

0539

BOX:

527

FOLDER:

4801

DESCRIPTION:

Ellison, Frank

DATE:

07/13/93



4801

Bail fixed in this
Case at \$10,000
July 14/93
Witnesses:
RBC

Wm. J. Hamilton
John James W. Hamilton

\$15,000
RBC

Counsel,
Filed day of July 1893
Pleads: Not Guilty 14

THE PEOPLE

vs.
23-5-0
32-0-0

Frank Ellison

Assault in the First Degree, etc.
(Sections 217 and 218, Penal Code.)

DE LANCEY NICOLL,
District Attorney.

A TRUE BILL.

James McKee

Foreman.

Part 3. October 2/93.

Tried and Convicted of

Assault in the second degree

5-11-93
 1/7/93
 1/7/93

COURT OF GENERAL SESSIONS,

PART III.

-----x
THE PEOPLE :
OF THE STATE OF NEW YORK :
-Against- :
Frank Ellison . :
-----x

Indictment filed July 13th, 1893.

Indicted for Assault in the First Degree.

New York, September 27th, 1893.

A p p e a r a n c e s .

For the People, Assistant District Attorneys
Francis L. Wellman and James W. Osborne.

For the Defendant, Messrs. Charles W. Brooke,
William J. O'Sullivan and Lewis Stuyvesant
Chanler.

D O U G L A S S M Y T H, a witness for the People, sworn,
testified:

I am an architect in business in this city. The
plan shown me of 39th Street between 5th and Park Avenues
was made by me at the request of Mr. Osborne and is cor-
rect. The scale of the plan is fifty feet to the inch.

W I L L I A M H. H E N R I Q U E S, a witness for the People,
sworn, testified:

I am a married man and live at 94 Park Avenue in
this city, and have lived there since last May. My
business is a stock broker; I have been a member of the

Stock Exchange about thirty years. I shall be 61 years old next month. I know the defendant, and first met him a number of years ago. About 1887 I introduced him to my only daughter Leila Olyve Neame, who is about 25 years of age. He called at the house a couple of times, and did not see my daughter again until she returned from Europe with her husband in the summer of 1891. The defendant then met her husband Mr. Neame. In September of that year I had a conversation with the defendant regarding my daughter. I told him his attentions were too marked to Mrs. Neame, and people would talk about it; that he must stop them. He got very indignant and said until she dismissed him he would not desist his attentions. He was at my house nearly all the time after that and frequently took his meals there. At midnight on January 20th, 1893, the defendant was at my house, and I heard him say as he went out that if he was turned out of the house he would give his evidence for Mr. Neame in the divorce proceeding then pending between my daughter and her husband, in which the defendant Ellison was named as co-respondent in the counter charge. On the Tuesday following the 28th of February, 1893, I went to Police Headquarters and made a charge against the defendant. The letter shown me is in the defendant's handwriting. On March 2nd, 1893, I saw the defendant at his room, and Mr. Oelrichs was present. Ellison said I had been to Superintendent Byrnes, and he had been taken from his rooms by Sergeant Hickey, and that unless I withdrew all charges I had made against him, he would publish every-

thing connected with Mrs. Neame's divorce, and also letters he had. I told him that he had been guilty of acts of violence and had made threats in my house, and he said "It is a lie". There was some talk about fighting a duel across a table; I told him I didn't care about any heroics, and would consult my family before I gave any withdrawal. The defendant asked me to give him letters of apology from my daughter, my wife and myself. The defendant gave me forty-eight hours. I did not see him again except in the street after that. I received the letter shown me; it is in Frank Ellison's writing and signed by him. I wrote the letter now shown me, and in reply received the letter of March 4th. The letter now shown me is in Ellison's handwriting; I received it about a couple of weeks after March 5th. Towards 7 o'clock on the afternoon of June 5th I met the defendant alone for the first time, on the north side of 39th Street east of Madison Avenue about 100 feet from the corner. I didn't see a soul in the street. Mr. Ellison came up and placed his body against me and would not allow me to pass. I said "Allow me to pass, if you please", and moved first to the left and then to the right to get by. He said "You damned old son of a bitch, I'm a great mind to break every bone in your skin!" I put my hand up and said "I do not know you and do not want to." With that he struck me in the mouth. I pulled a pistol out of my pocket and fired a shot in the air to attract attention. The defendant fell back about ten feet. I put the pistol in my pocket and started a

few steps towards home. The defendant struck me several blows over the head with a stick. I fell off the curbstone in the street. The next thing I remember he was on top of me beating me with all his might saying "Damn you, I will kill you"; he said it several times. Then men from the stable who heard the shot pulled Ellison off. He came back and kicked me in the head and face, while I was still down. The men finally got him away, and I tried to get up but was unable to. One of the men from the stable took me by the arm and took me home. Dr. Webster came to my house in about half an hour, and about an hour after that I went with Dr. Webster in a carriage to the stationhouse and made a complaint. I was there about ten minutes, then returned to my house and immediately went to bed. I was in bed for seven weeks, attended by Dr. Webster, Dr. Wynkoop and Dr. Mc Burney. I could not see out of my eyes, my left ear was all black, the temple swollen, my nose entirely out of shape, my lips so swollen I could not move them, my right eye black, and there were contusions on both sides of the cheek. I also had a wound on my left shoulder, and some cuts on the top of my head. During the six months after the defendant ceased his visits to my house I hardly ever noticed him. I am about five feet five tall and have carried a pistol all my life. I got a permit twelve or thirteen years ago to carry one in this city.

CROSS EXAMINATION:

I have been a member of the Stock Exchange nearly

thirty years, and before that lived in California. I have continuously been a resident of New York City for at least thirty years. I first met Mr. Ellison when he was a member of the Stock Exchange also. He visited my house at my invitation, and I introduced him to the members of my family. I was then housekeeping in 64th Street. The defendant was at my house three times in all before my daughter was married. She was married in Europe and Mr. Neame returned with her to this country. I introduced Mr. Ellison and Mr. Neame at the Manhattan Club, and the defendant visited the hotel where we were living. Mr. and Mrs. Neame were here several weeks the first time, and went back to Europe. They then returned to this country and Mr. Neame went back after a week, but Mrs. Neame did not accompany him. My daughter Mrs. Neame stayed with me at the Victoria Hotel, and the defendant called there on my wife and daughter. Later they went to Narragansett Pier for the summer, and the defendant followed them. I visited my family at Narragansett Pier, and Mr. Ellison was there at the time, to which I objected to my wife. When my wife and her sister returned from Narragansett Pier they left Mrs. Neame there, and the defendant Ellison was there at that time. My daughter and the defendant returned in about a week's time. The night of Mr. Ellison's return I had the conversation with him which I have detailed here. From June or July to November, 1891, my family resided at the Park Avenue Hotel, and Mr. Ellison came there frequently. In November we took a house in 45th Street.

