. I didnt see him hitting me.

Q. Now, cant you tell us ~~xxxx~~ whether, before you were thrown down, you received more than one blow, I mean before you fell, not afterwards, before you fell, did you receive more than one blow or only one? A. I could not say if I received two or one.

Q. Where did that blow hit you? A. In the neck.

Q. Behind in the neck? A. Yes sir.

Q. How do you know that Hatch gave you that? A. Well, because he states himself that he hit me.

Q. That is the only way you know? A. Well, the other way I would say because I seen him hitting me.

Q. You saw him hitting you? A. I saw him hitting me again, he hit me a couple of times and kicked me too.

Q. The first blow I am talking about, who gave you that first

127

POOR QUALITY ORIGINAL

21

26

blow? A. Hatch.

Q. Did you see him? A. I could not see from the back, I have only got two eyes.

Q. How can you say it was Hatch if you didn't see him? A. He was right in the back of me and the other fellow was in front of me when I got up.

Q. You think it was Hatch because you received a blow and he was right behind you? A. Yes sir.

Q. How far away was your brother from you? A. About fifteen feet after that, when I got up.

Q. Who were after him at that time? A. Shur and Fox.

Q. They were fifteen feet away? A. When I got up.

Q. When you fell down? A. Then he was right alongside of me.

Q. Who was? A. My brother.

Q. Your brother when you fell down? A. Yes sir.

QA. At the time you were struck on the back, how far away was your brother from you? A. At the time I was struck he was alongside of me.

Q. What did you mean by saying he was fifteen feet away then? A. After I got up.

Q. Now, you mean to tell us that Hatch, you saw Hatch on the stand? A. Yes sir.

Q. Hit you a blow which knocked you down? A. Yes sir.

Handwritten notes in the right margin:
Did he see Hatch on the stand?
Did he see Hatch on the stand?
Did he see Hatch on the stand?

128

POOR QUALITY
ORIGINAL

22

77

Q. Did you fall flat right down? A. On my hands and knees.

Q. And then when you were down that way, he hit you again?

A. I got up first and picked up my hat, and I got a kick.

Q. Who kicked you? A. That was Hatch.

Q. You saw that? A. Yes sir.

Q. Then did you stand up to him? A. No.

Q. What did you do? A. I picked up my hat and ran toward the house, I was up on the stoop when I saw my brother hitting Schur.

Q. Did you allow Hatch to knock you down and to kick you---

A. I didnt want to have a fight in the neighborhood.

Q. Did you allow Hatch to knock you down and kick you without turning around to defend yourself? A. I didnt want to defend myself.

Q. You ran away? A. Yes sir.

Q. And you saw all those people go for your brother? A. Yes sir, then ran toward my brother.

Q. How many of them went over toward your brother? A. I seen four of them, what is what I can state.

Q. The four went at your brother? A. Yes.

Q. What were they doing to him? A. I seen either Schur hitting him --- that is, I didnt see hitting him, they ran toward him and as soon as Schur fell down the others...

129

POOR QUALITY
ORIGINAL

23

28

ran away.

- Q. When you ran you ran up the stoop? A. Yes sir.
- Q. Then you saw all of those men at your brother, is that right? A. Yes sir.
- Q. And Schur was hitting him? A. Yes sir.
- Q. Standing off and hitting him with his fist? A. With his fist.
- Q. Didnt he have a club in his hand? A I dont know, I could not see if he had a club or anything, I dont think he had
- Q. Didnt Schur have a knife in his hand? A. Not that I know.
- Q. You didnt see any? A. No sir.
- Q. A stone? A. Not that I know.
- Q. You didnt see any? A. I didnt see any.
- Q. Did you see any in Hatch's hand? A. No.
- Q. Did you see any knife in Hatch's hand? A. No.
- Q. Did he try to cut you with a knife? A. No.
- Q. Did you see any knife there at all that night? A. Not at all.
- Q. Or any club? A. No sir.
- Q. Or any ~~xxxxx~~ stones? A. I didnt see any, the only thing--
- Q. Except this stone that your brother took up and fired at your other brother's store? A. No sir.
- Q. Nothing at all? A. No sir.

130

**POOR QUALITY
ORIGINAL**

24

79

- Q. Did you think that those people, those four men were going to attack your brother when they all rushed at him? A. I should not wonder.
- Q. At that time did you think that they were all going to attack your brother when they ran toward him? A. I could not say, I don't know.
- Q. You saw Schur hitting him, didn't you? A. Yes sir.
- Q. You knew that you had been knocked down and kicked? A. Yes sir.
- Q. You saw the man who knocked you down and kicked you run towards your brother, didn't you? A. Yes sir.
- Q. You saw all the others there? A. Yes sir.
- Q. You saw your brother defending himself, as you say? A. Yes sir.
- Q. At that time didn't you suppose all those men were going for him? A. Yes, sure.
- Q. Have you any doubt about it? A. Well, he didn't hit anybody yet.
- Q. I didn't ask you that, you say you saw those men going over to your brother, didn't you? A. Yes sir.
- Q. You saw the difficulty he was in, didn't you? A. Yes sir.
- Q. You saw your brother was in trouble? A. Yes sir.
- Q. Four men at him, didn't you? A. Yes sir.

131

25

80

Q. Then you were running in the house at that time, weren't you

A. Yes sir.

Q. You came out to help your brother, didn't you? A. No sir.

Q. Four men attacking your brother and you didn't come out to help him? A. As soon as I was on the stairs-----

Q. Wait a moment--

DEFT'S COUNSEL: Let him finish his answer.

Q. Four men were at your brother and you were running away, knowing that he was being attacked? A. Yes sir.

Q. Didn't you come back to help him? A. There was no time there for it.

BY THE COURT:

Q. Didn't you come back to help him? A. No sir.

BY MR. DAVIS:

Q. That is what I want to know, whether you came back to help him. You went in the house, did you? A. I did.

Q. And went upstairs into your rooms? A. Yes sir.

Q. Right away? A. I ran in the yard first.

Q. You went in the yard first? A. Yes sir.

Q. What did you do in the yard? A. I stood there and my brother went in the yard and he jumped over the fence and went in the other yard.

Q. You went in the yard? A. Yes sir.

132

26

81

- Q. Then your brother ran in, didnt he? A. Yes sir.
- Q. And he jumped over the fence, into which yard? A. 446
- Q. Next door? A. Yes sir.
- Q. Did you see the knife then? A. I didnt see any knife.
- Q. What did your brotner say to you then before he jumped over the fence, not a word? A. I dont remember anything.
- Q. Didnt your brother say anything to you when he came into the yard after he had cut this man? A. I dont know anything about cutting, or any talking, I didnt know, I dont remember.
- Q. You were in the yard and your brother came in there, he came in there running, didnt he? A. Yes sir.
- Q. He saw you, didnt he? A. He did.
- Q. What did he say? A. Didnt say anything at all.
- Q. Did he jump over the fence without saying a word? A. That was done too quick
- Q. He jumped over too quick?
- THE COURT: Answer that question, did he jump over the fence without saying anything to you at all?
- A. Not that I can remember.
- Q. Did you go after him? A. No sir.
- Q. When he got over in that yard where did he go? A. I dont know.

133

27

82

- Q. That was the last you saw of him? A. The last I saw of him.
- Q. And where did you go? A. I went upstairs.
- Q. Did the officer come and arrest you? A. He came and arrested me, yes sir.
- Q. Did you have any wounds or bruises about your face? A. Not on the face, I had a little swollen neck, that's all.
- Q. What officer took you? A. Officer Kennedy.
- Q. Did you see Captain Cross in the Station House? A. I did.
- Q. Did you tell him about the wound, didn't you tell him that you had been hit in the back of the head? A. I told him that I was hit.
- Q. Did you tell him you had been hit in the back of the head?
- A. Yes sir.
- Q. What did you tell him? A. I told him I was struck on the back of the head.
- Q. You pointed to the place, didn't you? A. No, I did not.
- Q. You said, "The back of the head?" A. Yes sir.
- Q. Did you tell him who struck you? A. I did.
- Q. Did you see your brother after that? A. While I was in the Station House.
- Q. Now, you have seen this knife before, haven't you, (Handing witness knife) A. No sir.
- Q. You never saw that before? A. No sir, I did not, never.

134

**POOR QUALITY
ORIGINAL**

23

23

- Q. You dont know it? A. No sir.
- Q. You never saw that in your brother's possession? A. No sir
- Q. You never saw your wife using it? A. No sir.
- Q. You never saw your wife using it peeling potatoes? A.No sir
- Q. These men didnt have hold of your brother, they were simply punching him, weren't they, and pounding him? A No.
- Q. What do youmean? A. I only seen that Schur punched him
- Q. Punched him? A. That is all.
- Q. Didnt have hold of him? A No sir, not that I seen.
- Q. Nobody had hold of him, that you saw? A. Yes sir.
- Q. Schur was simply punching him? A Yes sir.
- Q. You saw your brother strike Schur, did you? A Yes sir.
- Q. How did he strike him? A. Like this (witness indicates an outward blow)
- Q. Where did the blow strike Schur? A On the headd some place
- Q. On the head, then you saw Schur fall? A Fell down.

ANNIE LAUBENS DORFER, sworn as a witness
on the part of the Defendant, testifies as follows:

DIRECT EXAMINATION, by MR. SANGER:.

- Q. Where do you live? A. 444 West 35th Street.
- Q. Where did you live on the 4th of October, 1891? A In the same place.

135

POOR QUALITY
ORIGINAL

29

84

- Q. Is that the same house where Herman Nolze was living with his wife? A. Yes sir.
- Q. What rooms did they occupy? A. On the second floor back.
- Q. Were you living with your father? A. Yes sir.
- Q. What rooms did your father occupy? A. The ground floor
- Q. The ground floor? A. Yes sir.
- Q. Front or rear? A. Front.
- ✓ Q. With the windows fronting on 35th Street? A. Yes sir.
- Q. Do you remember a little disturbance that occupied between nine and ten o'clock on the evening of October 4th?
- A. Yes sir.
- Q. Just tell the Jury where you were at that time? A. I was looking out of the window
- Q. Out of the window of your apartment? A. Yes sir.
- Q. Into 35th Street? A. Yes sir.
- Q. Just tell the Jury what you saw? A. I was looking out of the window when the Nolze's came along and was speaking and they were just saying "Good night" when the four fellows came along, one of them punched Herman Nolze in the mouth and then they got fighting and were rolling around on the sidewalk and I ran away from the window.
- Q. You say they got fighting? A. Yes sir.
- Q. How many did you see come up there? A. Four.

136

POOR QUALITY ORIGINAL

30

BY THE COURT:

Q. One punched who? A. Herman Nolze.

BY MR. SANGER:

Q. Herman Nolze was punched by one of the men? A. Yes sir.

Q. Did you see what happened to Herman Nolze after he was struck? A. I seen him run up the stairs

Q. How many men were there at Herman Nolze at one time? A. Two

Q. When Herman Nolze went in what did the two men do that had been striking him? A. They went up to Max Nolze

Q. Then ran over to Max? A. Yes sir.

Q. Did you see what they did to Max? A. No sir.

Q. Did you see them have hold of Max? A. No sir.

THE COURT: She says she didnt see them do anything,

Q. You got frightened you say and ran away? A. I ran away

Q. Where was Max when you were looking out of the window? A. He was lying on the sidewalk.

Q. Lying on the sidewalk? A. Yes sir.

Q. This Max Nolze, (indicating defendant? A Yes sir.

BY THE COURT:

Q. Max was lying on the sidewalk? A. Yes sir.

BY MR. ESANGER:

Q. Max was lying on the sidewalk and where were the men? A. They were all on top of him.

137

**POOR QUALITY
ORIGINAL**

31

16

- Q. They were on top of him? A. Yes sir.
- Q. And at that time you say you got frightened and ran away?
- A. Yes sir.
- Q. That's all you saw? A. Yes sir.

CROSS-EXAMINATION, by Mr. DAVIS:

- Q. You saw one of these men hit Herman Holze, didn't you? A. Yes sir.
- Q. And Herman was the man who was just on the stand? A. Yes sir.
- Q. And he struck him in the mouth, I think you said? A. Yes sir.
- Q. How did he do it, just strike out with his fist, hit him in the mouth? A. Yes sir.
- Q. Did you see whether his mouth bled? A. No sir, it was too dark.
- Q. And did he fall then? A. No sir.
- Q. He didn't fall? A. No sir.
- Q. Did you see Herman when he first came up, before the other men came? A. They came up alone and were talking at the door.
- Q. You saw them then when they came up? A. Yes sir.
- Q. The first blow that you saw struck was struck in the mouth?
- A. Yes sir.

138

**POOR QUALITY
ORIGINAL**

32

87

- Q. And Herman received the blow? A. Yes sir.
- Q. Do you know who it was that gave him the blow? A. No sir.
- Q. And then did you continue to look at them? A. They was running ---
- Q. ~~Until~~ Herman ran away? A. When Herman ran up stairs I ran away from the window
- Q. You continued to look at them until Herman ran away? A. Yes sir.
- Q. And did Herman run away as soon as he got this strike in the mouth? A. At the time they went up to him first and they were fighting and then he ran away from them and ran up the stairs.
- Q. The first thing you saw was a blow on Herman's mouth? A. Yes sir.
- Q. One of those men gave it to him? A. Yes sir.
- Q. Then those men fought with him? A. Yes sir.
- Q. What did they do? A. Two of them went at Max and two of them went at Herman and they were rolling around on the sidewalk.
- Q. Who was rolling around the sidewalk? A. All of them
- Q. All of them, was Herman down on the sidewalk? A. Yes sir.
- Q. Were they all mixed up together? A. Yes sir.
- Q. Then Herman got away? A. Yes sir.

139

**POOR QUALITY
ORIGINAL**

33

88

- Q. And when Herman ran away those other two men went at his brother, did they? A. Yes sir.
- Q. What did they do to him? A. Then they started to fight with him.
- Q. Did they do anything to him before that? A. I dont know.
- Q. Had anybody done anything to Max the defendat, up to that time? A. I dont know
- Q. Well, at the time when Herman was bring struck by these two men, what was Max doing? A. Well, he was standing talking to his brother.
- Q. I mean while they were doing it, you know, while one man hit him, as you say, and then they rolled over, then while he was rolling over, what was Max doing? A. The other two got hold of him.
- Q. Got hold of him, do you mean got hold of him, or hit him, do you mean? A. Started to fight with him.
- Q. Did they get hold of him or did they fight with him, hit him with the fist? A. I did not take notice.
- Q. You left the window? A. Yes sir.

M A X N O L Z E, sworn as a witness on behalf of the Defendant, testifies as follows:

DIRECT-EXAMINATION, by MR. SANGER:

- Q. Max, on the 4th of October, 1891, what business were you in?

140

POOR QUALITY
ORIGINAL

34A. Carpenter business. 89

Q. A carpenter? A. Yes sir.

Q. Were you at work in the month of October, 1891? A. Yes sir.

Q. For whom? A. On the Cable Road on Third Avenue.

Q. The Third Avenue Cable Road? A. Yes sir.

Q. Your trade was a carpenter and you were engaged in doing carpenter work in connection with the laying of the cable? A. Yes sir.

