

START

39

CASE

CASE # 39

Index

Witnesses	Direct	Cross
Edmond J. Doulin,	24	4
Maurice L. Dozier,	✓ 6	13
Barbara Wilks,	✓ 28	37
Antrose J. Davis,	✓ 67	71
Winfield S. Green,	✓ 77	81
Bretton Bright,	✓ 85	88
Lizzie Talbot,	✓ 89	92
Eugenia Dozier,	✓ 94	97
Rebecca Washington,	✓ 102	106
James F. Thompson	111	115
Thomas Perry	115	114 - 228

Frank G. Towle,	121	122
Wm. McKenzie,	123	128
Bertha Hayes,	135	136
June Nichols,	140	143
Nellie Morgan,	146	148
Malouina Lindsay,	151	159
Eloiza Davis,	161	—
Indiana Sulteis,	165	—
Emily Vogelsong,	166	—
Mary Orsey,	168	173
Anne Miller,	180	—
Jno. Vogelsong,	182	190
		own.

Stephen A. Booker,	192	198
Anderson C. Buell,	218	219
Josephine Booker,	220	
Mary A. Dwyer,	221	
Martha Blackson,	222	
Amelia Moore,	223	
Mary Carson,	227	

E
F
G
H

CASE # 39

PART I.

against

Before
Hon. Frederick Smyth
and a Jury.

Indicted for Murder in the First Degree.

New York, November 10th, 1893.

APPEARANCES.

For the People, Assistant District Attorney
James W. Osborne.

For the Defendant, Mr. Hugh O. Pentecost.

The jurors were called, examined and sworn.

The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and adjourned the case until Monday morning, November 13th, 1893, at 11 o'clock.

New York, November 13, 1893.

TRIAL RESUMED.

Mr. James W. Osborne opened the case on behalf of the People.

EDWARD J. DONLIN, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Doctor, you are a deputy coroner? A. Yes, sir.

Q On the 16th of August, 1893, did you perform an autopsy upon the body of John A. Dozier? A. Yes, sir.

Q When was it made? A. August 16th, 1893.

Q Where was it made? A. At St. Vincent's Hospital.

Q From that autopsy what did you discover to be the cause of his death? A. The death was caused by a fracture of the base of the skull.

Q How far did the fracture extend? A. On opening the skull I found a clot of blood in the middle fossa. The skull was fractured at the base of the brain commencing about two inches above the right ear and extending across through the cellular-tursua to the temporal bone on the left side.

Q In other words, it extended from ear to ear? A. Yes, sir.

Q Around behind? A. Yes, sir.

Q Indicate just where it is? A. The fracture commenced about

two inches above the right ear, going directly across.

Q You mean from the back of the head? A. No, sir, right directly across the base of the skull, directly right through to the temporal bone on the left side.

Q That produced what? A. That produced death.

Q It extended from the right ear all around? A. No, sir, directly across the base of the skull.

By the Court:

Q Is not the base of the skull the back of the head? A. No, sir, we call the base the floor of the brain.

Q Be kind enough to show us, as the District Attorney cannot get clearly into his head whether this fracture went through the skull or around the skull? A. It went through or across the floor of the skull upon which the brain rests, not around, but directly right across and fractured the base of the skull, the part upon which the brain rests, directly right across. This is the position of the skull (indicating).

Q Can you give us any better description of how that fracture was? A. It commenced about two inches above the right ear, not going up this way but directly across.

Q Even? A. Yes, sir, to the temporal bone on the opposite side.

Q You made the autopsy on this body, did you? A. Yes, sir.

Q How did you find the other organs, were they in a normal condition? A. On opening the thorax I found the heart and lungs

4
normal. In the abdomen the liver showed signs of fatty degeneration, the kidneys were normal, the rest is what I have read, "On opening the skull I found a clot of blood in the right middle fossa" and the skull was fractured.

Q And that was the cause of death? A. Yes, sir.

CROSS EXAMINATION by Mr. Pentecost:

Q You say the fracture began on the right side of the head?

A. Commencing about two inches above the right ear.

Q It began on the right side and passed through to the left side? A. Yes, sir.

Q Would that indicate that a blow had been struck on the right side of the head? A. That was my impression, that it was struck on the right side.

Q That is your opinion? A. Yes, sir.

Q Could such a fracture as this, of the base of the skull, be produced by a fall on the sidewalk? A. I don't think so.

Q As I understand you, Doctor, what we call the skull, that is the outside bone that covers the brain, was not fractured at all? A. No, sir, the vault, no, sir.

Q The fracture was altogether inside the head? A. Yes, sir, in through.

Q Not even on the right or left side was there any fracture? A. It was directly from the right temporal bone, that was fractured clean to the temporal bone on the left side.

CASE # 39

Q Your impression is that that fracture must have come from a blow on the right side of the head? A. Yes, sir.

Q And it was not caused by a fall on the sidewalk? A. No, sir.

Q There was no contusion on the right side? A. I saw none.

Q Nor on the left side? A. No, sir, I saw none at all.

By the Court:

Q You had to open the skull, and remove the skull cap for the purpose of ascertaining what it was? A. In making the autopsy I received a punctured wound in the hand, and I requested the doctors in the hospital to finish the autopsy under my supervision while I was dressing the wound on my hand.

Q You saw no contusion on the right side? A. No, sir, nor on the left side either.

Q And that rendered it necessary to open the skull? A. Yes, sir.

Q And on opening the skull you discovered this internal fracture? A. Yes, sir.

Q Is that it? A. Yes, sir.

Q It went from the right to the left side of the skull?
A. Yes, sir.

By Mr. Pentecost:

Q The skin was not broken? A. I saw no signs of it.

Q No black or blue marks? A. No, sir, no ecchymosis.

CASE # 39

By Mr. Osborne:

Q Doctor, was the fracture of the temporal bone on either side external? A. Externally and internally the bone was fractured.

Q Was there an external fracture on the temporal bone? A. Yes, sir, that is external.

By a Juror:

Q Was there any mark on the left side of the skull? A. No, sir.

Q It originated on the right? A. Yes, sir.

Q And the skin was not broken on either side? A. No, sir.

The Court: I don't suppose there will be any question made but that the body upon which this witness made the autopsy is the body of the same person named in the indictment?

Mr. Pentecost: There will be no question made about that. That is conceded.

M A R I E L. D O Z I E R, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q You are a daughter of John A. Dozier? A. Yes, sir.

Q Where do you live? A. No. 25 Minetta Lane.

Q Is that where you lived on the 15th of August this year?

CASE # 39

7
A. Yes, sir.

Q Did you see Stephen Hooker on the afternoon of the 15th of August? A. Yes, sir.

Q Where did you see him? A. I saw him out on the sidewalk in front of my door.

Q About what time? A. About four o'clock.

Q Did he break open your door? A. He did not break it open but he pushed a boy through the door.

Q What did your father do when he did that. Was your father in the house at that time? No answer.

By the Court:

Q On the 15th of August, about 4 o'clock P.M., you saw Stephen Hooker? A. Yes, sir.

Q On the sidewalk? A. Yes, sir.

Q In front of your premises? A. Yes, sir.

Q Was your father in at that time? A. Yes, sir.

Q Was your door closed at that time? A. Yes, sir.

By Mr. Osborne:

Q Your father was in the house at that time? A. Yes, sir.

Q Whereabouts? A. Sitting in the kitchen.

Q Now, at that time, what happened? A. Stephen Hooker pushed the boy through the door.

Q When the boy was pushed through what next happened? A. One of my sisters went out in the kitchen and told my father. He

CASE # 39

went outside.

Q Your father did? A. Yes, sir. All the boys ran but Stephen Hooker.

Q All the boys? A. Yes, sir.

Q Were there other boys there? A. Yes, sir, about a dozen boys.

Q With Stephen Hooker? A. Yes, sir.

Q They all ran except him? A. Yes, sir. My father told him to get away from the door and he jumps up ----

By the Court:

Q When your father told him, what did your father say to him?

A. What did my father say?

Q Yes. Your father told him to get away from the door?

A. Yes, sir.

Q What did he say when he told him that? A. He told him, "Mind your own business, you bald-headed

Q That is what Hooker said? A. Yes, sir.

Q What did your father say when he said, "Get away from the door"? A. He said, "Get away from my door".

Q Then what did the defendant say? A. He said, "Mind your business, you old bald-headed son of a bitch"

Q Go on. A. He did not go. My father took him and shoved him away two or three steps, and after he came back again and stood by the door; this time my father smacks him across the face and knocks his hat off. He went across the street, pick-

CASE # 39

ed up a brick and threw it at him.

Q Who did? A. This defendant. My father dodged, moved his head, and it didn't hit him. He ran across the street got a piece of watermelon rind and hit him right square in the face.

Q Who did? A. Stephen Hooker, the defendant.

Q He hit your father? A. Yes, sir, he hit my father, and my father chased him up 6th Avenue a little ways.

Q Your father ran after him? A. Yes, sir.

Q After his throwing the watermelon? A. Yes, sir.

Q He ran and got into 6th Avenue? A. Yes, sir.

Q And up 6th Avenue? A. Yes, sir, he ran up 6th Avenue.

Q Did you run too? A. Yes, sir.

By Mr. Osborne:

Q Go on and tell us how far he ran? A. He ran up to about 3rd Street, one block.

Q Third Street? A. Yes, sir.

Q What then happened? A. My father came in the house and did not think anything more about the affair.

Q What became of the defendant? A. He ran up 6th Avenue and came back in about an hour afterwards.

Q Was that the last you saw of that? A. Yes, sir.

Q Did your father come back to his house? A. Yes, sir.

Q Did you come back? A. Yes, sir.

Q Your father came back to the house, did he? A. Yes, sir.

CASE # 39

Q How long did your father stay in the house after he came back

A. He stayed in the house three hours.

Q Until about 7 or 8 o'clock? A. Yes, sir, until about 7 or 8 o'clock.

Q Did he then go out? A. Yes, sir, the oyster man sent for him.

Q He went out? A. Yes, sir.

Q And went to Mr. Green's stand? A. Yes, sir.

Q Did you remain in the house? A. Yes, sir.

Q When did you next see your father? A. When they brought him in the house.

Q Who brought him in? A. Mary Dorsey, Eddie Townsend and a policeman.

Q Between 7 and 8 he went out? A. Yes, sir, he went out about half-past seven o'clock.

By the Court:

Q About half-past seven? A. Yes, sir.

Q Did he go out with anybody? A. No, sir.

Q He went out alone? A. Yes, sir.

Q How long was he out before he was brought back? A. For about half an hour.

Q Did he come back alone? A. No, sir, this woman brought him in the house.

Q We don't know who this woman is? A. Mrs. Dorsey.

CASE # 39

Q What is the name of the woman who brought him back? A. Mary Dorsey.

Q Anybody else? A. Edward Townsend.

Q Edward Townsend? A. Yes, sir, and Officer Perry.

Q They brought your father back? A. Yes, sir.

Q Did he walk back, was he supported or how? A. He walked back.

Q Was he supported by anybody? A. Yes, sir.

Q What time was it when he got back? A. It was about five or ten minutes after eight.

Q What was his condition then? A. He seemed to be all right.

By Mr. Osborne:

Q Who did you say brought him back? A. Mary Dorsey, Edward Townsend and Officer Perry.

Q Where did they put your father? A. Sitting down in a chair.

Q In one of the rooms in the house? A. Yes, sir.

Q How long after that did you see the defendant Hooker?

A. When Officer Perry brought him in I seen him.

Q How long after your father got there was it that Hooker was brought in? A. About five minutes afterwards.

Q They sat your father down in a chair after he came back?

A. Yes, sir.

Q Who brought Hooker in? A. One of the officers.

Q What did they do with Hooker? A. They stood him up before

CASE # 39

my father.

Q What did your father say? A. He said that man hit him in the head with a brick.

Q Did Hooker say anything then? A. No, sir.

Q Then what was done? A. They took Hooker out to the police station.

Q Who did? A. Officer Perry.

Q Did your father go along with them? A. Yes, sir.

Q Did you go? A. No, sir.

Q You saw them all leaving together? A. Yes, sir.

Q When did you see your father next after that? A. The next morning.

Q About what time? A. About seven o'clock or half-past six o'clock.