Mr. Ellison dined there with my family and myself repeatedly; our relations were friendly at that time. Divorce proceedings between Mr. and Mrs. Neame were then contemplated on the ground of adultery, and they were talked over in the family. The defendant was in the confidence of the family about the divorce. The decree of divorce was granted in March of 1893. During the time the proceedings were pending Mr. Ellison visited my family, and took interest in the matter. I never knew he was to marry my daughter. On May 1st we moved from 45th Street to 94 Park Avenue, where I live now, and Mr. Ellison was there constantly. Judge Howland was the referee in the divorce suit of my daughter, and Judge McAdam granted the decree. Two women, my wife, Mr. Ellison and myself were witnesses on my daughter's side of the case, and Mr. Neame was on the stand in opposition to the divorce; there was only one suit that I know of. Mr. Neame in his answer charged adultery as between my daughter and Mr. Ellison. After that the defendant continued to visit my house. I made a complaint to the police against Mr. Ellison for annoying my family; after that time I did not speak to him. I went and saw Superintendent Byrnes about the matter, and he said he would take charge of it and notify Mr. Ellison that his visits to my family were no longer desired. I know Mr. Ellison was visiting my house for about 18 months, and that is as near as I can recollect the length of time he visited my house. Before my family started to Cape May the subject of divorce had been spoken of.

My family remained at Cape May with Mr. Ellison; I could not say that they were under his protection, but I believe he was a great deal in their company. My family also went to Long Beach in company with Mr. Ellison. Mrs. Neame stayed there several times. He also went with her to Seabright, New Jersey. I do not drink any more than I can take care of. I do not remember being intoxicated at Saratoga on any occasion and threatening to kill Mr. Ellison. On the night of the assault after I had fired the revolver I returned it to my side pocket. I had no intention of wounding Mr. Ellison when I pulled the pistol; my only intention was to call the police. I have been at the Stock Exchange nearly every day since the 1st of August. I have not been very active on the floor of the Exchange since this assault; I have not been able to be very active. Dr. Wynkoop and Dr. Mc Burney saw me at different times. Mr. Ellison threatened to go over to the Neame side of the divorce case at one time. I have been in a house of prostitution called the House of All Nations. I never pulled a pistol on a woman in that house, nor in any other house. I had a fight with a man named Mitchell on the Stock Exchange one day; he gave me the lie and I struck him. None of the parties were arrested on account of that assault. I never said to anyone that I was going to shoot Ellison on sight. After I fell on the night of the assault, Ellison struck me first a severe blow in the mouth; afterwards he struck me on the right side. There was a very short interval between the blows. The defendant

had on a dirty-looking gray suit of some kind. I hadn't much time to think of Mr. Ellison's dress. I am certain that I fired in the air. I have carried a pistol in this city for thirty years, but never had occasion to use it before. The defendant pounded me with his fist most unmercifully when I was down on the ground. I have never been troubled with any disease or disorder in my life.

K A T E L E N N O N, a witness for the People, sworn, testified

I live at No. 23 East 39th Street. I know the defendant by sight. On the night of the assault I was sitting by the window in my house, and I saw Mr. Ellison going by. A couple of minutes after he had gone by I heard a shot. I did not go out the minute I heard it, but I went out a minute or two afterwards, and I saw Mr. Henriques lying on his side in the gutter. Mr. Ellison just gave him a kick in the mouth then; I am positive I saw Mr. Ellison kick him. I had seen Mr. Ellison going by the house where I live the Sunday before this assault.

CROSS EXAMINATION:

My attention was directed to the disturbance when I heard the pistol shot.

D A V I D W E B S T E R, a witness for the People, sworn, testified:

I am a practising physician having my office at 327 Madison Avenue in this city. I have been practising

here since the spring of 1868. On the evening of the 5th of June I was called in to attend Mr. William H. Henriques. I found him with his left eye enormously swollen; the eyelids were so swelled that it was with great difficulty that I could open them sufficiently to see any of the eyeball. I did open them, however, and I found the eyeball itself very much swelled from the bleeding under the skin, and partly from the escaping of other constituents of the blood. His left cheek was very much swelled; his left temple greatly swelled, bulged at least an inch; his left ear was swelled; both his lips were very much swelled. The inside of his upper lip was bleeding at several points. His nose was as big as two or three noses, and at the inner corner of the left eye was a semi-circular bleeding wound. When I examined him the next day it seemed to me very evident that there had been three distinct blows, one across his cheek, one on his ear, and another on his temple. I applied iced cloths over the whole of the parts that were swelled, and had them changed every two or three minutes. During the following six days Mr. Henriques was very depressed and in a condition of semi-stupor; he would not say a word unless aroused, and then his answers were very brief.

CROSS EXAMINATION:

I saw Mr. Henriques at 94 Park Avenue. I made the notes in my book at the time of my visits. The particular bruising on Mr. Henriques seemed to be the left cheek, the left temple, the left eye and the left ear.

I do not believe a man could get all those injuries by falling on the pavement. The marks on Mr. Henriques' face looked very much as if they had been done with the heel of a boot. I could not say positively that they were done with a cane. I have seen wounds made with a seal ring, but I do not think those wounds were so made. The condition of Mr. Henriques after the assault I believe was caused by the excitement and by the assault itself. His pulse kept about the same during the six days that I attended him.

T H O M A S M c M A N N, a witness for the People, sworn,
testified:

I am a stableman employed at a stable on East 39th Street, close to Fifth Avenue, kept by Mr. H. Willis. Between seven and half-past seven o'clock on the night of the 5th of June I was at 14 East 39th Street. My attention was attracted by some people shouting that there was a fight. A number of us turned and looked around, and going over we saw two men in the gutter on the other side of Madison Avenue. Mr. Ellison was on top of Mr. Henriques about a foot away from the gutter; he was pounding him with a cane in his hand and pounding him in the face. He had his two knees on his breast. His two fists were going with the cane in one hand. I think I saw Mr. Ellison strike about ten blows. I caught hold of him and pulled him off, and three or four of them held Mr. Ellison while I picked up Mr. Henriques. Coming towards him afterwards Mr. Ellison kicked him in

the eye while he was getting up from the gutter. I took Mr. Henriques home.

CROSS EXAMINATION:

I never saw Mr. Ellison before that night. Mr. Henriques has been in our stable on different occasions. I did not hear any shot fired on that night. I have been to the District Attorney's office once and had an interview with Mr. Osborne. I was about half a block away when my attention was attracted to this assault.

