

0397

**BOX:**

396

**FOLDER:**

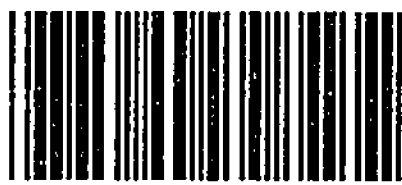
3687

**DESCRIPTION:**

Palmer, Phoenix P.

**DATE:**

05/06/90



3687

POOR QUALITY  
ORIGINAL

0398

Witnesses;

Granville E. Merton

Franklin B. Bernard

R. A. Sanders Jr.

Counsel,

Filed

Plends,

1890

THE PEOPLE

vs.

R

Phoenix D. Palmer

MURDER IN THE FIRST DEGREE

[Section 188, Penal Code.]

JOHN R. FELLOWS,

District Attorney,  
Phoenix, Ariz.

A TRUE BILL.

Chas. B. Fitch

Foreman

1647



TESTIMONY.

Autopsy  
St. Rose's Hospital.  
March 27<sup>th</sup> 1890 between 6 P.M.  
Body of a large heavy  
man.

Examination shows a wound  
partly incised and partly lacerated  
closed by sutures, with a drainage tube  
protruding. This wound is about  
4 inches above left ear, and was  $1\frac{1}{2}$   
inches in length extending downwards  
& forwards. There was a large  
amount of ecchymosis under the  
scalp in the region of the wound.

Dissection of the scalp shows a  
fracture extending through the  
parietal bone from  $\frac{1}{2}$  in. in front  
of the <sup>temporal</sup> suture 1 in. to the left of the  
median line downwards  
& forwards through the squamous  
portion of the temporal and another  
line of fracture joining the above  
about the middle of the parietal bone  
and extending downwards to the  
base of the skull and forming  
an elliptical portion between the two  
lines of fracture. A line of fracture  
also extended across the base of  
the skull in front of the posterior  
portion of the temporal bone.

There was extensive hemorrhage  
between the dura & brain over  
the left hemisphere and base.  
Brain congested.

Sworn to before me,

this

day of

189

CORONER.

POOR QUALITY  
ORIGINAL

0400

TESTIMONY.

Albert J. Weston

M. D., being duly sworn, says:

I have made an autopsy

of the body of

John H. Atkinson

now lying dead at

Roswell Hospital from such

and history of the case, as per testimony, I am of opinion the cause of

death is Fracture of Skull,

intra-cranial hemorrhage,

lesion in which injury was

examined to be determined

at inquest.

A. J. Weston M. D.

Autopsy - cont'd.  
Cause of death.

Fracture of Skull & intra-cranial hemorrhage as above described.

A. J. Weston, M. D.

Sworn to before me,

this

24 day of March 1890

Louis W. Schuyler CORONER.

POOR QUALITY  
ORIGINAL

0401

MEMORANDA.

AGE			PLACE OF NATIVITY	WHERE FOUND	Date When Reported
Years	Months	Days			
14			My. Roseworth Gang		Mar 27/90
Mr. Sawyer N.E. Cor. 8 <sup>th</sup> & 11 <sup>th</sup> St. N. W. D. C.					
was captured at Roseworth's head East of Office 55 <sup>th</sup> St. N. W. D. C. at 6.57 P.M. Mar 26 <sup>th</sup> 90 died at 10 <sup>30</sup> P.M. same day Cottee 32 <sup>nd</sup> St. N. W. D. C.					

L. W. S.

1114

1114

1890

AN INQUISITION

On the VIEW of the BODY of

John W. Atkinson

whereby it is found that he came to  
his death by

Onquest taken on the  
day  
of 189 before  
LOUIS W. SCHULTZE, Coroner.

1114



POOR QUALITY  
ORIGINAL

0402

TESTIMONY.

Albert G. Weston

M. D., being duly sworn, says:

I have made an autopsy

of the body of

John H. Atkinson

now lying dead at

Roswell Hospital from such

autopsy

and history of the case, as per testimony, I am of opinion the cause of

death is

fracture of skull,

intra-cranial hemorrhage

in which injury was

examined & determined

at inquest.

A. G. Weston M. D.

Autopsy continued.  
Cause of death:  
Fracture of skull & intra-  
cranial hemorrhage of  
above described.

A. G. Weston, M. D.

Sworn to before me,  
this

day of

March 1890

Louis N. Schuyler

CORONER.

POOR QUALITY  
ORIGINAL

0403

Coroner's Office,

CITY AND COUNTY }  
OF NEW YORK, } SS.

*Phoenix P. Palmer* being duly examined before the undersigned, according to law, on the annexed charge, and being informed that he was at liberty to answer or not, all or any questions put to him, states as follows, viz.:

Question—What is your name?

Answer—

*Phoenix P. Palmer*

Question—How old are you?

Answer—

*33*

Question—Where were you born?

Answer—

*N. J.*

Question—Where do you live?

Answer—

*197 Bleeker St—*

Question—What is your occupation?

Answer—

*Safe mover*

Question—Have you anything to say, and if so, what, relative to the charge here preferred against you?

*Said*

*I have already  
what I have to say*

*Phoenix P. Palmer*

Taken before me, this *3* day of *April* 18*90*

*Louis. W. Schulz* CORONER.

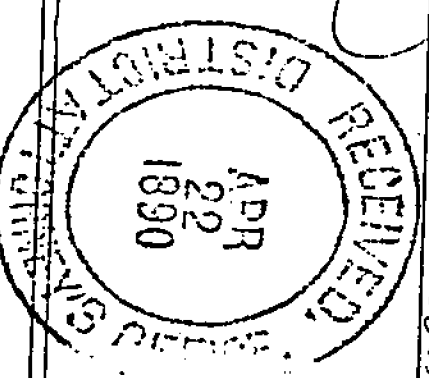
POOR QUALITY  
ORIGINAL

0404

MEMORANDA.

AGE			PLACE OF NATIVITY	WHERE FOUND	DATE When Reported
44 Years	Months	Days	24.	Roosevelt Hosp.	Mar 27

Inquest taken on the 3<sup>d</sup> day  
of April 1890  
by J. J. [illegible]  
J. J. [illegible]  
Coroner.  
Committed  
Obtained  
Discharged  
Date of death



Phenice O. Palmer

whereby it is found that he came to  
his Death by the hands of

John J. [illegible]

AN INQUISITION. 4/25  
On the VIEW of the BODY 4/29

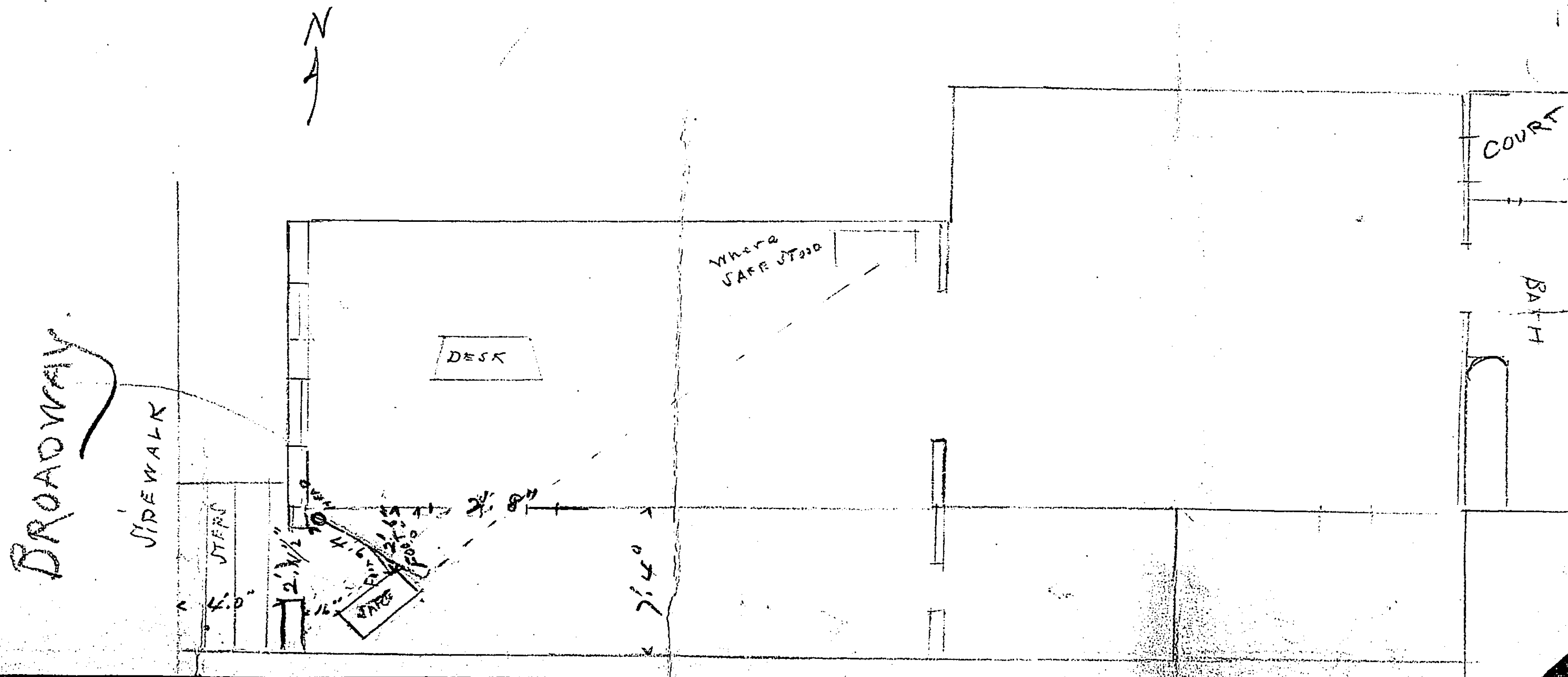
Mr. [illegible] 11/14 1890  
HOMICIDE.



POOR QUALITY  
ORIGINAL

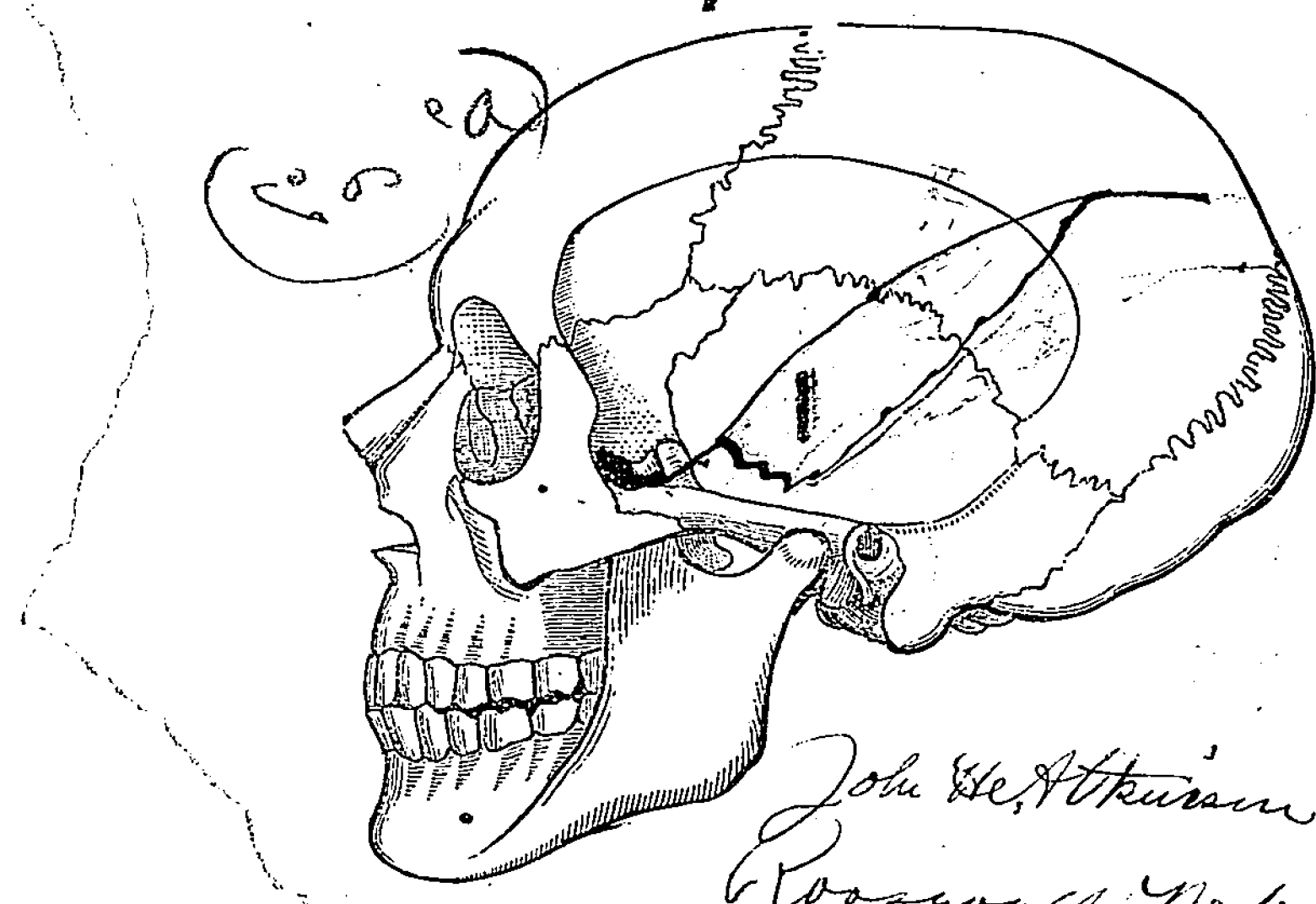
0405

Sage - 4 ft. 9 in high } all Round Corners. Width of door 2' 1 1/2" (FRONT)  
3" 6" wide  
2" 4 1/2" deep }  
Sill on top - 16" from door  
2" " " - 4' 6" " "  
1" " " - 2' 6" " " Cor of door leading into main office from Hall  
FROM SIDE WALK TO OFFICE DOOR - 4 ft.



POOR QUALITY  
ORIGINAL

0406



John H. Atkinson  
Roxbury Mass.



POOR QUALITY  
ORIGINAL

0407

2

IN THE CORONER'S COURT OF THE CITY AND COUNTY OF NEW YORK.

INQUEST IN THE MATTER OF THE

BEFORE

DEATH OF

HON. LOUIS W. SCHULTZ,

Coroner,

JOHN H. ATKINSON.

and a Jury.

New York, Thursday, April 3rd, 1890.

For the District Attorney's office appeared Mr. Edward Grosse.  
For the prisoner appeared Mr. J. C. Skidmore, of 323 Driggs,  
Street, Brooklyn, E.D.

THE CORONER: Gentlemen, this is the case of John H. Atkinson, 44 years old at the time of his death, born in New York, found at Roosevelt Hospital, reported March 27th. He was injured at the Real Estate office of Franklin G. Bernard, at the corner of 55th Street and Broadway, between six and seven P.M., on March 26th, 1890, and died at 10.30 P.M., that same night. The police have a prisoner here.

JOSEPH C. DOWLING

sworn and examined.

BY THE CORONER:

Q. To what Precinct are you attached, officer? A. The 22nd Precinct.

Q. Now, officer, tell the Jury just what you know of this case? A. Well, on the evening of the 26th of March I was going up on a Boulevard Car and I was called off the car a little north of the corner of 55th Street by a gentleman who gesticulated to me. I got off and as soon as I got on the sidewalk he pointed out the prisoner and he says "Officer, arrest that man; he committed an assault on a man in the basement there with a cart rung." I got hold of the prisoner and I asked this man "Did you see him hit him?" He said yes, so I took the prisoner down into the basement to where the deceased was lying and I saw that he was unconscious, couldn't recognize anybody at all. I looked around to see if there were any implements at all, weapons of any kind, and the only thing I saw was a rung to a cart lying beside the man that was injured. So I brought the prisoner up on the sidewalk and sent down for the officer on post, officer Fox, and



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I took the prisoner down to the Station House and Officer Fox took the injured man up to the hospital.

Q. And that is all you know about it? A. That is all I know about it.

BY MR. SKIDMORE:

Q. Officer, did you look around the basement there to see what they had been using in the way of implements in moving the safe? A. I looked around to see if I could see any weapon at all that might be used in a controversy.

Q. Isn't it a fact that there were three or four large hand spikes there, such as are always used in moving safes six or seven feet high? A. I don't know what was in the office further back, but I only saw one, and that was near the door.

Q. Will you describe that to the Coroner and the Jury?

A. As near as I can possibly estimate it, I should judge it was about from three to four feet long. I did not take it up in my hand because I had the prisoner-----

Q. (Interposing) It was lying on the floor? A. It was lying on the floor.

BY MR. GROSSE:

Q. What was three or four feet long? A. A cert rung.

BY MR. SKIDMORE:

Q. Can you give us a little more definite description?

A. No, sir; I cannot, any further than seeing the rung lying there. I couldn't take it up very well, because I had the prisoner in charge. Otherwise, I would have taken charge of the rung myself.

Q. Do you know what became of that? A. No, sir.

Q. And you don't know what else was lying around the floor there? A. Well, I didn't see anything else; I didn't notice anything else with the exception of rope. There was some rope there and a pulley.

BY MR. GROSSE:

Q. You say a man requested you to arrest the defendant?

A. Yes, sir.

Q. Is that man in Court? A. Yes, sir; Mr. Martin, in the back part of the room.

THE CORONER: Stand up, Mr. Martin. (Mr. Martin arose.)

Is that the man?

THE WITNESS: Yes, sir.

BY MR. GROSSE:

Q. And you arrested the defendant? A. Yes, sir; as soon as he pointed him out to me I arrested him.

Q. And you went back to the place where the killing was done?

A. Immediately; took the prisoner down stairs.

Q. Where were you met by Mr. Martin? A. I was on the car on Broadway a little North of the corner of 5th Street, on the front of the car going North, and just as I passed the corner of

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55th Street, Mr. Martin hailed me and gesticulated in such a way that I knew something was wrong. I jumped off and he pointed out the prisoner.

Q. And then you went back to where? A. To the office. I took the prisoner down stairs into the office.

Q. Near 55th Street? A. Near the corner of 55th Street on Broadway.

Q. Whose office is it? A. It belonged to Mr. Bernard, the lawyer, I believe.

Q. Is he in Court? A. Yes, sir.

THE CORONER: Stand up, Mr. Bernard. (Mr. Bernard arose.)

Is that Mr. Bernard?

THE WITNESS: Yes, sir.

BY MR. GROSSE:

Q. And did you have any conversation with the defendant when he was in your custody? A. All the conversation I had with him was, he said to me on the way to the station house "I hit that man with my fist. He interfered with my business and attempted to pull a pistol on me, and anyone that will interfere with my business or draw a pistol on me," he would hurt him. He said that he would knock the brains out of any man that drew a pistol on him.

Q. Is that all the conversation you had? A. That is all.

Q. Then you took him back to the office? A. After I had arrested him I took him immediately down into the basement to see if the injured man could identify him.

Q. That was in the basement? A. That was in the basement.

Q. Below the sidewalk? A. Below the sidewalk.

Q. And whom did you find in that office? A. There were several people there that I didn't know. The only one that I saw there that I knew was this young man that called me. He came down with me.

Q. Mr. Martin? A. Mr. Martin, and the prisoner and the man that was injured. There were other people there, but I couldn't tell who they were, nor what they were.

Q. And did you do anything with the deceased at the time?

A. Officer Fox took charge of the injured man and took him up to the Hospital.

Q. Which Hospital? A. Roosevelt Hospital.

Q. So you had nothing to do with the deceased? A. Nothing further.

Q. And you looked around in that office? A. Yes, sir.

Q. For what? A. I naturally looked around to see if there was any weapon that might be used in a scuffle, or in a dispute where anyone might be injured or that anyone might be injured by.

Q. What furniture was in the office? A. Where the deceased lay was in the hall; not in the office. It was in the hall.



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leading out into the Street. The office proper was North of the hall; it lay in a northerly direction in the hall. The safe also was in the hall.

Q. Did you go into the office? A. No, sir.

Q. So you inspected the hall merely? A. Yes, sir.

Q. And there you found what? A. The cart rung which I have described to the Jury.

Q. Which was three to four feet long? A. Maybe between three and four feet, as near as I could judge.

Q. Did you examine this cart rung? A. I did not.

Q. So you can't say whether there was any blood on it?

A. I can't swear positively that there was any blood on the rung.

Q. And the deceased was in a stupor? A. He was perfectly unconscious.

Q. And did you do anything else while you were in the hall?

A. Nothing else, than to call to a boy at the head of the stairs on the sidewalk to go down Broadway and bring up a policeman immediately, the first policeman he saw.

Q. And he brought Officer Fox? A. I couldn't say whether he brought Officer Fox or not, but Officer Fox came there. When I got up on the sidewalk with the prisoner Officer Fox came.

Q. And what was the next thing you did? A. I then requested the witness, Mr. Martin, to accompany me to the station house and immediately proceeded with the prisoner to the station house.

Q. Did you have any further conversation with the defendant on your way to the station house? A. No, sir. All the conversation I had with him was what I have related.

Q. Now did the defendant say anything at the Station House to you or to anybody else, - to the Sergeant.

MR. SKIDMORE: In the officer's presence?

MR. GROSSE: Yes, of course.

A. He said very little.

Q. What did he say? A. I can't recall his exact words; I don't recollect exactly what he did say.

Q. You can't recollect at all what he said? A. Not in the station house, for he only said a few words and then Mr. Martin stepped up and related his connection with the case.

-----oXo-----



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FRANKLIN B. BERNARD

sworn and examined.