Q. Do you remember the occurrences of the night of the 4th of October? A. Yes sir.

Q. You had gone with your brother--- you had been in the early part of the evening down with your brother to Grosses brewery, to bring some beer up to ^{the} 49th Street saloon? A. Yes sir.

Q. And when your brother got through delivering his beer in 49 Street, where did you then go with him? A. Went on home, to towards his house.

Q. You went towards his house? A. Yes sir.

Q. That was on 35th Street? A. Yes sir.

Q. What Avenue did you go down? A. We went up Eighth Avenue and then we crossed over 35th Street.

Q. You crossed over 35th Street? A. Yes sir.

Q. And then you got along until you got opposite the store of your brother, that keeps a cigar store, is that right? A. Yes sir.

- Q. Now just state what occurred when you got opposite your brother's store? A. Well, when I got to my brother's store, my and my brother were walking along and there was a man standing behind a wagon and me and my brother were talking about my eldest brother, and Schur came up and he hollered, "Why you call us sons-of bitches" that is what I heard he said.
- Q. That is what Schur said? A. Yes sir.
- Q. Hatch? A. Or Hatch. - And I told him it was none of his business, or to go to hell, something like that, I forget now what it was. And I picked up a stone on the sidewalk and I threwed it towards my brother's store, just pitched it off that way, and never made any motion to anybody, and Hatch said, "You better go on you Sons-of bitches" And we went on. And we walked up to 444.
- Q. When you say "we" do you mean you and your brother? A. Me and my brother walked up to 444, and the first thing I knowed there was some men behind me and took off my hat and gave me a blow in the face, and knocked me down. And the same thing they done to my brother, knocked us down on the street, and two on me and two on him. And afterwards my brother ran away from them and them all four got on me and they knocked me down three or four times and beat

142

POOR QUALITY
ORIGINAL

36

91

me and kicked me in the face and all over my body and I was afraid of my life, and I picked up a little stone and I tried to defend ~~myself~~ myself, and tried to knock them loose from me---

Q. Tried to what, tried to knock them loose? A. Off of me, and I could not do it at all, but last I hit so, half way around, and I hit the man, I ~~don't~~ ^{didn't} know whether he fell or anything at all, then I ran in the house, and I jumped over the fence.

Q. Now, one minute, you say that those four men had you down and were striking you on the sidewalk, and you were trying to free yourself from them and you could not do so?

A. Yes sir.

Q. And you said you picked up a stone? A. Yes sir.

Q. Do you remember anything about this knife? A. No sir.

BY THE COURT:

Q. Where did you hit the man? A. I don't know, sir.

Q. You didn't know the man you hit? A. No sir.

BY MR. SANGER:

Q. You struck out and hit? A. And hit around me.

Q. For the purpose of getting free from them? A. Getting free from them so that I could get away from them.

Q. Do you remember anything about the use of a knife? A. No sir

143

POOR QUALITY ORIGINAL

37

92

sir, I do not.

Q. You dont remember that? A. No sir.

Q. And would not know whether you used that or not? A. No sir.

Q. Were you able to talk at all whilst you were on the ground?

A. No sir.

Q. Did you know who the men were that were on top of you? A.

No sir.

Q. Were they the same men, one of them the same man that had spoken to you at the wagon? A. Yes sir. I knew him.

Q. You knew him, having seen him before? A. No sir, I never seen him before that night. I seen him behind the wagon and afterward he followed us.

Q. You had not seen any of the men that followed you until that night, had you? A. No sir.

Q. Did you know Schur, the man that was killed? A No sir.

Q. You never saw him before? A. No sir.

Q. Had you any intention of killing anyone? A. No sir, didnt mean to hurt anybody.

Q. Didnt intend to hurt anyone? A No sir, Only wanted to get loose from him. *Who?*

Q. Wanted to get loose? A. Yes sir.

Q. At the time you struck out did you think you were in danger?

A. Yes sir.

Q. Now, after you struck out, did you then get up? A. Yes sir.

Q. And what did you do? A. I went to the house.

Q. Into your brother's house? A. Yes sir.

Q. And from there, where did you go? A. I went in the back yard and jumped over the fence and went into the other house, went through the house and went out on the street and went up to 49th Street, up home. I didnt have any hat and I went on up there and got me another hat and I came back down then, and I got arrested.

Q. You came back from your house to your brother's house? A. Yes sir.

Q. Had you known at that time that you had hurt anybody? A. No sir.

Q. Did you know that you had hurt anybody at the time you left there? A. No sir, I did not.

Q. Only when you came back? A. Only when I got arrested.

Q. That was the first you had heard that anyone had been injured? A. Yes sir.

Q. Have you ever been in trouble before, Mr. Nolze? A. No, I never was.

Q. Have you ever been arrested before? A. No sir.

Q. You have been engaged in your trade as a carpenter for some time? A. Yes sir, for the last four years.

145

39

98

Q. And where were you going after leaving your brother that night, on the 4th of October? A. I was going home to my father's house.

Q. You intended to go right back to your father's house? A. Yes sir.

Q. You lived with your father in 49th Street? A. Yes sir, in 49th Street.

CROSS-EXAMINATION, by MR. DAVIS:

Q. Will you tell me again when you first heard of any injury being done to this man?

THE COURT: You said a moment ago that you did not know that you had hurt anyone until after you were arrested?

A. I didn't know.

Q. You didn't know that you had hurt anybody until you were arrested, is that right? A. I did not, that is right.

Q. After the trouble on the sidewalk you went into your brother's house, didn't you, through the hallway into the yard? A. Yes sir.

Q. And you saw your brother there? A. Yes sir.

Q. What did you say to him when you got into the back yard?

A. I don't know, I don't recollect what I said if I said anything.

146

POOR QUALITY
ORIGINAL

40

95

Q. Is this your knife? A. Yes sir.

Q. Did you have that with you then? A. Yes sir, I had that in my pocket.

Q. You had that with you then? A. Yes sir.

Q. And you got over the fence? A. Yes sir.

Q. Into the next yard? A. Yes sir.

Q. Where did you go from there? A. I went through the hallway, went out on the street.

Q. Now, before you went through the hallway, what did you do with this knife? A. Threw it away.

Q. Threw it away? Where were you standing when you threw it away? A. In the yard.

Q. Which yard? A. 444 yard.

Q. That is your brother's house? A. Yes sir.

Q. And you threw it over on the roof, did you, of the house?

A. I don't know where I threw it.

Q. You gave it a sling, did you? A. (no answer given)

Q. Was it wet, moist, when you did that? A. No sir.

Q. It was not? A. I had it in my pocket, I don't know how it was.

Q. You had it in your pocket? A. Yes sir.

Q. And it was closed? A. Yes sir.

Q. And perfectly dry? A. Yes sir.

41

- Q. And you took it out of your pocket and threw it away---
was your brother there when you threw it away? A. I don't
know, I didn't see him.
- Q. Why did you throw it away? A. Well, I was afraid they
would follow me and I might use it.
- Q. What? A. I was afraid they would follow me and I didn't
know what I might put it to in defence.
- Q. You were afraid that those men who had attacked you in the
street would follow you? A. Yes sir.
- Q. And you didn't want to have the knife with you if they did
follow you because ~~they~~^{you} might have to use it in self-defence?
- A. Yes sir.
- Q. And you didn't want to stick anybody? A. No sir.
- Q. Not even in self defence? A. No sir.
- Q. Then it was to avoid possibly wounding somebody that you
threw the knife away, as you were running, is that right?
- A. Yes sir.
- Q. That was the only reason that you threw it away? A. That
is all.
- Q. Was it the only knife you had? A. That is all.
- Q. Did you have a pistol with you? A. No sir, I never carry
one.
- Q. Then you went out into the street again, didn't you? A. Yes

148

**POOR QUALITY
ORIGINAL**

42

??

- Q. Through the hallway of the next house? A. Yes sir.
- Q. The same street? A. Yes sir.
- Q. How long did you take to go from the front stoop of your brother's house through the hallway into the yard, over the fence throw the knife away and then get out on the street again? A. I could not tell you.
- Q. Give us some idea? A. About ten minutes.
- Q. As long as that? A. About that.
- Q. How long did you stay in your brother's yard? A. I didnt stay there no time.
- Q. You went right over the fence, didnt you? A. Yes sir.
- Q. Then you went right out, didnt you? A. I went through the cellar, yes, and went right out.
- Q. Through the cellar and right out? A. Yes sir.
- Q. And that would not take ten minutes, would it? A. I dont know how long it would take.
- Q. Did you stop anywhere before going out? A. No sir.
- Q. Went right out? A. Yes sir.
- BY THE COURT:
- Q. You didnt stop in the cellar? A. Just pulled off my coat.
- BY MR. DAVIS:
- Q. You took off your coat in the cellar and hung it up in the cellar, didnt you? A. Yes sir.

149

43

75

- Q. And went out in the street without any coat? A. Yes sir, because I didnt have any hat, they stole my hat and ran away with it.
- Q. You didnt have any hat and when you got in the cellar next door to your brother's you took your coat off and hung it up in the cellar? A. Yes sir.
- Q. Did you know anybody living in that house? A. No sir.
- Q. It didnt take you long to hang up your coat then? A. No sir.
- Q. Then you went right out? A. Yes sir.
- Q. Those people didnt follow you, did they, through the hallway of your brother's house? A. They did not.
- Q. How do you know they did not? A. Well, I didnt see them.
- Q. You looked for them? A. I was looking for them, yes sir.
- Q. You knew that they were not following you when you got over the fence, didnt you? A. Yes sir.
- Q. When you got out in the street you saw them, didnt you?
- A. I did not
- Q. Didnt see anybody? A. No sir.
- Q. Didnt you see Schur lying there? A. No sir.
- Q. Didnt see anybody around there? A. I paid no attention to it.
- Q. He might have been there and you not see him? A. He might have been there and I not see him.

150

44

77

- Q. You went which way? A. Towards Tenth Avenue.
- Q. And so on to 49th Street? A. Yes sir.
- Q. Without stopping? A. Yes sir.
- Q. When you got there you got another coat, didnt you? A.
Yes sir.
- Q. And another hat? A. Yes sir.
- Q. And then you came right back again? A. Yes sir.
- Q. Came back to your brother's? A. Yes sir.
- Q. And went up in his rooms and saw his wife? A. Yes sir.
- Q. And then Mrs. Nolze asked you to hold the baby, didnt she?
A. Yes sir.
- Q. And she went out? A. Yes sir.
- Q. She didnt tell you what she was going for, did she? A.
Yes sir.
- Q. What did she tell you? A. She told me she is going to
tell the housekeeper to let her husband in when he comes
because he didnt have no night key to get in.
- Q. That is what she said to you? A. That is what she told me
- Q. And then she went out and locked the door, didnt she?
A. No sir.
- Q. Sure? A. Yes sir, I am sure.
- Q. Well, you supposed that she was going to tell the house-
keeper to let Herman in, didnt you? A. Yes sir, that is

all.

- Q. And you held the baby and waited there? A. Yes sir.
- Q. And she came back right away, didn't she? A. Yes sir.
- Q. And an officer came with her? A. Yes sir.
- Q. She brought the officer up, didn't she? A. I don't know whether she did or not, he came behind her.
- Q. Didn't she tell the officer you were the man? A. I don't know whether she did or not.
- Q. Didn't you speak to her afterwards about it? A. No sir.
- Q. What? A. No sir.
- Q. You didn't know that Mrs. Holze went out and told the officer that the man who cut Schur was up in her room? A. I didn't know.
- Q. Now, down to that time you didn't know that you had hurt any body, did you? A. No, sir, I did not.
- Q. What time was this when you got back to your brother's house? A. I don't know what time it was, I expect about ten o'clock.
- Q. Where did you sleep-- you were living with your father in 49th Street? A. Yes sir.
- Q. Where did you sleep, there? A. In a bed, yes sir.
- Q. But at your father's house, wasn't it? A. Yes sir, at my father's house.

152

POOR QUALITY
ORIGINAL

46

101

- Q. Why did you go back to your brother's house? A. Why did I come back? I just wanted to see what had happened, if anything happened to him.
- Q. To whom? A. To my brother.
- Q. To your brother? A. Yes sir.
- Q. Is that the reason? A. I ~~doxk~~ didnt know but that the fellows might have followed him and beated him or something like that.
- Q. That is the reason you came back? A. That is the reason I came back.
- Q. Why did you take your coat off in the next cellar? A. I didnt want those fellows to know me when I came out, I thought that they might watch for me on the outside.
- Q. That is the reason you took your coat off? A. Yes sir, that is the reason.
- Q. You didnt have any hat on? A. I didnt have any hat, they took it.
- Q. You hit Schur, didnt you, you hit this man who was killed?
- A. I dont know, sir.
- Q. You dont know whether you hit him? A. No sir.
- Q. Did you take that knife out of your pocket during that trouble in the street? A. I did not, sir.
- Q. And open it? A. No sir.

153

**POOR QUALITY
ORIGINAL**

47

102

- Q. You did not? A. No sir.
- Q. That you are sure of? A. Yes sir, that I am sure of.
- Q. Positive? A. Yes sir, up to my knowledge.
- Q. That is what I want to know, do you say positively that you did not, or that you dont remember doing it? A. Well, I could not say that for sure.
- Q. You cannot say for sure? A. I was so excited and they had beat'd me so as I didnt know what I was doing.
- Q. As soon as you got in the yard you threw the knife away
- A. Yes sir, I took it out of my pocket and threw it away.
- Q. Dont you think you threw it away because you knew that you had cut a man with it and you didnt want to be found having the knife in your pocket? A. No, I did not.
- Q. That was not the reason? A. No sir.
- Q. Why did you throw it away, because you were afraid you might use it in self-defense, is that the reason? A. Yes sir.
- Q. How long had you had that knife,? A. I had that for about the last six years, used it in my business.
- Q. What is your business? A. Carpenter.
- Q. Used it to cut wood? A. Yes sir, and sharpen pencils etc.
- Q. Were you ever in the slaughter house business? A. I never was; only my sister in law used it for cutting meat.

154

48

103

- Q. She used it to cut meat? A. Yes sir.
- Q. That is your sister in law, the wife of Heman? A. Yes sir.
- Q. Did she use it that day to cut meat? A. She used it that day.
- Q. What time? A. About ten or eleven o'clock in the morning
- Q. What kind of meat? A. I dont know, I didnt ask her.
- Q. Did you see her? A. No sir.
- Q. See her using it cutting meat? A. No sir.
- Q. How do you know she used it to cut meat? A. She told me.
- Q. What did she tell you? A. That morning, she just told me she wanted my knife to cut some meat.
- Q. And you gave it to her and she cut the meat? A. Yes sir.
- Q. What time was that? A. About ten o'clock in the morning.
- Q. How long had you been there? A. About an hour.
- Q. Were you on perfectly good terms with your sister in law? A. Yes sir.
- Q. You never had any trouble with her? A. Never.
- Q. Not a thing? A. ~~Never~~ Never had any trouble.
- Q. Never struck her? A. No sir.
- Q. What? A. No sir.
- Q. Did she ever charge you with striking her? A. No sir.
- Q. What? A. No sir.
- Q. Are you sure of that? A. Yes sir, I am sure of that.