J O H N G R I F F I N, a witness for the People, sworn, testified:

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I am a driver employed by Mr. H. Willis. On the night of the 5th of June I was standing close by the stable in company with the last witness. I heard somebody make a remark that there was a fight, and with that I started to run with the others. I saw this man Ellison on top of Mr. Henriques. He had his knees on his chest or stomach; he was pounding him with his fist, and he had a cane in his hand. He was using the cane on Mr. Henriques; to the best of my knowledge he was using it with both his hands, jabbing it up and down. I could not say where the cane struck Mr. Henriques. Mr. McMann and another gentleman took Mr. Henriques home.

CROSS EXAMINATION:

I was close to Willis' stable when my attention was directed to this assault. When Mr. Ellison was taken away from Henriques I did not hear Ellison say "This man attempted my life." Mr. Ellison stopped right there;

I did not see him attempt to make any escape. I saw no pistol in the hands of Mr. Henriques.

S O L O M O N J. F A T M A N, a witness for the People, sworn, testified:

I am in the cotton business at 70 Broad Street. I saw the defendant Ellison at Jaques' restaurant on Sixth Avenue on the night of the 5th of June last. It was probably not later than eight o'clock. Mr. George Allen was with me. The defendant said he had a row on 39th Street; that he was insulted by a party, and that he had knocked or hit him, and then the party had drawn a pistol, and he had given him a good beating. He said we would read it in the newspaper the next day, and that probably he would be arrested.

J O H N W. W R I G H T, a witness for the People, sworn, testified:

I am a clerk and starter for H. Willis, carriages. I have been in his employ about a year. Between seven and half-past seven on the night of the 5th of June last I was at the Union League Club. I saw Mr. Henriques pass by the Union League Club, going East towards Madison Avenue. I stood there a couple of minutes at the door of the Union League Club, and was about to cross the street when I noticed several cab drivers running, and looking towards Madison Avenue I saw two men clinching. I started to go down there also. I saw the two men on the sidewalk near the curb. Mr. Ellison had a cane in

one hand, as far as I could see from the back, and the cane was going; both hands were going, one pounding him and the other with the cane. He was kneeling on his chest or stomach. Mr. Henriques was on his back in the gutter. I saw Mr. Ellison kick the complainant several times, but could not say that he kicked him in the face.

CROSS EXAMINATION:

I have seen Mr. Ellison in that neighborhood before. I never had any dispute with him, and had never spoken to him before that night.

G E O R G E H. A L L E N, a witness for the People, sworn, testified:

I am a merchant, having my place of business at No. 301 Produce Exchange in this city. I have known the defendant Frank Ellison upwards of twenty years. I was in Jaques' restaurant between 43rd and 44th Streets on Sixth Avenue on the night of the 5th of June. I saw the defendant Ellison there. He told me he had got into a row with a man; a man had insulted him, he struck the man, the man drew a pistol and fired it at him, and then he licked him. He showed me a cane he had broken.

CROSS EXAMINATION:

I am certain he said the man insulted him, then he struck him, then he fired a pistol at him, then he beat him. I could not recognize the cane if it was shown to me.

A N N I E P R I N C E, a witness for the People, sworn,
testified:

I live at No. 94 Park Avenue; I am in the employ
of Mr. Henriques. I have seen Mr. Ellison walking up
and down Park Avenue between 39th and 40th Streets about
three or four times a week after the 28th of February.

L E I L A O L Y V E N E A M E, a witness for the People,
sworn, testified:

I am the daughter of William H. Henriques. I have
known Frank Ellison about seven or eight years. I had
a conversation with him in which he said that I should
marry him the day after my divorce was granted. I re-
fused. He became angry and very furious. He said,
"I am a desperate man. I haven't a friend in the world.
I have only seven cents in my pocket. You have got to
marry me. I am on the brink of the precipice. If I
go over it, you will go over it with me. I will brand
your character so that no honest man, much less a woman,
will ever dare take you by the hand again. This is all
your father's doing. That horrible blackguard, I will
kill him; I will beat him; I will lick the life out of
him; I will kill him. I will come back and clean the
house out. I will kill him if I have to hang for it.
This will be no Hugh Slevin affair; this time I will
kill my man." I saw him on the morning of June 5th in
42nd Street directly in front of the Grand Central Depot.
I felt someone catch me roughly by the arm, and so I
turned to speak to him a moment. I said "If you don't

leave me alone, I will give you in charge of an officer." He said "This is that damned Billy Henriques' doing. I will be even with him for this; I will make him pay for this." He called me a dirty harlot. I called on some men for protection, and Ellison disappeared. This is one of the letters I received from the defendant: "Inspector Byrnes sent for me to-day, or rather this afternoon, and said that your father had been down to him about ten days ago, and also to-day, and made certain charges against me; that I had ill-treated you and abused you in every way, even so far as attacking you and pulling a pistol; also I tried to force my way into his house against the wishes of all three of you, and that your father, mother and yourself all made these complaints, and that you were quite as bitter against me as they were. I can believe this of him, but hardly of you. Will you kindly tell me if this is true of you?" I was in my house when my father came home on the night of this assault. I saw his pistol lying on the hall table about an hour afterwards.

CROSS EXAMINATION:

I was first introduced to Mr. Ellison by my father at our dinner table. Soon after that I went to London and returned to this country with my husband Mr. Neame. The defendant was a witness for me in the divorce case. The defendant was with me at Narragansett Pier a great deal while I was there, and so were many others. On one occasion my mother returned to New York and I remained at Narragansett. The defendant was there with me for

four or five days. I understood that I was the occasion of my father's calling upon Inspector Byrnes. The reason of his call was that Ellison's visits had become distasteful to me and my father. I have written the defendant several notes; one of them was: "My dear Frank: I am sending this on my way up. You know Mason dines at the house to-night. However, I shall not see him, as I am going to bed. Send me a line to-night, and come in to-morrow afternoon for tea. Yours as ever, L." I was the lady who was with Mr. Ellison on the night he assaulted Hugh Slevin. We were walking from the Brunswick Hotel, and the assault occurred in front of the Madison Square Garden. The men had a few words, and Mr. Ellison struck Mr. Slevin. I never dined alone with Mr. Ellison after he was named as co-respondent in the divorce suit. Mr. Ellison at one time gave me an umbrella with his crest on it, which I afterwards had to pay for. He also made me a present of a lamp with his crest on it. I went to Mr. Ellison's apartments with my mother on one occasion to view a political parade; that was the only time I ever was in his rooms.

H A R R Y B L O U N T, a witness for the People, sworn, testified:

I have known Frank Ellison for three months. I am acquainted with Annie Prince. I have seen the defendant several times on 39th Street and 38th Street, between Park and Madison Avenues. I am a porter in the drug-store at No. 405 Fifth Avenue.