Q Where did you see him? A. In the hospital.

Q St. Vincent's? A. Yes, sir.

Q He was dead then, was he? A. Yes, sir.

Q How many sisters have you got? A. I have got three sisters.

Q How old is the youngest? A. Eight years old.

Q And you are the oldest? A. Yes, sir.

Q You and your mother and three sisters still live at 15 Minnetta Lane? A. 25 Minnetta Lane.

Q Your father was a clerk in the post office? A. Yes, sir.

Q How old was your father? A. He was 51 years old.

CASE # 39

CROSS EXAMINATION by Mr. Pentecost:

Q Where was the door situated that was broken open, in the front of the house or at the side of the house? A. In the front of the house.

Q There is one door to your house that goes in on the side from the Court? A. Yes, sir.

Q And one from the street? A. Yes, sir.

Q Does your family occupy the front room? A. We did at that time.

Q Were you living in it at that time? A. Yes, sir.

Q What was it used for, a parlor, a bedroom or what? A. We called that a sitting room.

Q A sitting room? A. Yes, sir.

Q Where were you when these boys were scuffling on the sidewalk, in that room? A. Yes, sir.

Q Did you see the boys yourself? A. Yes, sir.

Q How did you see them? A. I saw them out of the window.

Q Out of the window? A. Yes, sir.

Q You say there was about a dozen boys there? A. Yes, sir, a dozen boys.

Q Did you know any of them? A. Yes, sir.

Q Who were they? A. There was Henry Washington, Louis Jackson, and I don't know his name, but for a nick name they call him Snowball, Dave Martin, Willie Peterson, and quite a number of

CASE # 39

small boys that I did not take notice of.

Q Are Dave Martin and Willie Peterson small boys? A. Yes, sir.

Q Do you mean by that quite little boys? A. Not quite little.

Q About how old? A. About 12 or 13 years old.

Q Well, Henry Washington and the Jackson boy, are they little boys too? A. No, sir, they are young men.

Q They are grown men? A. Yes, sir.

Q Were all those dozen boys skylarking together there? A. No, sir, at that time they were shooting crap.

Q Shooting craps? A. Yes, sir.

Q All of them or some of them? A. Yes, sir.

Q All these boys were engaged in shooting craps? A. Yes, sir.

Q Were any of those boys on the steps of your house, Miss Dozier?

A. Yes, sir.

Q What kind of steps have you got there, at the front door how many steps are there? A. Three steps.

Q Is there a broad platform before the door or a narrow platform? A. A broad one.

Q How broad is the top step of the platform in front of the door? A. About as broad as it is across here.

Q You go down two steps to the street, is that right? A. Yes, sir.

Q Who did you see on the steps? A. Stephen Hooker and Willie Jackson.

- Q Stephen Hooker and Willie Jackson? A. Yes, sir.
- Q Did you see Henry Washington on the steps? A. He was standing up alongside of the steps, he wasn't sitting on the steps.
- Q Two or more of the boys were scuffling on the steps, did you see that? A. No, sir, I only seen Stephen Hooker and Willie Jackson.
- Q They were on the steps? A. Yes, sir, wrestling.
- Q You say that Hooker pushed a boy through the door? A. Yes, sir.
- Q Did you see Hooker push him through the door? A. No, sir, I did not see him at the time.
- Q How did you know that Hooker did it? A. There was plenty of people that saw him.

By the Court:

- Q Was the door forced open? A. Yes, sir, it was locked.
- Q When the door was forced open did anybody get in? A. No, sir, nobody got in.
- Q Did you see it forced open? A. Yes, sir.
- Q Who was by the door at that time? A. Willie Jackson.
- Q Where was Hooker? A. Hooker was on the sidewalk.
- Q Who was the boy that was pushed against the door? A. Willie Jackson.
- Q Did you see him when he was pushed against the door? A. I saw him when the door opened.

Q Was the door locked? A. Yes, sir, at the time.

Q Did he break the door when he pushed it in? A. No, sir, he did not break it.

Q Was there any breakage there at all? A. No, sir, just the lock was broken.

Q Did they break the lock? A. Yes, sir.

Q What part of the lock did he break? A. He broke the small side of the lock; there are two sides, a wide piece and a little piece on the other side, that little piece was broken.

Q Where the bolt of the lock shot in? A. Yes, sir.

Q That flew off? A. Yes, sir.

Q Did you see it fly off? A. Yes, sir.

Q Where was your father, was he in the back room behind that room? A. No, sir, my father was at the time in the room but he had gone out before I could go out into the other room to tell him.

Q Your father had been in the front room? A. No, sir, he had not been in the front room that afternoon.

Q Where was he at the time the door was forced open? A. He was in the back room, in the kitchen.

Q How many rooms was that away from where the door was? A. It is about three rooms; it has been three rooms but it is knocked into one now, and of course it is a big room and you have to walk to get to it.

CASE # 39

- Q At that time there was a kitchen? A. Yes, sir.
- Q That was a separate room partitioned off? A. Yes, sir.
- Q Next to the kitchen was what? A. A bedroom.
- Q And next to the bedroom was the room your father was sitting in? A. Yes, sir.
- Q That made three rooms what were there at that time? A. Yes, sir, three rooms.
- Q The door that was forced open went into the sitting room? A. Yes, sir.
- Q At the time the door was forced open your father was in either the bedroom or the kitchen? A. In the kitchen.
- Q Then your father did not see the door when it was broken open, of course? A. No, sir, he did not.
- Q When he went out to the door after the boys which way did he go out, the side door through the Court or did he go out the front way? A. No, sir, he went out the side door.
- Q Did you go with him? A. Yes, sir.
- Q Followed him right along? A. Yes, sir.
- Q All that you describe as having taken place after your father got out there you saw, did you? A. Yes, sir.
- Q And heard it all? A. Yes, sir.
- Q Then you followed your father when he ran after Stephen to 6th Avenue, is that right? A. Yes, sir.
- Q And you saw everything that occurred on 6th Avenue? A. Yes,

sir.

Q Did you see your father throw a brick at Stephen on 6th Avenue? A. I did not.

Q Are you sure he did not? A. Yes, sir, I am sure.

Q Did you see your father throw a brick at Stephen in Minetta Lane? A. No, sir.

Q He did not throw any brick? A. No, sir, I did not see him throw any brick.

Q If he had thrown a brick would you have seen him? A. Yes, sir.

Q Are you quite sure he did not throw any brick? A. Yes, sir, I am quite sure.

Q You saw him slap Stephen? A. Yes, sir, he did.

Q Had Stephen done anything to him or had Stephen struck him before he slapped him? A. No, sir.

Q Is that all your father did to him, just slapped him? A. Yes, sir.

Q Did he slap him with his open hand? A. Yes, sir.

Q Didn't he hit him with his fist? A. No, sir.

Q You did not see him hit him with his fist at any time? A. No, sir, I did not.

Q Did he slap him more than once? A. Yes, sir.

Q How many times did he slap him? A. I did not count the times.

CASE # 39

- Q Did he slap him twice? A. About two or three times.
- Q Is that as near as you recollect? A. Yes, sir.
- Q He slapped him several times, you say about two or three times?
A. Yes, sir.
- Q When he slapped him did he slap him hard enough to make him stagger? A. No, sir.
- Q At no time? A. No, sir.
- Q Did your father say anything to Stephen at all except to tell him to go away? A. No, sir.
- Q Didn't he tell him what he would do to him if he caught him there again? A. Yes, sir.
- Q What did he say to him about that? A. He told him to get away from the door, and if he caught him there again he was going to have him locked up.
- Q ~~He~~ was going to have him locked up? A. Yes, sir.
- Q Is that all he told him? A. That is all I heard him tell him.
- Q Did you see your father try to kick Stephen? A. No, sir.
- Q Did you see anybody take hold of your father and try to restrain him when he was slapping Stephen? A. Yes, sir.
- Q Who was that? A. Henry Washington.
- Q Are you quite sure your father did not kick at Stephen?
A. I am quite sure, yes, sir.
- Q When you went back into the kitchen and told your father these

boys had broken the door open, did he say anything? A. No, sir, he did not.

Q Did he run out quickly? A. No, sir.

Q He just walked out? A. Yes, sir, he walked out.

Q Was he angry when you told him they had broken the door in?
A. No, sir.

Q He did not show any signs of anger at all? A. No, sir.

Q He just walked quietly out there? A. Yes, sir.

Q Now, Miss Dozier, did you see your father when Mary Dorsey and Ed Townsend and the policeman were bringing him home? A. Yes, sir.

Q You saw them on the street? A. Yes, sir.

Q You say your father walked home? A. Yes, sir.

Q Did he walk home by himself with these people? A. No, sir, they had hold of him.

Q Just explain now how it was they had hold of him? A. Both of them had hold of his arm.

Q You mean the policeman? A. No, sir, the woman and the man.

Q Mary Dorsey and Ed Townsend had hold of him? A. Yes, sir.

Q They were leading him along? A. Yes, sir.

Q But your father was walking right along? A. Yes, sir.

Q Standing up straight, walking right along straight? A. Yes, sir.

Q And when he came into the house he seemed to be all right?

CASE # 39

A. Yes, sir.

Q His mind was clear so that he recognized Stephen as soon as Stephen was brought in? A. Yes, sir.

Q Did you see him when he went to the police station? A. No, sir.

Q Were you in the house when he went out to go to the police station? A. Yes, sir.

Q You saw him leave to go there? A. Yes, sir.

Q You saw him start off? A. Yes, sir.

Q To go to the police station? A. Yes, sir.

Q You did not see him after he got out of the house? A. No, sir.

The Court: I understood her to say that she did not see him until the next morning.

Q You lost sight of him when he went out to go to the police station? A. Yes, sir.

Q When he started to go to the police station did he go out of the door and walk along with these people? A. Yes, sir.

Q He just walked out of the house himself? A. Yes, sir.

Q When your father chased Stephen into 6th Avenue, and you went along with him, did he turn right around and come straight home with you? A. No, sir, he did not come straight home with me.

Q What did he do? A. He went into a lager beer saloon on 6th

Avenue, and waited to wash his hands.

Q He went into the lager beer saloon? A. Yes, sir, but he came right back again.

Q Did you go into the lager beer saloon with him? A. No, sir.

Q Is that the saloon on the south side of Minetta Lane or the north side? Was it the saloon on the corner of Minetta Lane or 6th Avenue? A. Yes, sir.

Q On the south side or the north side, downtown or uptown side? A. The uptown side.

Q That is across the street from where you live? A. Yes, sir.

Q You did not go into the saloon with him? A. No, sir.

Q You went on home? A. Yes, sir.

Q And left him in the saloon? A. Yes, sir.

Q He came back right after you? A. Yes, sir.

Q Now, Miss Dozier, what was going on in the Court -- was anybody in the Court right there by your side door when that door was broken in? A. Yes, sir.

Q Who? A. I don't remember now the gentlemen that were there.

Q There were a number of people there? A. No, sir, not a number.

Q How many? A. About four.

Q Do you know what they were doing? A. No, sir, I do not.

Q Didn't you see them doing anything? A. No, sir, I did not see them doing anything.

CASE # 39

- Q You saw the people? A. Yes, sir, I saw the people.
- Q Didn't they have a table out there and weren't they playing cards? A. I didn't see them playing cards.
- Q Wasn't there a table out there? A. Yes, sir, they had a table out there and some chairs.
- Q And chairs? A. Yes, sir.
- Q They had a table and some chairs? A. Yes, sir.
- Q You didn't see them playing cards? A. No, sir, I did not.
- Q Wasn't your father out there at that time? A. No, sir.
- Q Didn't your father bring a brick back with him after he chased Stephen into 6th Avenue? A. No, sir, I did not see him bring a brick back.

By the Court:

- Q You would have seen it if he did? A. Yes, sir, I would have seen it.
- Q Did he have any brick? A. No, sir, he didn't have any brick with him.

By Mr. Pentecost:

- Q Did you see him when he came in the house? A. Yes, sir, I saw him.
- Q Why did he wash his hands in the beer saloon, do you know? A. I do not know.
- Q How do you know he did wash his hands? A. Because he told me so.

CASE # 39

Q Do you remember who was in your house the night before this and what was going on in your house the night before this?