155

49

104

- Q. Have you lived here in New York City for the last four years? A. I have not.
- Q. How long have you been living here? A. About two years.
- Q. Where did you live before you came here? A. In Arkansas.
- Q. Arkansas. What business did you follow out there? A. Carpenter, what is where I learned my trade.
- Q. Were you not out there what they call a cowboy? A. Never was.
- Q. Never took charge of cattle? A. Never did.
- Q. Never had anything to do with it? A. No sir.
- Q. How long were you there? A. Three years.
- Q. Did you ever spend any time in prison out there? A. I never did.
- Q. You were asked if you were ever in trouble before, I suppose your counsel means arrested, do you mean to say you were never arrested before? A. I never was arrested in my life.
- Q. How did you get that scar ~~xxxx~~ on your left eye? A. I fell off a building.
- Q. Wasn't that done with a knife? A. No sir.
- Q. Where did you live before you lived in Arkansas? A. Texas.
- Q. How long were you in Texas? A. I was there about two years and a half.

156

POOR QUALITY
ORIGINAL

50

105

Q. Did you spend any time in prison there? A. I never did.

Q. Did you take care of cattle there? A. No sir.

Q. How long have you been in New York this last time?

A. Two years.

Q. And before that you lived in Arkansas? A. Yes sir.

Q. How long? A. About three years.

Q. About three years? A. Yes sir.

Q. And before that where? A. In Texas.

✓ A. And you were there about how many years? A. Two and a half years.

Q. What part of Texas? A. Near Dalles, Texas.

Q. What? A. Close to Dalles, Texas.

Q. I can't hear you? A. Dardanelle, Texas.

Q. Is that inland or on the coast, is that in the interior of Texas?

A JUROR : It is inland.

Q. What did you do there? A. Working for my brother.

Q. Which brother? A. He is not here, he lives up in 42nd St.

Q. It is not the brother who had the cigar store? A. No sir.

Q. What was it that you called your brother that night, who kept the cigar store? A. I don't know what I called him.

Q. What did you say? A. I don't know, sir.

Q. Don't you remember what you said? A. No sir, I don't remember

157

POOR QUALITY
ORIGINAL

51

106

What I said.

- Q. Were you drunk? A. No sir.
- Q. Well, how is it, you dont remember what name you called your brother? A. I dont know, sir, I didnt pay any attention to it.
- Q. How tall are you? A. I dont know, about five feet ten
- Q. About how many pounds do you weigh? A. 180 or 185
- Q. How old are you? A. 23.
- Q. Before you went to Texas, where did you live? A. I lived in New York.
- Q. In New York City? A. Yes sir.
- Q. What were you doing here in New York.
- Q. I was working.
- Q. What? A. I was working.
- Q. Working? A. Working.
- Q. What were you working at? A. I was working in a segar factory.
- Q. Segar factory? A. Yes sir.
- Q. For whom? A. I dont know what the man's name is now, I forget the man's name.
- Q. How old were you then? A. About sixteen.
- Q. Were you born here? A. No sir.
- Q. How long had you lived at West 49th Street when you were

158

**POOR QUALITY
ORIGINAL**

52

107

rested? A. I had lived there for about two months

Q. Are you sure you cannot tell what you called your brother

that night? A. No sir, I cannot.

Q. Did you see him? A. No sir.

Q. You didnt see him? A. No sir.

Q. You picked up a store, didnt you? A. Yes sir.

Q. How big a store was it? A. It was not quite as big as my fist.

Q. As big as your fist? A. Pretty near.

Q. You threw that in the direction of your brother's shop? A. In front of the store, across, I never throwed it, I just pitched it.

Q. Simply pitched it a little? A. Yes sir, because I wanted to throw it on the street when I picked it up and at that time I just had it in my hand

Q. Did you pick it up on the sidewalk just simply to get it out of the way and throw it in the street? A. Yes sir.

Q. You didnt pick it up to throw it? A. Yes sir.

Q. You picked it up so as to get it off the sidewalk in the middle of the street, is that the idea? A. Yes sir.

Q. Just to remove it from the sidewalk? A. Yes sir.

Q. No intention of throwing it at anybody? A. No.

Q. Or at the store? A. Yes sir.

159

POOR QUALITY
ORIGINAL

53

108

- Q. Now, is that true? A. Yes sir.
- Q. Did you hit Schur with that stone that you had in your hand?
- A. I dont know, sir.
- Q. You dont know? A. No sir.
- Q. How big was the stone that you picked up? A. It was a small stone, weighed about a half a pound, I guess, I could just hold it in my hand.

BY THE COURT:

- Q. What was the shape of it.
- A. It was kind of sharp.

BY MR. DAVIS:

- Q. A sharp edged stone? A. In fact, just knocked off one of those paving stones.
- Q. Give us some idea of the ~~size~~ size of it, let us look at it, how long was it? A. Well, I dont know, I could just hold it in my hand. It was not half as big as my fist.
- Q. You could just hold it inside of your hand? A. Only just one edge of it sticking out, yes sir. That is the way I know, just guess at it.
- Q. Was it a sharp stone? A. Yes sir.
- Q. Were your hands cut? A. No sir, my lips---
- Q. From holding it? A. No sir, they were not cut.
- Q. Your lips were? A. My lips were, yes.

160

POOR QUALITY
ORIGINAL

54

- Q. Which lip? A. The under lip.
- Q. Where was it cut? A. On the inside.
- Q. On the inside? A. It was swelled up the next day.
- Q. Did you bleed? A. A little.
- Q. And did it swell up? A. It swelled up, yes sir.
- Q. Large? A. Not much.
- Q. So you could see it? A. Well, you could see it if you looked close.

RE-DIRECT EXAMINATION BY MR. SANGER:

- Q. When Schur ~~asked~~^{struck} you the first time did you run away from him? A. Yes sir.
- Q. In what direction did you run? A. Towards the house.
- Q. On the other side of the street? A. Yes sir.
- Q. Did he follow you? A. He followed me. All of them followed me.
- Q. Did Schur strike you again? A. Yes, and knocked me down.
- Q. And knocked you down? A. Yes sir.
- Q. It was then that Schur and Hatch and the other man and the person whom you didn't know, fell on you, that was the time?
- A. Yes sir.
- Q. Did they hurt you? A. Well, they kicked me and choked me and knocked me ~~in~~ in the head.
- Q. Could you move your hands or anything? Did you try to get

151

55

110

away? A. I tried to get away from them.

Q. Could you? A. I could not first.

Q. You could not? A. No sir.

Q. Is your father still living in 49th Street? A. Yes sir.

Q. Is he here? A. Yes sir.

RE-CROSS EXAMINATION, by MR. DAVIS:

Q. Did you tell Capt. Cross, that you hit Schur with a side blow that way (indicating) and that he fell and that you left him lying there? A. I did not.

Q. You didnt tell him that? A. No sir, I told, I only told him I hit around me and hit somebody.

Q. Do you remember saying this to Captain Cross (reading) " "That you picked up a piece of rock with a sharp edge and struck Schur in the head with it. Which I held in my hand." A. I dont recollect.

Q. Do you remember saying that? A. I told him---

Q. Did you tell him that? A. No sir, not all of it.

Q. You didnt tell him that? A. No sir, I only said I hit somebody, I didnt know who it was, and Captain Cross then said, "Well, it was Schur," and then he put it down, I didnt tell him.

Q. Well, what I mean is, did you say that you picked up a piece of rock with a sharp edge and struck---? A. Somebody.

162

56

///

Q. Somebody? A. Yes sir.

Q. In the head here? A. Yes sir, I told that. I didnt say
in the head, I didnt know where I hit him.

Q. You didnt say in the head? A. No sir.

Q. The Captain says you told him you struck him in the head? A
I didnt tell him that.

Q. You didnt say that? A. No sir.

Q. Then did you say that the man fell down and you ~~hit~~^{left} him
lying there? A. No sir, I didnt say that, I didnt see
him fall at all.

Q. The Captain says you told him that after you struck the man
that the man fell down and you left him lying there, now,
did you say that? A. No sir.

Q. "Then I went in my brother's house." Now, he says this.
"I went into the cellar of the house and took off my
coat." did you say that? A. Yes sir.

Q. "And hung it on a board" did you say that, "So when
I went out the police would not know me." A. I didnt
say "Police", I said the "gang", the "Stable Gang", just the
way he told me, he told me that the Stable Gang has been
bothering him for a long time.

Q. Captain Cross took your statement down in writing? A. I
guess he did, I dont know.

163

566

112

BY THE COURT:

- Q. Did you see him write it down? A. He was sitting, I don't know whether he was writing, he appeared to be writing.
- Q. Did he have a paper before him? A. Yes sir.
- Q. And a pencil in his hand? A. Yes sir.
- Q. And as you made your statement he made his hand go as if ~~writing~~ writing, that way? A. Yes sir.

BY MR. DAVIS:

- Q. Now, Captain Cross swears that you told him that you changed your coat so that the Police would not know you?
- A. I didn't say Police.
- Q. You say you didn't use the word Police? A. He said Police and then he put it down.
- Q. You said Gang? A. Yes sir, I said Gang.
- Q. You said Gang, then he said Police? A. Yes sir.
- Q. And he chose his word and didn't put down yours, is that what you mean to say? A. Yes sir, that is right, yes.
- Q. "I then went up to my home and got a coat and hat and then returned to my brother's house ~~and~~ when I was arrested" Did you state that? A. Yes sir.
- Q. Did any of those men who attacked you, as you say, have any sticks in their hands? A. I don't know, I didn't see any.
- Q. Or pistol? A. I didn't see any.
- Q. Or knife? A. I didn't see any.

164

57

113

- Q. You were not out anywhere, were you, with a knife? A. I do it know.
- Q. Werent hit at all with a store or a stick, that you know of? A. No sir.
- Q. You were sober that night? A. Yes sir.
- Q. How many beers had you drank that day? A. Well, about four or five.
- Q. Four or five, is that all? A. That is all
- Q. Did you have any trouble getting into your brother's house when you ran away or was the front door open? A. The front door was open.
- Q. Was it starding open?

BY THE COURT:

- Q. Is it a tenement house, do other families live in it? A. Yes, lots of families live in it.

BY MR. DAVIS:

- Q. Was the door open when you got there, before these men came there? A. Yes sir.
- Q. How many steps up is it to get into the hallway? A. About five or six.
- Q. And the hallway is right free back, isnt it, you ran right through to get out into the yard? A. Yes sir.
- Q. Were there any other people around there at the time these
men

165

58

114

men came up? A. Well, I didnt see anybody exactly,
I seen some up in the window.

Q. I mean the street, the street was clear, wasnt it? A. The
street was clear.

Q. Both ways? A. Yes sir, as far as I can recollect

Q. Were you in good health that night? A. Yes sir.

Q. You had not been sick at all? A. No sir.

RE-DIRECT, EXAMINATION by Mr. SANGER:

Q. You didnt read that statement after Captain Cross took it
down, did you, you didnt read that statement? A. No sir,
I did not.

BY THE COURT:

Q. Your brother says you got under the influence of liquor
that night? A. I know nothing about it, I was--

Q. Your brother said that you were under the influence of
beer, and now you say you were not? A. I dont know as
I was, your Honor.

Q. You dont know as you were? A. No sir, I only drank about
five glasses of beer that day

BY MR. DAVIS:

Q. You were asked whether this was read over to you, I think?

A. Yes sir.

Q. If Captain Cross read this statement which he said he

166

115

- he wrote and which you say you saw him writing? A. Yes sir.
- Q. Did he read it to you? A. No sir.
- Q. He didnt read it to you? A. No sir, not as I know of.
- Q. What? A. No sir, he did not.
- Q. Do you mean to say positively that he did not, or that you dont remember, which? A. I dont remember as he did.
- Q. You dont remember? A. No sir.
- Q. You dont remember him asking you to listen to him while he read it and to make any corrections that you wanted to in it? A. No sir, he didnt say anything about it.
- Q. Do you mean to say that he did not say it, or that you dont remember it.? A. I say he didnt.
- Q. You say he did not? A. Yes sir.
- Q. Positively? A. Yes sir.
- Q. Absolutely? A. Yes sir.

E R N S T N O L Z E sworn as a witness on behalf of the Defendant, testifies through an interpreter, as follows:

DIRECT-EXAMINATION, by Mr. SANGER:

- Q. You are the father of Max Nolze, the defendant? A. Yes sir.
- Q. Does Max live with you? A. Yes sir.
- Q. Did he live with you in October, 1891? A. Yes sir.

Q. Were his habits regular?

THE COURT: You cannot ask those specific questions, you can ask generally what his character was.

Q. He lived at your house, did he not? A. Yes sir.

Q. Was he home in the evenings?

THE COURT: I will exclude it because it has nothing to do with this case. You can ask the general question if you want to ask as to his character.

Q. Was Max ever arrested or did he ever get into trouble? A. Never.

Q. What was his general reputation for peace and quiet?

A. Always good.

CROSS-EXAMINATION, by MR. DAVIS:

Q. Didn't you hear of his having been arrested in Arkansas? When he was out there? A. No sir, I did not.

Q. Did you ever hear? A. I didn't hear that.

Q. Didn't you hear of his being arrested while he was in Texas, didn't you hear of it? A. No, I didn't hear of that.

Q. What was his business out there in Texas? A. He was a carpenter there.

Q. What was his business in Arkansas? A. When he came home he told me that he worked as carpenter in Arkansas.

Q. Did you ever hear of his taking care of cattle out there?

158

61

117

A. No sir.

Q. How long has he lived here in New York lately? A. Nearly two years.

BY MR. SANGER:

Q. What is your business? A. Segar maker.

GEORGE GAULRAPP sworn as a witness on behalf of the Defendant, through an interpreter, testifies as follows:

DIRECT-EXAMINATION, by Mr. SANGER:

Q. Do you know the Defendant Max Holze? A. Yes sir.

Q. How long have you known him? A. From 1871, in Germany I knew him already.

Q. You knew him already in Germany? A. Yes sir.

Q. Have you known him since he lived in this Country? A. Immediately when he arrived here I saw him when he came to America.

Q. Has he been in the habit of seeing you during the last two or three years? A. Last year I saw him very often.

Q. During the last year? A. Yes sir.

Q. Before he was arrested? A. He came to see me often.

Q. Do you know his general character and reputation for peace and quiet? A. He has a good reputation as a peaceable

62

118

man, he always was a good young man.

Q. Have you ever heard that he was in trouble for anything at all? A. As long as I have known him he was not.

Q. What is your business? A. Segar manufacturer.

NO CROSS EXAMINATION.