BY THE CORONER:

Q. Where do you reside? A. 141 West 15th Street.

Q. (indicating a small diagram on wall) Mr. Bernard, did you make this diagram? A. Yes, sir.

BY MR. GROSSE:

Q. Are you a draughtsman or surveyor? A. No, sir; I am not.

Q. You are not an expert in making diagrams? A. I am not an expert in making diagrams. I will state for your benefit that these measurements were made in the presence of the officer.

Q. The officer who was on the stand? A. Yes, sir; made with the assistance of an architect, Mr. C.M. French, whose rule I used in measuring those distances.

Q. You measured the distances? A. Yes, sir; with this rule.

Q. And this diagram is on a reduced scale? A. Yes, sir. That diagram is not drawn to a scale.

BY THE CORONER:

Q. Its general outlines? A. Yes, sir.

BY MR. GROSSE:

Q. Now, is it a correct diagram of the place as far as you could draw it? A. That is a correct diagram.

Q. Now in order to give the Jury a correct idea of the place, will you explain the different places?

(The witness here explained the location of the office in the building and the position of the safe in the office.)

Q. Now will you explain to the Jury the condition of that room, or the condition of the place where this man was at the time, or the different places? A. If I am competent at this time to state the location of the safe at the time the officer came in, I will so state.

Q. No, no; state the condition of these rooms or places when the defendant came there and the changes that took place while he was there? A. When the defendant came in the safe stood in the northeast corner of the main office, as indicated on the diagram. The prisoner, together with two other helpers, moved the safe in this line (indicating) through this door into the hallway to here, the present position of the safe and the position of the safe at the time the accident occurred. The safe stood in a diagonal position relative to the door, the door being in that direction and the safe in this position (illustrating). The Southwest corner of the safe was 16 inches from the front wall of the hallway, that is to say, the south door jamb. The northwest corner of the safe was four feet six inches in a straight line drawn from

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ORIGINAL

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the north door jamb to the northeast corner of the safe, and the northeast corner of the safe was two feet six inches from the partition dividing the hallway from the main office. That was the position of the safe.

BY THE CORONER:

Q. Was that the position of the safe when Mr. Atkinson met with this accident? A. Yes, sir; that was the position.

BY MR. GROSSE:

Q. (Indicating on diagram) This is the safe here, isn't it? A. Yes, sir; that is the safe, two feet six inches from here to the partition; sixteen inches from the jamb to here; four feet six inches from here to the other jamb.

Q. This is the position of the safe as it was when this occurred? A. As near as I can remember and as my calculations showed at the time I made the measurements.

Q. The position of this safe here is shown leading to the inner office on this occasion? A. Yes, sir.

Q. How far is that? A. Two feet six inches.

Q. How much of an allowance did you make for the safe having been moved? A. I have made no allowance.

Q. And is it two feet six inches as it stands now? A. Yes, sir.

BY THE CORONER:

Q. Is the safe still there? A. Yes, sir.

BY MR. SKIDMORE:

Q. As a matter of fact, Mr. Bernard, do you know where the safe stood at the time Mr. Atkinson was struck? A. I do. I know where it stood with probably a variation of one or two inches, or three inches at the most.

Q. You were not there, I believe? A. I was there immediately after the blow was struck. I was there when the officer took the deceased away. I was there when the man was arrested immediately after.

Q. You were there immediately after the blow was struck, you say? A. Yes, sir.

Q. How do you know when the blow was struck? A. Simply by the question you asked. You predicate your question upon the fact that the blow was struck-----

Q. (Interposing) Never mind that. I want you to say how you know you were there immediately after? A. Under the circumstances.

Q. There was time enough elapsed to allow the workmen to get their ~~irons~~ <sup>irons</sup> out from under the safe after the blow was struck?

A. No, sir.

Q. Are the irons under the safe now? A. No, sir.

Q. That it is a fact that the irons have been removed?

A. The irons have been removed, and every implement that was



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there has been removed.

Q. The irons could not have been removed without the safe was rolled off of them? A. I don't know; I am not a safe mover.

BY THE CORONER:

Q. Now, Mr. Bernard, tell the Jury what you know of this accident? A. I think it was on the 25th of last month, on Wednesday, I believe. It was shortly after six o'clock on the evening of that day. The deceased, Mr. Atkinson, who was a lawyer, and myself were in my office. I was sitting on the north side of the desk drawing some legal papers preparatory to going down to 29th Street to take possession of a livery stable wherein I was appointed receiver in the action. Mr. Atkinson was the counsel for the judgment creditor, under the order of the Court appointing me receiver. We were obliged to go down that evening to take possession, as it was a two day order and it was the last hour in the last day. Before I had finished drawing the document, Mr. Atkinson being then in the back office smoking a pipe, the prisoner together with two other safe movers from the Mosler Safe and Lock Company, came to the office, came in the door and demanded the safe. One of the helpers immediately began unscrewing the door and did take the door off its hinges. The prisoner came in and said to me "I am come in for this safe." I said, "Well, you can't have it now; I have a great number of valuable papers in the safe; I haven't time to take them out, the combination is on." He says "The combination you know; take it off." I says, "I have other business to attend to; come up here tomorrow, and in the meantime I will have had my papers removed and have them in a safe position." He said, "I don't give a God damn for you or your papers; I am going to take this safe under all circumstances or all conditions," words to that effect, "I have been instructed by my employers to take this safe at all hazards and I am going to do it." I says, "If that is the position you are going to assume, I am going to stand on my rights; you don't take this safe away; I know my rights here." He says, "Get out, you prick-eating son-of-a-bitch, you God damned cock-sucker," and with that he struck me as I was going by him, not a very severe blow, but struck me here (indicating) and at that moment Atkinson came in the office and says, "Frank, go for an officer, I will also go for one." I went for an officer down as far as 53rd Street and 8th Avenue. Atkinson went up as far as 59th Street. I knew he went to 59th Street, because when I came back I saw him standing up there. I waited until he came back. By that time this man had removed the safe from its position then to where it stands now. Atkinson says, "Go up stairs and telephone for an officer." I went upstairs and telephoned for an officer and as I was coming downstairs, off here (indicating on diagram) just a few feet, the witness Martin said to me in a very excited manner and seemed very white and pale "I saw him struck, and there is the man who struck him," pointing



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to the prisoner. I immediately rushed to the door. The prisoner was standing then here (indicating) by the safe. Atkinson's head was at the door. As I looked in the prisoner had in his hand one of these long handspikes. They call it a cart rung. It isn't a cart rung; it is more of a hand spike. It is about four inches square on the end, with an iron flange on two of its sides. They claim it is between three and four feet long. They are mistaken as to that. It is nearer six feet long than three or four, as far as I can remember. The square end, which was used as a pry to move the safe, was towards Atkinson's feet, and as I looked through the door this prisoner dropped it from his hand. I rushed down and I says to this prisoner "Great God! What have you done; have you killed this man?" He didn't say a word. He stood in this position (illustrating) and looked at me, with a blank stare, and didn't answer me at all. At that moment Officer Downing and Officer Fox came down. The prisoner was arrested by officer Downing and officer Fox took the deceased away in an ambulance.

Q. And that is your story? A. That is my story.

BY A JUROR:

Q. Did you see the prisoner with the handspike in his hand?

A. I saw the prisoner drop the handspike from his hand just like that (illustrating) just as I came to the door. I didn't see the blow struck. I will supplement this. The officer, at the suggestion of the prisoner and his helpers, was very anxious and did demand and repeatedly and strenuously demanded that I should be taken to the station house. I wanted to stay there to recover and hold possession of this implement and also to not have a particle moved, but the officer, being probably as much excited over the matter as the others, took me away, and immediately after the other helper carried away this rung or this handspike together with a ring, I think there was a ring there, I am not positive, and removed the irons and didn't even put the door on. When I came back I had to see that the door was put on.

Q. The other helper took the handspike away? A. Yes, sir; I wanted to take that with me.

MR. SKIDMORE: I will offer now to produce that. It is subject to the orders of the Coroner, at the store of the employers of the prisoner.

BY MR. SKIDMORE:

Q. Now will you measure on the wall here, Mr. Bernard, how high that handspike was, assuming it was rising on the floor?

A. I can imagine that spike was about that high (illustrating by placing his hand on a level with the top of his head). It was more than three or four feet.

Q. Isn't it a fact that it was seven feet? A. I have indicated the height as near as I can recollect, for I picked it up.

Q. Did you see Mr. Atkinson lying on the floor when you came down? A. Yes, sir.

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Q. And was the prisoner facing Broadway? A. The prisoner was facing Broadway.

Q. Did you see Mr. Atkinson go into the office when he came in the second time? A. Yes, I went to the telephone and he went down into the office.

Q. Now did Mr. Atkinson's head lie on the stone of the doorway where the blood is now? A. On the stone sill.

Q. And is that stone sill discolored with what we presume is blood now? A. Yes, blood from his nose.

Q. Never mind what it is from; it is discolored, isn't it?

A. Yes, sir.

Q. Did you notice the position of the men who were moving this safe before the blow was struck, or before Mr. Atkinson had fallen? A. No, sir; I wasn't there then. I was at the telephone at that time, I presume.

Q. You don't know the position of the prisoner at the time, nor that of Mr. Atkinson? A. No, sir; I do not. I wasn't there.

Q. Do you know the position of anyone else in the office at the time the alleged blow was struck? A. I wasn't there.

Q. I am asking you if you know? A. No, I do not.

Q. What was the title of this suit that you speak of? A. Frederick Cook against Ernest Goring and William C. Pope.

Q. In what Court is that action pending? A. Pending in the Court of Common Pleas; it was begun in the 8th District Court.

THE CORONER: I don't see what that has to do with this inquest. We want to get at the men's injuries.

MR. SKIDMORE: He mentioned that himself and I have a right to examine him, with your Honor's permission.

THE CORONER: All we want is to get at the bottom facts as to how Atkinson received his injuries and whether he received his injuries at the hands of the prisoner.

BY MR. SKIDMORE:

Q. Now I want you to state to the Coroner and the Jury what you heard, and the first that you heard of this trouble? A. The first that I heard of the trouble was the expression of the witness Martin who stated "I saw the man struck, and there is the man who struck him," pointing to the prisoner.

Q. You have detailed a conversation here already in which profane language and obscene language was used? A. Very, indeed.

Q. That is what I want to get at, not at the time of the arrest. I am speaking about the first that you heard? A. The first that I heard is what I have testified to.

Q. I want you to testify to it again? A. The man said, "I have come here to remove that safe; I am going to take it at all hazards or under all circumstances." The words were slang.



POOR QUALITY  
ORIGINAL

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That was the effect of it.

Q. I don't want the effect. Do you remember the conversation as it occurred, word for word? A. Not word for word. It would be a difficult matter for anybody to know that, I should imagine.

Q. And the testimony that you gave a moment ago is simply what you have an idea it was? A. Oh no, not at all, sir; it is the result of what has been fixed in my mind of what I heard spoken at that time and the circumstances attending it.

Q. You have already said that you could not detail the conversation, Mr. Bernard? A. Not every if, and and but.

Q. Detail it now, if you please, sir? A. I will detail it as I did before.

Q. I mean what you remember; not your idea of what it might be? A. The prisoner came in the office together with two others. The prisoner said to me, "I have come after this safe and I am going to take it away." I stated, "You can't have it now; I am ~~much~~ busily engaged here; it is late; I have my papers in that safe; I cannot take them out now;" I did not want Mosler, Bowen & Co., to take my papers and have them running all around the City; "come tomorrow; by that time I will have my papers in a safe place and you can take the safe away." Then he says, "I don't give a God damn for you or your papers; I am going to take this safe under all conditions and under all hazards and circumstances; my employers, Mosler & Co., will protect me in it." Then I said, "Well, if that is the position you are going to assume, I am going to stand on my rights; you don't take this safe away; I know my rights here." Then he called me----

Q. (Interposing) What? A. He called me a "prick-eating son-of-a-bitch."

Q. What did he say? A. He says, "You get out, you prick-eating son-of-a-bitch, you God damned cock-sucker." I was against the safe.

Q. State right there what he said? A. "You get out of here," or, "get out of my way," one or the other, "you God damned prick-eating son-of-a-bitch, you God damned cock-sucker." I says, "Well, I guess you won't take this safe." Then I attempted to go for an officer and just as I was passing him he struck me here on the side of my face. Then Atkinson came out and said, "Go for an officer," and I went out. That is the only conversation I had with the prisoner, except when I came in and said, "My God! what have you done; have you killed this man?"

Q. One moment. Then you went out? A. Yes, sir.

Q. Anything which occurred after you went out you don't know?

A. No; I haven't testified so.

Q. Had you been drinking anything that day? A. About three or four glasses of beer.



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- Q. Anything else? A. No, sir.
- Q. Had Mr. Atkinson drank with you that day? A. He drank about three glasses of beer.
- Q. Did he drink with you three glasses of beer? A. Yes, sir.
- Q. Anything else? A. No, sir.
- Q. Didn't he personally state to you "I want to see Mr. Bernard?" A. He might have.
- Q. "I am the man," you replied? A. I might have. If he said that, I certainly did.
- Q. "I have come for this safe for the Mosler safe Company;" did he say that? A. He said, "I have come for the safe."
- Q. And did you not reply, "All right, there it is, take it," pointing towards the safe? A. No, sir; I did not say that at all.
- Q. What interest did Mr. Atkinson have in this safe? A. No interest in the safe.
- Q. The safe was subject to the order of the Mosler Safe Company, was it not, and the truck had been there several times to get it? A. No, sir; I don't know whether it had been there.
- Q. Had the truckman ever called for it when you were there? A. Never.
- Q. Well, you have understood, have you not, that the truck had been up there a good many times for this safe and the office door was always locked? A. No, sir; I have never so understood.
- Q. You don't know that that is the fact? A. I don't know that it is the fact. Whenever I was out I left a ticket on the office stating when I would return.
- Q. Did you find a postal card under the door from the Mosler Safe Company? A. I don't know that I did.
- Q. Will you swear that you did not? A. I wouldn't swear one way or the other, because I receive so many communications.
- Q. You know as a matter of fact that they have been trying to get this safe for a long time, don't you? A. I do not.
- Q. Do you deny it? A. I do; yes, sir; under the agreement that I had with the salesman, Mr. Downs.
- Q. As a matter of fact, the safe was subject to their order, was it not? A. It was, under certain conditions.
- Q. There were no real reasons why the safe should be detained, except the reason which you have stated? A. Yes, sir; that was a reason, and a legal reason. They had a right to replevin the safe.
- Q. Will you describe to the Coroner and the Jury this stone step that projects into the hall? A. The sill is simply a stone sill running through the door. I don't know the exact width of the sill, but the sill overlaps the jamb of the door probably three inches, I guess. It is a stone sill and the sill is

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two inches rising above the floor. Here is the doorway going in, and this is the sill, like that (illustrating), and then the floor comes here.

Q. Suppose we call this level here the hall, and the sill comes away into the hall? A. Yes, sir.

Q. About how far? A. It comes into the hall about six or seven inches, I guess.

Q. Making a sort of a pillow there for ~~xxxxxxx~~ Atkinson's head? A. As sills usually run. You all know what a stone sill is.

BY MR. GROSSE:

Q. Had you received any previous notice that this safe would be taken away? A. No, not that it would be taken away. I received a letter from Messrs Mosler & Bowen asking me if I would not remove the contents of my safe so as to be ready when they called for it to take it away.

Q. When did you receive that notice? A. I received that notice several days before these people called, while I was in. There was no day set when they would come, and when they did come it was after office hours, between six and seven o'clock, when they called for the safe, and I didn't feel safe in taking out these papers. They were papers of estates, vouchers and all that sort of thing. I wasn't going to place myself in jeopardy.

Q. And you were in a hurry to get away? A. Yes, in a hurry to go down to the livery stable.

Q. Did you examine the handspike? A. No, sir. I simply picked it up. I was so excited at the time I didn't make any critical examination of anything.

Q. In what condition was the defendant, if you know? A. I should imagine, from his actions and from his language, that he was under the influence of liquor; because the other helpers acted very quietly.

Q. Are the two men here in Court who were in his Company?

A. There is one of them here.

Q. Where is the other? xx.

MR. GERLACH: He is not here.

Q. When you left the place to go to the telephone for a police officer, where was Mr. Atkinson? A. Mr. Atkinson went down into the office. When I left him he was standing right in front of the door, between the door and the safe.

Q. The safe had been then removed from the office into the hall? A. The safe had been removed from the office into this position (indicating on diagram).

Q. And when you came back and Mr. Martin had made the remarks which you have testified to, you saw that handspike in the hands of the prisoner? A. I saw it drop from his hands immediately as I looked through the door.



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BY MR. SKIDMORE:

Q. And that is the one that was six feet long? A. That is the one.

BY MR. GROSSE:

Q. Do you know whether he brought that handspike there? A. I couldn't say which one of them, but it was brought there and ~~was~~ used in removing the safe.

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J O S E P H C. D O W N I N G

recalled and examined.

BY MR. SKIDMORE:

Q. One of the men took hold of the witness, Martin, and asked you to take him along, too, or said that he must go along, too, as he was a witness in the case? A. Yes, sir.

MR. SKIDMORE: Will Mr. Louis Gerlach stand up in Court.  
(Louis Gerlach here arose.)

Q. Is that the gentleman? A. Well, I couldn't swear that that is the man, because he was dressed differently at the time we speak of.

Q. Did the prisoner make any resistance at all when you arrested him? A. No, he did not.

Q. Didn't he say, "I'll go with you if you'll let me get my coat and hat?" A. After he got his coat and hat he said, "I'll go with you, I'll not run away."

BY MR. GROSSE:

Q. In what condition was the defendant when you met him?

A. Well, he was very excited, and he was standing on the sidewalk.

Q. In what condition was he; was he drunk or sober? A. Well, the condition of the man seemed to me as if he had taken one or two drinks. He wasn't drunk, but it appeared to me either his excitement or the effects of drink, that he was unduly excited and like as if he had taken a drink or two.

Q. Did you smell any liquor? A. No, sir.

Q. In what position did you find the deceased? A. The deceased lay with his head near the threshold of the door, near the threshold of the northeast corner of the door jamb.

Q. Which corner? A. (indicating of diagram) These are the steps leading down. Then the sill of the door comes about here and then there is stone at the back of the sill which runs into the end of the jamb of the door. The head of deceased lay on this stone right near the jamb of the door.

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G R E N V I L L E E. M A R T I N

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 407 West 57th Street.

Q. Now tell the Jury all you know about the facts of this case? A. I was in the office on a visit to Mr. Bernard when the safe man came in to take the safe, and when the defendant became so threatening, so offensive, I walked out on the sidewalk to get out of the trouble and I stood there watching the results with curiosity. I saw Mr. Bernard and Mr. Atkinson go in different directions for an officer and I saw them come back. Then Mr. Bernard went up to telephone and Mr. Atkinson went down stairs and he stood by the safe, a large safe, with his hands this way (illustrating as if resting two hands on the edge of safe) telling the prisoner that he could not move the safe, and the prisoner was very abusive, used obscene language---

BY A JUROR:

Q. Where was the safe then? A. (Illustrating) In that position.

Q. It had been moved? A. It had been moved.

BY THE CORONER:

Q. Well, go on. A. And then when Atkinson said in a cool, calm, quiet manner "You can't remove the safe," the prisoner picked up one of these hand spikes or cart rungs that are used to pry the safe along, I imagine, and held it over his head saying "If you don't move out of here I'll brain you," or, "I'll smash you," either one of those two words, and Mr. Atkinson still had his hands there and replied "No, you cannot remove the safe," looking at the prisoner. Just then the rung descended and the man fell.

Q. Then you saw the prisoner deliberately strike that man?

A. I did. Then when the man fell I stood there horrified for a second and then ran to the edge of the sidewalk where I saw officer Downing on the front platform of the car and I excitedly called him off.

Q. Did you see deceased make any assault on the prisoner at all? A. None whatsoever.

Q. He did not strike him? A. He did not strike him or make a motion to strike him. He seemed the coolest man I ever saw in my life in a disturbance.

BY A JUROR:

Q. You saw the prisoner deliberately strike the man after he threatened him? A. Yes, sir.

Q. He threatened him first before he delivered the blow?

A. Yes, sir.

Q. And then you saw him strike him? A. Yes, sir.

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Q. And Mr. Atkinson fell? A. And he fell; yes, sir.

BY MR. SKIDMORE:

Q. What is your business, Mr. Martin? A. I am a stenographer.

Q. Where are you employed? A. 110 Chambers Street.

Q. With whom? A. William E. Parsons Jr.,

Q. How long have you known Mr. Bernard? A. Since about the middle of last December.

Q. At one time did you have an office with Mr. Bernard?

A. Not with him.

Q. Desk room? A. Desk room.

Q. In his office? A. In Mr. Kaliske's office.

Q. The same office that Mr. Bernard occupied, where this tragedy occurred? A. Yes, in the same building.

Q. Wasn't it in the same office? A. No, I was in the hall.

Q. That is adjoining the office, isn't it? A. It isn't the same.

Q. It is the hall of the office, is it not? A. Yes.

Q. Are you related to Mr. Bernard in any way? A. In no way at all.

Q. Well, you and Mr. Bernard are very good friends? A. No, sir; I can't say that.

Q. What was your business there; you say you were making him a visit; was it a business call or a friendly call? A. I was passing up Broadway, I saw him in the window and I dropped in.

Q. You have been in the habit of frequently dropping in?

A. I think that was the first time I dropped in since I left the place.

Q. And how long ago is that, do you say? A. The latter part of January.

Q. How long were you there? A. About one month; maybe five weeks.

Q. Did you pay rent? A. No; I did all their type-writing work.

Q. How long had you been at the office before the safe movers arrived? A. Not more than two minutes.

Q. Where were you standing when they came? A. I was standing by one of the windows in the main office, near one of them.

Q. Then you immediately went upstairs? A. As soon as the defendant became abusive.

Q. How long after they arrived there was it before you went upstairs? A. I should judge from three to five minutes; I can't tell exactly.