A. Nothing going on as I remember.

Q Don't you remember that the children had a sort of an entertainment in there the night before? A. Yes, sir, that afternoon before.

Q The afternoon before? A. Yes, sir.

Q Do you remember who was there at the entertainment? A. Yes, sir.

Q Well please tell us who was there? A. There were a half dozen little children, myself and Toussaint Vogelsang.

Q Toussaint Vogelsang was there the afternoon before? A. Yes, sir.

By the Court:

Q Is that a man or a woman? A. A man.

By Mr. Pentecost:

Q What was Toussaint doing there? A. He was playing the guitar for the entertainment of the children.

Q How long did he stay there? A. He stayed about two hours.

Q When was the entertainment over? A. It was over about six o'clock.

Q What sort of an entertainment was it, were they dancing?

A. Yes, sir, singing and dancing.

Q And Toussaint Vogelsang was there playing the guitar to enter-

CASE # 39

tain the children? A. Yes, sir.

Q You mean your little sisters? A. Yes, sir, and some of their company.

Q Your sisters were giving a little party, wasn't that it?

A. Yes, sir.

Q And had some other little children there? A. Yes, sir.

Q And Toussaint was there? A. Yes, sir.

Q Wasn't Toussaint frequently in your house? A. No, sir.

Q Was he ever there before? A. Yes, sir.

Q How long before that was it when he was there? A. About a month.

Q About a month before that? A. Yes, sir.

Q Toussaint knew your father very well, didn't he? A. Yes, sir.

Q Your father liked to play cards pretty well, didn't he?

A. I don't know.

Q Didn't you ever see him playing cards? A. Yes, sir, I saw him playing pinochle.

Q Didn't you ever see Toussaint around when he was playing pinochle? A. No, sir.

Q You never saw Toussaint play with your father? A. No, sir.

Q Didn't Toussaint ever eat in your house with your father?

A. No, sir.

Q Didn't he get his dinner there almost every day? A. No, sir.

CASE # 39

- Q Was your mother home that day? A. No, sir.
- Q Where was your mother, do you know? A. Working on the Glen Island boat as stewardess.
- Q She was employed as a stewardess? A. Yes, sir.
- Q When did she come to your house after your father was there? A. That night.
- Q Did you speak with her? A. Yes, sir.
- Q Has she been back to the boat since? A. No, sir.

By Mr. Osborne:

- Q That Court on the side of your house is not connected with your house in any way, is it, it is not a part of your lot? A. No, sir.
- Q How long after your father went into the saloon was it that he came back to the house, immediately? A. Yes, sir.
- Q Where is that saloon, on what side of the street? A. On the north side, the uptown side.
- Q Isn't it on the south side, opposite to your house? A. Yes, sir.
- Q On the downtown side, I mean toward the Battery from your house? A. No, sir, it is on the other side.
- Q Like going to Central Park, that side? A. Yes, sir.
- Q On the corner of 6th Avenue and Minetta Lane? A. Yes, sir.

By Mr. Pentecost:

- Q Did you say that the Court had nothing to do with your house

CASE # 39

was no part of your house -- as a matter of fact your side door opens right out into that Court? A. Yes, sir, it opens right into it.

Q Don't you use that side door more than you do the front door?

A. Yes, sir, whenever I want to go out to get water I use that side door.

Q You are constantly going in and out of that side door?

A. Yes, sir.

Q And other houses have doors that open into that Court or yard, it is a little yard right between the houses, isn't it?

A. Yes, sir.

By a Juror:

Q When your father went into the saloon did he tell you he was going into wash his hands or that he had gone in and had washed his hands? A. Yes, sir, I wanted him to come home.

By the Court:

Q Did you see his hands then or what was on his hands? A. No, sir.

Q What did he want to wash his hands for? A. He wanted to wash his hands and face because when Stephen Hooker threw this watermelon rind the seeds and the juice went all over his face.

Q And he went in there to wash that off? A. Yes, sir.

Q You saw the seeds of the watermelon on his face before he went in? A. Yes, sir.

CASE # 39

Q And when he came back those were all gone? A. Yes, sir.

B A R B A R A W I L K E S, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Where do you live? A. 127 West 3rd Street.

Q You work out? A. Yes, sir.

Q How long have you known John Dozier? A. I know him about eight years.

Q How long have you known Stephen Hooker? A. About two years now, I guess about two years.

Q Do you remember the 15th of last August? A. Yes, sir.

Q Did you see Stephen Hooker on that day? A. Yes, sir, I seen him all day.

Q About what time in the day did you see him? A. He was hanging around there all day long, but in the evening about four o'clock he got there with a crowd engaged in playing craps.

Q Who was he playing with? A. Why, a crowd of boys, a little crippled boy named Jackson.

Q Did you see a man named Washington there? A. Yes, sir.

Q He is a grown man, isn't he? A. Yes, sir, he is a grown man and a crowd of others I didn't know was there.

Q What did you see? A. Well, I saw them shooting crap and "Delly" Hooker threw down fifty cents and Jackson picked it

up, he took him by the two shoulders and shoved him in Mr. Dozier's door.

Q What is the name of the fellow that was shoved in? A. Jackson was shoved in.

Q Is he the crippled fellow? A. Yes, sir.

Q Go on. A. He shoved him in Mr. Dozier's door. Mr. Dozier came out and at the side of him his daughter came. When these boys seen Mr. Dozier they all broke away and ran but Hooker; he stood still, he would not run. Dozier told him to go away and he stood up to him and called him a bald-headed old son of a bitch.

Q He called Dozier that? A. Yes, sir, and said he wouldn't go one step, "You can't rule the lane" he said. Dozier said, "I am not trying to, only I want you to keep away from my door. I want no trouble with you boys. Dozier shoved him and with that he picked up a brick and fired it. He dodged the brick.

Q Who dodged? A. Dozier dodged the brick, and when he dodged the brick he gave him a slap and as he slapped him Hooker picked up a piece of watermelon and hit him in the face.

Q Who did that? A. Hooker hit Dozier in the face. Dozier pushed him away, slapped him again and he ran up the street to 6th Avenue and grabbed another brick. Dozier ran up to 6th Avenue after him. Then I saw Dozier coming back by himself, and when I seen him coming back, or shortly after he went into

the yard Hooker came back and sat up on the milk wagon. He sat there on the milk wagon until I forgot all about the fuss, and didn't think any more about it and turned away. Later on at seven o'clock he appeared again or half-past seven o'clock.

Q What happened then? A. Well, at half-past seven o'clock I was coming from 3rd Street with a slip for Mrs. Johnson and I seen "Delly" Hooker, Martha Pell and Toussaint Vogelsang ---

Q He came back? A. Yes, sir.

Q He came back again? A. Yes, sir; Hooker came back again by himself. I went around to 3rd Street to get a slip for Mrs. Johnson and when I came back I seen Martha Pell, Toussaint Vogelsang and "Delly" Hooker.

Q Where were they then? A. Standing right opposite No. 25.

Q Whose store is that? A. Right over across from No. 24, right opposite Mr. Dozier's house they were standing.

Q What did you see done or what did you hear? A. I did not see anything done but I heard them talking. I heard Martha Pell -- I would not have stopped only I heard her calling John a bald-headed old *son of a bitch*, he is too fresh around the neighborhood". Martha Pell said that to "Delly", and so "Delly" said he was going to lay in the yard. Hooker said he was going to lay in the yard and when Dozier came out of the door to go to his work he was going to give it to him in the ^{yard} ~~eye~~ and Martha Pell says, "No, don't you do it."

She says, "You wait until he comes into the yard to go to his work, and as he comes out of the yard to go to his work you can give it to him, and give it to him right."

If you do," she says, "and get into any trouble by it, any part of Bill Pell's money will take you out of the trouble I will get you into." Martha Pell says this to the boy, and Toussaint Vogelsang says, "Yes, give it to the son of a bitch; I am with you," and with that they vanished away.

Q When was the next time you saw Dozier after that ? A. Well I went up to 116 Minetta Lane, and then I stayed there about ten minutes--as long as that I guess--and when I came back I seen a big crowd on the Sixth Avenue side.

Q Corner of Sixth Avenue and Minetta Lane ? A Yes sir.

Q Minetta Lane runs between Sixth Avenue and MacDougal Street ? A. Yes sir, I seen a big crowd across Sixth Avenue and I walked to see what was the matter.

Q Don't tell what anybody said ? A Well, I seen a crowd, and I went down to the corner and I saw Dozier.

Q Where was he ? A Standing right at the corner of Sixth Avenue and Minetta Lane.

Q Where was the defendant--did you see him ? A No sir, he was running then, the officers were trying to catch

him and he ran away.

Q Did you see him run ? A No sir, I didn't see him run at all.

Q You saw John Dozier ? A Yes sir.

Q At the corner of Sixth Avenue and Minetta Lane ? A Yes sir.

Q What time was that ? A It must have been about or near eight o'clock as near as I can get at it.

Q That was about half an hour after you saw the three of them together ? A Yes sir.

Q That was near Andrew Green's oyster place ? A Yes sir, when I seen him he was just right across from there.

Q That is when you first saw Dozier ? A Yes sir.

Q Go on and tell what you saw ? A We took him to his house.

Q That is, to Mr. Dozier's house ? A Yes sir.

Q You helped somebody else ? A Me and Laura Lee took him to the house. Some people followed on behind but we took him to Dozier's house. There was a crowd like there always is when there is a fuss.

Q you were there in the front ? A Yes sir, and so we waited there five minutes after that.

Q You took him into his house ? A Yes sir, and sat him down in a chair. We had hold of him and sat him right

down and he sat there until the boy came in five minutes after that.

Q What boy ? A Hooker.

Q Who came with him ? A Jimmy Thompson, the officer.

He came in and says, "This is the boy hit me in the head with a brick." He was arrested and Dozier says, "That is the boy hit me in the head with the brick." So with that Mr. Thompson asked me would I go with Mr. Dozier to the station house, and I went along with him to the station house and from the station house to the hospital.

Q The officer took the defendant ? A Yes sir, the officer took the defendant.

Q You went with Dozier down to the station house, where the charge was made ? A Yes sir.

Q Where is that station house ? A The Charles Street, ain't it ?

Q You went to St: Vincent's Hospital with Dozier ? A Yes sir
By the Court:

Q When Dozier went to the station house you went with him, didn't you ? A. Yes sir.

Q Was there any doctor or an ambulance or anything sent for ?
A No sir, the Sergeant asked me would I take Dozier to the Hospital.

CASE # 39

- Q Did Dozier make a complaint to the Sergeant ? A No sir, he was talking and the blood was coming out of his ear.
- Q When you got to the station house with the deceased, the Sergeant was there, was he ? A Yes sir.
- Q The officer, I suppose, took this man up to where the Sergeant was--the defendant ? A Yes sir.
- Q And told the Sergeant what he arrested him for ? A Yes sir.
- Q In the presence of this defendant ? A Yes sir.
- Q Where was the deceased; was he sitting down or standing up ? A He was standing up.
- Q At the time ? A His arm leaning on the desk like that.
- Q Did you observe his ear ? A Yes sir, the blood was dripping down from his ear all the time.
- Q The blood was dripping down from which ear ? A I don't know, I think from the right ear.
- Q You think from the right ear ? A Yes sir.
- Q Dripping all the time ? A Yes sir, he stood there. Stood there and said he felt something ringing in his head like music.
- Q Was that said in the presence of the defendant ? A Yes sir, the defendant was at the bar right alongside of Dozier.
- Q You saw this blood coming down ? A Yes sir.

Q And Dozier said he felt a ringing in his head ? A Yes sir

Q All the time ? A Yes sir.

Q What was the next thing that was done ? A He took the boy back.

Q Who did ? A The Sergeant.

Q He told him he would be locked up ? A Yes sir.

Q Is that right ? A Yes sir. He asked me who was all the crowd around, the boys, and I pointed out Toussaint Vogelsang followed us to the station house, and I said there is another fellow that don't work, and don't do nothing but loaf around; his partner got five years.

Q Did you say anything at that time ? A His partner was with him, and I says "There is another one don't work."

Q Who asked you to take this man to the hospital ? A Mr. Jimmy Thompson, or the Sergeant asked me to take this man to the hospital.