PHILIP SCHMIDT sworn as a witness on behalf of the Defendant, testifies as follows:

DIRECT-EXAMINATION, by MR. SANGER:

Q. What is your business? A. Carpenter.

Q. Boss Carpenter? A. I was boss carpenter, I am not now, any more, I have given up my business.

Q. Do you know the defendant Max Wolze? A. I do know him, I learned to know him about fifteen months ago.

Q. Have you known him ever since? A. I seen him once in my house before he got in trouble.

Q. In the course of your acquaintance with him during the last fifteen months---? A. He was working two months for me.

Q. He was working for you two months? A. Yes sir.

Q. In this city? A. Yes sir.

Q. Did you see him often? A. No sir.

Q. How often did you see him in those two months? A. I didnt

170

63

119

see him very often, I gave up business and then I didn't see him afterwards.

BY THE COURT:

Q. You have only known him fifteen or sixteen months? A. Yes sir.

Q. You know other people that know him, don't you? A. Yes sir, well, I know other people that know him, yes.

Q. Do you know what his general character for peace and quietness is? A. Yes sir.

Q. What is it? A. Well, he was very nice and quiet as long as I knew him, very nice and quiet.

BY THE WITNESS:

Q. And a good young man? A. Yes sir.

THE COURT: He says his character for peace and quietness is good.

THE WITNESS: Yes sir.

D e f e n d a n t R e s t s .

R e b u t t a l .

CAPTAIN ADAM A. CROSS, recalled.

BY MR. DAVIS:

Q. When you wrote this statement given to you by the defendant,

64

170

did you read it over to him? A. Yes sir.

Q. After it had been written? A. Yes sir.

Q. What did you say to him at the time? A. I called his attention to it and every specific answer that he had made or statement that he had made and asked him if it was true and if he had anything to add to it or any change to make. I read it to him carefully and took it as he gave it to me.

Q. And he said? A. He said that was all right.

BY JUROR NO. 5

Q. Are those the original memoranda or from a book? A. Those are the original ones, yes sir.

BY MR. SANDER:

Q. Are you in the habit of questioning prisoners? A. We usually take statements in cases of that kind.

Q. Under whose instructions?

THE COURT: It is his duty to do it.

DEPT. S. COUNSEL: It is his duty to take a statement in writing?

THE COURT: It is his duty to get all the information he can.

Q. Under what law or manual is it your duty to take down a statement which a prisoner makes?

65

121

THE COURT: You need not answer that.

Q. Where was that statement written? A. In my office at the 20th Precinct station house.

Q. You took two statements, didn't you? A. No sir.

Q. Were not two statements presented to you to-day? A. Sir?

Q. Were not two statements shown to you to-day? A.

BY THE COURT:

Q. You took one statement in your office? A. I took one statement in my office as I have already testified.

BY MR. SANGER:

Q. You took another statement in the Tombs, didn't you? A. Then I visited the prisoner in the Tombs City Prison in Company with Roundsman James ~~Kennedy~~ Campbell, of the Tombs Court Squad.

Q. Where did you write down the particulars of that interview?

A. I wrote them down in my memorandum book.

Q. And you wrote them out from your memorandum book afterwards in your own office and not in the presence of the defendant is that so? A. That was the subsequent statement in reference to the knife.

Q. You wrote that, not in his presence, but in your office, and from a memorandum you took before in your memorandum

**POOR QUALITY
ORIGINAL**

173

66

122

book? A. Yes sir.

THE COURT: His attention was called by the District
Attorney only to the other statement.

Testimony Closed.

1174

Police Department of the City of New York,

Precinct No.

New York, 189

Statement of Max Nolze made to Capt. O. Gross, 20th Precinct, in presence of Thomas S. Kennedy, in reference to Assault on Charles Schurr committed at No 444 W. 35th Octbr 4th 1891.

Oct 5th 1891

Max Nolze aged 22 Yrs of No 511 W. 49th states, that at about 9.45 P.M. Oct 4th he and his Brother Hermann aged 20 Yrs of 444 W. 35th, were walking along West 35th (south side) between 9 & 10th av. (having just returned from Grohs Brewery in West 28th) when we saw three young men standing in the street beside a Wagon. as we passed one of them said "You sons of bitches where are you going. I said in reply Go to Hell. One of them said in reply Is on you sons of Bitches, and we continued on towards my Brother Hermanns house just as we reached my Brothers house a man whom I afterwards learned was to be Schurr, struck me with his fist in the face and knocked me down. His friends struck my Brother and assaulted him I started to run away when the man

Police Department of the City of New York,

Precinct No.

New York, 189

Schurr followed me and again hit me knocking me down. I then picked up a piece of rock with a sharp edge and struck Schurr in the head with it. Schurr then fell down and I left him lying there and went in my Brothers house. I went in the cellar of the house and took off my coat and hung it on a door so when I went out the Police would not know me. I then went to my home and got a coat and hat and returned to my Brothers house where I was arrested.

Thursday Oct 8th 1891. Capt Cross visited the Tombs City prison at 1. P.M. accompanied by Sds. James Campbell and showed prisoner Max Volge a two bladed bow hand pocket knife after examining it carefully he said it was his knife the same one he had the night he assaulted Charles Schurr which he threw away at the time he made his escape through the yard and over the rear fence of 444 W 35 St. and which was found on and extension of a house on West 34th Street

POOR QUALITY ORIGINAL

175

B.169, 2 C.

Coroners Office, New York County.

Inquest into the death

- of -

CHARLES SCHURR.

) Before
) HON.

) and a Jury.
)
)
)

New York, November 18th, 1891.

OFFICER THOMAS J. KENNEDY, duly sworn:-

I am attached to the 20th Precinct. On the evening of October 4th, between 9 and 10 o'clock, I was corner of 34th Street and 10th Avenue and some citizens told me there was a man lying on the sidewalk below, injured. I went up there and in front of No. 444 West 35th Street this man was lying unconscious; he had a wound in his head; he was bleeding. I inquired who did it and sent for an ambulance. I inquired who assaulted him; I went in through the hallway of house 444 and I found Herman Nolse in a water closet. I asked him if he had any trouble, I thought it was he. He said no. Afterwards I found out where he lived and I went upstairs and placed him under arrest. He said I didn't do nothing, it was my brother Max and he has gone over the fence in the rear of the house. I arrested him on suspicion. A short time afterwards Max was arrested by Officer Schultze, he made a confession; he said he got into trouble with those people, that he hit him with a sharp stone on the head, the doctor stated it couldn't be done with a sharp stone. We made an investigation upon the day and found a very large knife on the

roof of the house which he escaped over; the knife was all covered with blood; the man was stabbed right through the temples into the brain; he died six or seven hours after being admitted to the hospital. I sent him to the Roosevelt Hospital.

Q What time of the day was this? A. About ten o'clock at night.

Q Did you arrest the defendant, the prisoner?

A. Officer Schultze got a description of the other man, he arrested Marks.

Q And you arrested Herman? A. I arrested Herman.

By Counsel:-

Q Where did you find the knife? A. On the roof, right opposite 444. *117-6 W 34*

Q It was covered with blood? A. Yes, sir; the blade.

Q Fresh? A. It was not very fresh, it was found the following day.

Q Was it an ordinary pocket knife? A. Yes, sir, an ordinary pocket knife.

Q What was the size of the blade? A. I didn't measure the blade.

Q So far as you can remember it? A. About three inches in length.

Q And the width of it - of the blade? A. Over half an inch broad.

Q How does it compare with this, (knife shown witness)

A. Larger than that.

Q The blade was three inches long? A. Yes.

Q And half an inch wide? A. Yes, sir.

Q At the base? A. Yes, sir; we looked for the knife on information received from Herman's wife, when Marks went over the fence he said, I will ~~throw away~~ ^{over} ~~the knife,~~ that information we found it.

Q Did you show the knife to anyone? A. No, sir.

Q What did you do with it? A. The captain kept it.

Q You don't know that it is the prisoner's knife, do you?

A. No, sir; I couldn't swear whether he did or not.

-----oOo-----

OFFICER ANDREW SCHOLLES, duly sworn, testified:-

I am attached to the 20th Precinct; I had these two posts that night from 35th to 36th Street from 7th to 10th Avenue; I was coming around to 35th Street and I met Officer Kennedy with Herman Nolse, he told me there was a man stabbed on my post at 444; they had taken Charles Schurr in the meantime to the hospital; I went up to the house to find out, whether I could find out anything about it; while I was in front of the house Herman's wife came down to me and notified me that Marks was up stairs, that he did the stabbing and told his brother he threw the knife away. I went up and arrested Marks in his brother's house; we went up stairs; the sweat was ^{all} ~~was~~ ^{over} ~~him~~; when I arrested him he said I don't know anything at all about it, I had no business to come up there and take him

out of his brother's house; he said he didn't do anything; I took him to the station house and explained the thing to the captain, and he was taken to the Roosevelt Hospital to see if he could be identified; I went back to the house again to search for the knife; I searched the cellar and yard, and I found Marks' coat in the cellar next door in the engine room it was hanging, I brought the coat around the house and in the meantime Marks came to the station house, and he identified the coat as belonging to Marks; in the meantime Marks changed his coat.

Q You found the knife? A. No, sir; I was looking for the knife.

Q Who found the knife? A. Officer Kennedy found the knife; it got too late, I didn't want to go to the next block to wake up the people; it was a Sunday night and I didn't want to disturb them.

Q Did you know Charles Schurr? A. No, sir.

Q How did you find out he was the person that was injured? A. From the parties that were around there, I didn't know his name on that night, I didn't know who he was, I might have seen him but not know who he was; I didn't know anything about it.

-----c0o-----

MARION HATCH, duly sworn:-

I live No. 419 West 35th Street; I came out of the saloon; I think it was the 4th of October, on a Sunday

1 180

night; it was October 4th; it was between nine and ten o'clock, I think it was, in the evening. I was coming out of the saloon and a man by the name of Ehrhard in 35th Street, off Ninth Avenue; I was on my way to go home; I live right opposite; I stepped behind a furniture truck belonging to Brown, to make my water, because there was somebody in the urinal in the place, and coming out; and while there two people came behind me - whether they picked up a brick I don't know, or whether they had one in their hand - and I thought the brick was meant for me, and I said, "You don't mean it for me?"

Q What was the reply to it? A. "You son-of-a-bitch, I will kill you."

Q Who said that? A. One of the two, there was a tall and a short fellow, then I went back to the saloon and asked for Mr. Fox; Mr. Fox was in the water closet, and Charlie came running out, being a friend of mine, he went down the street, and the tussle began; the short fellow was at me and the tall fellow at Charlie. In a minute was all over, the two of them had disappeared; I turned around and I seen Charlie Schurr lying on his back at the gutter, - at the mud gutter; I held him in my arm until Mr. Fox came down the street; he said, Call for the ambulance; send for the ambulance, and told me to go ahead, and I went up to the house; that is all I know about it.

Q How many persons were there with you that evening when this took place, Schurr and myself, the deceased and myself.

Q Did I understand you to say when one of these men said he would kill you you went into the saloon? A. Yes, sir; and asked for Mr. Fox.

Q Why? A. Because he threw the brick and one went over my head.

Q He threw the brick? A. Yes, sir.

Q And they went down the street? A. Yes, sir.

Q What did you go into the saloon for? A. I went for Mr. Fox to give me help.

Q You say they threw the brick and run away? A. We followed them down the street and had the tussle with them.

Q They went down the street? A. Yes, sir.

Q There was no necessity for you to go in there for any help when you found they were going away? A. No, sir.

Q You say you went in the saloon to get Mr. Fox?

A. Yes, sir.

Q And you ran after these two men? A. Yes, sir.

Q You were trying to get up a row, were you not?

A. No, sir; they broke my hat, I was after buying it, a two dollar hat.

Q You got Fox, and you started to chase these two men?

A. No, sir; he was in the water closet.

Q Who went down with you? A. Charlie Schurr.

Q How far away were they when you and Schurr started to chase after them? A. No more than four or five houses, I think.

Q Were they walking? A. I think they were.

Q Didn't you say they started to run down when you went in to get help? A. Yes, they ran down towards 10th

102

Avenue.

Q And while they were running down towards 10th Avenue you went into the saloon? A. I ran into the door and called for Fox.

Q Who came out? A. Charlie Schurr.

Q And then you started in pursuit after the other men, who were down towards 10th Avenue? A. Yes, sir.

Q How far had they got before you came up with them?

A. They were down about the place where the murder happened.

Q How far were they from the place where the brick was thrown, as you say? A. When we met them?

Q Yes, when you commenced to chase them and got up to them how far from the place where the brick was thrown was it?

A. Where the brick was thrown was about 408 and they were at 444.

Q So they were about a dozen houses away? A. They must have been less than that.

Q And yourself and Charlie Schurr started in pursuit, you started from where the saloon was and got up with them, caught up with them? A. Yes, sir.

Q You were running faster than they were running?

A. I don't know, maybe they stopped running after that, maybe they stopped running for all I know.

Q Now, what did you do? A. The tussle started right there.

Q What did you do, did you get hold of these men?

A. Yes, sir.

Q Whom did you take hold of? A. The short fellow.

1 183

Q And Schurr took hold of whom? A. The big fellow.

Q You started in pursuit of these two men? A. Yes, sir.

Q You took hold of the short man and Schurr took hold of the tall man? A. We started right after them - I know the fight -

Q One took hold of the short man and the other took hold of the ~~short~~ tall man? A. Yes, sir;

Q That is the man you were tussling with before? A. I only had one tussle.

Q What did you do with your man? A. Nothing at all, I didn't have a chance to do anything.

Q What did you do there, did you go there for the purpose of having a row with him? A. Well, I went there to have a row certainly.

Q You went there to get revenge because he threw the brick at you and broke your hat? A. Yes, sir.

Q ~~Did you see what happened there between these two brothers?~~ ~~Yes, sir.~~

Q What did Schurr go there for? A. I don't know.

Q You never saw them - and they never had seen him before? A. No, sir; never had seen him before. Never had seen them before.

Q Did Schurr strike him? A. I don't know.

Q Did you see what happened there between these two brothers? A. No, sir.

Q You are sure that Charlie Schurr got hold of the man? A. Yes, sir; he got hold of the big man.

Q You are sure? A. Yes.

Q You went in for your man and Schurr went in for the other man? A. I didn't say anything of the kind.

1184

Q You don't know what happened between Schurr and this one of the brothers? A. I don't.

Q ^{all you know} When you got ~~there~~ with your man, you ~~threw~~ Schurr in the gutter? A. Yes, sir.

Q You don't know how he got there, do you? A. No, sir.

Q How long were you tussling with your man? A. It was all done in a minute.

Q Did you throw your man? A. I think I was the one that went down, that was the last of it.

Q You never saw these two men before, did you?

A. No, sir.

Q You don't know who they are? A. No, sir.

Q Did you have a knife with you that evening? A. Yes, sir.

Q Where is it? A. In the House of Detention.

Q Who took it from you? A. They took it down there from me.