Q. That this abuse which you speak of was delivered in about three minutes, you say? A. To the best of my knowledge.

Q. What did the prisoner say; what was the first thing he said in your presence? A. He said, "I have come to move this



safe."

Q. As a matter of fact now, didn't he ask for Mr. Bernard?

A. I didn't hear him.

Q. You can't say that he didn't, <sup>can</sup> did you? A. No. I was there; I didn't hear him. If he asked I probably would have heard him.

Q. What did he say, then; he said "I have come to get this safe?" A. Well, I can't tell the exact words he said.

Q. Who was he talking to; did he address that remark to you?

A. I don't know who he was talking to; he wasn't talking to me, I know.

Q. Who was he looking at? A. That I can't say; it wasn't any of my business.

Q. You simply heard him say "I come to get this safe." Then what was the next that you heard, as near as you can remember?

A. "I have been here for it before, and I am going to take it this time."

Q. And had Mr. Atkinson, the deceased, or Mr. Bernard, made any reply to his first remark that he had come to take the safe?

A. I don't think they made any reply.

Q. Well, do you have any recollection? A. No, I have not.

Q. He came in and said "I have come to get this safe, I have been here for it before two or three times and I am going to take it this time;" is that it? A. Yes.

Q. Then who spoke? A. Then, I believe, Mr. Bernard spoke. He was the only one in the office then.

BY THE CORONER:

Q. And what did he say? A. "I have got some papers in that safe and I haven't time to remove them now, I am very busy." Then the prisoner said "You know the combination; you take your papers out; I am going to take the safe." Then Mr. Bernard said "I haven't time for that; come again."

BY MR. SKIDMORE:

Q. Well, right there. What was Mr. Bernard doing at the time? A. Writing at the desk.

Q. Do you know what he was writing? A. When I first went in I glanced over it and asked him what it was and he said he was drawing up legal papers.

Q. You asked him what it was he was working at; what reply did he make? A. Drawing up some legal papers, or words to that effect.

Q. Do you remember what he said? A. That is the effect.

Q. Do you have any recollection of what he said? A. My best recollection is he said, "I am drawing up legal papers."

Q. To go back where we left off. When the prisoner said



"I am going to take it this time," who spoke then, as you remember?

A. After Mr. Bernard said "I can't take the papers out now," the prisoner said "You know the combination; open the safe and take them out." Mr. Bernard said "I haven't got time for that, I am too busy; come again." Then the prisoner said "I have been here before and I am not going to come after it again; I am going to take it at all hazards."

Q. He didn't make use of any such language as Mr. Bernard said he did, did he? A. Yes, sir.

Q. What did he say? A. Something about cock-eating son-of-a-bitch; something like that.

BY THE CORONER:

Q. You heard him say that? A. I heard him say that.

BY MR. SKIDMORE:

Q. Can you give the exact language? A. As near as I can get it it was "You cock-eating son-of-a-bitch, I'll take this safe;" and he used other abusive language which I don't recollect.

Q. What did Mr. Bernard say? A. Mr. Bernard said, "You can't have the safe; I'll go out for an officer." Before Mr. Bernard went out for an officer, I went upstairs to get out of the fight.

Q. You have testified that you were there only a moment---one minute, I think you said up at the 57th Street Court? A. Two or three minutes, yes.

Q. And have you ever testified before that the prisoner at the bar made use of any such language as you have now detailed?

A. Yes, sir; "vile and indecent language", was in the testimony.

Q. After you went up on the Street what occurred? A. When I went up on the Street I looked around for an officer. Then I saw Mr. Bernard come out from the inner office and I saw the prisoner's arm raised as Mr. Bernard went by him, but I didn't see him strike him, and when Mr. Bernard came up the steps I said "Did he hit you?" Mr. Bernard said, "Yes, he did," and then Mr. Bernard went for an officer.

Q. Who were in the office after Mr. Bernard came out? A. The prisoner and Mr. Atkinson. Mr. Atkinson followed right up, pretty near Mr. Bernard.

Q. Any one else? A. Mr. Bernard, the prisoner, and Mr. Atkinson. I think one of the other helpers was there.

Q. There were two other men there, weren't there? A. There were three altogether.

Q. And they had commenced moving the safe right away as soon as they could? A. Yes, sir.

Q. You stood in front of the hall, or the front office door, looking in? A. At the top of the steps looking in.

BY A JUROR:

Q. And from there you saw the prisoner's arm raised to strike Mr. Bernard? A. Yes, as Mr. Bernard was going out for an officer. I didn't see him strike, but I imagined he did, and I asked Mr. Bernard when he came up and Mr. Bernard said yes.

BY MR. SKIDMORE:

Q. Be kind enough to describe the position where you stood with respect to the door leading into the office from Broadway.

A. (Indicating on diagram) I came up these stairs here and stood right there with one hand on the railing looking down.

Q. About how far from the office door? A. Right near where I could hear.

Q. You stood there while they were having this conversation which ~~you~~ have detailed? A. No, as to the conversation that I detailed I was in the office before Mr. Bernard went up the steps.

Q. That occurred in the room off the hall? A. Yes, sir.

Q. And then you went up? A. Then I went up, and when I was up there on the steps I saw Mr. Bernard come out and Mr. Atkinson came right out after him up the steps and Mr. Bernard went over towards Eighth Avenue after an officer and Mr. Atkinson went uptown.

Q. After Mr. Atkinson and Mr. Bernard had both come out of the office, there was nothing left for you to look at, was there?

A. No.

Q. What did you do then? A. I looked up and down for a policeman.

Q. Did you go away from there? A. No. I perhaps might have gone to the end of the sidewalk, but I didn't leave the place. I remember looking up and down for an officer, stretching my neck.

Q. You didn't try to stay there all the time; you walked around? A. I was within a radius of ten feet all the time.

Q. While you were looking up and down for an officer what occurred? A. The men continued moving the safe until they got it out in the hall.

Q. Where it shows on the diagram here? A. Yes, sir.

Q. You were standing in front when Atkinson returned? A. Yes.

Q. Did you speak to Mr. Atkinson? A. Yes, I asked him if he had found an officer.

Q. What reply did he make? A. "No."

Q. And he went down the steps? A. No, he waited there until Mr. Bernard came back from looking for an officer.

Q. Well, go on. A. And when Mr. Bernard came back Mr. Atkinson told Mr. Bernard that he had better telephone, and then Mr. Atkinson went down stairs.



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Q. Had Mr. Atkinson been drinking? A. I didn't see him drink; I didn't smell it.

Q. Did he seem intoxicated a little? A. No, he didn't seem intoxicated.

Q. Well, he came down in an excited way, didn't he? A. No, he was cool.

Q. Then you commenced looking again; you resumed your inspection of the workman down there? A. Yes, sir.

Q. Which way did Mr. Atkinson go with respect to the entrance, after he had passed through it; did he come over this way (indicating on diagram)? A. No, he stood on this side. He went right straight in the door and he met the safe and he stood there.

Q. After he fell he was to the left. Now did you see Mr. Morgan? He is not here. We will have him here. I told him I would let him know in time, because I didn't think we could get through. Did you see one man at the safe at the further end of the hall? A. Yes, Mr. Palmer.

Q. What was Mr. Palmer doing after Mr. Atkinson returned?

A. Grumbling away to himself, and he had the handspike in under the safe.

Q. Had it with his left hand under the safe, pushing the safe with his right hand? A. I can't tell that.

Q. But you can tell that he had it in his hand and was grumbling away. A. Yes.

Q. Which hand did he have it in, if you know? A. That I can't tell.

Q. And you were up on the walk and the safe was between you and where the prisoner stood? A. Yes, sir.

Q. And yet you say that you saw him have it in his hand.

A. Well, the prisoner stood here on this corner (illustrating) and the safe was there; the safe was not between us.

Q. Well, you could see? A. I could see, yes.

Q. Was there a man in front of the safe? A. Yes.

Q. A man with a moustache? A. Yes.

Q. And what had he been doing; didn't he have a handspike in his hand, too, a big one, putting the safe around? A. I don't know.

Q. Who had handspikes in ~~xxxxx~~ their hands if anyone? A. The prisoner.

Q. Anyone else? A. I didn't notice anyone else.

Q. But you took particular notice of the prisoner and what he had? A. Because he was the most abusive, naturally, I took notice.

Q. And you didn't see anyone else have a handspike? A. No. They might have had; I don't know.

Q. After Mr. Atkinson went down the steps and went into the hall, what did he do? A. He said "There is no use of fighting, you can't take this safe."



BY THE CORONER:

Q. Who said that; Atkinson? A. Yes, sir.

BY MR. SKIDMORE:

Q. And was the prisoner looking at him then, and he at the prisoner; were they facing each other? A. Yes, they were facing each other.

Q. Well, go on. A. And then the prisoner became very abusive and wanted to push him out of the way and the man with the moustache on the other side, I don't know what his name is----

Q. (Interposing) On the front of the safe? A. He was just going to strike Palmer to get him out of the way. He raised up his hand and that man there (pointing), one of them men, he pushed him aside and he said "Stop this fighting," and he tried to quiet it off.

Q. Then Mr. Morgan, the man's name is who was working in front of the safe----he is not in Court; we will call him Morgan--- he had an altercation with the prisoner? A. Yes; Palmer told him to take the man out of the way.

Q. What did he say? A. He commenced to push him and shove him. I couldn't see very well, because they were all in front of me at that particular minute. They broke away and then I saw it.

Q. You say he said "Take that man away? A. Yes; or words to that effect.

Q. Meaning take Atkinson away? A. Yes, sir.

BY THE CORONER:

Q. Palmer told Morgan, in fact, to take Atkinson away? A. Yes sir.

Q. Well, what happened then? A. Well, that stout man there (pointing to Louis Gerlach) came and broke them away.

BY MR. SKIDMORE:

Q. Where did he come from? A. From the other side of the safe.

Q. Over to the right of the safe as you go in from Broadway?

A. Yes.

Q. What did he do? A. He tried to quiet all the disturbance.

BY THE CORONER:

Q. In other words, he tried to make peace? A. Yes, all the way through.

BY MR. SKIDMORE:

Q. Can you tell what he did to make peace?

THE CORONER: The witness says that he was a peacemaker and tried to come in and do his duty in a peaceful way, and the other witness, Mr. Bernard, says that the prisoner did not; that he came in and he was abusive. This witness states that Gerlach was trying

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to be a peacemaker all around. It was certainly a very good thing to be.

Q. (Resuming) Did you hear Gerlach say anything? A. I heard him say to Palmer "Stop using those names."

Q. You don't remember his exact language? A. No.

Q. Then what occurred next? A. Gerlach tried to separate them all.

BY THE CORONER:

Q. What happened then? A. Then I didn't notice whether Gerlach and the other man, whom you call Morgan, went out or whether they were there or not, because my eyes were just centred on the two principal people, Atkinson and Palmer, and they stood in relative positions, Palmer here and Atkinson nearer the door, and then occurred the blow I have already testified to; first the words of the prisoner after telling him first to get out of the way and he wouldn't do it, then he took up the handspike or the cart rung and said "If you don't get out of the way I'll brain you," or "I'll smash you;" one of those two words.

Q. And then you also state that you saw him hit him over the head. A. Yes.

Q. You swear to it? A. Yes, sir.

BY MR. SKIDMORE:

Q. Will you tell the Jury how he had it uplifted over his head, over which shoulder he had it? A. Over his right shoulder.

Q. That is, next to the partition going into the door? A. Over his right shoulder.

*By the Coroner*  
Q. You saw the blow descend, did you? A. Yes, sir.

BY MR. SKIDMORE:

Q. Where were you standing on the walk with respect to the edge of the walk or the first step down; were you standing right near there? A. (Indicating on diagram) I was standing right there.

Q. (Indicating on diagram) Assuming this was the sidewalk and here is one step down, were you standing here? A. Standing right there with my hand on the railing looking in.

Q. Did you see Mr. Atkinson push Louis Gerlach with his left hand into this doorway here as he came in? A. I didn't see him; no.

Q. Did you see Atkinson strike the prisoner? A. I saw him strike no one.

Q. You can't say that he did not strike him, can you? A. I didn't see him strike him.

Q. The prisoner was at the corner of the safe nearest this door? A. Yes.

Q. And Atkinson stood between him and you when you were up on



the walk ? A. Yes, sir.

Q. Did Mr. Atkinson have his hands on the safe when he first went in ? A. He went right in and put them on the safe and says "You can't take this safe." Of course the safe was a big thing; I would have to reach up to it.

BY THE CORONER:

Q. How high is this safe ? A. Taller than I am.

MR. BERNARD: The height is shown on the diagram, I think. It is four feet nine and a half inches.

BY MR. SKIDMORE:

Q. Did you describe the cart rung or handspike to Justice O'Reilly ? A. I tried to. You were there and asked me some questions.

Q. Did you testify that it was four feet long ? A. I said "about," and I underlined it.

Q. Then did you measure from the sidewalk to the platform up on Justice O'Reilly's desk to show your idea of four feet ? A. No, I did not; I measured it lengthwise.

Q. Describe the article you saw the prisoner strike Atkinson with ? A. I guess it was maybe a little more than four feet long and the top end came tapering to a point, round, and the bottom end was square with iron bands on, and about that square (illustrating about two inches).

Q. Isn't it higher than you measure down ? A. I didn't measure it sir.

BY MR. GROSSE:

Q. What caused you to pay particular notice to the defendant and the deceased ? You said you paid particular notice to them and not to the others ? A. I saw the prisoner very threatening and with that stick upraised and naturally it concentrated all my thoughts; there was a fascination to it; that is all.

Q. You saw Mr. Atkinson go in at once, did you ? A. Yes.

Q. And he wanted to stop the safe ? A. Yes.

Q. And he laid his hands upon the safe ? A. Yes.

Q. And he didn't lift his hands from the safe until he fell ?

A. I recollect now he did lift his hand and then put it back there, but he didn't hit anybody. He lifted his right arm like this (illustrating), as if to strike, and then put it back there again, didn't strike anybody.

Q. And that was only for how long ? A. For a second.

Q. Did you see a pistol in the hands of deceased ? A. I did not.

Q. Did you see deceased make any motion towards drawing a pistol, any threatening motion ? A. No; the only time he raised his hand off the safe was to make that motion (illustrating), and then he put it back again, and this was probably a minute before the blow was struck.



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Q. Did you see deceased put his hand in his hip pocket ? A.I did not.

Q. Or in any pocket ? A. No.

Q. Or towards his body ? A. No, sir.

Q. Now when the deceased had been struck, how did he fall or sink ? A. He went right down, the same as if you would strike an oxen a blow in the head with an ax, sank right down and then rolled over after he got down.

BY THE CORONER:

Q. And never said a word ? A. Never said a word.

BY MR. GROSSE:

Q. Where did he roll to, to what spot ? A. With his head lying upon that stone sill in the corner.

Q. And did he fall heavily upon the sill ? A. No, he was down and his head rolled over on the sill.

Q. He sank down ? A. Yes, and then rolled over.

Q. Did he while so sinking strike the safe with his body ?

A. No, he fell away from the safe.

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D R. A. T. WESTON

called and sworn.

THE WITNESS: I made an autopsy upon the body of John W. Atkinson at Roosevelt Hospital on the 27th day of March between the hours of four and six P.M. The body was that of a large, heavy man. Examination showed a wound which was partly incised and partly lacerated, closed by sutures with a drainage tube; that is, the wound had been enlarged by the Surgeon of the Hospital in order to ascertain if there was a fracture. This wound was about four inches above the left ear, extending an inch and a half in a direction downwards and forwards. There was a large amount of echymosis under the scalp in the region of the wound. Dissection of the scalp showed a fracture extending through the parietal bone a half inch in front of the lambdoid suture in the direction which I mark with my pencil (illustrating on a skull), half inch from the suture, and one inch from the median line downwards and forwards through this bone here, and forward across the base of the skull. That is a point which can be shown on this skull, but to be seen after the top of the skull is removed---clear across the base of the skull. There was another line of fracture shown ~~xxxxxxx~~ above the other extending down to the base of the skull. These two fractures united at this point (illustrating) and extended across the base of the skull as far as the centre of the skull. There was very extensive hemorrhage under the membranes of the brain, between the brain and the membrane, and at the base a very extensive amount of hemorrhage and clotted blood. The brain was congested intensely. That fracture in its entire extent is about nine inches. I measured it that day about 8 1/2 inches long in his skull. As I have marked it here I have made it nine inches on this skull. This portion of the skull which was embraced between these two fractures was perfectly loose. The cause of death was fracture of the skull and intracranial hemorrhage and shock.

BY THE CORONER:

Q. Doctor, I would like to ask you a medical question. In your opinion as a medical man, one who has had experience in the different Hospitals and made several autopsies, would a fracture like that indicate a blow received from some heavy instrument, or do you think he could have received that by falling across the safe? A. In my opinion it was received by a blow from above and the side, a very severe blow, probably in the direction in which this fraction extended. I do not see how such a fracture could be received by such a fall. A fracture from a fall would be either a punctured fracture, which this man had here (indicating

on skull), which was healed---a fracture received one time during life and healed---or a fracture at the base. The soft friable bones at the base of the skull are fractures which would be received at the base of the skull. But a fracture extending in as that does, I don't see how it could have been received except by a blow. That is my opinion.

BY MR. SKIDMORE:

Q. I will ask you if the skull was fractured beneath the wound, under the wound? A. Yes, sir.

Q. Was the skull fractured beneath or underneath the wound?

A. Well, the wound was very small in comparison with the fracture. The wound was right over the fracture at this point (indicating on skull). The wound was probably not more than half an inch in extent. The wound which I saw on the body was one and a half inches in extent and had been enlarged by the surgeon.

Q. Was the skull fractured under the wound? A. It was.

Q. Was there any depression of bone beneath the wound?

A. No, sir; no depression.

Q. Was the skull depressed at any point along the line of fracture? A. No, sir; not to any extent.

Q. Was it any? A. It wasn't depressed; no, sir. It was just a mere line of fracture; there was no depression at all.

Q. Well, inasmuch as this depression was lacking and there was no depression, would not that indicate that the skull had not been fractured by a heavy blow? A. No, sir.

Q. If the skull had been fractured by reason of a heavy blow being struck on it, would there not be a depression, in case the blow was delivered, we will say, by a hand spike six feet long and four inches square at the end and an iron band around it?

A. Not necessarily; no, sir.

BY MR. GROSSE:

Q. Doctor, the natural condition of the skull was normal, was it; that is, it was not diseased? A. Yes, sir; perfectly normal.

Q. Healthy? A. Yes, about the usual thickness.

BY THE CORONER:

Q. Outside of that, did you make any pathological examination of his kidneys, of his liver, or anything like that? A. No, sir.

Q. Or his brain? A. Of his brain, yes.

Q. Well, as the subject of drinking has come up, would you consider Mr. Atkinson a drinking man; were there signs at all in the brain showing that he suffered from any alcoholic effects?

A. No, sir.

Q. His brain was perfectly normal? A. His brain was



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congested, due to the injury.

Q. But outside of that? A. Outside of that, no, sir.

THE CORONER: Gentlemen of the Jury, when the Deputy Coroner or any pathologist is making a pathological examination like that he can tell whether a brain is diseased. There are certain signs which people suffering from alcohol will show in the brain or in the kidneys. The Doctor has said he made an examination of the brain of the deceased and it showed that his brain was in good condition.

BY MR. SKIDMORE:

Q. Don't fractures at the base of the skull occur without external wounds? A. Yes, sir; very often.

BY MR. GROSSE:

Q. Doctor, in this particular case is it your opinion that the fracture was caused by a blow? A. Yes.

Q. And not by anything else? A. By a blow.

-----OXO-----

LOUIS GERLACH

sworn and examined.

BY THE CORONER:

Q. Where do you live? A. 496 Ninth Avenue.

Q. You were one of the safe movers who helped Mr. Palmer?

A. Yes.

Q. And you were in Mr. Bernard's office? A. Yes.

Q. Now, commence your story from the time you went in and explain to the Jury just what happened? A. Well, I come there with the truck. I was driving at the time. I backed the truck up, jumped off the truck and put the blankets on the horses. Meantime, Mr. Palmer and Mr. Morgan the regular driver of the truck went in. I jumped off the truck then and walked right in empty handed and they had already started the safe and I started to push the safe with them. Then I picked up an iron and put it in front of the safe and we shoved it a little farther. I didn't hear no words of any kind. Of course I was busy pushing right along attending to my work.

Q. There was abusive language used there, as two witnesses have stated. Did you hear that? A. I heard one word and that was "You son- of-a-bitch."

Q. Did you try to be a peacemaker? A. Says I to Mr. Palmer "Don't say that again." In regard to Mr. Bernard's cursing there, I didn't hear a word of that.

Q. And then what happened about the safe getting out into the hall there; what happened when Mr. Atkinson had his hands on the safe? A. We pushed ~~the~~ right out into the hall. I don't remember anything that happened then.

Q. Did you see Palmer strike Atkinson? A. No, sir.

Q. Did you see Atkinson fall? A. No, sir; I did not.

Q. How do you think he fell? A. I couldn't say. I was on this side of the safe and Mr. Palmer had a handspike in his left hand and his right hand on the safe that way pushing and Mr. Atkinson came along and gave me a shove and that shoved me into the room. I turned around and when I turned around Mr. Atkinson laid on the floor.

Q. How tall a man was Mr. Atkinson? A. A very big man.

Q. Was he taller than you? A. Oh yes.

Q. Was he six feet? A. I guess about six feet.

Q. Now how high was the safe; four feet six inches? A. The safe was about up to my nose.

Q. And then the first thing you knew you saw Atkinson on the floor? A. Yes, sir.

Q. Did you make any inquiries then? A. No, sir; I did not.

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Q. Didn't you ask how he fell on the floor? A. No, sir.