Q What did he say to you ? A He told me I had better take him to the hospital and see if his head was seriously hurt.

Q The Sergeant said you had better take him to the hospital and see if his head was seriously hurt ? A Yes sir.

Q Did you take him to the hospital ? A Yes sir.

Q Was he examined there ? A Yes sir.

CASE # 39

Q By the doctor ? A By two doctors; two doctors came at once.

Q They examined him ? A Yes sir.

Q And still the blood was dripping from his ear ? A Yes sir.

Q What was done after he was taken upstairs ? A The doctor said to me, "You can't take this man away to-night." I says "Why not ?" and he says "He is too badly hurt; you can't take him to-night.." Mr. Dozier spoke to me and says to me, "You go and tell your husband to come right down to the hospital." I could not take the man away that night. Then Dozier asked me would I send my husband to the post office and tell them that he couldn't come back.

Q You left, did you ? A Yes sir.

Q You left ? A Yes sir.

Q When did you next see him ? A I seen him at half past five o'clock the next morning.

Q Was he then alive or dead ? A He was unconscious; he wasn't dead. He didn't know anybody.

Q At half past five ? A Yes sir.

Q Did you remain there until the time he died ? A No sir, I went right away to get his brother.

Q Did you come back again ? A No sir, I didn't get back, because when I started to come back I met the people coming

down and they said he was dead.

Q You didn't go back ? A No sir.

By Mr. Osborn:

Q Now, at the time you were in the station house, you pointed to Toussaint Vogelsang, and you said that is a partner of Delly Hooker ? A Yes sir.

Q "And he don't work either " ? A Yes sir.

Q Is that what you said in the presence of the defendant ?

A Yes sir.

Q Do you know Martha Pell ? A Yes sir.

Q How old is she ? A I guess she is about forty-five years old, as near as I can guess.

Q Do you know what her relations are with Hooker ?

Objected to; question excluded.

CROSS EXAMINATION, BY MR. PENTECOST:

Q Now, Mrs. Wilkes, you took Mr. Dozier back to his house after he was hurt, did you ? A Yes sir.

Q You went into the house with him ? A I did.

Q And sat him down in a chair, or did he sit down by himself ?

A He sat down in a chair by himself; we had hold of his arms.

Q Who else was with you ? A Mrs. Laura Lee and several

CASE # 39

others followed on.

Q You and Mrs. Laura Lee took him onto the house ? A Yes sir.

Q And Officer Thompson took the defendant to the police station ? A Yes sir.

Q Is that it ? A. No sir, he did not; Officer Thompson brought him to the house and Officer Perry took him to the Police station.

Q Now, when you saw these boys playing craps in front of Mr. Dozier's house you say you saw Hooker throw down a fifty-cent piece ? A Yes sir.

Q Where were you at that time ? A Looking out of my window right down on Mr. Dozier's stoop; he throwed the fifty-cent piece on the top step.

Q Where is your house ? A I did live at 28 Minetta Lane.

Q At that time ? A Yes sir.

Q That is across the street from Dozier's ? A Yes sir.

Q How far away ? A About--it ain't half a block or anything like it.

Q About half a block ? A It isn't half a block.

Q You said a quarter of a block ? A Well, it was about as far as from here to over there where that gentleman is sitting, right there--that gentleman sitting in the chair.

About as far as from across the street, right across the street, just catecornered across the street.

- Q Catecornered across the street ? A Yes sir, you just have to go right across the street to go right to his house.
- Q Catecornered across the street ? A Yes sir, and No. 28-- right directly in the front of Dozier's house; you go from his house right like that, and right in front of his house I could see anything going on.
- Q You were in your house ? A Yes sir, looking out of the window.
- Q You saw Hooker throw down a fifty-cent piece ? A Yes sir.
- Q Now, just tell us again what Mr. Dozier said when he came out and found Hooker there ? A When Mr. Dozier came out the boys ran away, but Hooker stayed there, and Dozier said, "You boys must keep away from here." He says, "I want you to stop hanging around my door; I want you to get away from here," and Hooker says, "You old son of a bitch, I have as much right here as you have; I am not going to stop," and he would not go a step. Dozier pushed him away and when Dozier shoved him away then he fired a brick at Dozier. Dozier dodged it and Dozier slapped him.

Q Is that all that Mr. Dozier said to him at that time ?

A That is all Dozier said to him at that time.

Q What did Stephen say to Dozier ? A I told you he cursed him.

Q Tell me again ? A Well, I will tell you again. He called him a bald headed son of a bitch.

Q What else did he say ? A He told ~~xxxxxxx~~ him he had as much right standing there as he had, and he told him he would not get away from the door. Dozier then shoved him away.

Q That is all Stephen said to him ? A That is all he said at that time.

Q Did Dozier strike Stephen ? A After he fired a ~~xxxxx~~ piece of watermelon at him; he pushed him away first from his

door and then Hooker fired a brick at him. He dodged the brick like that, and when he dodged the brick he slapped him

Q Before you saw Stephen Hooker throw anything at Dozier at all ? A He pushed him away from the door.

Q Did Mr. Dozier strike Stephen Hooker ? A Before he threw anything after him, he just caught hold of him and pushed him away from the door. I saw that, and he didn't hit him at all; he just caught hold of him and pushed him; he pushed the boy away from the door. He didn't want to

CASE # 39

have no trouble with him, he told him that; he pushed the boy from the door, and he grabbed up a brick and fired it at his head; he dodged the brick, and when he dodged the brick he slapped him then and gave him another shove.

Q Did he give him a shove like that, using the same motion that you made there with your foot ? A Yes sir.

Q He kicked at him, you mean ? A Yes sir. He told him to get away; he didn't want him to bother him.

Q Where was Stephen when he threw the brick at Dozier that you tell about ? A Standing right in the middle of the street, of Minetta Lane, right in the middle of Minetta Lane.

Q About fifteen or twenty feet from Dozier ? A I didn't count the feet; I couldn't tell you.

Q Half way in the middle of the street, is that right ?

A Yes sir., right in the middle of the street he was, and Dozier on the sidewalk. You may guess from that how far he was away from him.

Q After Stephen threw the brick at Dozier then Dozier slapped him; is that so ? A Yes sir.

Q Did Dozier hit him ? A No sir, he only slapped him like that and shoved him away and kicked him like that; he didn't run after him at all, he catched at him like that,

kicked him and slapped him like that--Dozier shoved him so.

Q Stephen was out in the middle of the street ? A He didn't kick him from his door; I am talking about a matter of fact.

By the Court:

Q Where was the deceased man at the time he dodged the brick ?

A When he dodged the brick Delly was standing right in the middle of the street. Dozier went to him and kicked and slapped him, like that; he shoved him away and told him to go about his business. This was out in the street.

Q Where was the deceased man when the brick was thrown; was he in his doorway or on the sidewalk ? A He was on the sidewalk.

Q He dodged the brick ? A Yes sir.

By Mr. Pentecost:

Q Then he made for this man Hooker in the street ? A Yes sir. He came right out in the street. He didn't have to run, because the boy didn't run at all.

Q The boy stood there ? A Yes sir.

Q He came over and gave him a shove and kicked at him; is that it ? A Yes sir.

Q And told him to get away out of there ? A Yes sir, told him to get away out of there.

CASE # 39

Q What is the next thing that was done ? A He picked up a piece of watermelon and struck him in the face with the piece of watermelon. Then Dozier started to run after him around the avenue.

Q To run up to the avenue ? A Yes sir.

Q Now then, you understand when Hooker thrw the brick Dozier ran out in the middle of the street, gave him a slap and kicked him ? A Sure.

Q That is it ? A Yes sir.

Q That is what I wanted to get ? A Yes sir.

Q Now, Mrs. Wilkes, did you follow Mr. Dozier when he went into Sixth Avenue ? A No sir, I did not.

Q That is all you saw at that time ? A Yes sir, that is all I saw at that time.

Q What time was it in the afternoon that this happened ?

A When they started to run it was four o'clock.

Q In the afternoon--who was there when Dozier came out of the hall and began to talk to Hooker about being on the stoop--who else was there ? A Several people standing around, several of them, his daughter and several other people, standing around there.

Q Did you know any of the people that were there ? A I know some of them; I didn't pay much attention to the

CASE # 39

people at all.

Q What was the names of some of the people you saw ? A I didn't pay much attention only to the boy; I seen him.

Q You commenced by stating his daughter was there ? A Yes sir.

Q Do you know the name of anybody else ? A I didn't notice anybody else, only the boys and some men in the company of Mr. Lewis. Mr. Lewis was in the company with him at that time, and this other man named--

Q There was a Mr. Lewis ? A Yes sir.

Q Do you recollect who else ? A Some one else; I cannot remember the names.

Q Some one else you can't remember the name of ? A Yes sir.

Q About how many altogether ? A I think I saw two or three standing around; I didn't pay any attention to the people; I didn't pay much attention to the boy.

Q Where was Toussaint Vogelsang, Mrs. Pell and Hooker standing when you heard this conversation ? A They were standing right opposite Dozier's house, right across from his house, on the other side of the street.

Q Do you remember the number of the house right opposite Mr. Dozier's house ? A Yes sir.

Q What is the number of it ? A 24.

CASE # 39

- Q They were standing right in front of No. 24 ? A Right on the edge of the sidewalk like this, they were standing the three of them.
- Q In front of No. 24 ? A Yes sir.
- Q Opposite Dozier's house ? A Yes sir.
- Q What time was that ? A That was about halfpast seven, as near as I can guess.
- Q How do you know it was half past seven ? A Because I went around the street and into No. 38 to get a slip and that is how I know it was half past seven.
- Q What do you mean by getting a slip ? A A policy slip.
- Q You had been to a policy shop is that it ? A Yes sir.
- Q You know by that it was half past seven ? A Yes sir, because I saw the clock.
- Q Where ? A In the policy shop.
- Q That is the way you locate the time ? A Yes sir, there are lots of people do the same thing; her husband writes policy.
- Q Now, Mrs. Wilkes, how did you come into Minetta Lane after you left the policy shop; did you come in from Sixth Avenue?
- A I came right in from Sixth Avenue, yes sir.
- Q Who else did you see in Minetta Lane at that time ? A I saw people passing up and down.

- Q Who else did you see in Minetta Lane at the time you saw those three talking together ? A I didn't see anybody.
- Q That you knew ? A I didn't see anybody that I know particularly; I only saw people passing up and down.
- Q Many people ? A No sir, just people passing up and down.
- Q They were standing on the curbstone ? A Yes sir.
- Q Do you remember how they were standing in relation to each other ? A They were all standing in a bunch together.
- Q Tell us how they ~~xxxxx~~ were bunched; where was Mrs. Pell standing ? Standing on the sidewalk, and these two were standing like that in front of her.
- Q Which way was Mrs. Pell looking ? A She was looking this way, right direct this way.
- Q Looking at whom ? A Looking over that way when I seen her.
- Q Was she looking towards the house or towards the street ? A She was looking towards Dozier's house.
- Q Her back was towards No. 24 ? A Yes sir.
- Q And her face towards Dozier's house ? A Yes sir.
- Q How was Toussaint standing ? A Right in front of them. The two boys were standing right side by side to each other.
- Q With their backs to Dozier's house ? A Yes sir, and she

had her face to Dozier's house.

Q What are the names of those two ? A Hooker and Toussaint Vogelsang.

Q Now, Mrs Wilkes, did you stop right by them ? A Right opposite to them, like that, with my back turned like that and I had my face like that.

Q Did any one of them see you ? A I didn't see them at all; I just turned like that and seen the faces and heard what they were saying.

Q Were you between them and the houses ? A I was like like that standing, and of course the house must have been there; the house didn't walk away. I stood there on the sidewalk.

Q You were between them and No. 24 ? A I was standing right alongside of them; I was standing just in this way.

Q Within hearing distance ? A Yes sir.

By the Court:

Q You heard this conversation ? A Yes sir.

Q Mrs. Pell had her back to No. 24 ? A Yes sir.

Q She was on the edge of the sidewalk or near the edge ?

A Yes sir.

Q The defendant and Vogelsang were standing in the street ?

A Yes sir.

CASE # 39

Q. Facing Mrs. Pell ? A Yes sir.

Q When you heard this conversation ? A Yes sir.