Q The officer took the knife from you? A. Yes.

Q And it is now in the House of Detention? A. Yes, sir; a small, little, white-handled pen-knife.

Q What did you do with the knife? A. Used it in my business for sharpening pencils.

Q Did you use it that night? A. No, sir.

Q Did Schurr have a knife? A. Ask him.

Q Do you know whether he had any? A. I couldn't say that.

Q You couldn't say he hadn't any? A. I couldn't say that.

Q Do you carry a pistol? A. No, sir.

105

Q Did Schurr carry a pistol? A. Not that I know of.

By a Juror:-

Q Did you see the defendant strike this man with anything?

A. No, sir; I did not.

By the Coroner:-

Q What is your occupation? A. Furniture business, porter.

Q What business, where? A. For Ludwig Bauman & Company, No. 512 Fifth Avenue.

Q Were you employed there at the time you were in this row there, or the day before, were you working?

A. I was, yes, sir.

Q For what foreman? A. For Mr. Fox, he does work for Richard Walters & Sons, 36th Street and Broadway.

Q This other man Schurr, how long did you know him?

A. I knew him for some time, he boarded with me.

Q What is your age? A. Thirty-one years this August.

Q How old was Schurr? A. Someweres around about twenty; I boarded with him, and he drove one wagon and I drove a van for the same parties.

Q Had you been drinking that night? A. Yes, sir.

Q Had you and Schurr been together? A. We were in 8th Avenue and had a walk, and I started on my way home.

Q You had been drinking, both of you? A. Well, Schurr I don't think had been drinking very much.

By a Juror:-

Q Why was this brick thrown? A. What I heard after the next morning I heard the brick was thrown to break their brother's show window.

106

Q At the show window of the segar store of the brother of these defendants, these two men here in Court? A. That is what I found out afterwards.

Q Do you know these two men? A. No, sir; never seen them before.

By a Juror:-

Q Did you recognize the men that night when you went to run after them? A. Yes, sir.

By the Coroner:-

Q You identified those men that night? A. I could remember the short fellow, but the short fellow I couldn't say anything about.

Q Who were the men you identified, are they here?

A. The only one I can identify is the one next to the officer; that is the one I had the tussle with.

By Counsel:-

Q Are you still in the House of Detention, as a witness?

A. No, I am out on bail.

-----oOo-----
GEORGE W. FOX, duly sworn:-

By the Coroner:-

Q Where do you live? A. No. 423 Tenth Avenue; my occupation is expressman.

Q You do business for yourself? A. I work for myself.

Q You have your own team? A. Yes, sir.

1 187

Q Just tell the Jury everything you saw that night in reference to the stabbing affray or occurrence, whereby the death of Charles Schurr was caused? A. This Schurr worked for me and the other witness worked for me, he was in the saloon in 35th Street, I was there myself at the table and one of the witnesses called for me and also for Charles Schurr; when he called for me I was in the water closet, my drawers had fallen down and I was picking them up in the water closet; I was fixing them up as he called for me.

Q Who was that? A. That witness here, Mr. Hatch.

Q What followed then? A. The result was then Schurr went out with him down the street for these people here.

Q The Nolse Brothers? A. Yes.

Q How do you know they went down after them? A. Well, he came in and called out for Schurr to give him a hard.

Q Who did, Hatch? A. Yes, sir.

Q What did he say? A. He said come out here and give me a hand.

Q You were present? A. Yes, sir; I heard the remark and at the time I had my pants fixed up they went up the street and I saw these people here, the Nolses, they came and Max Nolse was fighting; I went down the street and when I got down there this man Max Nolse was there and I said you had better stop this now, you will get arrested, and the first thing I knew he made three or four blows at me, with his fist, and the man - he made a strike for me too, this big fellow did, and the fellow was too big for me, and of course I didn't feel like getting my face mutilated, and I went across the street, and I turned around and I

seen this Max hit Schurr a blow, and I seen the deceased fall on the sidewalk, that is all I know about it.

Q Did you say anything to Max Nolse? A. Yes, sir.

Q What did you say to him? A. I said, let this thing drop and get up in the house or you will get arrested, that is what I said to him; he made two or threestrikes at me that way with his fists; and I kept running backwards, I didn't care about getting struck by the man, he was too heavy for me to bother with him.

Q You saw him strike or hit the deceased Schurr?

A. Yes, sir; he was on the sidewalk and the deceased run up to him, to meet him I suppose.

Q Schurr did? A. The deceased went up to meet him, I suppose, and afterwards Max hit him and he dropped on the sidewalk.

Q In what way did he hit him, can you tell us? A. No, sir.

Q Anybody else besides? A. No, sir.

Q Did you see any weapon in his hand? A. No, sir.

Q Any knife or any instrument of any kind? A. No, sir.

Q After Schurr fell he went in ~~again~~ the gutter?

A. He turned around a couple of times and fell on the sidewalk.

Q What became of Nolse? A. He went up in the house.

Q Did you go with this man Schurr? A. I went to search for an officer, to get somebody to get an ambulance for him. I seen he was insensible.

Q You went up to him? A. Yes, sir.

1 189

Q You found him unconscious? A. Yes.

Q Bleeding? A. Yes, sir.

Q Did you try to speak to him? A. No, I didn't try to speak to him.

Q How did you find out in what condition he was in, you tried to find out whether he was badly hurt or not?

A. I seen the man was hurt, he was insensible and hurt, I think I seen him - and he wanted a surgeon.

Q You judged that from his appearance? A. Yes, sir.

Q You made no attempt to speak to him? A. Everybody tried to rouse him up, he was only a boy.

Q How old was he? A. Between 18 and 19 years old.

Q Did an officer come along then? A. No, sir; the officer came about ten minutes after the accident happened, or about five minutes.

Q Were you there when the ambulance came? A. Yes, I seen him put in the ambulance, and I went up to the hospital afterwards.

By Counsel:-

Q How near was Schurr lying to the gutter when you saw him? A. His legs were in the gutter, but the principal part of his body was on the sidewalk.

Q Was he lying on the sidewalk, on the side of his head?

A. No, sir; lying on his back, when I saw him, he was lying completely on his back.

Q Did you see him turn over? A. No, sir.

Q The other witness said he saw him turn two or three

times? A. I saw him go around that way on his feet and fall, fall right down.

1190

Q Did you see where he struck himself? A. Unfortunately he struck himself on the forehead.

Q Did you notice where his head struck the pavement when he fell? A. No, sir; I didn't see that.

Q Was there a lamp lit near there? A. No, sir, a lady brought a candle out and tried to light it in the wind, it wouldn't burn.

Q Was there a lamp near there? A. No, sir; a lady brought a lamp out afterwards, and the boy was saturated with blood.

Q Didn't you hear Schurr cry out or make any remark?

A. No, sir; I didn't hear any remark whatever.

Simply when I went down the street the four men were fighting, that is all there was, I heard no cries or noise or anything like that.

Q Did you see blows struck by the four men? A. Yes.

Q The four were striking each other? A. Yes.

Q Did you see Max's arms around Schurr at all?

A. Yes.

Q Both of them? A. Yes.

~~Q~~ He was holding him with his two arms? A. There was no clinch, it was blow for blow.

Q With the clenched fist? A. I couldn't see that, it was so dark you couldn't see anything.

Q You saw no weapon in Max Nolse's hand? A. No, sir.

Q And you were very close up with him? A. Yes, sir.

Q He struck at you? A. Yes.

Q When he struck at you he had no weapon in his hand?

A. No, sir.

HERMAN NOLZE, duly sworn:-

By the Coroner:-

Q Where do you live? A. No. 444 West 35th Street.

Q What is your business? A. I am driving a lager beer wagon.

Q What brewery? A. Michael Groh & Sons.

Q How long have you been employed there? A. I was working there for two summers.

Q Were you working up to the time you ~~xxxxxxx~~ were arrested? A. Yes, sir, I was working the same night.

Q Is any of the firm here? A. No, sir.

Q How old are you? A. I am 20, going on 21.

Q Are you married? A. Yes, sir.

Q This defendant here, the prisoner, is your brother?
A. Yes, sir.

Q Where does your brother live? A. No. 511 West 49th Street.

Q What was your brother working at? A. Laying cable tracks on Third Avenue.

Q You are held as a witness simply, not as a prisoner, tell the Jury what you know of the occurrence on October 4th, 1891? A. On Saturday, the 4th of October I went down to feed my horses, because every six weeks one of the drivers must feed the horses, and it was my turn; I went down to the brewery and there was about 22 horses there, I had to feed them, and it was a little after six o'clock when I went away from the brewery, and I took the car to 49th Street, I wanted to get up to my parents; my brother is living with them; I stopped in a saloon in 44th Street

1 192

between 8th and 9th Avenues, a customer of mine, where I serve beer; I met my brother there, and it was a very warm night, and the customer ran out of beer and he asked me if I wanted to get a few kegs of beer for him from the brewery; I said it is pretty late, I said I will do it, I went down, and he said, take your brother along; I took him along, he gave us the car fare to go down to the brewery in 28th Street; I hitched up a single wagon and put down ten quarters of beer and brought them up for that man; after that I took the beer into the place and brought the wagon down to the brewery again and put the horse in the stable, and we went away, me and my brother, we met my brother coming up 8th Avenue and 35th Street; I wanted to go home; I lived No. 444 and we passed my brother's door at 410 West 35th Street; that is my elder brother; and me and my brother, we were talking about him, and because we are not friendly with that brother and my brother here made a remark, saying, he said, the son-of-a-bitch is no good; he said to me, the son-of-a-bitch is no good;" there was this Hatch, this witness he was standing behind that truck, and he came up to us and asked us *who we call that name;* I said to him, we don't mean him; I said we don't mean you; I mean my brother, and my brother picked up a stone and threw it in front of the store where my brother has this place, not touching that man at all with the stone, and that Hatch he went away, then I didn't see anything from him anymore at all and we went away already and when we came down as far as ~~344~~ where I live, I said to my brother I am going up stairs now because I must get up at three

1193

o'clock in the morning to go to work, and it was about half past nine o'clock; at that time all at once there was four men behind us and knocked us down and hit my brother and hit us in the neck and we both fell down and my brother fell in the street and went down like that, and one of these fellows I think was Hatch, the way I seen it, he kicked me and I fell down again, and I got up again and I went right in the house.

Q Hatch hit you and you fell down? A. Yes.

Q You went in the house? A. Picked up the hat and run over to the house, and during the time I run over to the house I seen my brother striking this man.

Q Did you know the man that followed you? A. Yes.

Q Who were they? A. Hatch, ~~Fox~~ and this man.

Q There was Hatch, ^{Fox}~~Marks~~ and Schurr and who was the other man? A. I don't know.

Q There were four men? A. Yes.

Q You don't know the other man? A. No, sir.

Q There were four men? A. Yes.

Q Are your parents here? A. Yes.

Q Here in Court? A. No.

Q What time of the night was this? A. Between nine and ten o'clock.

Q When you weren't knocked down, did you try to defend yourself? A. No, sir; I didn't try to defend myself at all, I wanted to get in the house as quick as I could; I never liked fight and I have never been in a fight, I never had trouble with nobody.

1 1944

Q Did your brother ever have trouble with anybody?

A. No, sir; not that I know of.

By Counsel:-

Q He never has been arrested? A. Not that I know of, of course, he is only in the City since January, I think he was in the Western States.

Q Did you see any one get hold of your brother?

A. I seen this man, Schurr standing in front of my brother like that.

Q With his arms up? A. Yes.

Q And his fist clinched? A. Yes.

Q Was he striking your brother? A. ^{He} Was after striking him and my brother got back like that, and he hit that man on the head.

Q You say that man struck at your brother and your brother struck back? A. Yes.

Q And he hit him on the head? A. Yes.

Q Did your brother have any knife in his hand?

A. Not that I know of.

Q You didn't see any knife in his hand?

A. No, sir, I did not.

Q Did you see any weapon in his hand? A. I didn't see anything in his hand, because it was too dark, you couldn't see anything.

Q Did Schurr fall when your brother hit him?

A. Yes, he fell right down, half on the sidewalk and half in the gutter.

Q Did he strike his head on the sidewalk? A. I suppose he did, the way he fell.

1 195

By a Juror:-

Did you know of your brother carrying a knife?

A. He generally carries a knife going to work.

Q Did you ever see the knife he generally carried?

A. I have seen the knife he generally carried.

By Counsel:-

Q You and your brother went away, didn't you, when Hatch asked you whether he meant him, and your brother said, no, he didn't mean him? A. We went away.

Q You and your brother started to go away? A. Yes, towards 10th Avenue.

Q And you got a few houses below where this conversation occurred when you saw four men chasing after you and your brother? A. That was right in front of where we lived, 444.

Q When you got to 444, these four men were chasing you? A. Yes.

Q And they got hold of you? A. Yes, sir, two were at me and two at my brother; I was knocked down and kicked afterwards.

Q The others were at your brother? A. Yes.

Q And they were striking him? A. Yes.

Q You ran off and ran to the house? A. Yes.

By a Juror:-

Q Who picked the brick up when you passed the cigar store of your brother? A. My brother.

Q Why did he pick it up? A. Because -- I couldn't tell you that either -- because he was not friendly with my

1 196

brother what keeps the cigar store, and my brother wanted to show him that we meant him.

Q You passed the store and at the same time your brother made the remark, son-of-a-bitch? A. Yes.

Q And he picked the brick up? A. Yes; he said, "That is the son-of-a-bitch we mean."

By Counsel:-

Q And he threw the stone in the direction of your brother's cigar store? A. Yes.

Q And it fell on the sidewalk? A. Yes.

Q Did this man, Schurr, strike your brother first, before he made any attempt to strike? A. Yes.

Q Did he run into the alley? A. I was running already when my brother hit him.

-----oOo-----

VERDICT: We find that Charles Schurr came to his death October 5th, 1891, at Roosevelt Hospital, from a wound of the head and compound fracture of the skull, from injuries received on October 4th, 1891, between 9 and 10 o'clock P. M., in front of premises 444 West 35th Street, New York City, in a manner unknown to this jury.

-----oOo-----

197

People
as
Max Nolze.

List of Witnesses -

Marion Hatch 463 Ninth Avenue,

Geo. W. Fox 423 10th Ave. N. S.W. Cor. 34th St. 10th Ave.

Officer Andrew Scholes 20th St.

" Geo. Smith 11th St.

Joseph Schurr 510 W 49th.

Dr. Howard C. Taylor, Roosevelt Hosp.

Alberk J. Weston, Coroner's Office,

Dr. Cyrus Edeon.

Capt Gross.

Edward Shalony I. a. office.

Off. John E. Carey 20th

1198

People
as
Max Nolze.



List of Witnesses -

- Marion Hatch 463 Ninth Avenue,
- Geo. W. Fox 423 10th Ave or S.W. Cor. 34th St & 10 Ave
- Officer Andrew Schales 20th St.
- " Geo. Smith 11th St.
- Joseph Selmer 510 W 49.
- Dr. Howard C. Taylor. Roosevelt Hosp.
- Alberk J. Weston. Coroner's Office,
- Dr. Cyrus Edson.
- Capt Gross.
- Edward Shalony S.A. office.
- Off. John E. Carey 20th St.