Q. Did you try to talk to him? A. No.

Q. Didn't you talk to Atkinson at all? A. No, sir; I did not.

Q. Did you ask Palmer what was the matter? A. No, sir; I did not. I walked right out of the office on to the sidewalk.

BY MR. SKIDMORE:

Q. At the time Mr. Atkinson pushed you into this doorway here from the hall as he passed, where was Mr. Palmer, the prisoner, standing? A. He was on the furthest corner with a handspike under the safe with his left hand and his right hand on the safe pushing.

Q. And that was the corner next to the partition? A. The furthest corner that way.

Q. The partition being to Mr. Atkinson's left leading into this office? A. Yes, Mr. Atkinson was right near the office at that time.

Q. After Mr. Atkinson pushed you what did you see? A. I didn't see anything.

Q. And when you turned? A. I seen him lay there.

Q. And how long did it take for you to turn around? A. It came just like that (slapping his hands together).

Q. How long did it take for you to turn around after you had been pushed? A. Only a second.

Q. Did you see Mr. Palmer have a handspike in his hand uplifted? A. No, sir.

Q. And yet you were right alongside of him? A. Yes.

Q. Could he have uplifted this handspike in his hand and you not see it, you being right by the side of <sup>him</sup>? A. If he did, he done it very lively, sir.

Q. Could he have done it, in your opinion? A. He couldn't have done it while I had my face to him.

BY THE CORONER:

Q. Could he have done it when your back was turned? A. Well, he might.

BY MR. SKIDMORE:

Q. Did you see the handspike which Mr. Palmer was using? A. I seen it but I paid no attention to it.

Q. You know what it is? A. I know what a handspike is.

Q. Describe it to the Jury? A. A thing about five feet long and I should judge about an inch square all the way round and it has a big plate at one end of it for shoving iron safes.

Q. An inch wide at the top and then runs down larger?

A. Yes.



Q. Can you tell about how heavy it is? A. Some of them are very heavy.

Q. Could a man raise it with one hand? A. He could, but he would have to take time.

BY THE CORONER:

Q. Could he raise it with two #, hold it in the air and swing it around? A. Yes, he could do that.

BY MR. SKIDMORE:

Q. Could he raise it in a moment from the floor and wield it in the air and strike a blow with it? A. It would have to be a very quick blow.

Q. He would have to be a very strong man? A. I should think he would.

THE CORONER: What does that handspike weigh?

MR. SKIDMORE: 45 or 50 pounds.

Q. Now, at the time Atkinson pushed you in this hallway, where was Mr. Morgan; was he in front of the safe, next to Broadway? A. He was in front of the safe when I saw him.

Q. Putting down irons under the wheels? A. He had an iron in his hand; I guess he was putting it under the safe.

Q. What did you see Atkinson do when he came in there; did he come in in an excited manner, or was he calm and cool, as a witness has testified? A. I understood him to say "Don't you move that safe another inch."

Q. What did you see him do? A. And as he was passing by I seen him throw his coat to one side that way (illustrating). I don't know whether it was to draw a revolver or to get it out of one side of the safe.

Q. After he pushed you, at that instant did he strike the prisoner? A. I saw his arm up that way (illustrating).

Q. Did you see it go up towards the prisoner? A. No, sir; I did not.

Q. Illustrate to the Jury, if you can, how he appeared then as he was facing the prisoner? A. They were face to face. It appeared as if he was going to hit him. He had his elbow up.

Q. He had his fist and his arm uplifted? A. Yes.

Q. But you didn't see him hit the prisoner? A. No, sir.

Q. Did you see Atkinson strike anyone or strike at anyone? A. I didn't see him strike at any one, but he had some words with Morgan before he pushed him into the office.

Q. Did he push you with his elbow, or how did he push you? A. With his elbow like.

Q. And instantly after Atkinson pushed you, you turned right around? A. I turned right around and he already laid down.

Q. And where did Mr. Palmer, the prisoner, have the handspike then? A. I didn't pay no attention to him then; I just looked at the man and I walked out to the sidewalk.

Q. Did you see it at any time there under that end of the safe? A. It was under that end of the safe when he was pushing it along and shoving with his right hand at the one time.

Q. Could he have raised that handspike and struck Mr. Atkinson on the ~~right~~ left hand side of the head, from the position where they stood; could he have struck Mr. Atkinson on this side of the head next to the partition? A. I hardly think he could. I don't see how he could without my seeing him.

Q. How much space was there between the corner of that safe and this partition at the time Atkinson fell? A. Well, I should judge about a foot and a half after he laid there.

Q. Have you seen the safe since? A. No, sir.

Q. You haven't been up there since? A. No, sir.

Q. It was a narrow space there? A. It was a narrow space.

Q. And the safe was pretty near up to this partition, one corner? A. One corner.

Q. And the prisoner was on one corner and Atkinson was on the other? A. Yes.

Q. The left side of Atkinson's face was towards the partition? A. Yes.

Q. And facing the prisoner? A. Facing Mr. Palmer.

Q. And you are positive the prisoner had a handspike under one end of the safe with his left hand and was pushing the safe with his right? A. Just before Mr. Atkinson gave me the push.

BY A JUROR:

Q. Before you were turned around? A. Before I was turned around; yes, sir.

BY MR. GROSSE:

Q. You are a safe mover, and so was the defendant?

A. Yes.

Q. Now it requires great physical strength to be a safe mover, does it not? A. Well, you have got to lift pretty heavy things.

Q. Heavy weights? A. Ordinary men can do it?

Q. And fifty pounds is a very small weight for you to lift?

A. Oh yes.

Q. You count merely by the hundreds, I suppose? A. Yes, sir.

Q. Why did you say that you did not know whether the deceased wanted to take out his pistol when he turned around? A. Because he threw his coat around. I don't know whether it was in the way of the safe, or whether it was a motion to go for his hip pocket.



Q. Did you think he went for his pistol? A. I didn't know what to think for a minute?

Q. You didn't know anything? A. No, sir.

Q. And why did you say that you didn't know whether he went for a pistol; was it because you heard somebody testify about the pistol? A. No, sir.

Q. Well, why did you say it? A. I didn't say that he was going for the pistol. I say he threw his coat to one side.

Q. That was all? A. Yes, sir.

Q. And you didn't receive the impression at the time that he wanted to go for the pistol? A. No, sir.

Q. You didn't think of the pistol at the time? A. No, sir.

Q. And it was only afterwards that you thought of the pistol?

A. After he put his hand to his side? \*

Q. And that suggested to you the possibility that he might have wanted to take out his pistol? A. It just came in my mind that he might want to. I couldn't say he did.

Q. Now when the deceased fell to the floor you walked out?

A. He had already laid down when I walked out.

Q. Why did you walk out? A. Well, I don't know. I walked out. I thought no more of it.

Q. You didn't think anything of a man lying there? A. I didn't see how it was done or anything. So, in the meantime, they were going for a policeman. That is what made me walk out. I didn't have nothing to do with it.

Q. Who went for a policeman? A. Mr. Bernard had already gone for a policeman.

Q. But he went before that man fell? A. He went before the man fell; yes, sir.

Q. Now, you didn't know how this man had come to fall?

A. No, sir; I didn't see him.

Q. You didn't see? A. No, sir.

Q. And you didn't see the defendant strike him? A. No, sir; I did not.

Q. You didn't see anything of that? A. No, sir.

Q. And you don't know that he did not strike him? A. I don't know whether he struck him or whether he didn't.

Q. And after the defendant was arrested, did you and the other man take the handspike and the other implements away?

A. No, sir. I went down to the station house with him. The other man took all the things away.

BY MR. SKIDMORE:

Q. You don't lift safes, do you, when you move them; you roll them? A. We roll them.



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Q. A man weighing a hundred and fifty or one hundred and sixty pounds, like Mr. Palmer, can roll a safe as well as you could, if he understood the business? A. Yes, sir.

Q. And it is not necessary for him to be a big man to roll a safe? A. No, sir.

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P H E O N I X   B .   P A L M E R

sworn and examined.

BY THE CORONER:

Q .   Where do you live ?   A .   197 Bleecker Street.

Q .   What is your occupation ?   A .   Safe mover.

Q .   Now tell your story to the Jury ?   A .   On the night of March 26th I was coming down Broadway. I stopped at Mr. Bernard's office. I entered the office and there were two men sitting at the desk at the time. I says, "Is Mr. Bernard in ?" One gentleman says, "I am the man." I says, "Mr. Bernard, I have come after this safe, already having been here two or three times, but never could find you." Says I, "Being as you were in, I called." He says, "There's the safe, take it," pointing towards the safe. I says, "Thank you." I then stepped to the door. I says, "Mr. Morgan, hand me the screw driver and hammer." Having put the safe in there, I understood how it should come out. I took the front door off, because the safe couldn't go through unless I did take it off. I had the door off the hinges standing against the wall. I then went inside to the hall doors and there was two ~~slates~~ had to come off, probably about half as big as this piece on top here (indicating), so that the safe could come through without damaging the door. I had one of them off when Mr. Atkinson came to me and says "You can't have that safe." I says, "What claim have you got on that safe ?" He says "It don't make a damned bit of difference what claims I have, you can't have the safe, and that settles it." I says, "Mr. Bernard hasn't told me so yet." He went back and held a consultation with Mr. Bernard for four or five minutes. I had the strip off the door. I walked in to my men and says "Shove the safe along." These men shoved the safe along, and then Mr. Bernard walked in and says "You shant have the safe." I then said "Mr. Bernard, you know the combination of this safe and you know we have been here for this safe before," and I says, "Take the papers out and we'll take the safe," making no threats, or any remarks, not even swearing to the men at all at the time. He says, "I'm damned if You'll take it." I says, "Well, now, being as you have gone so far, you have no interest in the safe, this man has no interest in the safe and I'll be damned if I don't take it." He says, "I'll get an officer and see that you don't take it." I says, "While you're about it get four of them, so that I'll have some witnesses; if the officer then tells me not to take the safe after I have explained to him the cause of this thing, I'll leave it." So when he went to go out he went out ahead of me, and Mr. Atkinson says, "Damn your soul, you're too impudent," and he smashed me in the face, and I says, "You son of a bitch, don't you do that again."



BY MR. SKIDMORE:

Q. Where did he hit you at that time? A. Right on the head. I didn't resent the blow; I kept on about my work. While they were gone for the policeman I had the safe then in the hall. They came back and stood on the sidewalk for a second. Mr. Atkinson came down stairs. Mr. Morgan x then was standing in front of the safe and I had just asked him to get a piece of iron and put it on the floor to prevent the safe going through. He shoved Morgan to one side and Morgan shoved him back. I made no remark to Mr. Morgan, as has been testified here. I then stooped down to put the iron under the safe and when I raised up Mr. Atkinson hit me in the head. I says, "I didn't come here to fight; if there is any fighting to be done if you wait until I get this safe on the sidewalk I'll give you all the fight you want." I then turned and had the handspike in my left hand and my right hand on the corner of the safe shoving it ahead. He says, "Don't you shove that safe x another inch." I shoved it an inch and he says as I did "Damn your soul I'll hit you," and then I hit him with my right hand and he fell heavily to the floor. I stood and looked at the man for a minute, probably; maybe it might have been a little longer. I dropped the handspike out of my left hand, which was still under the safe and I walked out to get the windlass ready to get out the safe. I didn't think I had any more then just hit the man. As I walked out to the sidewalk Martin says, "There's the man," and I says, "Yes, I'm the man," and I says, "Let me get my hat and coat and I'll go with you." I walked down stairs, got my hat and coat and went out and the officer put the nippers on me and I says "There's no need putting the nippers on me, I haven't done anything to be scared of and I am not going to run away." I didn't think I had hurt the man. When Martin seen it had come to be such a serious matter he started to walk away and this man Louis Gerlach says "No you don't, you can't go away, you've got to go with the officers, you're the main witness." We went to the station house and he was let go on his own recognizance. I was then locked up. I gave my age, residence and occupation, and then I didn't know any more about this case until the next morning until I was taken over to Justice O'Reilly's Court and they asked me if I had heard any news and I said no and they said "The man is dead."

Q. At the time you struck Mr. Atkinson, was he facing you?

A. He was.

Q. And just before you struck him with your fist, as you have testified, had he struck you over the right eye? A. He had. I was putting an iron under the wheels and when I raised up he says, "God damn you, I'll fix you," or, "I'll smash you." That is what he did.

Q. And he did? A. He struck me over the right eye.



Q. And after he had struck you, you struck him? A. No, sir; I did not.

Q. When did you strike him? A. After he struck me he says "Don't you move that safe an inch further." I moved it an inch and then he threwed his coat back and says, "God damn your soul, I'll fix you," as if he was going for a revolver, and as he did I struck him with my right hand.

Q. Did you hit him a light blow? A. I wasn't going to hit love taps when I thought my life was in danger.

Q. Where did he strike you? A. Right there (indicating).

Q. Over the right eye? A. Yes, sir; right there. There is the spot.

Q. Did you strike him more than once? A. I did not.

Q. Did you strike him with the handspike? A. I did not, sir.

Q. Did you strike him with anything else except your bare fists? A. Nothing except my bare fists.

Q. And you are positive of that? A. I am here on oath on that account.

Q. When you struck him do you say that you believed that he was going to draw a pistol? A. I do state that.

Q. Did you believe it? A. I did so, at the time when he said "Damn your soul" and put his hand in his hip pocket.

Q. What was Atkinson's condition? A. He acted as though he was a man pretty well under the influence of liquor.

Q. Was he profane? A. Very quarrelsome from the time he first said to me about not taking the safe.

Q. Was Morgan in front of the safe? A. He was in front of the safe facing towards 7th Avenue.

Q. When Atkinson fell was his face towards Morgan? A. He fell right where he was working.

Q. Did you make use of the language which the witnesses have testified to, other than the words son of a bitch? A. No, sir; I did not.

Q. Do you use such language? A. No, sir; I do not. I wouldn't have said what I did, I wouldn't even have called him a son-of-a-bitch if he hadn't done what he did.

Q. Did you have any altercation with anyone there except Atkinson? A. No, sir; I did not.

BY MR. GROSSE:

Q. Atkinson hadn't gone out of the place? A. At what time do you mean?

Q. At any time while you were there? A. He had gone out at one time with Mr. Bernard to look for an officer.

Q. Where were you when he came back? A. I was back of the safe facing towards Broadway.

Q. And the safe was in the hall? A. The safe was in

probably a foot or two feet.

Q. You were on the inside of the safe? A. On the back, towards 7th Avenue.

Q. And where was Atkinson? A. Mr. Atkinson came down first and stopped at the end of the safe nearest Broadway and shoved Mr. Morgan out of the way. He says to him "Get out of my way." He came around to me and put his hand on the safe and he says, "You can't take that safe." I says "My friend, you have no authority over that safe and I am going to take it."

Q. And what happened then when you had said this? A. I then asked Morgan for an iron to put under the safe. He passed me the iron, I stooped down to put the iron under the safe and when I was raising Mr. Atkinson hit me over the right eye.

Q. Without saying anything? A. All he said was "Don't move that safe another inch."

Q. Then he didn't say anything when he struck you?

A. When he struck me he says "Damn your soul, I'll fix you," or something to that effect.

Q. But you didn't state that on your direct examination; this is the first time you have stated it, isn't it? A. No, sir.

Q. Have you stated it here before? A. Yes, sir.

Q. And where did he hit you? A. Over the right eye.

Q. And he was on the same side of the safe where you were?

A. No, sir.

Q. Where was he? A. (Illustrating) He was on this side of the safe and I stood at the corner of the safe.

Q. What did you do when he had hit you? A. I says to him "This don't want to happen again."

Q. And what did you do after that? A. I picked up my handspike again, put it under the safe and put my hand on the corner of the safe to shove the safe ahead. When I started to shove the safe he says "Don't you take that safe another inch." As he said that, I was shoving the safe, and then he went for his hip pocket and he says "Damn your soul, I'll fix you."

Q. And who was near Mr. Atkinson besides you? A. This man down here, Gerlach.

Q. And who else? A. Mr. Morgan.

Q. Where did Mr. Morgan stand? A. Mr. Morgan stood at the front of the safe towards Broadway, facing me.

Q. On which side of the safe did Mr. Atkinson stand? A. (indicating on diagram) Right there.

Q. At the entrance. And he had been there all the time since he came in? A. Yes.

Q. And you had been towards the office door, on the side nearest to the office door? A. Yes, sir.

Q. And Morgan was on the side opposite you? A. His back



was right towards Broadway.

Q. He was on the side opposite the office door, that is, near the wall beside the office door? A. Yes.

Q. And with what hand did he reach for his hip pocket?  
A. With his right hand.

Q. And he was standing how? A. He was standing facing me.

Q. And the safe was between you and him? And how high is the safe? A. The safe is four feet nine and a half inches high, it is supposed to be. It is a 34 safe.

Q. And you were opposite Mr. Atkinson? A. Yes..

Q. (Indicating on diagram) And you were standing here? A. No sir; I was xx standing on this corner of the safe.

Q. And with his right hand he reached for his hip pocket?  
A. He did; yes, sir.

Q. Did he say anything? A. He says "Damn your soul, I'll fix you," and at the same time he made a move for his pocket.

Q. And what did you do when you heard that? A. I plugged him with my fist and knocked him down.

Q. And he fell immediately? A. Yes, sir; and he fell heavily.

Q. Did he fall as Mr. Martin described it? A. No, sir; he did not. He fell like standing a stick up and shoving it over. He fell heavily to the floor.

Q. More with his head towards the wall? A. With his head towards Broadway.

BY MR. SKIDMORE:

Q. Did he make a noise when he struck? Did you hear him strike? A. I heard the man strike his head, yes.

Q. Did he come down with a good sharp crack? A. As hard as a man can fall in that way.

Q. Was he a heavy man? A. I should judge he weighed about 185 or 195. I know he was a heavier man than I am.

Q. A good deal larger than you, wasn't he? A. A good deal taller, and heavier in proportion.

Q. How much do you weigh? A. 169, the last time I was weighed.

BY MR. GROSSE:

Q. In which part of the body did you strike Mr. Atkinson?  
A. Right here in the chest.

-----oxo-----

C H A R G E.

THE CORONER: Well, gentlemen, you have paid considerable attention to this case. You have heard what the different witnesses have told you. This prisoner went into that office to remove that safe. There was violent language used, and no doubt there was a scuffle on both sides. The deceased certainly died from a fracture of the skull. It remains for you to determine whether John H. Atkinson received his injuries at the hands of Phoenix Palmer or not.

And another thing for you to state is, if you think that Palmer's life was in danger, that he was justified in doing what he did. You can add that to your verdict also. But the main thing for you to decide is how he came to his death, whether he received the injury which caused it at the hands of Phoenix Palmer or not.

MR. GROSSE: If the Court please, I except to that part of the charge in which the Jury is directed to take into consideration the question of self defense, whether the prisoner believed his life was in danger. It is my duty to do so. I do not like to do it, but I have conferred with the District Attorney and also with Mr. Goff on this question, because I raised it the other day before Coroner Levy, and we have all three agreed upon the point that it is not for the Coroner's Jury to determine that question and to express an opinion. Now, if such an opinion is expressed, what can the Coroner do? Is he authorized to discharge the prisoner after determining that question?

THE CORONER: The Jury will determine that question.

At this point <sup>after deliberating</sup> ~~the Jury~~ the Jury rendered the following

V E R D I C T.

We, the Jury, find that John H. Atkinson came to his death from injuries received by a blow at the hands of Phoenix C. Palmer in the hallway of the building at the corner of 55th Street & Broadway, on March 26th, 1890.

ADJOURNED.

-----OXO-----



POOR QUALITY  
ORIGINAL

0445

STATE OF NEW YORK.

CITY AND COUNTY OF NEW YORK, ss.

AN INQUISITION,

Taken at the ~~house of~~ *Coroner's Office*  
No. 67 *Park Row* Street, in the *15* Ward of the City of  
New York, in the County of New York, this *3* day of *April*  
in the year of our Lord one thousand eight hundred and *90* before  
*Louis W. Schultz* Coroner,

of the City and County aforesaid, on view of the Body of *John H. Atkinson*  
lying dead at

*Eleven* Upon the Oaths and Affirmations of  
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

*John H. Atkinson* came to his death, do  
upon their Oaths and Affirmations, say: That the said *John H. Atkinson*  
came to his death by

Injuries received by a blow at the hands  
of *Phoenix P. Palmer* in the hallway of  
building of building *53<sup>rd</sup> Street & Broadway*  
*March 26<sup>th</sup> 1890.*

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.

*John W. Doscher 592 Grand St* *Robert Pitts Grand 523*  
*Arman W. Leo 525 Grand* *Alfred Van Opstal 408 Madison St*  
*Francis J. Butler 53 Howard*  
*Henry Pelster 488 Grand St* *Goetschberg Jeweler 550 Grand St*  
*Louis Helberich 260 E. 10<sup>th</sup> St*  
*Patrick Bannon 587 Grand St*  
*Henry Heins 565 Grand St*  
*Maria Josta 568 Grand St* *Louis W. Schultz*  
CORONER, E. S.

James +

///

///

1- Louis Steinart + Liquors - same as  
before

P.C.D. Edward Heiman +  cigars.

2- Wm D.W. Sterry + Drugs.

~~C. Sus~~ Fred C. Palmer + Grocer - 221 Alex Ave.

C. Sus- Joe B. Putnam + Corsets.

P.C.P. Joe A. Rosenbaum + Commission

Con. Sam. May Silverberg + Wife ladies neck

P.C.P. Michael Dwyer + No business.

P.C.P. Frederick W. Alburton + Broken

Exch. Con. James Randall - Grindstone.

P.C.P. Wm Gottlieb - Walt & Co.