GERARDUS H. WYNKOOP, a witness for the People,
sworn, testified:

I am a physician, practising at 128 Madison Avenue in this city. I saw Mr. Henriques about ten or half-past ten o'clock on the night of the injury. He was in bed, with his head covered with cloths. I found that his head was bruised and swollen, a bruise on the right arm below the shoulder, and another bruise on the chest, on the left side. The left eye-lids were so swollen that the eye could not be seen without very careful manipulation. The ball of the eye was the seat of hemorrhage underneath the skin of the eyeball. The inside surface of the upper lip had been cut. The lower lip was swollen but not so much as the upper lip. The left ear was swollen, the left side of the forehead was swollen, and there were two points on one side of the nose where besides the bruises the skin had been broken. I found him in a state of what is called shock; he had a very feeble pulse, and his body was more or less covered with a clammy, cold perspiration. It was my opinion that he had a fracture of the skull, and that he had contusions of the brain substance. The symptoms were a constant pain in the head, worse over the left temple, and made worse by pressure over the left temple.

CROSS EXAMINATION:

I was called first on the night of the 5th of June about half-past ten. Mr. Henriques was able to answer any questions I put to him. His articulation was not distinct. This may have been caused by the swollen lip.

A N N I E M c N A M A R A , a witness for the People, sworn,
testified:

I was a maid at Mr. Henriques' house 94 Park Avenue.
I saw Mr. Ellison between half-past nine and ten o'clock
one night about the 1st of June last. I could not tell
how long he stayed there. I saw him three times that
evening walking up and down.

J A M E S P. D A V E N P O R T , a witness for the People,
sworn, testified:

I am Deputy Clerk of the Court of General Sessions.
I produce the indictment of the People against Frank
Ellison filed Monday, September 12, 1892. It appears by
that indictment that the defendant pleaded guilty to as-
sault in the third degree, and was fined \$250.

C H A R L E S C. R E P P E R , a witness for the People,
sworn, testified:

I was the officer in the case of the People against
Frank Ellison when he was arrested for assaulting Hugh
Slevin. The defendant is the same man who was then fined
\$250.

D E F E N S E .

L O U I S H A L L O C K , a witness for the defendant, sworn,
testified:

I am a physician practising at 34 East 39th Street,
between Madison and Fourth Avenue. I recollect the even-
ing of the 5th of June. On that night I stepped to
the front door and stood there for a few minutes. The

first thing I saw was the old gentleman lying in the gutter nearly opposite where I live. As he rose, he turned to face the other man. He stood in front of him as though to speak to him, and he immediately received a blow and fell again. I saw the elderly man rise from the gutter and stand and face the young man; it was then the blow was struck. I stood by my door all the time. A crowd gathered, and I was unable to see clearly everything that took place. It was diagonally opposite my house.

S H E P A R D B E R R Y, a witness for the defendant, sworn, testified:

I am employed by Dr. Hallock. On the night of the 5th of June I heard a noise which I thought was that of a fire-cracker. When I looked out I saw a crowd down the street. One man was down in the gutter and the other man was standing over him. I called the doctor out. I did not see any blows struck.

GROSS EXAMINATION:

I could not tell what any of the men were doing. The old gentleman was down in the gutter. I made an affidavit in this case when I was at Narragansett Pier. I signed my name to it. In that affidavit I said "I heard a noise; I could not tell whether it was the noise of a revolver or not. When I heard the noise I looked across the street, and then I called Dr. Hallock's attention to the men who were fighting. I did not see the quarrel when it began; the first I saw of it was

when one man was in the gutter, and the other man was punching him."

A L B E R T D E G O R C O U R I A, a witness for the defendant, sworn, testified:

I know Mr. William H. Henriques. I have seen him on the Stock Exchange during the month of August. He walked with a cane.

S A M U E L L A N D S B E R G testified to the same effect.

A N S O N R. S T E E L E, a witness for the defendant, sworn, testified:

I live at 153 East 23rd Street. On the night of the 5th of June I was walking on Madison Avenue south from 42nd Street. As I got to the corner of 39th Street I saw two gentlemen, a small gentleman and a tall gentleman. They were about seventy feet from the corner. The smaller of the two gentlemen seemed very much excited; the taller gentleman seemed to be more at ease and cooler. I started down to meet this man and to see what the trouble was. I got about ten or fifteen feet down on 39th Street when the smaller gentleman put his hand in his pocket and drew out a revolver. He held it in front of him and fired straight at the defendant Ellison. The taller man Ellison kind of jumped to one side and seemed surprised. Then he got angry and said "Give me that pistol." In his right hand he had a cane. His fist shut on the cane, and he hit the old man and knocked him down. When he did so he still kept hitting the old man,

and he grabbed the cane around the head. The old man was trying to protect himself from getting hit. When the old man had gone away the defendant said "I would rather it had been any other man in the world who fired that shot but him."

CROSS EXAMINATION:

I was employed as a clerk in the Post Office in Philadelphia. I was discharged from there for being off duty. I have earned about 75 cents during the last three weeks doing odd jobs. I have lived in lodging houses in 23rd Street; I am living in one now. The suit of clothes which I have on was given to me by the defendant's counsel, so that I might make a respectable appearance in court. I have received about \$10.00 from the defense in this case for the purpose of hunting up a witness who was with me on the night of this occurrence. His name is Henry Palmer; I have been hunting for him for a couple of weeks. My expenses since that time have been paid by Mr. Brooke, the counsel in this case. I have not been promised anything for giving my testimony in this case. I have been a frequenter of General Hadley's mission at 42nd Street and Third Avenue for some time; Palmer and I got out meals there for several weeks. The story which I have told of this shooting is true. My attention was attracted to the place because I saw my friend Palmer walking up the street. I have not been able to find Palmer since that time. When I heard of this case in the paper, I went to Mr. Brooke's office and offered myself as a witness. I told him the same story I have told here.

JULIUS PROKRASKY, a witness for the defendant, sworn, testified:

I keep a hotel in New Haven, Connecticut. Previous to going to Connecticut I was connected with Delmonico's for nine years. On the 5th of June at 7 o'clock in the evening I was going down Park Avenue, with the intention of going to Trainor's. At Park Avenue and 39th Street I saw Mr. Ellison and Mr. Henriques; they came from opposite directions. Mr. Ellison put his hand on Mr. Henriques' shoulder, as far as I could observe, and there was some words. I saw Mr. Henriques pull out a pistol and shoot point-blank at Mr. Ellison; he did not shoot in the air; he shot point-blank at him. I afterwards saw Mr. Ellison in the hands of a policeman. I spoke to him and said he had better not get into any trouble. After the shot was fired I saw Mr. Ellison go a couple of paces towards Mr. Henriques, and strike at him with his fist, and the rest I could not see, because the crowd gathered so quickly and took Mr. Ellison away. I did not want to get into any trouble myself. I took Ellison away from the police, and when I took him away he bled in the mouth. I took him towards Sixth Avenue. He took a car and went down town. Mr. Ellison had a cane in his hand.