Q Were you near to 24 or were you at the edge of the sidewalk?

A. I was right on the edge of the sidewalk; I walked right over on the edge and heard her curse Mr. Dozier.

Q You were on the edge of this sidewalk ? A Yes sir.

Q Did you stand there ? A Yes sir, I stood there until I walked away.

Q About how close were you to Mrs. Pell ? A Well, I was about from here to this gentleman.

Q To that gentleman there, the stenographer ? A Yes sir, just as near as that gentleman sitting there.

Q Were you standing facing Mrs. Pell, or were you standing side face ? A Standing side face.

Q That is what you said ? A Yes sir.

Q Facing her side ? A Yes sir, I stood facing like that.

Q Her side would be towards you ? A Yes sir.

Q You stood in that way ? A Yes sir.

By Mr Pentecost:

Q How long did you stand there ? A I stood there about five or ten minutes.

Q You heard them talking all the time ? A Yes sir, I heard them talking all the time, what they were going to do.

CASE # 39

- Q What did you do after that ? A I went up to No. 16.
- Q 16 what ? A Minetta Lane.
- Q Who lived there ? A Mrs. Johnson.
- Q Now, Mrs. Wilkes, did you go and tell Mr. Dozier after you heard this conspiracy to injure him, did you go and tell him what you heard ? A No sir, I didn't have time; I didn't think the case was going to be as serious as it was.
- Q You didn't go and tell him ? A No sir, I went on to do my errand at No. 16, and before I got back to Mr. Dozier's the deed was done. I had no chance to go to Mr. Dozier and tell him anything.
- Q You could not step across the street ? A Yes sir, I could have if I thought the case was going to be serious, but there was never anything in my mind that that child would hurt him.
- Q It didn't impress you as though anything serious was going to happen ? A No sir, certainly if I thought I would have told, but I thought Mr. Dozier being a stout, ~~man~~ big man ~~xx~~ and an old man, I didn't think the boy could get away with him.
- Q You just passed on ? A Yes sir.
- Q Did you tell Mrs. Johnson what you heard them say ? A Mrs. Johnson wasn't home.

- Q Did you tell anybody ? A I did'nt tell anybody but the officer after it was done I told the officer.
- Q But before it was done did you tell anybody ? A No sir, I only said--I did not explain myself at all.
- Q Whom did you see after you heard this conversation before you saw Mr. Dozier ? A I saw a whole crowd of people.
- Q Did you see anybody to speak to ? A No sir.
- Q Any of your friends ? A No sir, I did not, only about seven o'clock, not many people ~~xxxx~~ around.
- Q Did you see anybody in that crowd that you knew ? A Oh, my Lord, yes, plenty of people.
- Q You knew pretty much everybody on the street there, didn't you ? A Around my neighborhood. I have been around there about thirteen years and ought to know everybody in the neighborhood.
- Q Where do you work, Mrs. Wilkes ? A No. 356 Broadway I have been working.
- Q What do you do down there ? A Scrub a music store.
- Q Do you work there every day in the week ? A Not now, I don't work at all; I don't do anything.
- Q When did you stop working there ? A About four weeks ago. My husband is supporting me and taking care of me, and I don't have to work unless I want to.

Q Is your husband in town ? A He is working down on the dock now.

Q When you did work in this music store did you work all the week ? A No sir, I only worked two days in the week there, and two days over in Brooklyn.

Q What days did you work in the music store ? A Thursday and Friday.

Q Were you working there last August ? A Yes sir, I guess I was.

Q You guess you were ? A I know I was.

Q Are you sure ? A Yes sir.

Q Did you work there the next day after this happened ?

A No sir, not the next day after that I worked there.

Q The next Friday ? A Yes sir.

Q What day was this that this happened, do you remember ?

A A Wednesday I think, Tuesday or Wednesday, I don't know which; I am not smart telling you numbers because I cannot read and you must excuse me.

Q Did you go to work the next day after this happened ? A I told you no sir, I didn't. You asked me if I went the next week.

Q Was your husband at home last August ? A Yes sir, my husband was.

CASE # 39

- Q Has he been home ever since ? A Yes sir.
- Q Has your husband been away from home lately at all ? A He was away from me once for four months, if that is what you are getting at. There is no disgrace about it; I worked for my living while he was away.
- Q Was he away all last winter ? A No sir.
- Q Was he home all last winter ? A Yes sir, he was.
- Q Now, Mrs. Wilkes, how long have you lived in New York City ?
- A I lived in New York City twelve or thirteen years.
- Q Where did you live before you came here ? A In Philadelphia and in Maryland, where I was born.
- Q How long have you been married to this present husband ?
- A Five years.
- Q What was your name before you were married to him ? A Barbara Hayes.
- Q What was your name before your name was Barabra Hayes ?
- A Thomas.
- Q Were you ever known by the name of Barabra Miner ? A Yes sir, I was married three times, lawfully married.
- Q When did you marry a man by the name of Miner ? A In Philadelphia.
- Q How long ago was that ? A I don't know; about eight or nine years ago; longer than that, ten or twelve years ago.

CASE # 39

Q Was Miner your husband just before Wilkes ? A No sir, Miner wasn't my husband just before Wilkes; he was my husband next to Wilkes.

By the Court:

Q What was the name of your first husband ? A Hayes.

Q Mr. Hayes ? A Yes sir.

Q What was the name of the second ? A Miner.

Q What was the name of the third ? A Wilkes.

Q Is that right ? A Yes sir.

By Mr. Pentecost:

Q Now, when you lived in Philadelphia , Mrs. Wilkes, were you living with your husband Mr. Miner ? A I lived with him, yes sir, certainly.

Q Did you live with him right along ? A No sir, I did not.

Q Did he support you ? A Yes sir, he did when he was living with me.

Q You kept an establishment of your own in Philadelphia ? A. I did, yes sir. Before I was married.

Q What kind of an establishment was it ? A Well, I kept a place of that sort; you ought to know what kind of an establishment it was; you may guess at it.

Q How long did you keep that establishment ? A I could not tell you exactly how long. I didn't put it down the time

at all and I could not tell you.

Q You mean you kept a house of prostitution ? A Yes sir, I did, in my single days.

Q And a badger house ? A No sir, I didn't keep no badger house.

Q Was it in Lisbon Street, Philadelphia ? A I never lived in Lisbon Street in my life.

Q Was it Hurst Street ? A I never lived in Hurst Street in my life.

Q Was it in Middle Alley ? A Yes sir, Seventh Street and Middle Alley.

Q Were not men frequently robbed in your house that you kept in Philadelphia ? A No sir.

Q In Philadelphia on August 7th, 1883, weren't you convicted and sent to prison by Judge Biddle for thirty days for an assault and battery on a man and for robbing him ? A No sir, I never was sent to prison for robbery in my lifetime. No sir, I never was; I was arrested for assault and battery but no robbery at all.

Q Were you convicted ? A I got one month in Moyamensing Prison.

Q You were convicted ? A I don't know what you call that.

Q You couldn't very well be sent unless you were convicted ?

A No sir; Moyamensing Prison, one month.

Q You were arrested by Officer Carroll ? A I don't know who he was.

Q Didn't you assault a woman in Middle Alley in Philadelphia Named Black Maria and knock nearly all her teeth out of her head ? A No sir, she never had no teeth in her head as long as I know her.

Q You know Black Maria don't you ? A No sir, I know nobody in Philadelphia in my lifetime named Black Maria.

Q You know she didn't have any teeth in her head ? A I know the woman you refer to had no teeth in her head.

Q What was he name; tell us what her name was ? A Mary, Black Mary; that is what you are trying to get at; that is what she was called.

Q Is that what you were sent to Moyamensing Prison for ? A No sir.

Q That was another ? A No sir, I never was arrested at all.

Q You left Philadelphia on account of that assault on Black Mary ? A Yes sir.

Q You heard that a warrant was out and in the hands of Officer Butler and you left Philadelphia, didn't you ? A I didn't hear a warrant was out at all. I went away from Philadelphia because I was going to come away anyhow. She struck

CASE # 39

me and I struck her back.

Q Then you left Philadelphia ? A Yes sir, I came away.

I gave her a good beating and I came away sure.

Q You did give her a good beating ? A Yes sir, I did indeed I tell you the truth. You asked me for the truth and I am going to tell you the truth; no matter how serious it is it makes no difference.

Q You used to keep the same kind of a house in Greene Street four or five years ago ? A I kept a house in Greene Street before I was married, but since I got married nobody can't say anything against me.

Q How long did you keep that house ~~xxxx~~ in Greene Street ? A Seven or eight years ago.

Q In Greene Street your house got to be so bad that they put an officer at the front door ? A I don't say that, no sir. My house was no different from any other; there was nothing but fast houses there. I didn't keep only but one room in Greene Street, that is all. Other women had whole houses. You asked me the truth and I will answer it. I didn't have any house, I had but one room, and there were women doing business right up and down and the officer was there. There was no policeman in front of my house no more than the rest of them.

CASE # 39

Q Will you let me finish my question and you can answer it.
Didn't they have to put an officer in front of your house
for the purpose of warning all men from entering there ?

A No sir.

Q And for that reason didn't you give up your house and
move away ? A No sir, I never had a house in Greene
Street, in my life.

By the Court:

Q You did live in Greene Street ? A Yes sir.

Q What number in Greene Street ? A No. 178.

Q You had one room in that house ? A Yes sir.

Q The whole house was occupied as a bed house ? A Yes sir.

Q There was an officer in front of that house ? A Yes sir,
in front of every house along there.

Q To warn people not to go in ? A Yes sir. There was an
officer stationed there.

By Mr. Pentecost:

Q Have you ever been convicted in this town ~~xxxx~~ of any
offense at all ? A No sir.

Q Have you ever been fined ? A Certainly.

Q What were you fined for and how many times ? A I was fined
for drinking and I was fined they say for soliciting,
which I never did in my lifetime; I never solicited in New

0257

58

York.

Q You have been fined for it ? A Yes sir.

Q For anything else ? A That is all I remember; that is all I know of.

Q Let me try to refresh your memory. Do you remember when Officer Thomas Dolan arrested you and you resisted arrest, and he called Officer O'Hara to take you in and you were fined for resisting arrest on the part of those two officers ? A No sir, I don't remember that at all; that I could not tell you; I don't remember it.

Q You kept a place at 172 Thompson Street, didn't you ?

A I kept a basement there; I lived in a basement there.

Q And up at 174 Thompson Street ? A I was taking care of the basement at 182; I was taking care of that for a woman called Jule Taylor; I was taking care of it for her.

Q At 174 Thompson Street ? A I had a room in that house.

Q And at 176 Thompson Street ? A I don't know anything about that; I had no place in 176.

Q No place in 176 ? A A No sir.

Q How long did you live in Thompson Street ? A About eight or nine years ago.

Q You know Jule Taylor; you said you lived with her ? A I did not say she lived with me; I said I kept a basement for

CASE # 39

02158

Jule Taylor at 172 Thompson Street.

Q At that time, as I understand it, you were living at 174 Thompson Street ? A Yes sir.

Q And you had charge of Jule Taylor's place ? A Yes sir.

Q You kept her furniture, didn't you, and when Jule Taylor wanted her furniture you wouldn't give it to her ? A No sir, you don't know nothing about it.

Q Didn't Jule Taylor have to go to law with you ? A Don't you think I am so green as that. When Jule got cut and got convicted in this court for cutting a woman for four years, and Mrs. Hamilton was her prosecutor, and after she got cut in that basement she gave me the basement and everything that was in it and said she wouldn't be bothered with the basement any more and had no housekeeper to take care of it. She let me take care of the basement for her and as Mrs. Hamilton found out I was getting along so nicely in the basement she entered a suit against me or a claim against me up in the civil court, and said she wanted the furniture I had. She claimed all her furniture back which she had given me. Mr. Berlinger was my lawyer and he skint me out of thirty dollars; that is all I know about it. He used to come to Frank Carroll's and get my money.

CASE # 39

1

60

Q Now, Mrs. Wilkes, the upshot of the matter was that Jule Taylor got her furniture away from you? A. Yes, sir, she got it back.

Q She got it back? A. Yes, sir.

Q As a result of that suit? A. Yes, sir.