P.C.D. Henry Holman - Liquors +

3- Wm M. Earl + Stockbroker.

P.C.D. Cornelius Zemych Carrage -  
Trimming.



2 + Juniors. P - P -  
4 + Martin Walter Grocer.

P.C.D. Geo. J. Stovin - Leather furniture

5 + Eugene B. Sanger - Leather

6 + Charles B. Josh - Cigars - 77 E. 13<sup>th</sup> St.

Con. Sen. Leopold Rothschild - Mfg elastic goods  
as to electricity

Con. Sen. Asbury Lester - Agent mfg of soap

Con. Sen. Charles C. Van Riper - Baggage S.S.-C.

P.C.P. Charles Bagwell - Dry goods

Chall. Sen. Jacob C. Ott - Trill Agent  
of Dept.

Con. Sen. Alfred Goetwelling - Importer

Con. Sen. John A. Mooney - Mason

P.C.P. John R. Ebel - Baker

7 + David Jackson - Clumber

Con. Sen. Oscar Rudolph - Picture frames

8. Will F. White - House furnishings

3. Jurors.

P.

D.

### ### II

III/

P.C.P. Samuel Kaskell - Cigars.

P.C.P. Andrew Neil - Janitor -

Thomas Martin - Sout answer

Robert F. Johnston - Non-resident -

Con-Sem. Gustav Bernstein - Commission  
Dry goods.

P.C.P. Wm D. Miners - Groceries.

P.C.P. George W. Jeffers - ~~Post Office~~  
Travelling salesman.

9. James Mackell - Jewelry.

10. John Ireland - Book seller.

Con-Sem. Louis Louisolm - Book keeper.

Con-Sem. Max Henschel - Collector.

P.C.P. John McDonald - Liquor.

P.C.P. Arthur Krause - Liquor.

11. Daniel Kelly - House painter.



POOR QUALITY  
ORIGINAL

0449

4.

Jurors-

P-  
### ## 11

D-  
1111

Con. Sen. Louis Lane -

Sporting goods.

Wm J. Hurston - No property qualification.

Ex. Con. Owen Meany - Ill -

Joe B. Halsted - No property qualifi-

12 - Daniel F. Howell - Woollen -

4<sup>th</sup> Dist. Police Court

Granville E. Martyn }  
vs. }  
Phoenix P. Palmer }

Before  
Hon. David O'Reilly

J. D. Skidmore Esq. appeared for Def.

Cross examination of the com-  
plainant.

Granville E. Martyn  
407 N. 57 St.

The affidavit of the complainant  
being read, said complainant  
testified as to its contents.

Q. What were you standing in  
front of the place for?

A. Watching the quarrel

Q. You were standing <sup>there</sup> before the  
quarrel occurred were you?

A. I was not standing there.

Q. How did you come to be there?

A. I stopped in to visit Mr. Bern-  
nard.



Q Had you seen him before this difficulty?

A Yes sir.

Q You had been in the office

A Yes sir I had.

Q How long before the difficulty had you been in the office

A They came in a minute after I was in the office, this man came in. I went into Mr. Ber-  
nards as near as I can remem-  
ber about 6 o'clock to see  
him. Mr. Atkinson was in  
the inner room. Two minutes  
after Palmer came there I went  
upon the sidewalk.

Q You had not heard anything had  
you of an unpleasant character  
before you went from his  
office up on the sidewalk?

A Yes sir. I heard this  
altercation while standing on the  
sidewalk. The first I knew of  
any difficulty was when he first  
started to remove the safe  
which was a minute after the  
prisoner came in. I was  
there then.

From where I stood I could hear most of what was said. The first said was by Pelmer "I came ~~to~~ after this safe. I have been here before and I will take it this time."

2 The fact is you do not remember the exact conversation as it occurred; is that true? as detailed from word to word?

a. No, but I remember the purport of it.

There was an altercation there & loud words were passing, but cannot detail the exact language precisely. I will say that the carrying was a large wooden pole with an iron band ~~at~~ about 4 inches from the lower end on the thick end. It was abt. four feet long.

When the prisoner struck the deceased I was standing on the side walk precisely in front of the door.

I looked into the basement from the side walk

There was no door there as it had been removed. After the blow was struck I went for an officer to have the man arrested, at my own suggestion. The officer was in the front platform of the Boulevard car. This was between 5 or 6 minutes after 6 o'clock. I carry a watch and consulted it a minute before. I caused the arrest. I saw the prisoner strike the deceased. I was standing directly in front of the steps on the sidewalk when I heard this conversation. I had seen Mr. Atkinson before, was not acquainted with him. Saw him in the office. Never was introduced to him. Am a friend of ~~Robert~~ Mr. Bernard. Have known him since last Dec. Talked with Mr. Bernard after the difficulty occurred, abt. it. Bernard did not tell me what he wanted me to say nor that I would be a witness, nor to my recollection.



0454

New York, Dec 25 1886

Sir :

Name: John E. Thompson Residence: 1234 1st Ave

Age: 101 years months days. Admitted Feb. 1 day, 1901

Father: Edith 7<sup>th</sup> 1867, at 10 o'clock P M.

Nativity, England; of  
Mother Irish By James O'Connell

\_\_\_\_\_ in U. S., \_\_\_\_\_ in City. From \_\_\_\_\_

Civil Bond: 27 Occup. : Merchant Examined by Dr. Ross-Sachs,

Suffering from symptoms of Fracture of the Skull and  
Intracranial Hemorrhage.

Said injuries said to have been received by the said Mrs. B. at  
Office No. 440 Broadway about 6:30 P.M.  
March 26<sup>th</sup> 1901 said to have been inflicted by the  
head with the belt hanging from the neck of  
Prison.

Death took place Feb 1 day, March 26<sup>th</sup> 1887 at 4<sup>30</sup> o'clock P.M.

The Autopsy revealed Fracture of the Base of Skull and Intracranial Hemorrhages. —

Remarks: ..... G

John F. Jones - M. D.  
HOUSE SURGEON ~~PHYSICIAN~~.

- Ad. I. State the day of the week.  
Ad. A. State whether by *Ambulance* or *Friends*.  
Ad. B. State whether from a *Prerinct* 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.

POOR QUALITY  
ORIGINAL

0455

A. pt., said to be Allison, died  
in this Hospital last night  
from injuries to his spine  
& Brain.

Rumney Hosp.  
Mar 27/90

Robt. A. Sand.  
House Surgeon

**POOR QUALITY  
ORIGINAL**

0456

*Dr Charles McBurney  
will hold his regular  
Students Clinic this  
afternoon at*



POOR QUALITY  
ORIGINAL

0457

Police Court, 4 District.

City and County } ss.  
of New York,

Franklin B. Bernard

of No. 141 W - 15

Street, aged 33 years,

occupation Lawyer

being duly sworn, deposes and says,

that on the 26 day of March

1892 at the City of New

York, in the County of New York,

at about the hour of 6. P. M. on said date  
Phenex P. Palmer (nowhere) came in  
office No 1732 Broadway in company  
with two other men whose names  
are unknown. That said Palmer  
came up to deponent and said  
we have come to take this safe  
away. Deponent replied I am  
very busy and have a lot of  
property locked in the same &  
have no time to remove it.

That said Palmer answered  
I don't give a god damn<sup>damn</sup> about  
you or anything you got. I  
came to take this safe away  
and I am going to do it  
and Mosler & Bowen would protect  
him. That deponent informed him  
that he would not allow him  
to do it, and stated I will  
go for a police officer. When  
said Palmer struck me a blow  
on the face with his fist. That  
said Atkinson who was in the  
back office came out and said  
Frank, go for an officer and I  
will go to and we both  
went out and returned being  
unable to find one. I again  
went out and left Atkinson  
in the office and ~~returned~~ returned  
the witness Martyn informed me  
that ~~Palmer~~ had struck Atkinson  
with the cast ring. Deponent says

POOR QUALITY  
ORIGINAL

0458

that he saw Atkinson lying  
on the floor and immediately  
the cart swung fell from  
Palmer's hand.

Frank B. Bernant.  
Sworn to before me  
this 27 day of Nov 1890  
J. C. B. Police Justice

Police Court, 4 District.

City and County } ss.  
of New York,

of 22 d. Precinct. Police Joseph C. Downey  
occupation Police officer Street, aged 35 years,  
that on the 26 day of March 1890, being duly sworn, deposes and says,  
York, in the County of New York, at the City of New

at about the hour of  
6-15 P.M. on said date he  
was riding in a railroad Car  
on Broadway near 55th Street  
in said City when a citizen  
called to me to get  
off. which I did  
and was informed by him  
that a man had been  
assaulted at No 1732 Broadway  
I went there and found  
John H. Atkinson deceased  
lying on the floor bleeding -  
Deponent says that previous  
to going in said place he  
arrested Phoenix P. Palmer  
on complaint of the citizen who  
called me off on the car  
Joseph C. Downey.

Sworn to before me this  
27 day of March 1890  
So J. C. Downey Police Justice



POOR QUALITY  
ORIGINAL

0460

Police Court, 4 District.

City and County } ss.  
of New York,

of Roosevelt Hospital

occupation Physician

that on the 26 day of March

York, in the County of New York,

Robert A. Sands M.D.

Street, aged 27 years,

being duly sworn, deposes and says,

1890, at the City of New

at the hour of 6.45 P.M.

John B. Atkinson was brought  
to said Hospital suffering  
from a fractured skull  
and received medical  
treatment for the same.

Deponent says that said  
Atkinson was unconscious  
at the time he was  
received ~~at~~ and remained  
in that condition until  
he died at 10-30 P.M.  
on said date.

Sworn to before me  
this 27 day of Mch 1890

Justice

Robert A. Sands,

House Surgeon.

Roosevelt Hospital

Mr. Bernard has made no suggestion to me concerning knowledge. I did not and do not know that Mr. Atkinson was a drinking man. He was not intoxicated on this day concerning knowledge. He was not noisy. He spoke to prisoner in a cool and quiet way. No one has asked me to testify one way or the other in this matter, and this language used by Mr. Atkinson as testified to by me, is entirely my own.

Frank B. Bernard, of 141 West 15th St. a witness for the people was cross examined as follows

Q. You were about to go into partnership were you not with Mr. Atkinson, the deceased.

A. Not exactly a partnership. We were going to take an office together, and he would do my business when I was absent & I would do his.

Q. Why did you not give this

(5-)

safe to the man that called for it?

A. As a matter of fact — I am not obliged to answer that question.  
Q. Why?

A. When these men came to my office, this prisoner and two others, to remove that safe, it was then after six o'clock, about probably one or two minutes.

I had in that safe a considerable number of valuable papers and I had no time to take them out then, as Mr. Atkinson and I were then, that is to say I was busy drawing up some legal papers, preparatory to Mr. Atkinson and myself going down to 122 West 29 St. to take possession of a livery stable wherein I was made receiver. I was busy and under the order of the court we had to do that work then. It was the last hour in the second day. I had valuable papers in that safe and had no time to take them out and



I said, I have not papers in that safe and I cannot take them out now and told them to come again, and he said I have been here 3 or 4 times and you have been out. I said let Mr. Moore and for the safe some other time. The defendant said, you know the combination of the safe, yes I said but I have got time to take those papers out. I do not want you to take those papers down to Mr. Prosser's office. I was only told that they had been there before. I understood so. I knew Mr. Atkinson did not claim the safe. He had no interest in the safe. He had no right to detain the safe only under my instructions. I should not call it an interference. I was simply an act that any friend or person would do when in the house or office in the presence of another, where a person comes in by force and violence and attempts to take away the property of his friend.

POOR QUALITY  
ORIGINAL

0464

I did not see the person  
strike the alleged blow.

Paul Jones  
Stenographer.

at the time said ~~Att~~ Palmer  
ordered said Atkinson to  
get out of the way and struck  
the blow. he said Palmer  
had said Cart : ring raised  
over his head in a threatening  
manner

Sworn to before me  
this 29 day of Nov 1890 Grenville E. Martyn  
J. C. Kelly Police Justice



POOR QUALITY  
ORIGINAL

0466

Sec. 198-200.

L District Police Court.

CITY AND COUNTY  
OF NEW YORK,

*Phoenix P. Palmer*

being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h — right to  
make a statement in relation to the charge against h —; that the statement is designed to  
enable h — if he see fit to answer the charge and explain the facts alleged against h —  
that he is at liberty to waive making a statement, and that h — waiver cannot be used  
against h — on the trial.

Question. What is your name.

Answer.

*Phoenix P. Palmer*

Question. How old are you?

Answer.

*33 years*

Question. Where were you born?

Answer.

*New York*

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

Answer.

*197 Bleeker St*

*2 years*

Question. What is your business or profession?

Answer.

*Safe mover*

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 had no opportunity  
to consult Counsel, and as  
my Counsel requests I  
will defer any further  
statement until I have  
an opportunity to consult  
although I plead not  
guilty*

*Phoenix P. Palmer*

Taken before me this

day of

188

*John J. C. [Signature]*  
Police Justice.

POOR QUALITY  
ORIGINAL

0467

229.1000

BAILLED,  
No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 5, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_

495  
Police Court  
District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF  
*James E. McArthur*  
*James E. McArthur*  
*James E. McArthur*  
Offence *Robbery*

Dated *29* *March* 1890

*David O'Reilly* Magistrate

*John J. Doney* Officer

*John J. Doney* Precinct

Witnesses *William J. Demard*  
*William J. Demard*  
*William J. Demard*

*Robert A. Sands* Street

*Robert A. Sands* Street

*Robert A. Sands* Street

*Robert A. Sands* Street

*Robert A. Sands* Street

*Robert A. Sands* Street

*Robert A. Sands* Street



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.~~ *be legally discharged*

Dated *March 29* 1890 *David O'Reilly* Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 188 \_\_\_\_\_ Police Justice.



Police Court, 4th District.

City and County } ss.  
of New York,

of No. 409 W - 57th

occupation Stenographer

that on the 26 day of March

York, in the County of New York, at about the hour of 6.10

Granville E. Martyn

Street, aged 21 years,

being duly sworn, deposes and says,

1890, at the City of New

P. M. on said date he was standing in front of premises No 1732 Broadway in said City and heard Phoenix P. Palmer (murderer) and John H. Atkinson deceased in the basement of said premises talking. That said Palmer called Atkinson a big son of a bitch and other vile and indecent names and attempted to remove a safe that was in said office where they were. That said Atkinson in a cool and quiet manner ~~said~~ <sup>spoke</sup> to said Palmer and said cannot remove the safe. That said Palmer then and there picked up a large wooden cart wheel and threatened <sup>Ed</sup> to knock out said Atkinson's brains if he did not permit him to remove the safe. That said Atkinson refused to get away from the safe and when said Palmer struck him a violent blow on the head with the cart wheel then and there held in his hand and said Atkinson fell to the floor. Deponent says that he called Joseph C. Berner of the 22d Precinct who was riding on the front platform of a railroad car and informed him by the aforesaid fact and said Berner accompanied deponent to said premises and took said Palmer in custody. Deponent further says that



POOR QUALITY  
ORIGINAL

0469

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK  
against

Phoenix P. Palmer

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

Phoenix P. Palmer

of the CRIME OF Murder in the First Degree, committed as follows:

The said Phoenix P. Palmer,

late of the City of New York, in the County of New York aforesaid, on the twenty sixth  
day of March, — in the year of our Lord one thousand eight hundred and  
~~eighty nine~~ ty, at the City and County aforesaid, with force and arms, in and upon one

John H. Atkinson,

in the peace of the said People then and there being, wilfully, feloniously, and of  
his — malice aforethought, did make an assault, and — he — the said

Phoenix P. Palmer, him,

the said John H. Atkinson, with a certain instrument  
known as a cart-rung, which he — the said Phoenix P. Palmer — in  
his right hand then and there had and held, in and upon the head  
of him — the said John H. Atkinson,  
then and there wilfully, feloniously, and of his — malice aforethought did strike,  
stab, cut and wound, and fracture, giving unto him the said John H. Atkinson,  
then and there with the instrument aforesaid, in and upon the head  
of him — the said John H. Atkinson,  
and fracture one mortal wound of the breadth of one inch, and of the length depth of six inches, of which said

POOR QUALITY  
ORIGINAL

0470

mortal wound and fracture the said John M. Atkinson then and there died,  
at the City and County aforesaid, from the day first aforesaid, in the year aforesaid, until the  
day of \_\_\_\_\_ in the same year  
aforesaid, did languish, and languishing did live, and on which said  
day of \_\_\_\_\_ in the year aforesaid, \_\_\_\_\_ the said  
\_\_\_\_\_ at the City and County aforesaid,  
of the said mortal wound did die.

And so the Grand Jury aforesaid do say: That the said

Phoenix P. Palmer, him \_\_\_\_\_

the said John M. Atkinson, in the manner and form, and by  
the means aforesaid, wilfully, feloniously, and of his — malice aforethought, did kill,  
and murder, against the form of the Statute in such case made and provided, and against the  
peace of the People of the State of New York and their dignity.

SECOND COUNT—

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

\_\_\_\_\_ Phoenix P. Palmer \_\_\_\_\_  
of the same CRIME OF MURDER IN THE FIRST DEGREE, committed as follows:

The said Phoenix P. Palmer, \_\_\_\_\_

late of the City and County aforesaid, afterwards, to wit: on the said twenty sixth  
day of March \_\_\_\_\_ in the year of our Lord one thousand eight hundred  
and eighty-ninety, at the City and County aforesaid, with force and arms, in and  
upon the said John M. Atkinson, \_\_\_\_\_

in the peace of the said People then and there being, wilfully, feloniously, and with  
a deliberate and premeditated design to effect the death of him \_\_\_\_\_ the said  
John M. Atkinson \_\_\_\_\_, did make another assault, and  
the said Phoenix P. Palmer, him, \_\_\_\_\_ the said

John M. Atkinson, with a certain instrument  
known as a cart-rung which he \_\_\_\_\_ the said Phoenix P. Palmer in

POOR QUALITY  
ORIGINAL

0471

~~his~~ right hand then and there had and held, in and upon the ~~head~~  
of ~~him~~ the said John H. Atkinson ,  
then and there wilfully, feloniously, and with a deliberate and premeditated design to effect  
the death of ~~him~~ the said John H. Atkinson, did strike, ~~stab, cut and~~  
~~wound~~ <sup>and fracture</sup> giving unto ~~him~~ the said John H. Atkinson, then  
and there, with the ~~instrument~~ aforesaid, in and upon the ~~head~~  
of ~~him~~ the said John H. Atkinson  
one mortal wound <sup>and fracture</sup> of the breadth of one inch and of the ~~depth~~ <sup>length</sup> of six inches, of which said  
mortal wound ~~and fracture~~ the said John H. Atkinson then and there died, at  
the City and County aforesaid, from the said ~~day of~~  
~~in the year aforesaid, until the~~ ~~day of~~ ~~in the~~  
~~same year aforesaid, did languish, and languishing did live, and on which said~~  
~~day of~~ ~~in the year aforesaid,~~  
~~the said~~  
~~aforesaid, of the said mortal wound did die.~~ ~~at the City and County~~

And so the Grand Jury aforesaid do say: That the said  
Phoenix P. Palmer, ~~him~~,  
the said John H. Atkinson, in the manner and form, and by  
the means aforesaid, wilfully, feloniously, and with a deliberate and premeditated design  
to effect the death of ~~him~~ the said John H. Atkinson,  
did kill and murder, against the form of the Statute in such case made and provided, and  
against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.



0472

**BOX:**

396

**FOLDER:**

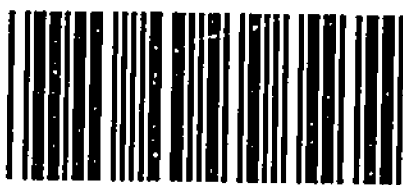
3687

**DESCRIPTION:**

Parker, Lyeda

**DATE:**

05/07/90



3687

POOR QUALITY  
ORIGINAL

0473

# 1944  
C. J. P.  
Counsel, all of the above  
Filed 1890  
Pleads, May 1944

THE PEOPLE  
vs.  
Eyeda Barber  
PETIT LARCENY  
Sections 528, 532, 533 Penal Code

13 May 1944  
JOHN R. FELLOWS,  
District Attorney.

A True Bill.

9-0-00  
Charles S. D. D. D.

Foreman.

May 1944

Witnesses:  
May 1944  
Officer Perkins

POOR QUALITY  
ORIGINAL

0474

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Lyeda Parker*

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

*Lyeda Parker*  
of the CRIME OF PETIT LARCENY committed as follows :

The said

*Lyeda Parker*

late of the City of New York, in the County of New York aforesaid, on the *twentieth*  
day of *March* in the year of our Lord one thousand eight hundred and  
~~eighty-nine~~, at the City and County aforesaid, with force and arms,

*twenty towels of the value of twenty-five cents each, one toy bank of the value of fifty cents, the sum of six dollars and thirty cents in money, lawful money of the United States and of the value of six dollars and thirty cents, and divers articles of underclothing of a number and description to the Grand Jury aforesaid unknown of the value of seven dollars*

of the goods, chattels and personal property of one

*May Corbett*

then and there being found, then and there unlawfully 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.



POOR QUALITY  
ORIGINAL

0475

SECOND COUNT---

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

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

The said

Lyeda Parker  
late of the City and County aforesaid, afterwards to wit: on the day and in the year aforesaid  
at the City and County aforesaid, with force and arms,

twenty towels of the value of twenty-five cents each, one toy bank of the value of fifty cents, the sum of six dollars and thirty cents in money, lawful money of the United States and of the value of six dollars and thirty cents, and divers articles of underclothing of a number and description to the Grand Jury aforesaid unknown, of the value of seven dollars

of the goods, chattels and personal property of one

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

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

Lyeda Parker  
then and there well knowing the said goods, chattels and personal property to have been  
unlawfully stolen, taken and carried away, against the form of the statute in such case  
made and provided, and against the peace of the People of the State of New York and  
their dignity.