CROSS EXAMINATION:

When I first saw Mr. Ellison he was some distance away from Mr. Henriques. I did not see Mr. Anson Steele. I might know Mr. Palmer if I saw him. I could not really swear how many men were around at that time. I saw Mr.

Ellison place his hand on Mr. Henriques' shoulder; I cannot tell why he placed his hand on his shoulder. Mr. Ellison did not hit Mr. Henriques at that time; he simply placed his hand gently on the shoulder. I saw the pistol fired deliberately at Mr. Ellison's body. During the two minutes while this was going on I was walking towards the two men, and could plainly see what occurred. About half a minute after Mr. Ellison took his hand off of Mr. Henriques' shoulder, Mr. Henriques put his hand in his pocket and pulled out the pistol. The hotel I keep in Connecticut is the finest hotel in Connecticut. I was not discharged from the Manhattan Beach Hotel, or from any other place, on a charge of dishonesty.

F R A N K E L L I S O N, the defendant, sworn in his own behalf, testified:

I have known the complainant Mr. Henriques for 12 or 15 years. I met him first in Wall St. I met Mrs. Neame about seven years ago. Mr. Henriques asked me to dine with him. I met him one evening near Delmonico's, and he said "Won't you come up and dine with us this evening?" I said yes, and I went up to dinner. I think that was six or seven years ago. At that dinner I met Mrs. Neame. I afterwards heard of Mrs. Neame's marriage. In February, 1890, I sailed for Europe with Mr. Gebhard. When I sailed Mr. Henriques called at the steamer and asked me if I would call upon Mrs. Neame in London. I called on her in London in February, 1890.

She asked me to come to dinner; I declined at first, and afterwards went. I met her in November, 1890, at the Victoria Hotel in this city with her husband. Her husband remained in the country until August, 1891. I went to Long Branch in August with Mrs. Neame and Mr. and Mrs. Henriques. Shortly after Mr. Neame sailed, Mr. and Mrs. Henriques and their daughter went to Nar-ragansett. I went there at their suggestion. Mrs. Neame asked me if I would not go. I stayed there about a month. I frequently saw Mrs. Neame at her house after her husband left this country for Europe. I went to her house upon the invitation of Mrs. Neame and of her father and mother. The father did not dine at home very often. Mrs. Neame continually talked to me about her father. She said that her father forced her to marry Neame, because he thought Neame had money. She said she was very unhappy with Neame. I went to several watering places with the Henriques family, and was a great deal in Mrs. Neame's society. I was arrested and fined for assaulting Hugh Slevin. Mrs. Neame is the lady who was in my company at the time I assaulted him. He pushed against Mrs. Neame and I resented the insult to her. I testified as a witness in Mrs. Neame's divorce suit against her husband. At different times Mrs. Neame said to me, "I would rather marry you than any man in the world." I said "It is impossible for me to marry you, though I should like it very much, but two poor people should not marry, and I believe you are a very extravagant woman." She said, "I would rather marry you without a cent than

a man with a million dollars." We were engaged between ourselves; nobody else knew anything about it. Mrs. Neame continually wrote to me at my club and at my rooms. Annie Prince, the colored woman, frequently brought me notes from Mrs. Neame. Some of the letters which she wrote me I now produce in court. Mrs. Neame tried to have me appointed a consul through Mr. Delos McCurdy, but she did not succeed. If I had been appointed, I was to be married to her. I never treated Mrs. Neame rudely at any time; I never laid a finger upon her in any way. After the divorce suit our relations became somewhat strained, and I did not dine as often at the Henriques house. I knew that Mr. Henriques was in the habit of carrying a revolver, for he frequently told me so. On the night of this assault I was on my way to my rooms at No. 324 Fifth Avenue, between 32nd and 33rd Streets. I was looking for no one, nor was I anticipating any trouble. I met Mr. Henriques. I said to him, "I want an explanation of your conduct, the way you have talked about me and branded me"; he said "I don't want to talk to you." I said "I want an explanation; I insist upon it." With that I put my left hand upon his shoulder. I stood there and I said, "I want an explanation; I insist upon it." He put his right hand in his pocket and pulled a pistol. I jumped back three or four feet; he fired. We were facing each other directly this way. He took his revolver and fired at me, and if the bullet had struck me it would have hit me right on the stomach. I was not armed in any way, as I have never

carried a pistol. After he fired the pistol I made a jump for him, and caught him around the neck. We clinched and went down. He got his pistol back as I jumped for him. I think his head struck the gutter. He got hold of my stick. I had a walkingstick in my hand, and he had hold of it in that way; he was pulling it. He grabbed my coat as he went down, made a pass at me and struck me once, I think in the mouth. I made a blow at him. I jumped for him and tried to get the pistol away from him. As he went down he got hold of my stick, I suppose to protect himself, and he took it like this. I went down on him. I do not think I had my knee on him; I was on top of him and trying to get the pistol away from him. I struck him five or six times with the cane; the cane kept going all the time as we struggled for it. Then someone came and pulled me off of him. I did not strike the man after he got up; I did not kick him in the way the witnesses have testified to. I did not strike him in any way before he pulled the pistol on me. After he shot at me, I think I called him some pretty hard names, and assaulted him then. I said to the officer who came to arrest me, "Why should you arrest me? I have defended my life; a man shot at me deliberately." The officer says, "You were beating him." I said "I would beat any man who would take a pistol out, and deliberately fire it at me." I then walked off, and was not arrested that night. I went to Jaques' restaurant and showed the condition of my clothing to some friends there. The following morning I consulted

with Mr. Brooke, my counsel, and gave myself up.

CROSS EXAMINATION:

I am 43 years of age. I am not a member of the Turf Club. I was expelled from the Union Club for a difficulty I had with one of the members. I also had a fight in the Manhattan Club with a man who insulted me. I never had a fight with anyone in Seabright, New Jersey. I gave the name of Frank Livingston at the time I was arrested for assaulting Mr. Slevin. Mr. Delos McCurdy appeared as my counsel in court at that time, and made an apology to Mr. Slevin in my behalf. I would not perjure myself for any consideration. In the divorce case I told the story I did to shield Mrs. Neame. There had been no wrongful relations between myself and Mrs. Neame. After Mr. Neame went to Europe I began to pay attention to his wife. Her husband I regarded as a friend of mine. I was very fond of Mrs. Neame and enjoyed myself in her company. I wrote this note to Mrs. Neame: "I found your note in my room last night, for which I thank you, dear Leila. I sincerely hope you have not put me in a false position before your father and mother, and allowed them to think I am begging to go back to their house, as I should feel worse than I do now if I thought that. All I have done in this matter has been for your sake, also mine. What I did there is no excuse for, even if I did imagine you had acted differently towards me for some time before it happened; and I blame myself entirely and in every way. You will never know how I have suffered, and how degraded and low

I feel for my horrible conduct in having lost complete control of my temper, and can never forgive myself, and do not blame you in the least for changing in your feelings towards me." I received three or four letters from Mrs. Neame in all. I never touched the hem of her garment in a physical way. I never threatened to publish Mrs. Neame's letters to me. I consulted with my counsel Mr. Brooke on the night of this assault as to what I should do. He advised me to give myself up, and I did so. After Mr. Henriques fired at me he put his pistol back in his pocket. He got it safely back in his pocket before I jumped at him. I was not going to take any chances, so I struck him. He had hold of my stick and was trying to get it away from me; it was in that way that he got the wounds on his face.