Q She got it back by going to law about it? A. Yes, sir.

When you get a thing ---- if I take this coat off and give it to you have I a right to come back and take it away from you again?

Q When you left Thompson Street you moved to Minetta Lane?

A. Yes, sir.

Q You kept the same kind of a house there? A. No, sir, I did not. I never kept any place in Minetta Lane.

Q Did you live in such a place? A. No, sir.

Q What kind of a house did you live in at No. 2 Minetta Lane?

A. That was a decent house.

Q Then you moved to No. 23 Minetta Lane, didn't you? A. Yes, sir.

Q What did you do there? A. I kept a restaurant there.

Q At No. 23 Minetta Lane? A. Yes, sir; I started to keep a house there, but I broke it up, I would not have it, and I opened a restaurant. I will tell you all so that nobody will have to tell it for me.

Q Didn't Capt. Brogan break it up? A. No, sir, Capt. Brogan

CASE # 39

don't know me.

The Court: You have got the fact that you started a place there?

The Witness: I changed my mind and turned it into a restaurant; that is the truth.

Q Weren't you the janitress of some house there? A. Right there at No. 25 and No. 23 Minetta Lane.

Q They dispossessed you there, didn't you? A. No, sir.

Q They did not? A. No, sir, I never was dispossessed but once in my lifetime.

Q Didn't the agent turn you out of that place because you collected money and didn't turn it over to him for rents? A. No, sir, he did not; he wanted me to stay there; he pleaded with me to stay there, but the crowd in the yard was so rough that I could not stay there; the boys came in, drank beer, played music, danced, caroused and I could not sleep, so I got out of the yard.

Q The crowd was too rough for you? A. Yes, sir, too rough for me.

Q Didn't they have a gambling room in No. 23 Minetta Lane when you kept that place? A. No, sir.

The Court: Unless she kept the gambling room she is not responsible for it.

Q Did you keep a room at No. 23 Minetta Lane for gambling pur-

3 poses? A. No, sir. 12

Q You moved back then to No. 2 Minette Lane, didn't you?

A. Yes, sir.

Q Weren't you turned out of that house in about a month?

A. No, sir. Live in the house a second time and then be turned out?

Q Then you moved from there to the corner of 6th Avenue?

A. Yes, sir.

Q About where you live now? A. No, sir, I moved from there. I suppose I was turned out of there too, I moved out of there and now I am around at No. 27 in the rear, in 3rd Street.

Q At the corner of 6th Avenue you rented rooms to prostitutes, did you? A. No, sir, not in my lifetime, never. I never rented a room to a prostitute there in my life, no, sir.

Q Do you know a woman by the name of Rebecca Isaacs, a woman called "Butts" Isaacs? A. Yes, sir.

Q Is she a decent woman? A. I don't know what she is.

Q She is living with you now, isn't she? A. No, sir.

Q When did she leave you? A. That is my business. No, sir, I wouldn't tell you that, it ain't your business. I wouldn't do such business in my house, if I rented a room to her I don't know that she is a prostitute.

Q When did Mrs. Isaacs leave? A. She left about two or three weeks ago, she didn't do any business in my house; she rented a room for \$2.00 a week.

CASE # 39

0262

63

- 4
- Q She hired a room from you? A. Yes, sir.
- Q You don't permit any prostitution to go on? A. No, sir.
- Q She left you two weeks ago? A. Yes, sir, I put her out because she could not pay the rent.
- Q How long did she live with you, Mrs. Wilkes? A. About two months I guess.
- Q Were you and your husband fined for an assault you made on an old man about 80 years old named James King? A. He was no 80 years old; the old man committed an assault on my husband and I beat him; the Judge fined the whole three of us, he fined the old man, he fined my husband and he fined me; the old man beat my husband and was pounding him and I helped my husband and I pounded him good, I got him off my husband.
- Q All three of you were fined? A. Yes, sir; one was as bad as the other and the whole three were fined.
- Q You had your own head cracked once, didn't you, Mrs. Wilkes? A. I might have had it cracked ten times for all you know.
- Q Did you ever receive any injury on your head? A. Yes, sir, by old Charles Fletcher, when I first came here to New York city. A woman took me in to a "free and easy" as a stranger, she took me in there and said it was a ball; she dressed me up and said she was going to take me to a ball; she took me in this rough place and I was standing on the floor when a man came up to me and asked me for a drink; I refused to give it

CASE # 39

te him and he struck me on the head with a loaded cane and broke my skull bone; he never served a day for it.

Q That was a very serious injury, wasn't it? A. Yes, sir, it was.

Q Were you laid up? A. Yes, sir.

Q In the hospital? A. No, sir, I never was in the hospital.

Q How long ago is that? A. Ten years ago, I guess.

Q Since that time you have been attending to your business and have been all right? A. Yes, sir.

Q That took place in a place called the "Black and Tan", didn't it? A. I will tell you where it took place.

Q The place was called the "Black and Tan", wasn't it? A. I don't know what you call it.

Q In Bleecker Street? A. I could not tell you.

Q Was a portion of your skull removed at that time? A. No, sir.

Q Don't you wear a plate? A. No, sir, I don't wear no plate.

Q At that spot? A. No, sir, I don't wear any plate at all.

Q You know what I mean by a plate in your head? A. Yes, sir, I understand very well, I am not ignorant.

Q Now, Mrs. Wilkes, you had some dealings with Toussaint Vogel-sang about a year and a half ago, didn't he move you from one place to another? A. He didn't move me; he helped me from 23 over to No. 2; he helped move my things around.

0264

6

65

Q Did you pay him for it? A. I did.

Q Didn't you have some words with Toussaint Vogelsang in regard to that moving business? A. No, sir, never in my lifetime did I ever have a cross word with that boy, not in my natural life, no, sir.

Q You have no bad feelings towards him? A. No, sir, not any more than, nor not half as much, as I have got against you.

Q Now, Mrs. Wilkes, have your relations with Mrs. Pell always been pleasant and agreeable? A. Always been very agreeable, we never had any words.

The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and took a recess until 2.15 o'clock.

CASE # 39

AFTERNOON SESSION.

BARBARA WILKES, recalled for cross examination:

By Mr. Pentecost:

Q I want to call your attention to the facts in the case about the time that Julia Taylor was stabbed.

The Court: You are assuming something which is not proved; what facts?

Q About five years ago Julia Taylor was stabbed by a woman named Sarah Bennett? A. Don't know who she was stabbed by; I wasn't there and didn't see it.

Q Do you know whether or not Sarah Bennett was convicted for stabbing Julia Taylor?

Objected to as immaterial and irrelevant.

The Court: It is utterly immaterial.

Q You remember the circumstance to which I refer about the stabbing of Julia Taylor? A. I was not there when she was stabbed; I was in my bed when that happened and asleep.

Q Do you know that it happened? A. Heard so; don't know anything about it.

Q Did not you at that time go to Martha Pell and try to get her to be a witness against Sarah Bennett? A. No sir, I did not.

CASE # 39

Q Did you at or about that time have any conversation with Martha Pell about the stabbing of Julia Taylor? A. No sir, I did not.

Q And about the trial that followed? A. No sir.

Q Do I understand you to say that you never had any quarrel of any kind with Martha Pell? A. Never.

AM B R O S E J. D A V I S, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q What is your business? A I am a carpet layer, and work for Mr. Jordan -- the New York Steam Carpet Cleaning Company; place of business 45th Street, 435, 437.

Q Do you remember the afternoon or evening of the 15th of August when a man named DoSer was hit? A. Yes sir.

Q Did you ever see the defendant? A. Never saw him until that time; I did see him that day.

Q Where was it you saw him? A. Arch's, No. 5 Sixth Avenue. I was in Arches No. 3; had just come along from towards Bleecker Street, and had started at No. 3. I had a carpet bag of my tools, a leather bag.

Q What time of day? A. I judge between 7 and 8.

Q A little nearer eight than seven? A. Somewhere in that

neighborhood; couldn't say positively.

- Q Did you see the man Doeser at that time ? A. I did.
- Q Where was he standing ? A. I can show you the position.
- Q About on Sixth Avenue ? A. He was leaning against Green's oyster stand, talking to Green.
- Q Where was Green standing ? A. Opposite 5 Sixth Avenue -- right opposite Minetta Lane -- across Sixth Avenue from Minetta Lane.
- Q He was "leaning at the end of the stand ? A. Yes, talking to Mr. Green.
- Q Does that stand run north and south parallel to Sixth Avenue ? A. It runs with the avenue.
- Q Towards which end was he standing ? A. The end nearest to Bleecker Street, the down town end.
- Q ~~Was~~ On which side was he standing -- on the pavement or on the street ? A. What are you alluding to -- Mr. Doeser ?
- Q Yes ? A. He was standing towards the building line.
- Q He was talking to Green ? A. Yes sir.
- Q What did you see then ? A. My attention was drawn through Green's glass. They were talking there together and he is a man that laughs very loud. My attention was drawn on that account, I stood there looking on.
- Q How close ? A. I judge I was about four or five feet from

0268



CASE # 39

0269

69

from the stand-- may be more.

Q What did you see ? A. I saw a young man coming across the street.

Q The defendant, the young man ? A. Yes; I saw him come across the street with his arms hanging by him, alongside of him, down carelessly. I did not see him with anything until I saw him approach the stand. He was within from three to five feet of Doeser, and he had this brick in his hand and he struck this man on the side of the head. The blow was very great because it made a great sound, and the man gave a kind of turn, like that (indicating), to see what happened, and he got another brick in quick succession.

Q Two bricks ? A. Yes.

By the Court:

Q You mean two blows ? A. Yes sir; then I hollered "Oh, my God". I saw him running to make his escape and nobody went after him. I called myself and hollered "Catch him, catch him, murder, murder," and I ran across Sixth Avenue.

Q When Doeser was hit did he fall ? A. Yes sir.

Q Fell on the pavement ? A. Could not see the position, but he fell and I ran right after the young man.

By a Juryman:

CASE # 39

Q Did he fall ~~xxx~~ after the first brick hit him? A. No, he received the second brick before he fell. I chased this young man across Sixth Avenue through Third Street and up McDougal Street.

By the Court:

Q The defendant ran across Sixth Avenue to where? A. To Third Street.

Q What direction did he take then? A. Up Third to McDougal, that is running east. When he got to McDougal, up McDougal to Fourth and down Fourth Street to Sixth Avenue.

Q What happened there? A. There he was caught by the officer

By Mr. Osborne:

Q Officer Thompson? A. Couldn't say.

Q You saw the officer since you have been here? A. I saw him in the hands of the officer, couldn't say which one, and I hollered "That is the man" to the officer.

Q What was done with him then? A. He was taken over to Doeser's; any more I couldn't say.

By the Court:

Q Where do you live? A. 19 Sixth Avenue, at that time and now.

By Mr. Osborne:

Q Did you notice what he had in his hands when he came across

6 71
the street ? A. No sir.

Q Did he stoop ? A. No sir.

Q He had the bricks in his hand ? A. Yes sir.

CROSS EXAMINATION by Mr. Pentecost:

Q Did you see the bricks in his hand ? A. No sir, I saw him fire them.

Q As he was crossing the street you did not see bricks in his hand ? A. No sir.

By the Court:

Q But you saw him throw the bricks ? A. Yes sir.

By Mr. Pentecost:

Q Did you see him all the time up to the time he threw the brick ? A. I did not see him until he got up on the curb, just when he stepped up on the curb.

Q Did you see him as he came across the street, or did you see him only as he stepped up on the curb ? A. I must tell the truth, I did see him crossing the street from the direction of Silverstein's, which is in the middle of the block on the avenue.

Q He did not come out of Minetta Lane ? A. No sir, not to my knowledge.

Q From the time you first saw him coming across the street did you watch him until he threw the brick -- all the time ?

CASE # 39

0272

7

72

A. I happened to be looking that way and could not help but see him.

Q You said he did not stoop down ? A. I did not see him stoop no sir.

Q Did he pass out of your sight at any time so that he might have stooped down and you not see him ? A. No sir, not to my knowledge.

Q You watched him all the time ? A. Yes sir.

Q You know he did not stoop down ? A. To my knowledge I do, yes sir.

Q That stand was on the curbstone, wasn't it ? A. It was on the sidewalk near the curb; couldn't say exactly whether resting on the curb or not; but it was on the pavement.