JOHN R. FELLOWS,  
District Attorney.

0476

**BOX:**

396

**FOLDER:**

3687

**DESCRIPTION:**

Paul, John

**DATE:**

05/08/90



3687

0477

**BOX:**

396

**FOLDER:**

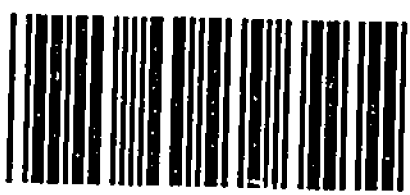
3687

**DESCRIPTION:**

Hess, John

**DATE:**

05/08/90



3687



Witnesses;

Rachael Dixon

Officer Reese

Upon my report on  
needed heretofore, I have  
by recommendation that  
the within indictment  
must be dismissed  
as against the de-  
fendant John  
Gless.

Dated N. Y. May 24, 1890

Edward Gless  
J. J. Gless

I have examined this case &  
concur in the above recom-  
mendation.

Part 2 May 27/90 W. J. Jerome

W. J. Jerome

Motion granted  
J. J. Gless

# 33. 1. Gless v. Rachael Dixon  
2. Sherman  
374.

Counsel,

Filed

day of

1890

Plends

THE PEOPLE

vs.

John Paul

and

John Moss

Bringing the  
Grand Jury  
degree.

[Section 496, sec. 128, 330 & 350.]

JOHN R. FELLOWS,

District Attorney.

May 1890

Spencer, Connecticut  
A TRUE BILL  
May 24/90

Charles D. Richard

Part 2

Part 2 May 27 at 9th Precinct

next week May 14th

W. J. Jerome

Part 2 Indictment

Part 2 May 27/90  
Ed. Gless

Court of General Sessions

The People

vs.  
John Paul and  
John Hess

Report.

This case was referred to me from Part II for the purpose of ascertaining the proof obtainable by the prosecution against the above defendant John Hess.

From the annexed statements it will appear that the principal witnesses for the prosecution Edward Brandt, will not swear to the identity of the defendant Hess with the man whom he saw in company of the defendant Paul at the time of the burglary, and that a number of witnesses testify that the said Hess was at his home when the burglary alleged in the indictment here.

it was committed. I had the  
 the stenographer of Part I also read <sup>to me</sup>  
 the defendant's Paul's testimony  
 concerning the defendant I hear  
 and it appears therefrom that  
 Paul met Hess after nine o'clock  
 at night, that is about an  
 hour and a half after the bur-  
 glary took place.

Now these facts I have  
 become satisfied that the People  
 have <sup>sufficient</sup> proof of the guilt of  
 the defendant John Hess to  
 obtain a verdict of guilty  
 against him.

I, therefore, recommend the  
 dismissal of the indictment  
 against him.

Dated New York, May 27, 1890

Edward Grose  
 Deputy Assistant



Edward Braardt, 195 Orchard Street  
laborer in Richard & Co.'s Paper  
Box Factory, 221 & 223 Mercer  
Street. I am the party referred  
to in the complainant's affida-  
vit herein, as having seen the  
two defendants Paul and Hess  
together on the night of the 19th  
of April, 1890, when the defendant  
Paul had the property stolen  
from complainant's premises  
in his possession. When I stated  
to the complainant that I  
had seen the defendant Hess  
with the defendant Paul as  
aforesaid, I ~~also~~ stated that  
I was not sure of Hess's  
identity, but merely thought  
that he looked like the man  
whom I saw in Paul's  
company. I cannot con-  
scientiously swear that  
the defendant Hess is the iden-  
tical man whom I saw  
with the defendant Paul  
as aforesaid. I think that  
the said man was a little  
smaller than the defendant

Hess. He had a white soft hat on, while I had a black derby on, when he was arrested a few hours after I had seen the defendant Paul and the other man.

Dated New York, May 27, 1890.

Edward Brandt

The officer, who arrested the defendants, and the complainant do not know anything of their own knowledge against the defendant John Hess.

H. G.

Gertrude Wachtel, 166 Norfolk  
 Street, wife of John Wachtel.  
 The defendant John Hess is  
 my brother. He lives and  
 has always lived with his  
 mother, who resides on the  
 same floor where I reside  
 with my husband. On  
 the 19th of April, 1890, I saw  
 my brother come home at  
 6.15 P. M. and know of my  
 own knowledge that he  
 did not leave his room, un-  
 til at about 7.30 P. M., when  
 he went out to get a pint  
 of beer at the saloon next  
 door from our house, that  
 he returned within ten  
 minutes and remained in  
 his room until 8.20 P. M.,  
 when I saw him there for  
 the last time. That my mother  
 informed me afterwards  
 that he went out at about  
 8.45 P. M.

Dated New York, May 27, 1890  
 Gertrude Wachtel.



I, Edmund Weisselbach, 166  
 Norfolk Street, Saloon <sup>at 164 Norfolk Street</sup> ~~keeper~~ I  
 know the defendant John  
 O'Leary. On the 19th of April, 1890  
 the said O'Leary came into my  
 saloon ~~at~~ between 7.30 and  
 8 P. M. and got a pint of  
 beer. He did not remain  
 in my saloon at said time.  
 About an hour afterwards he  
 came again in my saloon  
 and told me that he was  
 going off to ~~celebrate his birth~~  
~~day~~  
 Dated N. Y., May 27, 1890.

Edmund Weisselbach.

There were a number of  
 witnesses before me who  
 wanted to testify as to the  
 defendant O'Leary's good cha-  
 racter.

Edward Groves  
 D. M.

POOR QUALITY  
ORIGINAL

0485

Court of General Sessions

The People

vs.  
John Paul and  
John Hesse

REPORT.

For the District Attorney.

Dated May 27 1890  
Edw. J. Gross  
Deputy Assistant

The People  
vs.  
John Paul.

Court of General Sessions, Part I.  
Before Judge Fitzgerald.

Friday, May 16, 1890.

Indictment for burglary in the first degree and  
receiving stolen goods. Jointly indicted with John  
Hess.

Rachel Siden sworn and examined.

I am married and live at 177 Ludlow Street and lived  
there last April, I remember the night of the 19th of  
April I went out to pay a visit, I live in the basement of  
177 Ludlow Street, there are other families living in the  
house, I have four children and I lived there with my hus-  
band and them in the basement; about seven o'clock on the  
evening of the 19th of April I went out, I closed and  
locked the door and the window was shut, I returned about  
eight o'clock; when I left the house there was property,  
clothing in it of the value of one hundred dollars belong-  
ing to me; when I came home about eight o'clock the window  
was open; the goods were kept in the parlor, I saw the  
wardrobe was open and the clothes were away, I mean that  
somebody took them, I don't know who took them. There  
were in the wardrobe four dresses belonging to me, two  
dresses of the children's and one pair of pants of my hus-  
band's. I went to the Station House that night and saw  
my clothing there, I am sure that they were the same  
clothes that was hanging up in my wardrobe when I left my  
apartments, I never permitted anybody to take them.

Cross Examined. I live between Houston  
and Stanton Streets in Ludlow, the Defendant was arrested  
between Stanton and Rivington Streets, I have seen the



Defendant in the barber shop getting shaved, he gets shaved in our place regularly, my husband is a barber, I have no knowledge of my own that the Defendant broke into our place, there are two workmen beside ourselves living in these rooms, they were working between the hours of seven and eight o'clock on this night; the barber shop is in the basement and we live in the back; the parlor window that I speak of leads to the yard, I have four rooms, one kitchen, a parlor and two bed-rooms, there are two doors that lead into the hall from our apartments; we have got to go through the barber shop to go to the street, there is a door to the hall which leads to the street, one door was locked and one door through the barber shop was open, the door leading into the yard was not locked; from my room there is only one door to the hall, there is no door from my room to the yard, it is only by going out in the hall you may go into the yard; when I went out both windows were closed, only one window was raised up, it was not broken, it was high enough that a man could get through and it was in that room that the wardrobe was out of which the goods were taken, anybody in the yard could get in my room by opening that window. When I missed the property I went immediately to the Station House and when I reached the Station House the things were already there; when I returned to my house it was dark at night.

Frederick Schletz sworn and examined.

I was living on April 19 at 177 Ludlow Street, I was working there that time, I am a man of family and my family lives in Chrystie Street, I slept at 177 Ludlow St.

**POOR QUALITY  
ORIGINAL**

0488

so long as I worked there, I was at 177 Ludlow Street between the hours of seven and eight o'clock on April 19 at night, I was actually in the house during that time, I only go home Sundays and when my day is off, I was working in the barber shop.

Edward Brandt sworn and examined.

I live at 195 Orchard Street in this city and was in New York on the 19th of last April, in the neighborhood of eight o'clock I saw Paul and a man by the name of John Hess running up through Stanton Street and through Ludlow, Aaron Flsner was with me at the time and some other boys from Ludlow Street, we ran after them to 149 Ludlow Street and then they ran into the hall of 149; we were going in first but we were afraid, we went in afterwards and we got all the clothes that was in there and brought them to the Eldridge Street Station House, we went into the hall just about two minutes after they ran in and nobody else went into the hallway during those two minutes; before they went in I saw that Paul had a bundle of goods and John Hess had nothing, we did not see them after that until eleven o'clock, there was a door in the hallway and a yard and they must have got out that way; at the time they ran in Paul had a bundle, it was all loose, it was a blue dress and a beaded sacque, we found the bundle in the hall and beside the things I have mentioned there was a boys coat man's pants and a shawl, we took it to the Station House and saw the captain and sergeant and another policeman, we told the Captain about it and went away, after we found out where the prisoners were we came back and told MR Reap

**POOR QUALITY  
ORIGINAL**

0489

about it; we went back to 149 Ludlow Street and saw a lady and in consequence of what she told us I went to Mr. Reap and the other detective and told them about it and he went in the yard of 149 Ludlow Street and saw Paul and Hess and some more young men, Mr. Reap took Paul to the Flridge Street Station House. I am sure that the men who were found in the yard were the same men who took the bundle in there; I knew Paul and Hess before this night and I am not mistaken, it was about half past seven O'clock when I saw them go in the hallway with the bundle and it was a quarter past eleven when I went back there again.

Cross Examined. I work at paper boxes and was working on the 19th of April, I quit work at a quarter after five, I was working at 221 and 223 Mercer St., Racquet & Co., it was about a quarter of six when I got home and had my supper, afterwards I went around in Ludlow Street to the house of Aaron Elsner, I asked him if he was going to the theater with me, we did not go to the theater because he did not have any money and I had only ten cents, we stayed in Ludlow Street corner of Stanton playing for about half an hour with other boys and then we stood on the corner talking until a quarter after seven and we saw Paul and Hess about half past seven running, coming from Stanton Street, they were running very fast, it was not very dark, I did not speak to Paul that evening, I did not know that he had stolen these things or that a robbery had been committed, I did not know that Paul or anybody else had been in this barber shop, Paul ran very fast and I ran after him into 149 Ludlow Street, I can't mention the names of any of the people who ran except Aaron Elsner and none



**POOR QUALITY  
ORIGINAL**

0490

of them are in Court. I remained on the sidewalk two or three minutes before going into the hallway; this is a tenement house of five stories and some of the people in front of the door lived there; the people who were in front of the door went away afterwards, they did not go into the hall, Elsner and myself went into the hallway because we thought the goods were stolen, and we thought we would find the goods and take them up to the Station House; nobody offered a reward to us, the hall was not dark because the gas was lit, when we went in we did not find Paul and Hess, that was about twenty-five minutes to eight, we found the bundle lying behind the cellar door, the cellar door was closed and the clothes were lying there, I supposed that Paul was afraid of being caught and they dropped the bundle, I knew Paul before this, we always used to fool together, he used to call me "Scissors" and I did not like him for that but I did not say to him that I would get even with him and do him up; he has called me Scissors since I was working in Ludlow Street about two weeks, it was about eight o'clock when I arrived at the Station House with the bundle. We were playing on the sidewalk afterwards and we asked a lady if she saw any young men in the re and she said yes, I ran over and told Mr. Reap about it and he went inside and took them along, this was a quarter past eleven; there is a saloon in that house, and the saloon has a door that leads out into the yard, Paul and Hess were in front of the saloon door in the yard and there were a number of young men standing there, I was watching when I could find these boys. I did not talk with anyone about this case till I came her to Court, I was arrested

**POOR QUALITY  
ORIGINAL**

0491

once, I was walking through Hester Street and boys were fighting and Aaron Elsner and me got taken in together and we were discharged in the morning, I think that was about eight weeks ago, I was never arrested for stealing, Paul had the clothes on his arm. While I was in the Court yesterday the defendant Paul called me over to where the prisoners are kept and had a conversation with me; he told me in case I came to the witness-stand all I should do when they asked me anything was to stand like this (illustrating) do nothing else and I should not say a word, the man in charge of the prisoners was standing there and he let me in. Paul said I should do my best and he would make it all right with me when he came out and in case anybody asks me anything about it here, I should do nothing but shake my shoulders, I should say nothing. I says, "I will do it, I will try." You told the truth, haven't you, instead of shaking your shoulders? Yes. Paul sent for me and the man with the white beard said I should come in, Paul wants to see me. Did you say when you went on the stand you would make it light for him? I thought it best to tell the truth and make it heavy for him. It is not a fact that I went over to talk to the defendant Hess. I know the man now pointed out to me, he kept a cigar store, I offered to sell him a table once, I did not admit to him that it was stolen, his name is Joseph Weig, I bought the table of George Keno, I did not give him anything for it, he said I should sell it for him. I say that I saw Paul run along Stanton Street from the west side to Ludlow St. and that he turned the corner and ran through Ludlow St., the barber shop from which the goods were taken is in Ludlow between Houston and Stanton Streets.

Aaron Elsner sworn and examined.

I live 153 Ludlow Street in this city, I make candy at South Fifth Avenue, I was in the city on the 19th of April and was with the last witness Brandt, I saw Paul and Hess running through Ludlow Street, Brandt and I ran after them and we stopped in front of the house where they went in, John Paul had a bundle of clothing unwrapped under his arm, they went in the hallway of 149 Ludlow Street, Paul and I stood at the door a couple of minutes and we went in and saw the clothing lying in the hallway near the yard, we picked them up and ran to the Station House with them, we told the captain about it and he sent Officer Reap with us back to 149 Ludlow Street; this was about half past seven, they were arrested a quarter past eleven but I was not with them at the time.

Micheal J. Reap sworn and examined.

I am an officer of the 11th precinct and in consequence of information received from the previous witnesses I went to the hallway of 149 Ludlow Street, I saw Paul and Hess and eight or ten people in the yard, I arrested Paul and my partner Mullane arrested Hess about a quarter past eleven, I do not know anything of my own knowledge of the burglary, I was in the Station House when the boys came with the clothing, the Complainant Mrs. Siden came in about half an hour afterwards and said she had been robbed, I showed her the goods and she recognized them as her goods, that is all I know about it; it was about a quarter after eight when the boys came in. I had a conversation with



them and they told me about the bundle; they went with me to 149 Ludlow Street about half past eight, that was the first time, we went twice, I went back, I could not find the defendants, I went to look for them where they hang out, I told the boys to hang around and if they saw them to come back and tell me, I went back to the Station House and remained there, the boys came back and told me something and we then went again to the same place and I made the arrest, I knew Paul before that night; the premises 177 Ludlow Street are situated in the 17th ward of the city.

Cross Examined. Paul asked me what I arrested him for and I told him I would let him know when I got to the Station House. I took the defendant next morning to the Police Court, I told him he was arrested for burglary at 177 Ludlow Street and I had the goods in the Station House; he said he did not know anything about it.

The Case for the Defence.

John Paul sworn and examined.

I live at 524 East 13th Street and am a laborer, I was working on the 19th of April until four o'clock that afternoon, I came home and washed myself, I left my business three months before that and I peddled for myself, I went home and washed myself and combed my hair and dressed myself, I told my mother I was going to get shaved, I got shaved and went back, I told her I was going to meet a girl, I sent a little boy up to Katie Hermann at six o'clock, I met Katie Hermann and went uptown as far as 85th Street and First Avenue, I stopped up there and talked to a friend of mine until it was half past eight or nine

o'clock, I was introduced to him at a picnic, his name is Mike Carberry, I spoke to him and in the meantime the young lady came down again and I wanted to take her down to my house, it was about five or ten minutes after nine when I got there; that was 524 13th Street, I told Katie Hermann to stay there and wait for a minute until I came back, I went down to Hester Street to meet Hess and tell him I could not go to the ball; at seven o'clock that morning we made up to go to a dance, I told him I could not go to the dance, that I had a lady friend down to the house and I would have to see her home again; the lady friend stayed there all night. I have never been arrested before, when I was arrested I asked the officer what I was arrested for. I and Hess and a few friends were in the yard talking, there were about a dozen of persons there, it was a fife and drum corps that belongs in the saloon. I was told in the Station House that I was arrested on suspicion and the next morning I found out it was for stealing clothes and I knew nothing of it. I heard the testimony of Brandt that he saw me running with this bundle under my arm but it is false, I had no bundle and I know nothing of it. I did not enter the complainant's rooms, I went into the barber shop because I had business to go to get shaved. I have never been arrested on any charge before, I was born in New York and am twenty-two years old.

Cross Examined. I got to my home in 13th Street at four o'clock and it was about half past five that evening when I went to the barber shop to get shaved. Officer McCormack arrested me once for disorderly conduct and I was sent to the Island for three months.

**POOR QUALITY  
ORIGINAL**

0495

When I swore before that I was never arrested I meant that I was not arrested for any crime, for stealing anything. I only served two days on the Island. I understood my lawyer when he asked me if I was ever arrested before, if I was arrested for what I am now arrested for. I was arrested twice for being drunk and disorderly, and on the second arrest I was fined ten dollars. I was never arrested for anything except for being drunk and disorderly and upon this charge. I was not implicated in a charge of assault where four parties were sent to the State Prison, I had nothing to do with that. I know Brandt the witness about six months. I peddle around the street. I heard Brandt say here to-day that I had a conversation with him back in the prisoner's box. I was not talking to him, Hess was talking to him and he told Hess that he would play light on us; he said, "I see it is hard against you and I will play as light as I can"; so we says, "you had better, it will help us out, you know you are swearing false." We both told him that. I heard him say that I told him when he got to the witness chair he must not answer but shrug his shoulders. I never told him that and I don't know whether Hess did or not, I did not hear Hess say anything like that. I was rather astonished at his testimony; there is no ill feeling between us. It is a fact that I was in the habit of calling him "Scissors" and he said he would get square with me when he got a chance. I did not understand the District Attorney a little while ago when he asked me if there was any hard feeling between us; we are not friends. Has he not said on several occasions that



he would get hunky with you and do you if he could? Yes..

Joseph Weig sworn and examined.

I live at 77 Rivington Street and am a cigar manufacturer, I know Edward Brandt that was on the stand this morning, he offered me a table at Christmas, I think his character is bad, I know people who live in the neighborhood where he lives and his character is not very good, I only swear to what is my own opinion.

Katie Herman sworn and examined.

I remember the 19th of April, I met John Paul about six o'clock at my shop, we took the first station uptown to 80th Street, I went home to my house, he waited for me down stairs until I got dressed and he took me down to his house again, he lives at 524 East 13th Street, we got to his house about five or ten minutes after nine, I was with him from six until nine o'clock continually, he told me he wanted to see a friend of his John Hess, he had made an appointment with him and he wanted to tell him he couldn't go and he told me to wait down in his house until he came back, he did not come back and I had to wait there all night and the next day I heard he was arrested.

Cross Examined. I see Paul sometimes twice a week, I saw him on Thursday evening the 17th of April, I know him three years, I am not engaged to be married to him. I fix the night that I saw him as the 19th of April because he told me he would be around at my shop and wait for me that night, I remember he got arrested on the 19th of April, I left him at ten minutes after nine, I looked at the time down at his house.

**POOR QUALITY  
ORIGINAL**

0497

Joseph C. Bauer sworn.

I am a barber and work at 17 William Street. I know the defendant seven years and his character for honesty is good as far as I know, I never heard that he had been in trouble before.

Charles Urban sworn.

I am an upholsterer, I know Paul five or six years I know his mother and father, the defendant was working for me, he behaved himself during the year he worked for me, I never knew or heard that he had been on the Island.

John Lange sworn.

I work on an elevator at 562 Broadway, I know the defendant three years and he is peaceable and honest, I have not seen him often during the past three years, the last time I saw him was about six months ago, I know he is an honest man.

Elias Rees sworn.

I am in the shirt business at 709 East 5th Street, I know the defendant two years, he used to come around to see the young lady witness who works for me.

Louis Nemesack sworn.

I am in the cloak house of Benjamin Casberry, Broome Street; I know the defendant two years and I consider his character good.

3

Rebutting evidence.

Michael J. Reap recalled by Mr. Bedford.

I know the defendant Paul about three months and know other people in his neighborhood, I see him very nearly every day, I have had occasion to talk to people in relation to him, his character for honesty is bad, I have been looking for him on three different occasions, once for stealing at 141 Ludlow Street; I looked for him a year ago for an assault upon Sadie Richmond and for this charge, I know the party from whom the lamp was stolen; as soon as he saw me he got away. There was no complaint made against him for stealing the lamp.

William J. McCormack sworn.

I am a detective and know the prisoner Paul for six years, his character is very bad, I have been in the habit of seeing him frequently during those six years. I as a police officer on several occasions had to lock him up for violations of the law, one case was an assault and attempt at robbery, another case was disorderly conduct and another case was rape, he knew I was after him but he got out of my way; I arrested him once for disorderly conduct and turned him over to another officer.

John Paul recalled by Counsel.