W I L L I A M K. O T I S, a witness for the defendant, sworn, testified:

I am a practising physician in this city. I am a member of the Racquet Club. I saw Mr. Ellison at the Racquet Club after this occurrence. He showed me the head of his cane; it was very loose.

R E B U T T A L .

T H O M A S F. S I L L E C K, a witness for the People, sworn, testified:

I have been in the hotel business for twenty years. The general reputation of Mr. Julius Prokrasky for truth and veracity is bad. I would not believe him under oath.

P A T R I C K H . D E L E H A N T Y, a witness for the People,
sworn, testified:

I am an employe in the District Attorney's office.
I went to Narragansett Pier in the summer of this year,
and took the statement of Shepard H. Berry. In that
statement the deponent said: "On the evening of the 5th of
June at about 7 P. M. I was standing on the front step
of Dr. Hallock's house 34 East 39th Street when I saw
two men fighting. One was down in the gutter, and the
other was standing over him hitting the man that was
down about the body and head. I heard a noise; I could
not tell whether or not it was a revolver shot. When
I heard the noise I looked across the street down towards
Madison Avenue. Then I called Dr. Hallock's attention
to the men who were fighting."

J O S E P H T O Y, a witness for the People, sworn, testified:

I am a member of the municipal police force, and
have been for nearly four years. The corner of Madison
Avenue and 39th Street is in my precinct. On the 5th
of June last I was on post on Park Avenue from 31st to
40th Streets. I heard a whistle; I looked down the
street and I saw a small crowd. When I got down there
an old man says "You are about half an hour late. There
was a young bully here punching an old man." I went up
Madison Avenue to see if I could find the man. I saw
Mr. Ellison walking away. I did not see Mr. Prokrasky
with Mr. Ellison.

THOMAS COEN, a witness for the People, sworn, testified:

I am an officer of the municipal police. On the 5th of June I was going down Madison Avenue when I saw some people come out of the corner of 39th Street and Madison Avenue and cross over the street. I met a boy and he told me there were two men fighting down 39th Street. I ran up on the East side of the avenue. I went across Madison Avenue towards 41st Street. Ellison crossed over Madison Avenue at 41st Street, and Officer Toy came up and brought him to a halt. There was not a soul with him; I did not see Julius Prokrasky with him.

Handwritten notes:
Ellison crossed over Madison Avenue at 41st Street
Officer Toy came up and brought him to a halt
There was not a soul with him; I did not see Julius Prokrasky with him.

THOMAS R. WADSLEY, a witness for the People, sworn, testified:

I am a member of the municipal police force. On the 5th of June last I was present with Officers Coen and Toy. I saw Mr. Ellison walking away. I did not see anybody with him; I did not see Mr. Prokrasky with him.

The Jury returned a verdict convicting the defendant of Assault in the Second Degree.

-----X-----

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

THE PEOPLE OF THE STATE OF NEW YORK,
against

Franka Allison

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

Indictment accuse *Franka Allison*

of the crime of *Assault in the first degree,*
as a SECOND OFFENSE, committed as follows :

Heretofore, to wit : at a court of General Sessions of the Peace, holden in and
for the City and County of New York, at the City Hall, in the said City of New York,

on the *Twenty* day of *September*, in
the year of our Lord, one thousand eight hundred and *ninety-two.*

before the Honorable *Frederick Smyth, Recorder*
of the City of New York,

and Justice of the said Court, the said *Franka Allison,*

by the name and description of *Franka Allison,*

was in due form of law convicted of *a misdemeanor,*

to wit : *Assault in the first degree,*

upon a certain indictment then and there in the said Court depending against *him*

the said *Franka Allison* by the

name and description of *Franka Allison*

as aforesaid,

for that *he, the said Franka Allison,*

then _____ late of the _____

City of New York, in the County of New York aforesaid, on the
seventh day of July in the
year aforesaid, at the City and

County aforesaid, with force and arms,

in and upon the
Sherris, in the presence of the said People
them and there being, feloniously did
willfully and unlawfully did make an
assault, and the said Francis Allison,
with a certain malice aforethought which he
the said Francis Allison in his right
hand then and there had and held, the
same being then and there a weapon and
an instrument likely to produce a grievous
wound, then the said Sherris, Sherris,
them and there feloniously did willfully
and unlawfully strike, beat, bruise
and wound.

And Thereupon, upon the conviction aforesaid, it was considered
by the said Court of General Sessions of the Peace, and ordered and adjudged that
the said Frank Ellison
by the name and description of Frank Ellison
as aforesaid,
for the misdemeanor and assault whereof
he was so convicted as aforesaid, be imprisoned in the penitentiary
for the term of two hundred and fifty dollars, at hard labor for
the term of

as by the record thereof doth more fully and at large appear.

And the said Frank Ellison,
late of the
City of New York, in the
County of New York aforesaid, having been so as aforesaid convicted of the
said misdemeanor and assault, in
manner aforesaid, afterwards, to wit: on the 25th day of
June, in the year of our Lord one thousand eight hundred
and ninety three, at the City and County aforesaid, with force
and arms, in and upon one William H. Hennequin,
did make an assault, and then
thrust the hands and feet of him the
said Frank Ellison, and also with
a certain stick which he then and there
had and held in his hand, in
and upon the head and body of
him the said William H. Hennequin,
then and there wilfully and feloniously

did strike, beat, kick, bruise, wound
and fracture, the same being such
means and force as were likely to
produce the death of the said William
H. Henriquez, with intent to kill the
said William H. Henriquez thereby
showing and there maliciously and
feloniously to kill, against the
form of the Statute in such case
made and provided, and against
the peace of the People of the State
of New York, and their dignity

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

THE PEOPLE OF THE STATE OF NEW YORK

against

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

of the CRIME OF ASSAULT IN THE FIRST DEGREE, committed as follows:

The said

late of the City of New York, in the County of New York aforesaid, on the
day of _____ in the year of our Lord one thousand eight hundred and
ninety- _____, with force and arms, at the City and County aforesaid, in and upon
the body of one _____ in the peace of the said People
then and there being, feloniously did make an assault, and _____ the said
with a certain _____

which the said

in _____ right hand then and there had and held, the same being a deadly and
dangerous weapon, then and there wilfully and feloniously did strike, beat, cut, stab and
wound,

with intent _____ the said

thereby then and there feloniously and wilfully to kill, against the form of the statute in
such case made and provided, and against the peace of the People of the State of New York and
their dignity.