Q Doeser the man who was struck was standing with his face towards the street ? A. No sir, he was standing with his face partly facing Bleecker Street, with his back partly up the avenue, with his side face.

Q With his back towards Green ? A. No sir, facing Green; he was at the end nearest Bleecker Street.

Q That is the south end of the stand ? A. I don't know what end it is, but that is the end he was standing by.

Q He was looking towards Bleecker Street --

The Court: It might be the north side of

CASE # 39

Bleecker Street, and south end of the stand.

Q Doeser was standing at the end towards Bleecker Street ?

A. Yes, partly facing Bleecker Street with his side face.

Q Where was Green, the keeper of the stand ? A. He was sitting behind the stand on the curb and the sidewalk in a chair I suppose.

Q In the middle of the stand or the other end of the stand ?

A. Couldn't positively say, sir.

Q Was Doeser talking to Green ? A. Yes sir.

Q You want us to understand that Doeser was talking to Green and that his face was more towards Bleecker Street than towards Green ? A. Yes, partly -- side face, up Sixth Avenue.

Q He was not looking at Green when he was talking ?

A. Could not swear to that.

Q Where did the boy come on the sidewalk ? A. On the upper end, the uptown end.

Q In the opposite direction from which Doeser was looking ?

A. Exactly.

Q How was Doeser standing in regard to this boy ? A. Do you wish me to show you?

Q You can say ? A. I could show you better than I could explain it.

0273

CASE # 39

0274

74

Q Was the side face towards him, the same as it was towards Green ? A. It was a side face; he could not see the man approaching him, I don't think.

Q This boy threw the brick at Doerer ? A. Yes.

Q How far was the distance he threw the brick ? A. I suppose from three to five feet.

Q How long was the stand ? A. I don't know, sir.

Q About ? A. Couldn't tell, never measured; it may be five feet long, but I cannot say positively.

Q He was above the stand when he threw the brick ? A. On the upper end of the stand three to five feet I judge.

Q You mean he was exactly at the upper end of the stand ? A. Yes, a little above the stand -- not at the end of the stand -- up the avenue.

Q The first brick hit Doerer but did not knock him down ? A. It hit him and didn't knock him down.

Q Did you see the effect on Doerer ? A. No sir; I saw him turn his head to see where it came from, and in quick succession he got the other brick.

Q And that brick hit him where ? A. Didn't see exactly where it hit him; but the first hit him here (indicating).

Q Where did the second hit him ? A. Couldn't say.

Q I understood you to say he hit him in the back of the head?

CASE # 39

A. No sir, nothing of the kind.

Q Did not you say that at the police court ? A. No sir, I said the side of the head, not the back of the head.

Q Is this a correct report of what you said at the police court: "Q. Tell what you saw. A. I was standing at the end of the oyster stand a couple of feet from the defendant. He raised his hand and hit the old man with a brick in the back of the head first and then he repeated it in quick succession with another brick and then the old man fell."

A. I said the side of the head or back, I was not positive; but it was here (indicating) he was hit, couldn't say whether back here (indicating) or there (indicating), but I know he was hit here (indicating), whatever way you choose to call it; that is the way I said to the justice.

Q Do you remember whether there was a telegraph pole or, anything of that sort near the stand ? A. No sir, there is no telegraph but a barber's pole.

Q You remember there is a big barber's pole ? A. Yes sir.

Q That was right against the stand ? A. Couldn't say, but it is somewhere in that location.

Q Might not this young man have stooped down after he got in a position where the stand was between you and him and you not see him ? A. No sir, because the barber's pole was the

CASE # 39

0276

11

76

Q opposite direction altogether from the stand.

Q The barber's pole was at the other end of the stand from where you were ? A. It was on the end of the stand towards Bleecker Street.

Q And the stand being between you and him, did not obstruct your vision at all ? A. Why, no, certainly not.

By Mr. Osborne:

Q As this boy was approaching did you hear anybody cry out anything ? A. No sir, couldn't say I did.

By a Juryman:

Q Does he live at the same place ?

The Court: I asked him where he lived and he said at 19 Sixth Avenue then and now.

Witness: Yes, half a block about -- not quite.

By Mr. Pentecost:

Q Was the stand in front of 5 or 7 Sixth Avenue ? A. In front of No. 5.

Q Are you sure ? A. Yes; Green was renting the basement of No. 5 at the time; rented the basement from Theodore Roesch; Roesch is a real estate man.

Q When you ran after this boy up the street did you have your bag of tools with you all the time ? A. No sir.

Q What did you do with them ? A. Left them in No. 3 Sixth

CASE # 39

0277

Avenue.

- Q Did you go into No. 3 and leave your tools before you ran after the boy? A. I did; I didn't think it was necessary to report it to the court and I didn't do so. I always go in there and leave my tools. I came right out and was not in the place five or three minutes.

By the Court:

- Q You had left your tools inside of next door? A. Yes sir.

By Mr. Pentecost:

- Q I wanted to find out whether you had tools in your hand when you ran? A. No sir, did not.
- Q You cannot be mistaken that the stand is in front of No. 5? A. No sir.

W I N F I E L D S. G R E E N, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

- Q You live at 25 MxDowning Street? A. I do.
- Q You keep an oyster stand on Sixth Avenue? A. I did keep one there, but not now.
- Q On the 15th of August last? A. Yes sir.

By the Court:

- Q Where was the stand? A. No. 5 Sixth Avenue, on the side-

CASE # 39

walk near Minetta Lane.

By Mr. Osborne:

Q About how long was the stand ? A. About five feet.

Q Do you remember the evening of the 15th of August John Doeser having a talk with you there ? A. Yes sir, a conversation.

By the Court:

Q You saw John Doeser on the 15th of August ? A. I did.

Q About what time ? A. About 7 o'clock he was there for quite a while.

Q How long was he there before anything happened ? A. About forty minutes -- thirty or forty minutes about.

By Mr. Osborne:

Q After he had been there as you say about forty minutes, what next happened ? A. During the time he was there him and I were in conversation.

By the Court:

Q You need not tell what was said; what was the first thing that happened ? A. The first thing that happened Rebecca Washington hollers that the boy was picking up a brick across the street. He said "He is not going to come over here" and I kept on preparing a supper for a gentleman and somebody hollered "Look out." When she hollered "Look out"

I jumped out into the street. When I jumped out into the street, I heard something get struck and thought a man or somebody said so. At that time I looked and saw Hooker running across the street. I holloed to Bris Bright "Run and catch him." At that time I said to Dave Talbot "For God's sake pick that man up." They picked up Doeser and then I didn't see anybody around only the women on the steps Mrs. Talbot was on the step until they brought the boy back. Somebody said to me "There is the brick," and I picked it up and held it in my hand. When Officer Perry brought the boy back I said "Here is the brick", and gave it to Barbara Wilkes.

Q Is that the brick (showing brick to witness) A. Yes, that is the brick.

Q Is that all you know? A. Yes sir.

Q How close did you see Hooker come to the stand? A I did not see him come.

Q About how far from the south end of the stand was Doeser?

A. He was within two feet of me, only he was in front of the stand, and I ran and took a can of peaches up preparing for supper.

Q How near to the south end? A. Within a foot or two of the end of the stand, and I was on the opposite end, on the

CASE # 39

side of the stand.

Q You were about the middle of the stand? A. No sir, near the end of the stand; Doeser was near the Bleecker Street end, and I was up at the other end.

Q You were standing? A. Yes; I was facing the house.

Q Facing No. 5 Sixth Avenue? A. Yes sir.

Q Your back about towards the avenue? A. Yes sir.

Q That would account for your not seeing anybody crossing?

A. Yes sir.

Q Did you see Ambrose Davis? A. He may have been at No. 3 stoop, but did not see him.

Q You saw Hooker running? A. I saw him running across the street.

Q When you say street you mean avenue? A. Yes, towards Third Street.

Q Did you see him after he got into Third Street? A. No sir, I lost sight of him, but the crowd followed him.

Q Did you hear anybody hollo out murder? A. No sir, not on the avenue; didn't hear anything; I lost sight of the whole thing.

Q How soon after this thing occurred did you pick up the brick? A. Right at the time the boy was running somebody halloed at me "Pat, there is the brick."

CASE # 39

Q Where did you find it ? A. Somebody had thrown it into the street, and as they said it, it caught my attention; it was thrown off the sidewalk out into the street and I picked it up myself. Nobody picked it up in the street.

Q Is that the only one you saw ? A. Yes sir.

By Mr. Osborne:

Q What people did you see present at your stand at the time of the casualty ? A. I saw Bristo Bright; Dave Talbot, Elizabeth Talbot and Rebecca Washington on the stoop.

CROSS EXAMINATION by Mr. Pentecost:

Q Were you in conversation with Doeser at the time ?

A. Yes sir.

Q Do you remember what his position was in regard to you ?

A. He was not looking at me exactly, but looking towards the avenue.

Q Did I understand you to say that Doeser had a warning that Stephen was coming across the avenue ? A. No sir; not a warning that he was coming across the avenue; that Hooker had gone down the avenue and picked up some brick. He had a warning twenty minutes before.

By the Court

Q Was there something said about Doeser saying "He is not coming over here" ? A. Doeser said that himself.

Q How long is that before this happened ? A. About twenty

minutes.

Q You didn't see the brick fired ? A. No sir.

Q You did not see the brick hit Dooser ? A. No sir.

By Mr. Pentecost:

Q You testified at the police court, didn't you, before Judge Hogan ? A. Yes.

Q When you testified at the police court you did not say anything about Rebecca Washington or anybody else saying that Stephen was picking up bricks down the street twenty minutes before ? A. The reason is the other examination was short and the justice heard part of my statement; it was supposed we were all to be called again to have a thorough examination, which I never had until I am here to-day.

Q All that part of the testimony is new. You never testified about that part of this story before to-day ? A. Not regarding Rebecca Washington, only about the ladies holloing I did that.

Q But the rest of it is new to-day ? A. No sir, it is not new to-day.

Q I mean the first time you testified to it ? A. Because I was never needed until to-day.

By the Court:

Q You were not asked to state anything more at that time ?

CASE # 39

A. No sir.

Q Did you ever tell anybody else what you saw that day ?

A. Any citizens?

Q Yes ? A. No sir.

By Mr. Pentecost:

Q This is the first time you ever told about Rebecca Washington ? A. I told the State's attorney, of course, when I made my statement to him.

By the Court:

Q You mean the District Attorney ? A. Yes sir.

By Mr. Pentecost:

Q You knew Doeser very well ? A. Yes, a personal friend.

By Mr. Osborne:

Qb I understood you to say that you had your back to the avenue

A. My back to Sixth Avenue.

Q And your stand is on the west side of the avenue ? A. Yes sir.

Q And that Doeser was on the opposite side of the stand from you ? A. Yes sir.

By the Court:

Q Do you know who picked up the brick ? A. Talbot was one of the gentlemen.

Q Were you nearby when he picked it up ? A. I was coming

CASE # 39

to my stand and I saw him.

Doeser

Q Did you notice him? A. Yes, saw a little blood coming from his mouth and nose in streams -- not much.

Q He was not bleeding while talking to you? A. No sir, he was perfectly healthy.

By Mr. Pentecost:

Q Do you know whether Doeser was hit with one or two bricks?

A. From the sound, it sounded as if it was two.

Q Did you hear two distinct sounds? A. Yes.

Q Did you see two bricks? A. No sir.

Q There were not two bricks picked up? A. I only found one.

Q How far apart were these two sounds? A. One rapidly after the other.

Q Could you imitate it with your hands, how quick they came?

A. I think I could, just like that (clapping his hands), and then again like that, with an oath. (Witness again claps his hands).

By the Court:

Q What kind of an oath? A. Couldn't say, it was something vulgar. I jumped out in the street and holloed.