I have heard Officer McCormack's testimony, I never was charged with attempt at robbery or rape and the only crime I committed was disorderly conduct. I have been in the city all the time.

The Jury rendered a verdict of guilty of burglary in the second degree.



POOR QUALITY  
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Testimony in the  
case of  
John Paul

filed May 1890  
408

POOR QUALITY  
ORIGINAL

0500

Police Court - 3 District.

City and County  
of New York, } ss.:

of No. 177 Ludlow Street, aged 24 years,  
occupation Housekeeper being duly sworn

deposes and says, that the premises No. 177 Ludlow Street, 10 Ward  
in the City and County aforesaid the said being a Brick Tenement

House and which was occupied by deponent as a place of abode  
and in which there was at the time a human being, by name John Dr.  
and known to deponent as a burglar  
were BURGLARIOUSLY entered by means of forcibly opening

a rear window leading from the  
yard to said premises

on the 19<sup>th</sup> day of April 1889 at the High time, and the  
following property feloniously taken, stolen, and carried away, viz:

A quantity of Ladies Childrens  
and Gentlemens Clothing of the  
Value of One hundred dollars -

the property of deponent and her husband Frank Kiden  
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

John Paul and John Hess  
both now here

for the reasons following, to wit:

That as on about the hour  
of 7 P.M. on said date deponent

left said premises securely fastened  
and went out visiting. That as on

about the hour of 8 P.M. deponent  
returned and discovered that said

premises had been burglariously  
entered as aforesaid and the said

property feloniously taken stolen and



0501

*Police Justice.*

SS I

dated

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I have admitted the above named  
to bail to answer by the undersigned

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POOR QUALITY  
ORIGINAL

0502

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 16 years, occupation Paint & Ink of No.

195 Orchard Street, being duly sworn deposes and

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

Sworn to before me, this

day of

188

Edward Bramolt

John Patterson

Police Justice.

POOR QUALITY  
ORIGINAL

0503

Sec. 198-200.

CITY AND COUNTY OF NEW YORK

District Police Court.

*John Paul*  
being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is his right to  
make a statement in relation to the charge against him; that the statement is designed to  
enable him if he see fit to answer the charge and explain the facts alleged against him  
that he is at liberty to waive making a statement, and that his waiver cannot be used  
against him on the trial.

Question. What is your name?

Answer. *John Paul*

Question. How old are you?

Answer. *27 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *124 East 13th St 3 months*

Question. What is your business or profession?

Answer. *Laborer -*

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

Answer. *I am not guilty*

*John Paul*

Taken before me this

day of *June*

1891

Police Justice.

POOR QUALITY  
ORIGINAL

0504

Sec. 198-200.

2 District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*John Hess.*

being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h ~~is~~ right to  
make a statement in relation to the charge against h -; that the statement is designed to  
enable h - if he see fit to answer the charge and explain the facts alleged against h -  
that he is at liberty to waive making a statement, and that ~~his~~ waiver cannot be used  
against h ~~is~~ on the trial.

Question. What is your name?

Answer. *John Hess.*

Question. How old are you?

Answer. *27 Years -*

Question. Where were you born?

Answer. *Germany.*

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

Answer. *166 Myford Street 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*

*John Hess*

Taken before me this 20  
day of August 1892  
*Wm. J. Sullivan*  
Police Justice.



POOR QUALITY  
ORIGINAL

0505

BAILED,  
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Residence \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_

Mr. Soulebeck 117  
Mr. Frick 117

Police Court

District

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Offence

Date

Rego. 11  
Officer

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POOR QUALITY  
ORIGINAL

0506

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 Paul and  
John Hess*

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

*John Paul and John Hess*  
of the CRIME OF BURGLARY IN THE *first* DEGREE, committed as follows:

The said

*John Paul and John Hess*  
*Hess, both*  
late of the *South* Ward of the City of New York, in the County of New York  
aforesaid, on the *nineteenth* day of *April*, in the year  
of our Lord one thousand eight hundred and *ninety*, with force and arms, about the  
hour of *eight* o'clock in the *night* time of the same day, at the Ward,  
City and County aforesaid, the dwelling house of one *Franka Sieden*,

there situate, feloniously and burglariously did break into and enter, there being then and there  
some human being, ~~to wit:~~

within the said dwelling house, with intent to commit some crime therein, to wit: the goods,  
chattels and personal property of the said *Franka Sieden*,

in the said dwelling house then and there being, then and there feloniously and burglariously to  
steal, take and carry away;

*The said John Paul and  
John Hess being then and there each  
of them assisted by a confederate  
actually present, to wit: each by  
the other;*

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.

POOR QUALITY  
ORIGINAL

0507

SECOND COUNT—

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

*John Paul and John Sess*  
of the CRIME OF *Grand* LARCENY in the first degree, committed as follows:

The said *John Paul and John Sess, both*

late of the Ward, City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid,  
at the Ward, City and County aforesaid, in the *night* time of the said day, with force and arms,

*their articles of clothing and wearing  
apparel, of a number and description  
to the Grand Jury aforesaid unknown,  
of the value of one hundred dollars,*

of the goods, chattels and personal property of one *Franka Sieden,*—

in the dwelling house of the said *Franka Sieden,* ~~~~~

there situate, then and there being found, from the dwelling house aforesaid, then and there  
feloniously did steal, take and carry away, against the form of the statute in such case made and  
provided, and against the peace of the People of the State of New York and their dignity.



POOR QUALITY  
ORIGINAL

0508

THIRD COUNT--

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

*John Paul and John Hess*  
of the CRIME OF RECEIVING STOLEN GOODS, committed as follows:

The said *John Paul and John Hess, both*

late of the Ward, City and County aforesaid, afterwards to wit: on the day and in the year aforesaid, at the Ward, City and County aforesaid, with force and arms,

*their articles of clothing and wearing apparel, to a number and description to the Grand Jury aforesaid unknown, of the value of one hundred dollars.*

of the goods, chattels and personal property of one *Frank Sweden*.

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

unlawfully and unjustly, did feloniously receive and have; the said *John Paul and John Hess*

then and there well knowing the said goods, chattels and personal property to have been feloniously stolen, taken and carried away, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,  
District Attorney.

0509

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396

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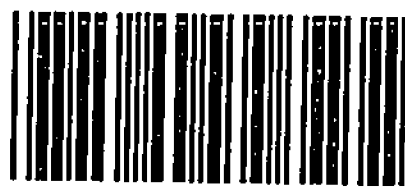
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**DESCRIPTION:**

Pearson, Francis

**DATE:**

05/15/90



3687

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**BOX:**

396

**FOLDER:**

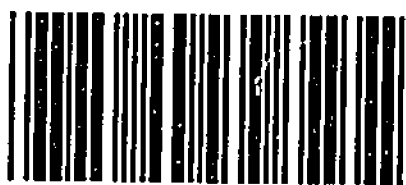
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**DESCRIPTION:**

Tarney, Thomas

**DATE:**

05/15/90



3687



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**BOX:**

396

**FOLDER:**

3687

**DESCRIPTION:**

Seebach, Philip

**DATE:**

05/15/90



3687



POOR QUALITY  
ORIGINAL

05 13

CITY AND COUNTY,  
OF NEW YORK, ss.

POLICE COURT, 102 DISTRICT.

*Peter D. Carter*  
of No. *Fourth Precinct* Street, aged *36* years,  
occupation *Officer* being duly sworn deposes and says  
that on the *9<sup>th</sup>* day of *May* 1890  
at the City of New York, in the County of New York *he arrested*

*Francis Pierson, Thomas Tarnay and  
Philip Seibach charged with Robbery  
by one James Hogan.*

*Deponent says that said James  
Hogan has no permanent residence,  
and is a material witness for the  
people in this action, and asks  
that he be committed to the House  
of Detention in default of bail to  
testify.*

*Peter D. Carter*

Sworn to before me, this

of *May* 1890

day

*William H. McMahon*  
Police Justice.



POOR QUALITY  
ORIGINAL

0514

Police Court— / District.

CITY AND COUNTY } ss  
OF NEW YORK, }

*James Hogan*  
of No 3 Pike St. (No 2 Largent) Street, Aged 38 Years  
Occupation *Steamfitter* being duly sworn, deposes and says, that on the  
9<sup>th</sup> day of *May* 1889, at the 4<sup>th</sup> Ward of the City of New York,  
in the County of New York, was feloniously taken, stolen, and carried away, from the person of de-  
ponent by force and violence, without his consent and against his will, the following property, viz:

*Good and lawful money of the  
United States of the value of Twenty  
seven dollars*

~~of the value of~~ DOLLARS,  
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 force and violence as aforesaid by *Francis*

*Pearson Thomas Jarney and Philip Seebach*  
(all now here) for the reasons that deponent  
had said money in the inside pocket  
of the vest then worn on his person  
and was walking through Mulberry  
Street and met the defendant *Pearson*  
and they went to a liquor saloon ~~and~~  
said street and there met the defen-  
dants *Jarney and Seebach* Deponent  
accompanied the defendant to apartment  
at 121 Roosevelt Street and while  
deponent was there he was violently  
assaulted by the defendants who beat

day of

188

Police Justice.

Sworn to before me, this

POOR QUALITY  
ORIGINAL

0515

and kicked him and while deponent was  
being so assaulted deponent felt a  
hand inserted into said pocket and  
said money violently and against  
deponent's will and consent, taken  
from deponent's person.

Wherefore deponent charges the  
defendants with acting in concert  
in committing said assault for the  
purpose of committing said Robbery.  
Sworn to before me  
this 10<sup>th</sup> May 1890

J. W. M. Watson

Police Justice

James H. Hagan

Dated \_\_\_\_\_ 1888 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 1888 \_\_\_\_\_ Police Justice.

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

Dated \_\_\_\_\_ 1888 \_\_\_\_\_ Police Justice.

\_\_\_\_\_ of the City of New York, until he give such bail.  
\_\_\_\_\_ Hundred Dollars \_\_\_\_\_ and 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, &c.,  
on the complaint of

Offence—ROBBERY.

vs.

1  
2  
3  
4

Dated \_\_\_\_\_ 1888

Magistrate.

Officer.

Clerk.

Witnesses,

No.

Street,

No.

Street,

No.

Street,

§ \_\_\_\_\_ to answer General Sessions.

POOR QUALITY  
ORIGINAL

05 16

Sec. 198-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Philip Seebach* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is *his* right to  
make a statement in relation to the charge against *him*; that the statement is designed to  
enable *him* if he see fit to answer the charge and explain the facts alleged against *him*  
that he is at liberty to waive making a statement, and that *his* waiver cannot be used  
against *him* on the trial.

Question. What is your name?

Answer.

*Philip Seebach*

Question. How old are you?

Answer.

*27 years*

Question. Where were you born?

Answer.

*New York*

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

Answer.

*101 Mott St. 1 month St.*

Question. What is your business or profession?

Answer.

*Barber*

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*  
*Philip Seebach*

Taken before me this

*10*

day of

*May*

189*6*

*William*

Police Justice.



POOR QUALITY  
ORIGINAL

05 17

Sec. 198-200.

CITY AND COUNTY }  
OF NEW YORK, } ss.

102  
District Police Court.

*Thomas Farney* being duly examined before the under-  
signed according to law, on the annexed charge, and being informed that it is h & right to  
make a statement in relation to the charge against h in; that the statement is designed to  
enable h in if he see fit to answer the charge and explain the facts alleged against h in  
that he is at liberty to waive making a statement, and that h is waiver cannot be used  
against h in on the trial.

Question. What is your name?

Answer.

*Thomas Farney*

Question. How old are you?

Answer.

*22 years*

Question. Where were you born?

Answer.

*England*

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

Answer.

*84 Courtlandt Street - 2 months*

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.*

*Thomas Farney*

Taken before me this

day of *May* 1891

*H. J. Jackson*

Police Justice.

POOR QUALITY  
ORIGINAL

05 18

Sec. 198-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Francis Pearson* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is *h<sup>e</sup>*'s right to  
make a statement in relation to the charge against *h<sup>m</sup>*; that the statement is designed to  
enable *h<sup>m</sup>* if he see fit to answer the charge and explain the facts alleged against *h<sup>m</sup>*  
that he is at liberty to waive making a statement, and that *h<sup>e</sup>*'s waiver cannot be used  
against *h<sup>m</sup>* on the trial.

Question. What is your name?

Answer. *Francis Pearson*

Question. How old are you?

Answer. *25 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *121 Roosevelt St; 3 months*

Question. What is your business or profession?

Answer. *Steam fitter*

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*  
*Francis Pearson*

Taken before me this

*10*

day of

*May*

*1890*

Police Justice.

POOR QUALITY  
ORIGINAL

0519

BAILED,  
No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street \_\_\_\_\_

Police Court--- 1  
District 123

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*James Hogan*  
*James Hogan*  
*Thomas James*  
*Philip Seaback*  
Offence *Robbery*

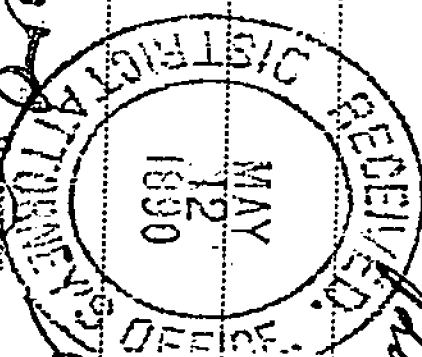
Dated *May 9* 1890

*McMahon* Magistrate.  
*Mac & Co. v. Mac* Officer.  
Precinct.

Witness  
*Comp. Howard, Clerk of the*  
*House of Representatives*  
*and*

No. \_\_\_\_\_  
Street.

No. \_\_\_\_\_  
Street.



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 *Thirty* Hundred Dollars, *Cash* and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *May 10* 1890 *W. McMahon* 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 h to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.



POOR QUALITY  
ORIGINAL

0520

E 500

Visitors admitted daily (Sundays and Holidays excepted) from  
2 to 5 P. M.

Letters of inquiry should be addressed to

ROBERT B. LAMB, M. D.,  
MEDICAL SUP'T MATTEAWAN STATE HOSPITAL,  
FISHKILL-ON-THE-HUDSON, N. Y.

Write here the Address of the person to whom  
this Letter is to be sent.

Chief Clerk  
Criminal Courts  
Chambers Street New York City

Fishkill-on-the-Hudson, N. Y., Sept. 1. 1906.

Dear Sir.

Having been Notified of  
From Sup. of Legal Aid Society that there is several  
Application for Discharge this month I Desire of You to  
Oblige me please with Facts of my Commitment made  
out on 27 of May 1890. I would be very thank full to you  
Name of Justice Mr. Rufus B. Cowing.

Dear Sir

As I ask this Favor of you. also Promise You that I  
will not allowed anyone to know outside of those  
having Privilege of opening Personal Mails that  
Forward to Patients of this Hospital. hoping to Paper  
my self as my Name on List of Application for Discharge  
Hoping Sir You will Oblige.

Yours Truly  
Truly

Thomas Parney.

POOR QUALITY  
ORIGINAL

0521

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Francis Pearson, Thomas  
Torney and Benjamin Seelbach

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

Francis Pearson, Thomas Torney and Benjamin Seelbach  
of the crime of ROBBERY IN THE second DEGREE, committed as follows:

The said Francis Pearson, Thomas Torney and Benjamin Seelbach, all late of the City of New York, in the County of New York aforesaid, on the ninth day of May, in the year of our Lord one thousand eight hundred and eighty ~~ninth~~ <sup>in the</sup> ~~time of the said day, at~~ the City and County aforesaid, with force and arms, in and upon one James Hagan, in the peace of the said People then and there being, feloniously did make an assault, and one promissory note for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the value of twenty dollars — ; two 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 the denomination of ten dollars, and of the value of ten dollars each ; three 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 the denomination of five dollars, and of the value of five dollars each ; ten 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 the denomination of two dollars, and of the value of two dollars each ; ten 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 the denomination of one dollar, and of the value of one dollar each ; one promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of twenty dollars — ; two promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of ten dollars each ; ten promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars each ; one United States Silver Certificate of the denomination and value of twenty dollars — ; two United States Silver Certificates of the denomination and value of ten dollars each ; ten United States Silver Certificates of the denomination and value of five dollars each ; ten United States Silver Certificate of the denomination and value of two dollars each ; ten United States Silver Certificate of the denomination and value of one dollar each ;

\$27.00

POOR QUALITY  
ORIGINAL

0522

~~one~~ United States Gold Certificate of the denomination and value of twenty dollars  
— ; ~~two~~ United States Gold Certificate~~s~~ of the denomination and value of ten  
dollars ~~each~~; ~~four~~ United States Gold Certificate~~s~~ of the denomination and value of  
five dollars ~~each~~ ; and divers coins, of a number, kind and denomination to the Grand Jury  
aforesaid unknown, of the value of ~~Twenty seven dollars,~~

of the goods, chattels and personal property of the said ~~James Hoag~~,  
from the person of the said ~~James Hoag~~, — against the will,  
and by violence to the person of the said ~~James Hoag~~, —  
then and there violently and feloniously did rob, steal, take and carry away, ~~the said~~  
~~Francis Beaman, Thomas Tarnery and Philip~~  
~~Sedbrook, and each of them, being then~~  
~~and there aided by an accomplice actually~~  
~~present, to wit: each by the other; —~~  
against the form of the Statute in such case made and provided, and against the peace of the People  
of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.



0523

**BOX:**

396

**FOLDER:**

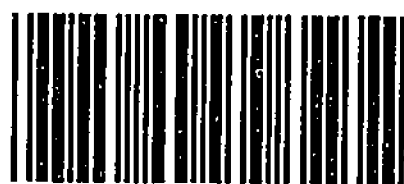
3687

**DESCRIPTION:**

Peters, August

**DATE:**

05/28/90



3687

POOR QUALITY  
ORIGINAL

0524

273.

Witnesses:

Counsel,

Filed

Pleads,

day of

1890

THE PEOPLE

44-516-  
204-516-  
73.

B

August Peters

Conveying interest without  
formity, Sec. 264, Revised  
Ordinance of 1880, and Sec. 85  
Consolidation act of 1882

JOHN R. FELLOWS,

District Attorney.

A TRUE BILL.

Chas. B. Bouché

Foreman.

Part III June 2/90  
Pleads guilty.

Fined \$10

POOR QUALITY  
ORIGINAL

0525

District Attorney's Office.

PEOPLE

vs.

off Lannon  
15 P.

August Peters  
May 23

Grand Jury Room.

PEOPLE

vs.

August Peters no 273

Carry up concealed weapon

officer O'Connell

Grand Jury Room.

PEOPLE

vs.

August Peters

The Grand Jury dismissed  
the charge of assault and  
found an indictment for  
carrying a pistol without  
permit.  
J. J. Sullivan



POOR QUALITY  
ORIGINAL

0526

Police Court—4<sup>th</sup> District.

City and County } ss.:  
of New York, }

of No. 325 East 7<sup>th</sup> Street, aged 22 years,  
occupation Expressman being duly sworn

deposes and says, that on the Third day of April 1889 at the City of New  
York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by August

Peters, (now here) who did point

and aim a revolving pistol

loaded with powder and ball

at deponents person, at the

same time threatening to shoot

deponent

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without  
any justification on the part of the said assailant

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer  
for the above assault, etc., and be dealt with according to law.

Sworn to before me, this Third day }  
of April 1889. } Henry Rodfeld.

J. Henry Rod Police Justice.

POOR QUALITY  
ORIGINAL

0527

Sec. 198-200.

CITY AND COUNTY }  
OF NEW YORK, } ss.

District Police Court.

*August Peters* being duly examined before the, under-  
signed according to law, on the annexed charge; and being informed that it is h<sup>is</sup> right to  
make a statement in relation to the charge against h<sup>im</sup>; that the statement is designed to  
enable h<sup>im</sup> if he see fit to answer the charge and explain the facts alleged against h<sup>im</sup>  
that he is at liberty to waive making a statement, and that h<sup>is</sup> waiver cannot be used  
against h<sup>im</sup> on the trial.

Question. What is your name.

Answer. *August Peters*

Question. How old are you?

Answer. *44 years*

Question. Where were you born?

Answer. *Germany*

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

Answer. *204 East 76 St. 2 years*

Question. What is your business or profession?

Answer. *Cypress*

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-*

*August Peters*

Taken before me this

day of

*June*

188*8*

Police Justice.

POOR QUALITY  
ORIGINAL

0528

BAILED,  
No. 1, by J. G. Jackson  
Residence 227 East 80th Street.  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.  
No. 5, by \_\_\_\_\_  
Residence \_\_\_\_\_ Street.

#272  
Police Court--  
District--538

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

William W. Caldwell  
1325 West 51st St.

Original Petition

2

8

4

Offence Assault  
felony

Dated

April 3

1889

Magistrate

Chamell Officer.

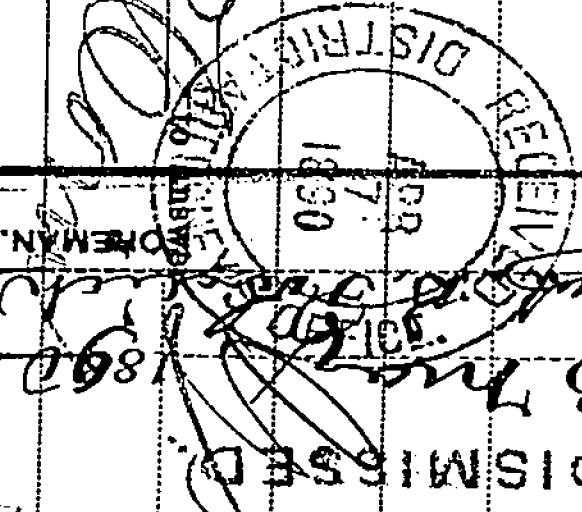
Precinct 1

Witnesses

No. 201 East 76 Street.