SECOND COUNT—

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

_____ *Franka Ellison* _____
of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said *Franka Ellison* *having been as aforesaid*
convicted of the said misdemeanor and assault, as
appears in the first count of this indictment,
late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,
at the City and County aforesaid, with force and arms, in and upon the body of the said
William H. Hennequies, in the peace of the said
People then and there being, feloniously did wilfully and wrongfully make another assault,
and *him* the said *William H. Hennequies*,
with a certain *knife* _____

which the said

in *his* right hand then and there had and held, the same being a weapon and
an instrument likely to produce grievous bodily harm, then and there feloniously did wilfully
and wrongfully strike, beat, ~~cut, stab~~ and wound, against the form of the statute in such case
made and provided, and against the peace of the People of the State of New York and their
dignity.

THIRD COUNT—

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

Frank Ellison

as a second offense
of the CRIME OF ASSAULT IN THE SECOND DEGREE, committed as follows:

The said *Frank Ellison*, (having been so an
aforesaid convicted of the said misdemeanor
and assault, as alleged in the first count
of this indictment) late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,
at the City and County aforesaid, with force and arms, in and upon the said *William H. Hemmings*
did wilfully and wrongfully make another assault, and *in* the said *William H. Hemmings*
with a certain *stick* *the said Frank Ellison*, and also

which *the* the said *Frank Ellison*

in *his* right hand then and there had and held, in and upon the *head*
and *body* of *in* the said *William H. Hemmings*

then and there feloniously did wilfully and wrongfully strike, beat, stab, cut, bruise and
wound, and did then and there and by the means aforesaid, feloniously, wilfully and wrong-
fully inflict grievous bodily harm upon the said *William H. Hemmings*.

against the form of the statute in such case made and provided, and against the peace of the
People of the State of New York and their dignity.

DE LANCEY NICOLL,
District Attorney.

0578

BOX:

527

FOLDER:

4801

DESCRIPTION:

Evans, Charles H.

DATE:

07/06/93



4801

0579

BOX:

527

FOLDER:

4801

DESCRIPTION:

Evans, Charles H.

DATE:

07/06/93



4801

Witnesses:

Wm. Davis

J. Bush

Augusta Wilson

Counsel,

Filed,

Pleads,

THE PEOPLE

Charles H. Evans

De LANCEY NICOLL,

District Attorney.

A TRUE BILL.

James H. McLean

Foreman.

Part 2 July 21/93

Indictment

Return to Property value of

See Taylor

INJURY TO PROPERTY.

[Section 654, Penal Code.]

32/12/93

HR

#31 *Corran*

6/21/93

Counsel, *31*
Filed, *6* day of *July* 189*8*
Pleads, *Mizell*

INJURY TO PROPERTY.
[Section 654, Penal Code.]

THE PEOPLE

32
36
P
Charles H. Evans

DE LANCEY NICOLL,
District Attorney.

A TRUE BILL.

Lancey Nicoll

Foreman.

Part 2 - July 21 93
Died & convicted -
giving to property value of
leg. 1/2
W. C. M. 1/2

Witnesses:
Edo Davis
J. Bush
Augustus Wilson

Police Court, 1 District.

(1358)

City and County } ss.
of New York,

of No. 159 & 159 E 4th Street, aged 44 years,
occupation Asst. Fire Marshal being duly sworn, deposes and says,
that on the 28th day of June 1893, at the City of New

York, in the County of New York, as deponent is informed and has
just cause to believe, one Charles Evans, now present, at and
within the rear tenement, second floor of the premises, situate
at number 36 1/2 Baxter Street in the sixth ward of the said City
of New York, did unlawfully, wilfully and feloniously injure and
destroy certain personal property of another, to wit, certain
wearing apparel, consisting of dresses and under clothing of a
value of more than \$25, namely of the value of about \$50, belong-
ing to one Katie Davis, - in that said Charles Evans did then and
there deliberately and wilfully set fire to, and burn the said
personal property, setting fire to the realty of the said
premises in so doing, in violation of section 654 of the Penal-
Code of the State of New York

Wherefore deponent prays
that the said Charles Evans may be dealt with according to law

A. J. Wilson

Sworn to before me
this 28 day of June
1893

Edward Martin
Police Justice

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 32 years, occupation Clothier of No. 36 1/2 B'way

Street, being duly sworn deposes and says, that he has heard read the foregoing affidavit of Augustine Wilson and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this 28 day of June 1893 } Julius Bush

James M. Martin
Police Justice.

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 43 years, occupation Housekeeper of No. 36 1/2 B'way

Street, being duly sworn deposes and says, that he has heard read the foregoing affidavit of Augustine Wilson and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this 28 day of June 1893 }

James M. Martin Sutton Davis
Police Justice.

Sec. 198—200.

1889
District Police Court.

City and County of New York, ss:

Charles Evans

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

Question. What is your name?

Answer. *Charles H. Evans*

Question. How old are you?

Answer. *33 years*

Question. Where were you born?

Answer. *Virginia*

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

Answer. *36 1/2 Baxter St 2 months*

Question. What is your business or profession?

Answer. *Longshoreman*

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

Chas H. Evans

Taken before me this

day of

1889

at

Police Justice.

0585

PAID.
July 5/92
Paid to
J. C. Kennedy
\$500

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Received of Mrs. A. J. 1000 10/6/1914
of the H.C. 1000

HOUSE OF DETENTION CASES

Offense Terrorism
Destroying Personal
Property Sec 804

Dated, 28/01/2021

[Signature]
Magistrate

W. J. Jones, Officer.

Witnesses John Davis Precinct, 4

No. *100* of *De laender* Street.

Welby Dr

No. 46 Clark St. St.

No. Street

1000 to answer

guilty thereof, I order that he be held to answer the same, and he be admitted to bail in the sum of \$100 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, 28 June, 1893

Samuel M. West, Police Justice.

Dated, _____ 189 _____ Police Justice.

Dated, 189

COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York.

The People,

vs.

CHARLES H. EVANS.

"

"

"

"

"

"

Before,

HON. FREDERICK SMYTH,

and a Jury.

Tried, JULY 21ST, 1893.

Indicted for INJURY TO PROPERTY.

Indictment filed JULY 6TH, 1893.