1 199

POOR QUALITY ORIGINAL

Surf P. Williams

Wolfe Cove

January Term '93

[Faint, illegible handwritten notes and scribbles covering the lower half of the page]

1200

POOR QUALITY ORIGINAL

Genl. P. Williams

Polze Case

January Term '73.

1201

POOR QUALITY ORIGINAL

District Attorney's Office,
City & County of
New York.

People
vs
Atty.

18

S. by W.M.S. for 25 Sat.

Marion Hatch

463 9th Ave.

quit to Off Scher

Geo. Fox

S.W. cor. 34th St & 10th Ave. city cor.

Hermann Hoelze

✓ Off Scholles - 20th

✓ Off J. Kennedy 20th or 13th

✓ Off John Carley 20th

✓ Off Geo. Smith 11th

✓ Capt Cross. 11th

✓ Mr. Schurr 510 W 49th St.

✓ Roundman Campbell 1st Dist Court.

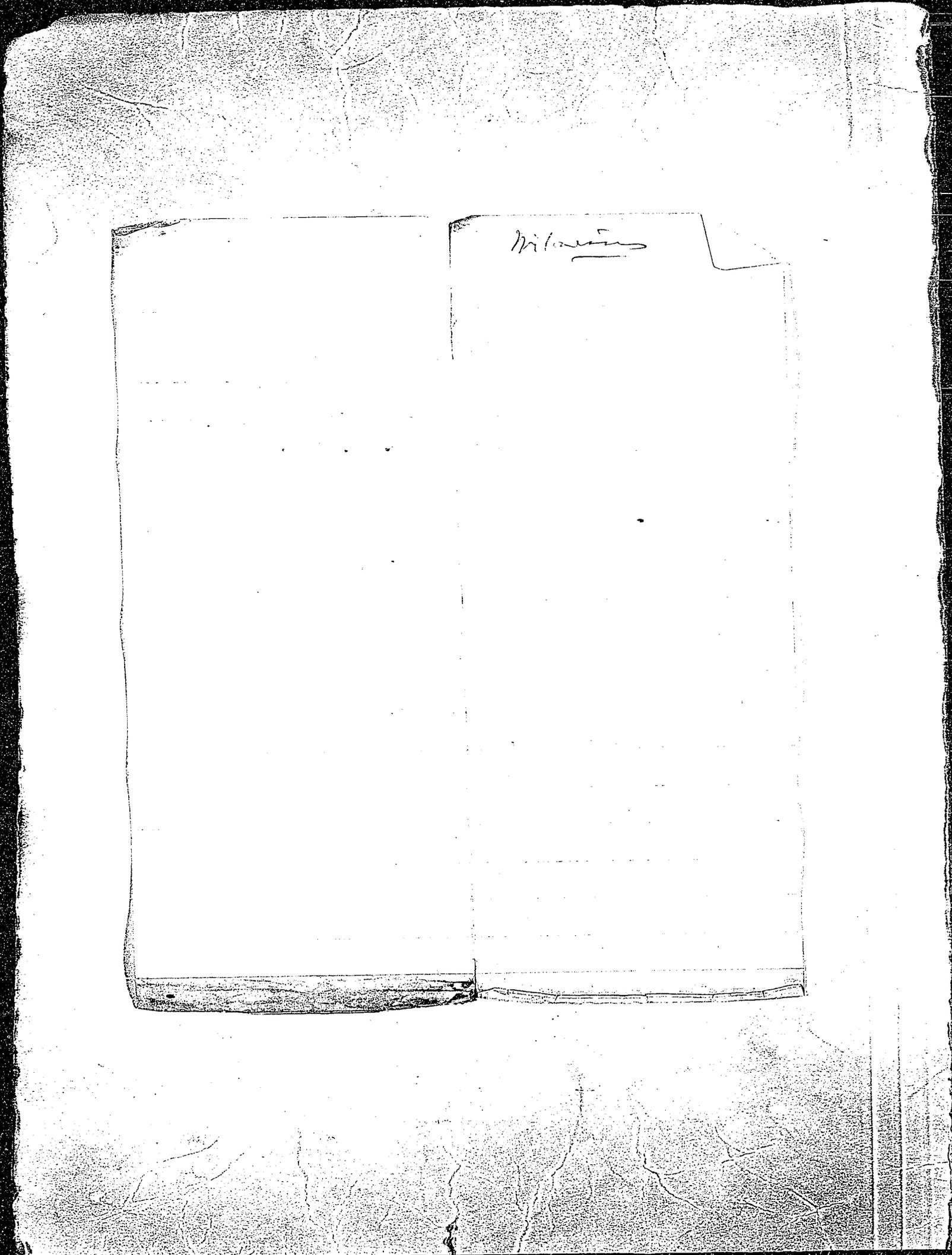
✓ Off Hay 20th

✓ ~~Dr. Lewis Edson~~

✓ ~~Common Physician~~ Dr. Albert J. Weston

1202

POOR QUALITY ORIGINAL



Milton

POOR QUALITY ORIGINAL

1203

Court of General Sessions.

-----x

The People etc

against

Max Nolze.

-----x

To
Honorable Delancey Nicoll,

District Attorney,

SIR:-

PLEASE TAKE NOTICE that upon the annexed affidavit, I shall apply to this Court, at Part I. thereof on the 12th day of December, 1892, at 11 o'clock in the forenoon, for an order to dismiss the indictment herein, or for the discharge of the defendant on his own recognizance, and for such other and further relief as to the Court shall seem just and proper.

Dated, New York, December, 8th, 1892.

Yours etc.

Adolph L. Sanger,

Defendant's Counsel,

Office & P. O. Address, 115 Broadway,

New York City.

1204

Court of General Sessions.

-----x
The People etc.

against

M a x N o l z e.
-----x

City and County of New York, ss:

Adolph L. Sanger, being duly sworn, says, that he is counsel for the above named defendant. That the said defendant was indicted in or about the month of October, 1891, on the charge of murder in the first degree.

That on the 30th day of November, the case was set down for trial before the Honorable Charles H. Van Brunt one of the Justices of the Supreme Court of the State of New York, at a Court of Oyer and Terminer.

The said case was not tried on said last named day, nor was said case placed upon the calendar for that term, but was moved off by the District Attorney for the County of New York.

That thereafter the said defendant was re-indicted for manslaughter in the second degree, upon the same alleged ground for which he had first been indicted for murder in the first degree. The said case did not appear upon the calendar for trial for the 25th day of May, 1892, on which day the trial began and was continued until, the 26th day of May, 1892, when the case was summed up and given to the Jury, but said Jury was unable

1205

POOR QUALITY ORIGINAL

to agree upon a verdict. That said case did not again appear upon the calendar of the Court until the 30th day of June, 1892, at which time the case was set down for trial for the 6th day of July, 1892, but said case did not then appear on the day calendar of the Court, nor as deponent is informed and believes, has said case been set down for trial for any day since that time.

That the defendant has been imprisoned in the City Prison since the month of October, 1891, and that said defendant has been and is restrained of his liberty.

Sworn to before me this : *Adolph L. Sauger*
8th day of December, 1892:

Edward Miller
Commis of Deeds
City

1206

POOR QUALITY ORIGINAL

Court of Municipal Sessions,

The People etc,

vs

May Judge

(Copy)

Notice & affidavit

Adolph L. Sanger,

Attorney for Gift

115 Broadway,
NEW YORK CITY.

To Hon. Stephen Sicoll

West Attorney for

57 Chambers St

1207

POOR QUALITY ORIGINAL

Court of General Sessions

The People etc.

vs.

May Judge.

(Copy)

Notice & affidavit

Adolph I. Sanger,

Attorney for *Dept.*
115 Broadway,
NEW YORK CITY.

To *Mr. Jeffrey Nicoll*

Wm. Chambers
Attorney for ~~the~~

POOR QUALITY
ORIGINAL

1200

Office Cyrus Edson M.D. 54 W 9th St.

New York Oct 20th 1891.

Hon Delancey Nicoll.

District Attorney.

Sir;

I have the honor to acknowledge the receipt of your instruction concerning Knife handed me in sealed envelope by your messenger and to report as follows

:-
Microscopic examination of blade of knife shows large numbers of blood corpuscles corresponding in every respect to those found in human blood.

Within next twenty four hours I expect to have measured one thousand of these corpuscles. No admixture of intestinal contents appears to be present.

hold the knife under lock and ^{Real}~~key~~ and await your further instructions.

Respectfully Yours

Cyrus Edson

*Matter of
Murder of
Charles Schur*

1209

POOR QUALITY
ORIGINAL

Office Cyrus Edson M.D. 54 W 9th St.

New York Oct 20th 1891.

Hon Delancey Nicoll.

District Attorney.

Sir;

I have the honor to acknowledge the receipt of your instruction concerning Knife handed me in sealed envelope by your messenger and to report as follows

Microscopic examination of blade of knife shows large numbers of blood corpuscles corresponding in every respect to those found in human blood.

Within next twenty four hours I expect to have measured one thousand of these corpuscles. No admixture of intestinal contents appears to be present.

hold the knife under lock and ^{Real} ~~key~~ and await your further instructions.

Respectfully Yours

Cyrus Edson

*Matter of
Murder of
Charles Schur*

211

Officer John Carley.

Max told officer Carley on his way down from Roosevelt Hospital that there were three or four fellows attacked ^{them to the station house} ~~him~~ and he picked up a sharp alone & hit the deceased with it. That he threw his knife away because he was afraid that he would use it if attacked by those ^{three} four fellows. He told the officers in what direction he found his knife.

That the knife was found by Officers Carley ^{Smith 454 10 34 St} that he examined it. That the larger blade had a soft rust, that it looked like in the best of his opinion, to be congealed blood and dust, that to the best of his belief it was blood.

He dit him with Carley
Sharp Con Kennedy

~~Brook~~ Herman Polya
I opened the knife & found blood on the big blade.

212

POOR QUALITY ORIGINAL

Statement of
J. J.
Curtley &
Kennedy

Officer Kennedy

POOR QUALITY
ORIGINAL

213

District Attorneys Office:
City & County of New York Oct. 7 '18'

Capl. Adam Cross
Dear Sir, Enclosed here-
with please find report
received from Dr. Edson, in
re exhumation of Kumpf left
by you.

Any further report will
be duly transmitted to you.
Yours truly
Edw. J. Shaver

214

New York $\frac{25.}{11.}$ 91

Dear husband!

I received your letters and postal card, you must not be offended, or even take it as make my not visiting you on Monday 8 days ago. ^{1st} dear Hermann you know that at present I am in such condition that riding on horse, car or elevated road gives me pain, for we have to expect shortly an increase to our family; and ^{2nd} does the money expense prevent me to call on you as often as I like to, as it cost me 35 cents every time. Believe me dear Hermann I would like best to be always with you, but we can not alter the sad fatality that has befallen us, only do not lose your courage. Last Friday I was in Court and I was asked how many children were in your family, and if Muckes had the same clattering on when he stabbed the man, that he had on when he was arrested. Dear Hermann next week I will call on you and tell you more.

Many compliments and kisses from me and our little Annie, I remain yours

Minnie Nolye

**POOR QUALITY
ORIGINAL**

12 15

People
vs
Herman Volge.

Homeville

POLICE DEPARTMENT OF THE CITY OF NEW YORK.
Precinct No.

**POOR QUALITY
ORIGINAL**

12 16

Court of General Sessions.

----- x
The People etc.

against

Max Nolze.

----- x

To
Honorable Delancey Nicoll,
District Attorney,

SIR:-

PLEASE TAKE NOTICE that upon the annexed affidavit, I shall apply to this Court, at Part I. thereof, on the 30th day of September, 1892, at 11 o'clock in the forenoon, for an order to dismiss the indictment herein, or for the discharge of the defendant on his own recognizance, and for such other and further relief as to the Court shall seem just and proper.

Dated, New York, September 26, 1892.

Yours etc.

Adolph L. Senger,

Defendant's Counsel,

Office & P. O. Address, 115 Broadway,

New York City.

1217

Court of General Sessions.

-----x

The People etc.

against

M a x N o l z e .

-----x

City and County of New York, ss:

Adolph L. Sanger, being duly sworn, says, that he is counsel for the above named defendant. That the said defendant was indicted in or about the month of October, 1891, on the charge of murder in the first degree.

That on the 30th day of November, the case was set down for trial before the Honorable Charles H. Van Brunt, one of the Justices of the Supreme Court of the State of New York., at a Court of Oyer and Terminer.

That said case was not tried on said last named day, nor was said case placed upon the calendar for that term, but was moved off by the District Attorney for the County of New York.

That thereafter the said defendant was re-indicted for manslaughter in the second degree, upon the same alleged ground for which he had first been indicted for murder in the first degree. That said case did not appear upon the calendar for trial for several terms, but was finally set down for trial for the 25th day of May, 1892, on which day the trial began and was continued until the 26th day of May, 1892, when the case was summed up and given to the Jury, but said Jury was unable

1218

-2-

to agree upon a verdict. That said case did not again appear upon the calendar of the Court until the 30th day of June, 1892, at which time the case was set down for trial for the 6th day of July, 1892, but said case did not then appear on the day calendar of the Court, nor has said case been set down for trial for any day since that time.

That the defendant has been imprisoned in the City Prison since the month of October, 1891, and that said defendant has been and is restrained of his liberty.

Sworn to before me this :
26th day of September, 1892:

Adolph L. Sanger
Edward Miller
Common Reader
My City

1219

POOR QUALITY ORIGINAL

Court of General Sessions
The People etc.

v.

Max Roze.

(Copy)

John and
Adolph

Adolph L. Sanger,

Attorney for *Def.*

115 Broadway,
NEW YORK CITY.

To *Mr. Delaney Piccol*

Respect Attorney ~~for~~

BO Chambers

1220

POOR QUALITY ORIGINAL

Court of Special Sessions
The People etc.

vs.

Max Robt.

(Copy)

John and
Affidavit

Adolph I. Sanger,

Attorney for *Def.*

115 Broadway,
NEW YORK CITY.

To Hon. Delaney Nicoll

District Attorney for

30 Chambers St.

-----X
The People &c.

vs.

N o e l z e
-----X

Charged with Manslaughter.

VII Capt. Cross:-

Max Noelze, aged 22 years, of 511 West 49th Street states:- That about 9:45 P.M. he and his brother Herman, aged 20, of 444 West 35th Street, were walking along West 35th Street between 9th and 10th Avenues, having just returned from Grohs Brewery in West 28th Street, when we saw three young men standing in the street aside of a wagon. As we passed one of them said, "You sons of bitches where are you going" I said in reply "Go to hell." One of them said in answer "Go on you son of a bitch" and we continued on towards my brother Herman's house 444 West 35th Street. Just as we reached my brother's house, a man whom I afterwards learned was Charles Shurr, struck me with his fist in the face and knocked me down, his friend struck my brother and assaulted him. I started to run away and the man Shurr, followed me and again hit me knocking me down. I then picked up a piece of rock with a sharp edge and struck the said Shurr on the head with the same which I still held in my hand. Shurr then fell down, and I left him lying there. I went in my brother's house, went in the cellar of the house, took off my coat and hung it on the door, so that when I went out the police would not

222

(2)

know me. I then went up to my home and got a coat and hat and then returned to my brother's house, when I was arrested the same evening.