No. \_\_\_\_\_ Street.

No. \_\_\_\_\_ Street.



Bailed

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 One 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 April 3 1889 J. Henry Bond Police Justice.

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

Dated April 3d 1889 J. Henry Bond 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.



POOR QUALITY  
ORIGINAL

0529

COURT OF GENERAL SESSIONS OF THE PEACE OF THE CITY AND COUNTY  
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*August Peters.*

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by this

indictment, accuse *August Peters* —

of the crime of *violating an ordinance of the Common  
Council of the City of New York*, —

committed as follows:

The said *August Peters*, —

late of the City of New York, in the County of New York aforesaid, on the  
— *third* — day of *April*, in the year of our Lord one thousand  
eight hundred and ninety — , at the City and County aforesaid,

*not being a judge of any federal, state or city court, or an  
officer of the general, state or city governments, authorized  
by law to make arrests, or a person to whom a permit had  
been issued as provided by the ordinances of the Common*

POOR QUALITY  
ORIGINAL

0530

Council of the City of New York, did unlawfully have in his possession a certain pistol, concealed on his person and not carried openly, and then and there and thereby did offend against and violate a certain ordinance theretofore duly passed and adopted by the Common Council aforesaid, and then and there in full force and operation in the said City, which said ordinance is as follows, that is to say:-

"Every person, except judges of the federal, state and city courts, and officers of the general, state and municipal governments, authorized by law to make arrests, and persons to whom permits shall have been issued as hereinafter provided, who shall have in his possession within the city of New York, a pistol of any description concealed on his person or not carried openly, shall be deemed guilty of a misdemeanor, and shall be punished, on conviction by a fine not exceeding ten dollars, or, in default of payment of such fine, by imprisonment not exceeding ten days."

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.

POOR QUALITY  
ORIGINAL

0531

and their dignity.

John R. Fellows,

District Attorney



0532

**BOX:**

396

**FOLDER:**

3687

**DESCRIPTION:**

Ponsolle, Hall

**DATE:**

05/28/90



3687

0533

POOR QUALITY  
ORIGINAL

Witnesses:

Thomas Falconer

C. W. Viles

It is impossible  
to prove the guilt  
of the prisoner in  
this case, without  
the complainant's  
testimony - The Com-  
plainant has sailed  
for Europe - to be gone  
for quite a time.  
I therefore  
ask that the defendant  
be discharged on  
his own recognizance  
June 9<sup>th</sup> 90 G.S.A.  
A.D.A

# 287. 200 Highway

Counsel, *J. L. McArthur*  
Filed *20<sup>th</sup>* day of *Aug* 1890  
Pleads, *Not guilty*

THE PEOPLE  
vs.  
Grand Larceny, Second Degree.  
[Sections 528, 531 Penal Code]

*Hall Bonsole*

JOHN R. FELLOWS,  
District Attorney.

A True Bill.

*Chas. D. Edwards*

Part III June 9/90 Foreman  
Sept. Discharged in the 90  
my new signature  
*Wm. F.*

POOR QUALITY  
ORIGINAL

0534

Police Court- 2 District.

Affidavit—Larceny.

City and County }  
of New York, } ss.:

of No. 5th Avenue Hotel Street, aged 60 years,  
occupation Merchant.

deposes and says, that on the 26 day of May 1890 at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
of deponent, in the day time, the following property, viz:

One pair of  
trousers in the pocket of which  
was good and lawful money of  
the value of about thirty six dollars,  
\$ 36-

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 Hull Poussolle, now here,

under the following circumstances:—De-  
ponent occupied a room at the 5th  
Avenue Hotel and was asleep in a  
bed in said room at said time <sup>at about 5 A.M.</sup> having  
left the said property lying on a chair  
at the foot of the bed. Deponent  
was awakened at said time by a  
noise in his room and immediately  
deponent saw a man pass  
from deponent's room into a room  
adjoining, and deponent is informed  
by Charles N. Velas, now here, that the  
defendant was assigned to the  
said room adjoining deponent's room;  
that the defendant actually occupied

Subscribed before me this

188

day

Police Justice.



POOR QUALITY  
ORIGINAL

0535

the said room at said time, and  
that the said stolen property was  
found by the said Felix ~~immediately~~  
nearly under the window of the  
room occupied by the defendant  
within twenty minutes of the  
time the said property was taken.  
And deponent is informed by  
Michael Gilday (now here, who is a  
night watchman at said Hotel that  
at the time of deponent's giving  
the alarm, the defendant was  
found <sup>partially</sup> ~~discovered~~ and in the corridor  
that the defendant entered the  
room adjoining deponent's room,  
and the same room into which de-  
ponent saw a man pass at the  
moment of the discovery of the  
loss of said property. And  
deponent is informed by the  
said Gilday that a moment  
after the defendant entered the  
said room he Gilday heard a  
noise of the dropping of something  
into the court, and deponent  
believes that the said noise was  
occasioned by the defendant  
dropping ~~over~~ the said stolen  
property out of his window.  
Wherefore deponent asks that the  
defendant be held to answer  
the said charges.

Subscribed before me this  
26th day of May 1890

*Edna Jane*  
Deputy Justice

Thomas ~~James~~

POOR QUALITY  
ORIGINAL

0536

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 37 years, occupation Watchman of No. 10

9th Ave Hotel Street, being duly sworn deposes and  
says, that he has heard read the foregoing affidavit of John Falcetti,

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

Sworn to before me, this 26

day of May 1888

E. J. Hogan  
Police Justice.

Michael Gilday  
Mark

CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 37 years, occupation Hotel of No. 10

9th Ave Hotel Street, being duly sworn deposes and  
says, that he has heard read the foregoing affidavit of John Falcetti,

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

Sworn to before me, this 26

day of May 1888

E. J. Hogan  
Police Justice.

Charles W. Vilas

POOR QUALITY  
ORIGINAL

0537

Sec. 198-200.

District Police Court.

CITY AND COUNTY  
OF NEW YORK, ss.

*Bill Poncette* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if he see fit to answer the charge and explain the facts alleged against h  
that he is at liberty to waive making a statement, and that h waiver cannot be used  
against h on the trial.

Question. What is your name?

Answer.

*Bill Poncette*

Question. How old are you?

Answer.

*30 years*

Question. Where were you born?

Answer.

*France*

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

Answer.

*53 West 28 St. 3 weeks*

Question. What is your business or profession?

Answer.

*Journalist*

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.*

*T. Poncette*

Taken before me this

day of

*May*

189

Police Justice.



POOR QUALITY ORIGINAL

0538

BAILED,  
No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

Police Court--- 2821 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF  
Michael Belenker  
5th Ave Hotel  
Paul Proulx  
Larceny  
(felony)

Offence \_\_\_\_\_

Dated May 26 1898

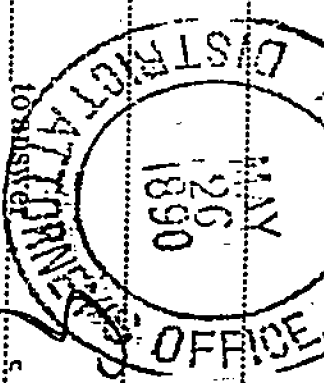
Stephen Magistrate  
Platz Officer

Witnesses  
Michael Hickey  
Westman White

No. 5, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 6, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 7, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named \_\_\_\_\_

\_\_\_\_\_ guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Five Hundred Dollars, \_\_\_\_\_ and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.  
Dated May 26 1898 \_\_\_\_\_ 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 h to be discharged.

Dated \_\_\_\_\_ 18 \_\_\_\_\_ Police Justice.

POOR QUALITY  
ORIGINAL

0539

COURT OF GENERAL SESSIONS OF THE PEACE, OF THE CITY AND COUNTY  
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Hall Ponsolle*

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by  
this indictment, accuse *Hall Ponsolle*

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

The said

*Hall Ponsolle*

late of the City of New York, in the County of New York aforesaid, on the *twenty-sixth*  
day of *May*, in the year of our Lord one thousand eight hundred and  
*ninety*, at the City and County aforesaid, with force and arms, in the  
*day* time of the same 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 *thirty - six*

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  
*thirty - six*

dollars; divers United States Silver Certificates of a number and denomination to the Grand  
Jury aforesaid unknown, of the value of *thirty - six*

dollars; divers United States Gold Certificates of a number and denomination to the  
Grand Jury aforesaid unknown, of the value of *thirty - six*

dollars; divers coins of a number, kind and denomination to the Grand Jury aforesaid  
unknown, of the value of

*thirty - six dollars and  
one pair of trousers of the  
value of ten dollars*

of the goods, chattels and personal property of one

*Thomas Falconer*  
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.

JOHN R. FELLOWS, *District Attorney.*

0540

**BOX:**

396

**FOLDER:**

3687

**DESCRIPTION:**

Potter, Samuel

**DATE:**

05/15/90



3687



POOR QUALITY  
ORIGINAL

0541

359

# 87.

Counsel,

Filed

Pleads,

THE PEOPLE

vs.

Samuel Potter

Grand Larceny in the  
Degree.

[Sections 528, 530 — Penal Code]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Chas. B. Biddle

Sub 2-Pray 1990 Foreman.

Tried and convicted with

recommendation & jury

Em in

POOR QUALITY  
ORIGINAL

0542

Police Court—2 District.

Affidavit—Larceny.

City and County }  
of New York, } ss.:

Nicola Genardi  
of No. 175 Thompson Street, aged 37 years,  
occupation Saloon Keeper being duly sworn  
deposes and says, that on the 24 day of April 1890 at the City of New  
York, in the County of New York, was feloniously taken, stolen and carried away from the possession  
of deponent, in the night time, the following property, viz:

Our Trunk containing  
Dresses and Clothing and 2 Pair  
of Ear Rings 2 Finger Rings Our Silver Watch  
Gold plated and 1 Gold chain and our Watch chain  
and Pine and Grod and Lawfull money of the United  
States issue to the amount of \$3.00 all of the value of  
the property of Two hundred & fifty dollars  
Deponent \$250.<sup>00</sup>/<sub>100</sub>

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 Samuel Potter and (— Douglas  
not yet arrested) from the fact that on  
the said date the said Trunk was in a  
room in the above premises and at about  
the hour of 8 P.M. deponent missed the  
said Trunk and deponent has since  
been informed by Officer Edward J. Armstrong  
of the Central Office that he had arrested  
the said defendant Potter and that the  
said defendant Potter had admitted to  
the said Officer Armstrong that he in concert  
with the said defendant Douglas (not yet  
arrested) had taken the said Trunk and  
also told said Armstrong where the said Watch  
and Dresses and clothing were to be found

Sworn to before me, this

of

189

day

Police Justice.

POOR QUALITY  
ORIGINAL

0543

and deponent has since seen the said  
Dresses, Clothing, and Watch, and fully  
and positively identifies the said property  
as part of the property taken from deponent's  
possession.

And deponent asks that the  
said defendants be dealt with as the  
law directs.

Sworn to before me this 30<sup>th</sup> day

of

*[Signature]*

*Nicola J. Giarola*

Police Justice.



POOR QUALITY  
ORIGINAL

0544

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK,

Samuel Potter being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h's right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if he see fit to answer the charge and explain the facts alleged against h  
that he is at liberty to waive making a statement, and that h's waiver cannot be used  
against h on the trial.

Question. What is your name?

Answer.

Samuel Potter

Question. How old are you?

Answer.

17 Years

Question. Where were you born?

Answer.

U. S.

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

Answer.

12 Jones Street 1 Year

Question. What is your business or profession?

Answer.

Barber

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  
Samuel Potter.

Taken before me this

30

day of

1887

Police Justice.

POOR QUALITY  
ORIGINAL

0545

BAILED,  
No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_  
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

Police Court... 2 695.  
District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Nicola Berardi

1175 W. Thompson St.

Samuel D. Otter

Residence

Not credited

Offence

Dated April 30 1890

Officer

Magistrate

Prothonotary

Witnesses

No. 1, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 2, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 3, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

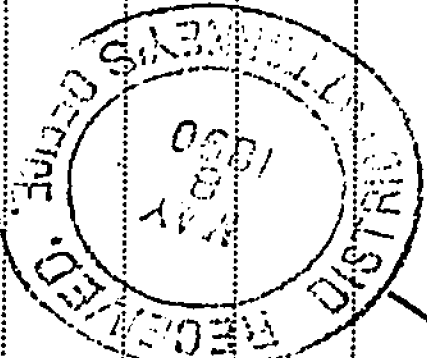
No. 4, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 5, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 6, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 7, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_

No. 8, by \_\_\_\_\_  
Residence \_\_\_\_\_  
Street \_\_\_\_\_



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named defendants

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of One 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 April 30 1890 R. J. White 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

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THE PEOPLE  
VS.  
SAMUEL POTTER.

Tried May 19th, 1890, before HON. RUFUS B. COWING,  
and a jury.

Indictment filed May 15th, 1890.

Indicted for Grand Larceny in the First Degree.

A p p e a r a n c e s:

Assistant District Attorney Jerome for the People.

Frank J. Kellar, Esq., for the defense.

NICOLO GERARDI, the complainant, testified that he  
was a saloon keeper at 177 Thompson Street in the City of  
New York. He lived at 175 Thompson Street at the time of  
the larceny. He kept a saloon there in the basement and  
he had lived in the back of the saloon. He had a trunk  
in his living room back of the saloon and kept it under a  
table there. There was a door leading from the saloon  
into this living room. There was a door leading from his  
living room into the yard, but it was kept fastened. On  
the 24th of April, 1890, he saw the defendant in his saloon.  
There were eight or ten young men there. They were colored



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persons. He saw the defendant in his saloon at about eight o'clock in the evening. The men in the saloon were playing pool. He, the witness, was behind the counter serving drinks. The pool room was in the rear of the bar room and the pool table was about four feet from the table in the inner room under which the trunk was kept. The party came into the saloon between two and three o'clock in the afternoon and kept up a series of games of pool until about eight o'clock. Then they went away. A few weeks later, his, the complainant's wife went into the inner room and missed the trunk or box. His wife had been helping him, the complainant, in serving drinks at the bar. He, the witness, saw the trunk or box last at about half past seven. The box weighed about 130 pounds and was about three feet long. It was made by an Italian carpenter to contain clothing, or other articles of that kind. The trunk contained, among other articles, \$82. in cash, a gold watch and chain, a silver watch and chain, a breastpin, two pair of ear-rings, in all, valued at \$250. There was also a lot of wearing apparel in the box. He, the complainant, afterwards saw his watch in the hands of detective Armstrong. The detective took him to a pawn shop at 45

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Carmine Street and showed him the watch. He afterwards saw other portions of the stolen property at Police Headquarters and identified the property as his. Among the stolen articles was the badge of a society that he belonged to.

MARY BROOKS testified that she lived at 16 1/2 Downing Street. On the night of April 24th she saw a man known as "Kid" Douglass and the defendant together. They came to the door of her, the witness' room and knocked and she, the witness, said "Come in." They came in and Kid Douglas asked her if she wanted some goods that had been given to them and for which they did not have any use. She, the witness, said that she didn't want them and didn't want them to leave them there either, but Kid Douglas, in the presence of the defendant, fired the goods up on a chair in the room and the two men went out. She, the witness, paid nothing for the goods because she didn't buy them. She had known Douglas about four years. She had not known the defendant previous to the night in question. She did not see either Douglas or the defendant again until an officer brought the defendant to her house and she identified the defendant. The officer found the goods piled

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up in her closet, but she, the witness, did not put them there. She believed that her children had put them away.

UNDER CROSS EXAMINATION, the witness testified that she did not see the complainant's excise license burned up in her stove. She saw no papers in the possession of Douglas or the defendant. She did not accept anything from them and did not buy any part of the stolen goods.

OFFICER EDWARD J. ARMSTRONG testified that he was attached to the Police Central Office and arrested the defendant on or about the 26th of April, 1890, at the corner of Thompson and Bleecker Streets, at about eight o'clock in the evening. He arrested the defendant in company with another colored man called "Proctor Knott," and he took them to Police Headquarters. The defendant said to him, the witness, that he was with Kid Douglas and another boy at the time the trunk was stolen and took it to 16 1/2 Downing Street, the home of Mrs. Brooks. The defendant said that there was about \$75. of bed linen and table linen and clothing in the trunk. The defendant afterwards said that he had pawned the complainant's watch at 45 Carmine Street, at Louis Morris' pawn shop. He, the witness, took



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the complainant there and he identified the watch. There was also a gold chain attached to the watch and the defendant said that he had thrown the chain into the sewer at the corner of Carmine and Bleecker Streets. The defendant said that he had spent the money that he had obtained from pawning the watch. He, the witness, was led to arrest the defendant on account of this money. The defendant and Proctor Knott got into a fight over the proceeds of the pawning of ~~a~~<sup>the</sup> watch because Proctor Knott wanted his half of the proceeds and the defendant wouldn't give it to him.

UNDER CROSS EXAMINATION, the witness testified that the defendant did not merely say that he had received the stolen goods from Kid Douglas. The defendant said that he had helped to take them to Mrs. Brooks' house and left them there. He, the witness, did not know anybody by the name of Kid Douglas. He had been looking carefully for such a person. He had heard that there was such a person as Kid Douglas. The defendant said that he was in the complainant's bar room playing pool on the night of the larceny.

For the defense SAMUEL POTTER testified that he

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knew a man by the name of Kid Douglas. He had no share in stealing the complainant's property. He got the watch that he pawned from Kid Douglas at 16 Downing Street, where Mrs. Brooks lived. As soon as he was arrested, he told the officer where the watch was pawned and also about Kid Douglas taking the stolen trunk to Mrs. Brooks' rooms. It was through his statement that the property was recovered.

UNDER CROSS EXAMINATION he testified that Douglas was in the complainant's saloon playing pool when he, the defendant, was there. Douglas left about ten minutes past eight o'clock and he, the defendant about twenty minutes past. Douglas was alone when he left the saloon, so far as he, the defendant, knew. Douglas took a glass of beer and went out. Douglas carried nothing when he went out, and went out through the front door. The defendant left the saloon before the loss of the trunk was discovered. He went up to Bleeker Street and turned down toward his home in Jones Street. He met Kid Douglas in Bleeker St. Douglas was carrying the trunk on his shoulder. He, the defendant, said "Hello, Kid," and Douglas said, "Come over here and give me a hand with this." Douglas said that he

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was going to take it to 16 1/2 Downing Street. Douglas didn't say whose trunk it was. Douglas had the trunk wrapped up in cloth and when they got into the yard at 16 1/2 Downing Street he took the cloth off and they carried it upstairs. He, the defendant, believed that Douglas had a job to carry the trunk and was to be paid for the work. He, the witness, thought it was a little funny that Douglas should have the trunk wrapped up and that Douglas should ask him, the defendant, to carry a trunk that he, Douglas, had been paid to carry. He saw Douglas open the trunk in Mrs. Brooks' room and take out the clothing and some papers and put them on a table. One of the papers that Douglas took out looked like an excise license. He thought that the trunk belonged to Mrs. Brooks. Douglas burned up all the papers in the trunk, and then it occurred to him, the defendant, that Brooks had stolen the trunk. Mrs. Brooks told Douglas to burn up the papers. He, the defendant, did not see Douglas take the watch that Douglas gave him out of the trunk. After he had destroyed the papers, Douglas asked him to come out and they went down into the yard and Douglas said, "Here, Peter, take this watch and pawn it for me." He, the defendant, knew it was



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stolen then, but did not know who it belonged to. He, the defendant, did not think he was doing any harm, because he had not stolen the watch or bought it from Douglas. He pawned the watch and kept the money---\$1.50-- because he did not see Douglas again. He spent the money. The chain was bent and broken and he threw it into the sewer as he went along. The defendant testified that, he, the defendant, had worked for Drs. Joyce, Evans, and Pinkham, but he had been out of work for several weeks before his arrest. He had last worked in a barber shop at 60 University Place as a brush boy.

-----OXO-----

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CITY AND COUNTY }  
OF NEW YORK, } ss.

aged 27 years, occupation Police Officer of No. Central Office 300 Mulberry Street, being duly sworn deposes and

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

Sworn to before me, this 30<sup>th</sup>

day of April 1886

Edward J. Armstrong

A. White  
Police Justice.

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0555

COURT OF GENERAL SESSIONS OF THE PEACE, OF THE CITY AND COUNTY  
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Samuel Potter*

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by  
this indictment, accuse *Samuel Potter*

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

The said *Samuel Potter*

*Eighth Ward of the*  
late of the City of New York, in the County of New York aforesaid, on the *twenty-fourth*  
day of *April* in the year of our Lord one thousand eight hundred and  
*ninety*, at the City and County aforesaid, with force and arms, in the  
*night* time of the same 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-one*

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-one*  
dollars; divers United States Silver Certificates of a number and denomination to the Grand  
Jury aforesaid unknown, of the value of *forty-one*

dollars; divers United States Gold Certificates of a number and denomination to the  
Grand Jury aforesaid unknown, of the value of *forty-one*

dollars; divers coins of a number, kind and denomination to the Grand Jury aforesaid  
unknown, of the value of *forty-one* dollars, divers articles

*of clothing and wearing apparel, of a number and  
description to the Grand Jury aforesaid un-  
known, of the value of fifty dollars, four  
earrings of the value of five dollars each, two  
finger-rings of the value of ten dollars each, one  
watch of the value of twenty dollars, one chain of  
the value of twenty dollars, one pin of the value of ten  
dollars and one trunk of the value of five dollars,  
of the goods, chattels and personal property of one  
dwelling house of the said Nicola Gerardi there situate, then and there being found,*

*from the dwelling-house aforesaid*  
then and there feloniously did steal, take and carry away, against the form of the  
Statute in such case made and provided, and against the peace of the People of the State  
of New York and their dignity.

JOHN R. FELLOWS, District Attorney.