APPEARANCES:

ASSISTANT DISTRICT ATTORNEY BARTOW S. WEEKS,

For THE PEOPLE.

MR. COWAN,

For THE DEFENCE.

KATE DAVIS, THE COMPLAINANT, being duly sworn, testified that she lived at 36 1/2 Baxter street. She knew the defendant, and had known him six weeks. The defendant lived at 36 1/2 Baxter street. On the 26th of June the defendant was in the rooms with her. She broke a cigarette holder belonging to the defendant, and he beat her for breaking it. She started to run out of the house, and when she was near the door the defendant threw a glass bottle at her head. She, the complainant, went across the street to No. 37, to a Mrs. McMahon's, and she told Mrs. McMahon that the defendant had been beating her. The defendant subsequently went over to No. 37, and she returned to her rooms behind him. When she got to her rooms, she saw her clothing in the fireplace. When she left the house her clothes were in a trunk. She had about \$50.00 worth of clothing in the trunk, and it was in the trunk when she left her rooms, leaving the defendant there. When she saw her clothes on fire she ran back into the street, and went over to Mrs. McMahon's again. Her clothing was entirely burned. About a week before

the day in question, the defendant had threatened to burn her clothing, because she went away from him.

In cross-examination the complainant testified that at the time her clothing was burned there was nobody in the house but the defendant. There were two doors to that house, and three windows, but the windows were fastened down. She, the complainant, never had any fights with any women in the house. She did not know that any woman was jealous because she, the complainant, was living with the defendant. On the evening of the 24th of June she, the complainant, slept at No. 37 Baxter street. She slept by herself; she did not sleep with any man. She was living with the defendant, as his house-keeper. She was not intoxicated on the morning in question; she had not one drop to drink that morning. The clothes which were destroyed were not bought for her by the defendant. She had known the defendant about three months. She the complainant, was washing dishes at the sink, and the defendant went up to her and pulled on her dress,

and she said to the defendant, "Don't do it; go away, and let me wash the dishes." She supposed she knocked the cigarette holder out of his hand, and she said to him, "Look out, I will break your cigarette holder." The defendant said, "You had better not break it." She said, "If you push me, I can't help it," and she stepped on it and broke it by accident. The defendant picked up the cigarette holder and put it in his mouth, and then he threw it on the floor again, and went over to her and commenced to beat her, with his fists. The reason she did not go into her rooms and put out the fire was that she was afraid to go in, as the defendant had threatened to kill her. It was in the afternoon when her clothes were burned. It was about 11 o'clock in the morning when the trouble began. The defendant was a working man, and went to work every night. He always supplied her with money for the necessities of the house, while he was living with her.. She, the complainant, did not have a fight across the fire-escape with the woman next door, Ida Jackson, with a knife.

JULIUS BUSH, being duly sworn, testified that he lived at 36 1/2

Baxter street, in the city of New York. He lived on the first floor, in the front apartments. On the afternoon of the 25th of June, between 5 and 6 o'clock he was about to enter his apartments when he smelled smoke. The defendant and the complainant occupied the rear apartments on the floor on which he, the witness, lived. He looked through a window into the defendant's apartments, and he saw a fire there. He threw water on the fire, and then he discovered that it was a woman's clothing that had been burning. He saw the defendant in the room where the fire was, but he did not see the defendant doing anything. After putting out the fire he, the witness, went to his own room. He asked the defendant how the fire came to be there, but the defendant did not answer his question.

In cross-examination the witness testified that he looked through a window into the defendant's bed-room, and the door of the bed room was open and he could see the fire-place in the kitchen, from the hall. He did not know whether the defendant set the clothes on fire or not.

FOR THE DEFENCE, ROSIE DOUGLAS, being duly sworn, testified that she remembered the 25th of June, 18-3. She was acquainted with the complainant. On the morning of the day on which the fire occurred, the complainant went to market with her, the witness. Both she and the complainant had been drinking. The complainant was drunk that morning. The complainant told her, the witness, that, on the preceding night, she had "co-habited with a gentleman" across the street. When they returned from market the complainant went into her house and then came out again, and said, "I guess Charlie has gone out." She and the complainant entered the complainant's rooms, and the complainant said to her, the witness, "I have some nice pins," and the complainant picked up a handful of pins and put them in her apron. The defendant was sitting there, playing a little harp, and she, the witness, took a handful of pins and ran out. The defendant said, "What did you run out of my house for, when I came into my house." She, the witness, said, "Katie told me she would give me some pins," and the defendant said, "Come up and I

will give you some more pins," and the defendant put the pins in her apron, and she ran down. The complainant did not have \$50.00 worth of clothes; the complainant's clothes were not worth more than from ten to twenty dollars. The defendant bought several dresses for the complainant, because the complainant had told her, the witness, that he did.

CHARLES H. EVANS, THE DEFENDANT, being duly sworn, testified, in his own behalf, that on the 25th of June, 1893, he was living at 36 1/2 Baxter street, New York. On that morning he did not take the clothing of the complainant and put it in the fire place and set fire to it. He did not set the clothes on fire; nor did he know who did.

In cross-examination the defendant testified that he entered the house and found smoke coming out over the fan-light of the door of his rooms. The door was burst in. He went into the room, and he grabbed his overcoat and the complainant's shoes and several other articles out of the fire and carried them into the other room and put

then on the bed. The fire commenced to blaze, and he took the clock, books, work-boxes and a few other things off the mantel-piece, and he took towels and commenced to fight the fire, until he got down. Then he had been drinking and he got suffocated and he sat down on the lounge. He did not remember saying, when the officer arrested him, that he did not care what damage the fire did, as long as he got his things out of it. About thirteen or fourteen months preceding this trial he had been charged with assault, but had been discharged. He had never been convicted of crime.

In re-direct examination the defendant testified that he was a longshoreman and worked at night, and a portion of the day.

Court of General Sessions of the Peace

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IN AND FOR THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
AGAINST

Charles H. Evans

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

Charles H. Evans

of the CRIME OF UNLAWFULLY AND WILFULLY *destroying* PERSONAL PROPERTY OF ANOTHER,
committed as follows:

The said *Charles H. Evans*,

late of the City of New York, in the County of New York aforesaid, on the *Twenty-fifth*
day of *June*, in the year of our Lord one thousand eight hundred and
ninety-*three*, at the City and County aforesaid, with force and arms, *Twelve*

pieces of the value of five dollars
each, and a quantity of female
underclothing -

of the value of *Twenty dollars*, -

of the goods, chattels and personal property of one *Katie Davis*, -

then and there being, then and there feloniously did unlawfully and wilfully *destroy*, *burn*
then and there feloniously and wilfully
setting the same on fire, and burning
the same;

against the form of the statute in such case made and provided, and against the peace of the People
of the State of New York and their dignity.

Deane M. M. M.
Attorney