Thursday October 8th, 1891, Captain Cross visited the Tombs prison at one P.M., accompanied by Roundsman James Campbell of the First District Court, and showed the prisoner Max Hoelze, a two-bladed horn-handle pocket knife. After examining it carefully, he explained that it was his knife., the same one he had the night he assaulted Charles Shurr, which he threw away at the time he made his escape through the yard and over the rear fence of 444 West 35th Street, and which was subsequently found on an extension of a house on West ---- Street. (The knife was found by detective George Smith, 11th Precinct and officer John Carley of the 20th Precinct.)

223

(3)

I.

MARION L. HATCH, 463 Ninth Avenue.

I am working in an auction room at 1520 Broadway. I knew the deceased, Charles Shurr, and attended his funeral, saw him after he was dead. He received the wound which caused his death on Sunday night, the 4th of October 1891. It happened on 35th Street, between 9th and 10th Avenues, on the south side, about half-past nine.

About a quarter to nine o'clock, I, Charles Shurr and George Fox were in the saloon of Erhardt, on 35th Street between 9th and 10th Avenues, on the south side; we were waiting to play a game of pool, and seeing that we could not play, Charles Shurr sat down at the table and Fox went to the water closet. I went out to the closet, somebody was there, I left the saloon and went behind a truck to urinate and left the other two in the saloon. As I was urinating, the defendant Max Noelze and Herman Noelze came towards the truck and one of them stooped down and picked up something from the ground which looked like a brick, and then I said "You don't mean that for me, do you?" I heard them say "son of a bitch", I thought the brick was for me. The one who held the brick threw it over my head, touching my head and skinning my knuckles, and in the direction of a show window of a brother of theirs who kept a kind of a cigar store on the same side of the street. It didn't break the window. Then they walked down the street towards 10th Avenue, on the south side of the street. I went back into the saloon, I asked for Fox, he was in the

224

(4)

water closet still. Shurr was sitting at the table .After I called for Fox, Shurr got up and came out of the saloon with me, and we followed the defendant and his brother down the street towards 10th Avenue to get satisfaction. Neither one of us was armed. He finally came up with the two Noelzez' at about 444 West 35th Street. I ran up to Herman and pushed him with my hands, and then Max, the defendant, tackled Shurr and Herman tackled me. While Herman and I were tusseling Shurr and Max were fighting. Suddenly the two brothers left and ran away. I saw Shurr lying in the gutter. I picked him up in my arms, I noticed a wound on the right side of his head, between his eye and ear, and he was covered with blood. Then Fox said "Marion you had better go home, I will take care of Charlie." I went up in the house and went to bed, leaving Fox with Shurr.

Hatch served personally with subpoena to appear in Part Three, on the 25th inst.

V.N.Davis.

Hatch took subpoena to Mr. Shurr, 510 W. 49th, to see m V.M.Davis, on the 23rd, at 4 o'clock.

Shurr lives at same place

225

(5)

IV OFFICER SCHOELLES, 20th Precinct.

On the night of October 4th 1891, I was on post on the block from 7th to 10th Avenues. I happened to be going down through 36th Street, when I reached 10th Avenue I met Officer Kennedy of the 20th Precinct and Officer Carley of the same precinct. They had this Herman Noelze, they were taking him to the station house; they told me there was a murder committed on my post on 35th Street. I went around 35th Street to see what the trouble was, and to see whether I could find out anything; I didn't know whether they had the right party or not. I went to No. 444, where the murder was committed, and while standing there trying to find out information, Herman's wife came down stairs and told me that Max was up stairs; that he had done the stabbing and had thrown the knife away. I went up stairs with her and he had the door locked, and she knocked at the door and told him to open the door, which he did. He had a child in his arms. She took the child and I took him right then and there. I told him I wanted him to go around to the house. He then said I had no business to come up stairs to his brother's rooms and take him out of there. The sweat was pouring off him. He said to me, what are you arresting me for. I says, You will find out as soon as you go around to the station house. He didn't say anything. I took him to the station house, 20th Precinct. I explained the case to the Sergeant who was at the desk at the time, told him this was the man who committed the

**POOR QUALITY
ORIGINAL**

226

(6)

murder, that his sister-in-law had told me. A little while after his arrival at the station house, the defendant was taken by Officers Kennedy and Carley together with Herman Noelze to the Roosevelt Hospital.

227

POOR QUALITY ORIGINAL

THE PEOPLE OF THE STATE OF
NEW YORK

against

Voelge
(Manslaughter)
Defendants
of
Illinois

DE LANCEY NICOLL,
DISTRICT ATTORNEY,
No. 32 CHAMBERS STREET,
NEW YORK CITY.

Hand 463, 9th Ave. New York City.
For
Notary
Off. Notary
Hay
Leahy
Smith +
Lipt. Linn
Off. Campbell
Schaum,
Dr. Weston
Research Hospital
Dr. Edson

220

POOR QUALITY
ORIGINAL

"⁴ ¹ ¹ I enclose a letter
¹ ¹ ¹ directed to ~~the~~ witnesses
in which a reference to
evidence in the case has
been written — Respectfully
J. V. Holburn
Ch. H. 10

1229

New-York 23/11 91.

Lieber Wiener!

Deine Briefe sind fast keine
 mehr ich weiß nicht, dir nicht
 ob wir nicht vielleicht zusammen,
 oder gar eine Zeitlang
 zusammen, das ist dir nicht
 Montag vorerst. Gehe besuchst
 fassend. Deine Gedanken nicht
 dir, das ist aber in Klagen
 die dir das fassen mit der
 Pfunde Leser und das fassen
 fassen wir wissen, das wir
 haben in unserer Zeit nicht
 können. Gehe zu und zu
 zu und zu, und zu
 sind aber die besten für
 mich, die mich selbst so oft
 will ich mich zu dir zu kommen

POOR QUALITY ORIGINAL

1230

Dann ob ich künftlich einigmal 34^{te} Gerst.
 Gleichen mit lieben Gernungem, ich meine
 von liebsten immer von diesem Nitte,
 aber das beweinige das feine nicht die über
 nach zu kommen ist, können nicht aber
 nicht werden, die nicht mit dem
 nicht nicht was lernen.

* Die wolle nur letzten Sonntag mit
 dem Gerichte ich werde gefordert.
 sein wird Gefessenen als die
 sind, und ob Mente die alle
 Altwere geben gar süßte sein es
 zu wolle werden, was aus dem
 nicht gefessenen furch.

Lieber Gernungem wüßte ich
 kommen ist gar die nur Spige die
 nicht nicht die
 Altwere Gernungem und Spige was
 mit nicht was nicht was
 Mente die ich die
 Mente Holze.

POOR QUALITY ORIGINAL

1231

~~Wm. H. Burgham~~
~~207~~

Wolfe }
Wolfe }

District Attorneys Office,
City & County of
New York.

1232

POOR QUALITY ORIGINAL

District Police Court.

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss.

Max Nolze

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. *Max Nolze*

Question. How old are you?

Answer. *22 years*

Question. Where were you born?

Answer. *Germany*

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

Answer. *511 West 49th St. 6 months*

Question. What is your business or profession?

Answer. *Labour.*

Question. Give any explanation you may think proper of the circumstances appearing in the testimony against you, and state any facts which you think will tend to your exculpation?

Answer. *I have nothing to say*

except I am not guilty.

Max Nolze

Taken before me this 5th day of *October* 1891
John E. Kelly

Police Justice.

POOR QUALITY ORIGINAL

1234

The defendant Roman
has been in
New York for some
time and has been
found guilty in a
case involving the
murder of John
Dunne, and his
attorney has been
found guilty in
the same case.

No. 1, by Ernest Volze
Residence 511 W 41st St
No. 2, by _____
Residence _____
No. 3, by _____
Residence _____
No. 4, by _____
Residence _____
John Dunne Volze
444 West 38th St

1292
1921
Police Court No. 2
District

THE PEOPLE, et al.,
ON THE COMPLAINT OF
Thomas S. Kennedy

William Volze
Herman Volze

Defendant
Dated Oct 5 1921

Witness
Ernest Volze
No. 419 West 35th St
Residence
Harold Hatel
No. _____
Residence _____

No. _____
Residence _____
No. _____
Residence _____
No. _____
Residence _____
No. _____
Residence _____

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

Charles Volze Herman Volze
guilty thereof, I order that ~~he~~ be held to answer the crime and ~~he~~ be admitted to bail in the sum of

Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail

Dated Oct 5 1921 Tom E. Kelly 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.

POOR QUALITY ORIGINAL

1234

Halls of Justice.

RECOGNIZANCE TO TESTIFY.

CITY AND COUNTY OF NEW YORK.

BE IT REMEMBERED, That on the 6th day of October in the year of our Lord 1891 of No. 419 W 35th Street, in the city of New York, and Catherine McCormick of No. 463 North Avenue Street, in the said City,

personally came before the undersigned, one of the Police Justices in and for the City of New York, and acknowledged themselves to owe to the PEOPLE of the STATE OF NEW YORK, that is to say: the said

Marion L Hatch the sum of 5.12 Hundred Dollars,

and the said Catherine McCormick the sum of 0.12 Hundred Dollars,

separately, of good and lawful money of the State of New York, to be levied and made of their respective goods and chattels, lands and tenements, to the use of said People, if default shall be made in the condition following, viz.:

The Condition of this Recognizance is such, That if the person, first above recognized, shall personally appear, at the next COURT OF General SESSIONS of the Peace, to be holden in and for the City and County of New York, and then and there Testify and give such evidence, in behalf of the people of the State of New York, as he may know, concerning an Offence or Misdemeanor, said to have been lately committed in the City of New York, aforesaid by

Thomas Max Nolze and + with Homicide Herman Nolze. charged

And do not Depart thence, without leave of the Court, then this Recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged before me, the day and year first above written.

Marion L Hatch

John S. Kelly Police Justice

POOR QUALITY ORIGINAL

1235

CITY AND COUNTY }
OF NEW YORK. } ss.

the within-named Bail, being duly sworn, says, that he is a

said City, and is worth

over and above the amount of all his debts and liabilities; and that his property consists of

Catherine Moore
John

holder in

Hundred Dollars,

House and

lot of land situated at number 463
North avenue in this City and valued
at Twenty Five Thousand dollars
free and clear
Bartholomew M. M. M.

day of
John
186

Sworn before me, this

Public Justice

New York Sessions.

THE PEOPLE, &c.,

RECOGNIZANCE TO TESTIFY.

vs.

Magistrate.

Filed

day of

186

1236

POOR QUALITY ORIGINAL

Police Court 2 District.

City and County of New York ss.

of No. The 2nd Precinct Police Street, aged... years, occupation Police Officer being duly sworn, deposes and says, that on the 5th day of October 1891, at the City of New York, in the County of New York.

Thomas G. Kennedy

Marion L. Hatch, now here, is a necessary and material witness for the People of the State of New York in a certain action against Max Salzer and Herman Salzer charged with homicide. Deponent further says that he has good reason to believe that said Hatch will not appear at the Court of General Sessions to testify upon oath and respectfully asks that he, Hatch, be committed to the House of Detention.

Thomas G. Kennedy

Given to be sworn on the 5th day of October 1891

John E. Kelly Police Justice

1237

POOR QUALITY ORIGINAL

Police Court 2 District.

City and County } ss.
of New York.

of No. 444 West 35th Street, aged 21 years,
occupation Housekeeper being duly sworn, deposes and says,
that on the 24th day of October 1891, at the City of New
York, in the County of New York, deponent was present

2
456

in her own room on the second floor back room of No 444 West 35th Street. Deponent was looking out of the back window about the hour quarter to 10 o'clock p.m.; that Deponent saw Max Nolze (now here) and Herman Nolze (now here) pass from the hallway of the first floor of said premises into the back yard; and as soon as they got into the yard Deponent heard the said Max Nolze say to the said Herman Nolze, while the said Max was on the fence of the said yard, "Herman I am going to throw my knife away" then the said Max jumped over the fence and disappeared and the said Herman immediately came up stairs.

Subscribed and sworn to before me
October 18 91
John Kelly
POLICE JUSTICE.
Herman Nolze

1238

POOR QUALITY ORIGINAL

2 District Police Court.

Sec. 198-200.

CITY AND COUNTY OF NEW YORK, ss.

Herman Nolze 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. Herman Nolze

Question. How old are you?

Answer. 20 years

Question. Where were you born?

Answer. Germany

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

Answer. 444 West 35th St - 2 years

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 am not guilty

Herman Nolze.

Taken before me this 1st day of May 1905
J. J. [Signature]

Police Justice.

1239

POOR QUALITY ORIGINAL

THE ROOSEVELT HOSPITAL,

59TH STREET AND NINTH AVENUE,

JAS. R. LATHROP,
SUPERINTENDENT.

New York, Oct 5 1891.

This is to certify that
Charles Shivers
died this morn. about
8.30 from a stab
wound of the head.

O. W. Schuyler
M.D. Surgeon

1240

POOR QUALITY ORIGINAL

Police Court 2 District.

City and County of New York ss.

Thomas J. Kennedy of No. 30th Precinct Police Office, Street, aged years, occupation being duly sworn, deposes and says, that on the 4th day of October 1891, at the City of New York, in the County of New York,

I he arrested Max Halge and Herman Halge, (both numbers) in front of the house No 444 West 35th Street about the hour of 9.45 P.M. That deponent was informed by citizens that there was a fight in the said street and that there was some one very seriously injured. That deponent found one Charles Spurr on the sidewalk suffering from a stab wound in the head.

That deponent was then informed by several people that two men answering the description of these two defendants had committed the said assault. That deponent went into the house No 444 West 35th Street and arrested the defendant Herman Halge in the closet on the 2nd floor of the said house. That when accused by deponent of committing the assault, he, Herman, told deponent that he, Herman did not commit the said assault but that the assault had been committed by the defendant Max Halge. That the defendant then escaped from deponent at the time by scaling the fence of the said house No 444 West 35th Street. That said defendant Max was afterwards arrested by another officer. Deponent is now informed by Curran L. Hoyt that when at about the said hour he, Hoyt, came out of a saloon in the said street and these two defendants were on the sidewalk, that the defendant told

1241

POOR QUALITY ORIGINAL

that they, the defendant, would
 kill him, and that one of the defendants then
 and there, struck ~~Hatch~~ with a brick
 which he held in his hand, and thereupon
 Hatch thereby striking Hatch with the head
 and cutting Hatch's hat. Then Shurr
 was with Hatch at the time and one
 of the defendants assaulted him. Shurr
 then Hatch asked Shurr what he
 was doing, and one of the defendants went on
 to strike Shurr, and assaulted him.
 Then immediately afterwards the defendant
 ran away, and the Hatch saw Shurr lying
 on the sidewalk, unconscious and bleeding
 from the left side of the forehead.

The defendant immediately got an am-
 bulance and the ambulance surgeon told
 defendant that said Shurr was suffering
 from a stab wound in the head which
 would have been inflicted by some
 sharp instrument, and that Shurr
 was very seriously injured. That said
 Shurr was taken to Roosevelt Hospital
 and defendant has since been informed
 by the house surgeon of the hospital that since
 Shurr's admission to the hospital he Shurr
 had died from the effects of a stab wound
 in the head. Therefore defendant charges the
 defendants with the crime of homicide and
 prays that they be dealt with in the law.

Given & before me this
 5th Day of October, 1891 Thomas J. Kennedy
 Justice of the Peace

Police Court, District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

1 _____
 2 _____
 3 _____
 4 _____

Dated _____ 1891

Magistrate.

Witnesses,

No. _____ Street _____

1242

POOR QUALITY ORIGINAL

CITY AND COUNTY }
OF NEW YORK, } ss.

Marion L. Hatch
aged *31* years, occupation *Furniture Store* of No. *419 West 35th* Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of *Thomas Kennedy*
and that the facts stated therein on information of deponent are true of deponent's own
knowledge.

Sworn to before me, this *5th* day of *October*, 1890, } *Marion L. Hatch*

John Steel
Police Justice.

243

Statement of Annie Laubensdorfer.

Taken Jan 25th 1893.

On Sunday night Oct 4th or 5th
I was looking out of the window
of 444 west 35th street. Max Wolze
and his brother were standing at
the door talking. Four young men
came down the street and one
of them struck Herman Wolze in
the face and then they all got
a fighting together. I was so frighten
ed I ran away from the window.

Q. you say that four young
men came down the street. (A. Yes
sir.

Q. Absolutely certain that there were
four. A. I am certain

Q. ^{you say} One struck Herman Wolze, did
you see more than one striking
him. A. No. Just that one.

Q. How many blows did he
strike Herman. A. One.

Q. Then what did Herman do.
A. I don't know

Q. Did Herman strike him back
No. I did not see him.

Q. What were the other young men
doing when this one you saw

244

POOR QUALITY
ORIGINAL

struck Herman Wolze.

A. They stood further back.

Q. And were they not doing any thing.

A. As soon as they saw them (Herman + other young man) fighting they came up, and started fighting.

Q. Whom did they start fighting with.

A. Two of them went fighting with Herman Wolze and two of them at Max Wolze.

Q. Are you sure they were two fighting Max Wolze?

A. I can't say for sure as they were all together and it was dark.

Q. Then you are not positive that there were two.

A. I am not sure.

Q. Did you see any one striking Max Wolze.

A. I did not.

Q. You only saw them going toward him

A. Yes.

Q. What happened to Herman Wolze when he was struck by this

245

POOR QUALITY
ORIGINAL

- young man? 7.
- A. He ran away?
- Q. Was Herman knocked down when he was struck?
- A. No.
- Q. He just turned and ran up stairs.
- A. Yes.
- Q. Up stairs in what number.
- A. 444 west 35th Street.
- Q. Then what did the young men who were fighting with Herman do? I don't know.
- Q. Did they follow after Herman?
- A. No, Sir.
- Q. Did they stand where they were at that time.
- A. I could not say.
- Q. It was very dark, was it?
- A. Yes, Sir.
- Q. And how far away from you was the fight taking place.
- A. On the side walk, about 5 ft.
- Q. Then you did not see the two men who were fighting with Herman do anything after he ran away.
- A. I did not see.

246

POOR QUALITY
ORIGINAL

- Q. Then during this time Max and the other man was fighting.
- A. Yes.
- Q. Did you see them strike any blows.
- A. I did not.
- Q. Then what lead you to believe that they were fighting?
- A. They were rolling around on the side walk.
- Q. That is this man and Herman
A. No the whole lot of them.
- Q. But you said that Herman had ran up stairs and that you did not see the other man do anything after that. Then
A. who were rolling on the ground.
- A. Max and the other four. And while they were fighting I ran away from the window and I don't know any more than that.

247

POOR QUALITY
ORIGINAL

Annie Landensdorfer
 I live at 444 W 35th Street. I
 have lived there about 10 years.
 I know Herman Polyz and I
 know ^{Max} Polyz. Herman's wife
 and he had lived ^{there} ~~there~~ about
 2 years before the fight. I
 know Max Polyz only slightly.
 On Oct 4th or 5th Sunday night
 about 9 o'clock, I looked out
 the cloth just before going to
 the window. I saw Herman Polyz
 standing with his back to the
 door, and Max Polyz facing
 him and talking with him.
 I saw a man run up and hit
 Herman Polyz in the face. He
 did not knock Herman down.
 I did not see Herman do any
 thing to the man. I saw Herman
 immediately after he was hit
 run into the house - just after the
 man was hit. Three other men be-
^{and in addition to}
 sides the man who hit Herman
 came up. and I saw them around
 Max Polyz. I did not see Max
 Polyz hit them or any one of
 them and I did not see any
 one of them hit Max. I did not

248

POOR QUALITY
ORIGINAL

see Max Wolyn lying on the ground
 I did not see Max knocked
 down or fall down. I did not
 see any of the men on the
 ground. I left the window be-
 fore Max Wolyn ran into the
 house. I did not hear any
 swearing or outbursts of any sort.
 When I saw the man strike Har-
 man I was at the window of the
 apartment on the ground floor
 and looking out. About five or
 10 feet away from Harman.
 The night was quite dark. I could
 distinguish Max from Harman.
 I ^{knew any} never ~~before~~ ^{before} ~~before~~ prior to
 that time and I would not know
 them if I ^{of any, open, or in any way} saw them again. I did
 not see any one of the men there
 that night have any stone or
 knife or stick or weapon of any
 kind. I was made to be excited by
 the man striking Harman. I
 left the window almost immediately
 after Harman was hit. I did not
 see any one have hold of Max
 Wolyn. I only saw the four men

249

POOR QUALITY
ORIGINAL

around Mrs. Noly and that is
the reason I thought they were
pretending with him

Jan 25th 1843

Amid Eubensdorfer

250

**POOR QUALITY
ORIGINAL**

*Portrait of
Anna Lambert*

1251

POOR QUALITY ORIGINAL

521

Court of General Sessions of the Peace
OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
against
Max Adze

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

Max Adze

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

The said *Max Adze*,

on the *fourth* day of *October*, in the year of our Lord one thousand eight hundred and ninety-*one*, at the City of New York in the County of New York aforesaid, in and upon one *Rhodes Adams*, then and there being, wilfully and feloniously did make an assault, and *John* the said *Rhodes Adams*, with a certain *knife* which *he* the said *Max Adze* then and there had and held in *his* hand, in and upon the *head* of *John* the said *Rhodes Adams*, then and there wilfully and feloniously did strike, *kill*, and wound, giving unto *John* the said *Charles Schurz*, then and there, with the *knife* aforesaid, in and upon the *head* of *John* the said *Rhodes Adams*, *one* mortal wound, of which said

1252

POOR QUALITY ORIGINAL

mortal wound *was* the said *Charles Johnson*, at the City and County aforesaid, from the day first aforesaid, in the year aforesaid, until the *15th* day of *October*, in the same year aforesaid, did languish, and languishing did live, and on which said *15th* day of *October*, in the year aforesaid, *was* the said *Charles Johnson*, at the City and County aforesaid, of the said mortal wound _____ did die.

And so the Grand Jury aforesaid do say: That the said

Max Holley, Juror,

the said *Charles Johnson*, in the manner and form, and by the means aforesaid, wilfully and feloniously did kill and slay; 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,~~
Distict Attorney.

1253

POOR QUALITY ORIGINAL

(513)

Second COUNT.

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

Max Adair

of the CRIME OF MANSLAUGHTER IN THE second DEGREE, committed as follows:

The said *Max Adair*,

on the *fourth* day of *October*, in the year of our Lord one thousand eight hundred and ninety-*one*, at the City of New York in the County of New York aforesaid, in and upon one *Charles Schurz*, then and there being, wilfully and feloniously did make an assault, and *John*, the said *Charles Schurz*, with a certain *stone* which *he* the said *Max Adair* then and there had and held in *his* hand, in and upon the *head* of *John* the said *Charles Schurz*, then and there wilfully and feloniously did strike, *cut*, and wound, giving unto *John* the said *Charles Schurz*, then and there, with the *stone* aforesaid, in and upon the *head* of *John* the said *Charles Schurz* one mortal wound, of which said

1254

POOR QUALITY ORIGINAL

mortal wound *he* the said *Charles Johnson*, at the City and County aforesaid, from the day first aforesaid, in the year aforesaid, until the *27th* day of *October*, in the same year aforesaid, did languish, and languishing did live, and on which said *27th* day of *October* in the year aforesaid, *he* the said *Charles Johnson* at the City and County aforesaid, of the said mortal wound, _____ did die.

And so the Grand Jury aforesaid do say: That the said

Max Holz, Jr.

the said *Charles Johnson*, in the manner and form, and by the means aforesaid, wilfully and feloniously did kill and slay; 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.

1255

POOR QUALITY ORIGINAL

(518)

Find COUNT.

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

may not

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

The said *may not*,

on the *fourth* day of *October* in the year of our Lord one thousand eight hundred and ninety-*one*, at the City of New York in the County of New York aforesaid, in and upon one *Charles Schurz*, then and there being, wilfully and feloniously did make an assault, and *John*, the said *Charles Schurz*, with a certain *instrument* to the *Grand Jury aforesaid*, which *the* the said *may not* then and there had and held in *his* hand, in and upon the *head* of *John* the said *Charles Schurz*, then and there wilfully and feloniously did strike, *cut* and wound, giving unto *John* the said *Charles Schurz*, then and there, with the *instrument* aforesaid, in and upon the *head* of *John* the said *Charles Schurz*, one mortal wound, *of* of which said

1256

POOR QUALITY ORIGINAL

mortal wound, *doe* the said *Charles Johnson*, at the City and County aforesaid, from the day first aforesaid, in the year aforesaid, until the *25th* day of *October*, — in the same year aforesaid, did languish, and languishing did live, and on which said *25th* day of *October*, — in the year aforesaid, *doe* the said *Charles Johnson*, at the City and County aforesaid, of the said mortal wound, _____ did die.

And so the Grand Jury aforesaid do say: That the said

may. 25th, 1811, —

the said *Charles Johnson*, in the manner and form, and by the means aforesaid, wilfully and feloniously did kill and slay; 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.

1257

BOX:

472

FOLDER:

4329

DESCRIPTION:

Noyes, Stephen

DATE:

03/11/92



4329

1250

POOR QUALITY ORIGINAL

Witnesses:

Mrs. W. Peckham

Sept. 21st 1892

Wm. W. Peckham

Witnesses her

a. L. Peckham

Spent all money

[Handwritten signature]

2047

Counsel,

Filed //

day of March 1892

Pleads,

THE PEOPLE

vs.

Stephen Hoyle

Grand Larceny, Second Degree. [Sections 528, 597 Penal Code.]

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

[Signature]

Foreman.

[Signature]

[Signature]

L. J. & M. Peckham

1259

POOR QUALITY ORIGINAL

(1865)

Police Court— 5 District. Affidavit—Larceny.

City and County } ss.
of New York, }

of No. 1694 Third Avenue Street, aged 28 years,

occupation Druggist being duly sworn,

deposes and says, that on the 11 day of October 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:

Good and lawful money of the United States of the amount and value of Eighty one dollars (\$81 00)

the property of deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen and carried away by Stephen Hayes, merchant,

from the fact that on said date this defendant was in deponent's employ, as porter and messenger. That the said sum of money was in the money drawer behind the counter. That at about the hour of 5.40 O'clock PM on said date the defendant was standing behind the said counter and leaning against the drawer. That the said drawer was locked when deponent went up stairs. That deponent's brother came up stairs and told deponent that the money was missing and when deponent came down he found that the drawer

Sworn to before me this 11 day of October 1891

Police Justice

1260

POOR QUALITY
ORIGINAL

had been broken open and the money taken
from the defendant had left the store
and defendant did not see him again
until arrested. Wherefore defendant
charges the defendant with feloniously
taking, stealing, and carrying away
the said property and prays that he be
held and dealt with as the law directs
Sworn to before me } J. B. Bechtold
this 8th day of February 1892 }

M. W. Smith
Police Justice

1261

POOR QUALITY ORIGINAL

5th District Police Court.

Sec. 198-200.

CITY AND COUNTY OF NEW YORK ss.

Stephen Noyes 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.

Stephen Noyes

Question. How old are you?

Answer.

16th

Question. Where were you born?

Answer.

New York City

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

Answer.

119 East 84th St one month

Question. What is your business or profession?

Answer.

Hall 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

Stephen Noyes

Taken before me this _____ day of _____ 1897
[Signature]
Police Justice.

POOR QUALITY ORIGINAL

1262

BAILED,

No. 1, by _____
Residence _____ Street _____

No. 2, by _____
Residence _____ Street _____

No. 3, by _____
Residence _____ Street _____

No. 4, by _____
Residence _____ Street _____

Police Court... District 5

THE PEOPLE, Ec.,
ON THE COMPLAINT OF

John M. Deane
Stephen Hoyle
James Conroy

1 _____
2 _____
3 _____
4 _____

Dated _____ 18__

John M. Deane
Stephen Hoyle
James Conroy



Witnesses _____

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____

\$ 2000 TO JUSTICE

John M. Deane
Stephen Hoyle
James Conroy

168

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 _____ 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 _____ 18__ _____ 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.

POOR QUALITY ORIGINAL

1263

COURT OF GENERAL SESSIONS OF THE PEACE OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Stephen Royce

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by this indictment, accuse

Stephen Royce

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

The said

Stephen Royce

late of the City of New York in the County of New York aforesaid, on the *first* day of *October* in the year of our Lord one thousand eight hundred and ninety-*one* at the City and County aforesaid, with force and arms, in the *day* - time of said day, divers promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of a number and denomination to the Grand Jury aforesaid unknown, for the payment of and of the value of *forty*

\$81.00

dollars; divers other promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as Bank Notes), of a number and denomination to the Grand Jury aforesaid unknown, for the payment of and of the value of *forty*

dollars; divers United States Silver Certificates, of a number and denomination to the Grand Jury aforesaid unknown, of the value of *forty*

dollars; divers United States Gold Certificates, of a number and denomination to the Grand Jury aforesaid unknown, of the value of *forty*

dollars; divers coins of a number, kind and denomination to the Grand Jury aforesaid unknown, of the value of *forty - one dollars*

of the goods, chattels and personal property of one

Gallus W. Bechtold

then and there being found,

then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

DE LANCEY NICOLL,

District Attorney.

1265

**END OF
BOX**