CASE # 39

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

DIRECT EXAMINATION by Mr. Osborne:

- Q Where do you live ? A. No. 5 Sixth Avenue; am a long-shoreman.
- Q You remember the afternoon of the 15th of August when Doerer got hit ? A. Yes.
- Q Where were you standing ? A. Leaning up against the stand.
- Q What stand ? A. Green's stand.
- Q Were you on the side of the stand nearest the houses, on the side nearest the avenue ? A. On the side nearest the avenue.
- Q Did you see Doerer there ? A. I saw him when he came up, yes.
- Q Did you see him as he was standing there ? A. Yes.
- Q Hear him talking to Green -- laughing and talking to Green ? A. Yes.
- Q Did you see this defendant over there ? A. No sir.
- Q Did not see him at all ? A. I saw him after he ran.
- Q Did you see him until he ran ? A. No sir.
- Q What did you hear before you saw him run ?

By the Court:

- Q You were at Green's stand ? A. Yes.

0 2 8 5

CASE # 39

Q What time was it when you got to Green's stand? A. About seven o'clock in the evening.

Q Was Doeser there when you came to the stand? A. No sir.

Q He came there afterwards? A. Yes sir.

Q He stood there talking to Green? A. Yes.

Q And you stood there also? A. Yes, I was leaning on the end of the stand.

Q Which end -- the end nearest Bleecker Street? A. The end nearest Bleecker Street.

Q Where was Doeser, which end was he on? A. On the other end, on the uptown end.

Q Where did Green stand? A. He was fixing up a supper for Bob Gray.

Q How long were you at the stand before you noticed there was any trouble? A. I guess I was standing at the stand for half an hour before I noticed anything.

Q What was the first thing you heard? A. I heard a woman hallo.

By Mr. Osborne:

Q What did you hear her hallo? A. She halloed "Look out, John, look out, John; I want you men catch that man; I want you men catch him."

Q After you heard her hallo there what did you ^{see} think? A. I

saw him run.

Q Did you hear anything like a hit ? A. No sir.

Q You saw Hooker run ? A. Yes.

Q What did the woman holler out ? A. She halloed "Catch him, catch him."

Q What did you do ? A. I ran towards Third Street after ~~Andrew~~ Ambrose Davis.

Q After the white man ? A. Yes.

Q There was a white man running too ? A. Yes, Ambrose Davis.

By the Court:

Q I want to go back again ~~to~~ with your permission. You heard a woman shout out "Look out, John"; is that all you heard her say then ? A. I heard her say "Look out John," and then heard her say "Catch him", and then I saw Hooker run.

Q In which direction did he run ? A. Towards Third Street across the avenue.

Q Did you follow him ? A. No sir; I guess it was two minutes before I ran.

Q You remained there about two minutes before you ran ?
A. Yes.

Q Then you ran ? A. Yes sir.

Q Did you come up with Hooker; did you catch him ? A. No sir

Q How far did you run ? A. I ran to Third Street and down

CASE # 39

to McDaugal and up Fourth Street. I saw Hooker until he got to Sixth Avenue and turned Fourth Street.

Q Did you see anybody else run then? A. No more than the white man who is Ambrose Davis; he kept up the chase.

Q You stopped and saw the defendant turn around Fourth Street?
A. No sir, I ran as far as Fourth Street and Sixth Avenue, and when I got there the policeman had him.

By Mr. Osborne:

Q Did you hear Davis hollo anything while running after him?

A. I heard him hollo murder while he was running after him.

Q That is all you know about it? A. Yes sir.

CROSS EXAMINATION by Mr. Pentecost:

Q Where did you say Doeser was standing? A. Uptown side of the stand.

Q Was not he standing at the south end, the same end as you were? A. No sir.

Q Were you leaning on the end of the stand as you stood there?
A. Yes.

Q And Doeser was five feet away from you? A. I guess the stand was as long as this desk; I was at the corner towards Bleecker Street.

Q Suppose that desk there is the stand and the end where you are now was the Bleecker Street end -- stand at the end of

the desk and show us how you were standing ? A. I was standing in front like this, facing towards Bleecker Street (indicating).

Q Where was Doeser ? A. Up ^{at} that end of the stand, and I saw him talking with Green.

By a Jurym~~an~~:

Q You say you were at the stand facing Bleecker Street and Doeser was at the other end? A. Yes sir.

Q Did you see Doeser move from that end and go towards Bleecker Street at the time you were there ? A. No sir.

By Mr. Osborne:

Q You were facing Bleecker Street with your back turned to the upper end of the stand ? A. Yes.

L I Z Z I E T A L B O T, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Mrs. Talbot, you are a married woman ? A. Yes sir.

Q Living with your husband ? A. Yes, at 7 Sixth Avenue.

Q Do you remember the evening of the 15th of August when Doeser was hit ? A. Yes.

Q Where were you sitting at that time ? A. On my stoop at 7 Sixth Avenue.

- Q That was about what time ? A. About half past seven or eight o'clock.
- Q Did you see Stephen Hooker that day or afternoon ? A. That evening yes, at the time I mentioned.
- Q Did you see Doeser there? A. Yes.
- Q Where was Doeser ? A. Down in front of Green's stand.
- Q Which side of the stand did you notice Doeser on ? A. He was standing on the --

By the Court:

- Q Where is that stand ? A. No. 5, and my house is No. 7; that is the next house, and I was sitting on the stoop. The stand faced towards Minetta Lane.
- Q The end of ~~ix~~ the stand is where ? A. Near Bleecker Street.
- Q You were then on the end of the stand ? A. Nearest to Third Street.
- Q The stand was between Bleecker and Third Street ? A. Yes sir.

By Mr. Osborne:

- Q Doeser was on which end ? A. Nearest Bleecker Street.
- Q Did you see Stephen Hooker ? A. Yes sir.
- Q What did he do ? A. Saw him coming from Third Street.
- Q What did you hear ? A. Mrs. Washington holloed "Look out, John."

Q What did you see ? A. Stephen Hooker came across the street and threw bricks like that (indicating) with his hand; and when Mrs. Washington holloed "Look out, John" --

By the Court:

Q When you talk about street you mean avenue ? A. Yes sir.

By Mr. Osborne:

Q How near did Hooker get to John Doeser ? A. About three feet.

Q Did you see Hooker do anything ? A. Throw the brick.

Q Did you see where the brick hit ? A. It struck him on the side of the head.

Q What else did Hooker do after he threw one brick ?

A. He threw the other brick, but don't know whether it struck him or not.

Q What did John Doeser do ? A. Well, he fell on the ground.

By the Court:

Q Did he fall when struck with the first brick ? A. Yes sir, fell at the first blow.

By Mr. Osborne:

Q What did Hooker do ? A. He ran towards Third Street; heard Green and Washington cry out "There he goes, catch him."

Q Did you see Ambrose run after him ? A. I don't know who

it was but saw people running after him.

Q Did you hear people who ran after him say anything ?

A. No sir.

Q Did you see Dooser after that at any time ? A. No sir,
only when they took him home.

Q Did you see him at any time after that ? A. No more than
when they brought his body home the next night at his house.

Q Did you see in what direction Hooker ran ? A. Towards
Third Street.

Q Did you see where he ran ? A. No sir, couldn't see, re-
mained on my stoop.

By the Court:

Q How quick was the blow struck ? A. One right after the
other.

Q Indicate by clapping your hands ? A. (Witness claps her
hands twice in succession.)

Q Did you see Dooser afterwards ? A. No sir.

Q When the brick was thrown or either of them was thrown,
did you hear anything said by Hooker ? A. No sir.

CROSS EXAMINATION by Mr. Pentecost:

Q When you are sitting in your door No. 7 Sixth Avenue you
can see right up Minetta Lane, wan't you ? A. Yes sir.

Q You can see up as far as Dooser's house ? A. Yes sir.

Q Quite a little bit farther ? A. Yes sir.

Q You can see up where Mrs. Wilks lives, can't you ? A. No sir, Mrs. Wilks lives on the opposite side; I can see that far up looking up into Minetta Lane.

Q How long had you been sitting at your door that evening ?
A. I came outside about ten minutes.

Q Were you sitting down on the doorstep ? A. I was sitting down with a baby in my arms.

Q Did you sit down as soon as you got out ? A. Yes sir.

By the Court:

Q It was warm weather, wasn't it ? A. Yes sir.

By Mr. Pentecost:

Q Did you pay any attention to Minetta Lane ? A. No sir, I was looking at Green and Doeser talking.

Q Your attention was not drawn up to Minetta Lane at all ?
A. No sir.

Q Did you see anybody else standing at the stand but Doeser ?
A. Nobody but Doeser and Green was there at the stand.

Q Do you know Bristow Bright ? A. I am acquainted with him.

Q Was he there ? A. Couldn't say.

Q You didn't see him standing at the stand ? A. No sir.

EUGENIA DOESER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q You are the daughter of John Doeser ? A. Yes sir.

Q And you live at 25 Minetta Lane ? A. Yes sir.

Q You lived there on the 15th of August ? A. Yes sir.

Q Do you remember the afternoon of the 15th of August ?
A. Yes sir.

Q About 4.30 or 4 ? A. Yes sir.

Q Did you see the defendant at that time ? A. Yes.

Q What was he doing ? A. He was shooting craps.

Q Who was with him ? A. Jackson and a number of other boys.

Q Did you see Stephen Hooker do anything ? A. Yes -- shoot craps.

Q What else did he do ? A. He kept rolling and pushing his head through my door.
you

Q Did he say something to your father then ? A. Yes.

Q Where was your father ? A. In the kitchen.

Q After you said something to your father did he do anything?
A. Yes, he went out on the street.

Q Did you see Hooker any other time that day ? A. Yes

Q About what time ? A. In the morning.

Q In the afternoon after that ? A. Yes, I saw him about

CASE # 39

6 o'clock.

Q Who was with him? A. Toussaint Boglestein at that time.

Q Any other person at that time? A. I saw him talking to Martha Pell; he was sitting on the milk wagon and Toussaint was standing down there and Martha Pell was there.

Q Did you hear him say anything? A. Martha Pell asked him why he allowed that man to hit him; he said because he couldn't ^{fight} help him.

Q Did you hear Martha Pell say anything else after that?

A. Yes, she told him, "Why didn't you take a knife"; he said he did not know how to use one; she told him to take a brickbat.

Q What else was said? A. She told him he knew how to use that.

By the Court;

Q What did he say to that? A. He didn't say nothing.

By Mr. Osborne:

Q Did you hear any other talk at that time? A. No sir.

Q That is all you heard? A. Yes sir.

By the Court:

Q What became of Boglestein, Martha Pell and this defendant after you heard them talking? A. Toussaint Boglestein went around the corner and Martha Pell went on the other

side of the walk, sitting on 26 stoop.

Q That is all the talk you heard at that time ? A. Yes sir.

Q How old are you ? A. Thirteen years old.

By Mr. Osborne:

Q Did you see your father after that at any time ? A. Yes sir.

Q About how long after that ? A. I saw him when he came home; he said he saw Hooker around the corner.

Q I mean after you heard the talk ? A. My father was in the house laying down.

Q Did you see your father that afternoon ? A. Yes.

Q About what time ? A. About six o'clock.

By the Court:

Q After you heard the talk with Boglestein, Martha Pell and the defendant, when did you next see your father ? A. Did not see him after that; a gentleman came over and said Mr. Green wanted to see him.

Q What time was that ? A. I guess it was half past six o'clock. He got right up and went out.

Q You did not see him after that until they brought him back, did you ? A. No sir.

Q Were you in the house when he was brought back ? A. Yes sir.

0296

CASE # 39

Q You saw Hooker brought in ? A. Yes, and my father said he hit him with a brick. They locked him up that night.

By the Court:

Q What became of your father ? A. He went to the station-house; Mrs. Wilks helped him to the stationhouse.

By Mr. Osborne:

Q Mrs. Wilks was there too when the crowd came in with your father ? A. Yes sir, and Mary Dawson and Ned Thompson.

CROSS EXAMINATION by Mr. Pentecost:

Q Where were you when you saw the boys playing craps ?

A. Looking out of the window.

Q Who was with you ? A. In the window by myself.

Q Who was in the room with you ? A. Nobody.

Q What time was that about ? A. Four o'clock.

Q Was that the time the door was burst open at four o'clock in the afternoon ? A. Yes.

Q Did you see Della Hooker take hold of Jackson and push him through the door ? A. Yes.

Q Did Jackson fall in the room when he pushed him ?

A. No sir.

Q But you saw Jackson ? A. Yes sir.

Q Then you went out and told your father in the kitchen ?

A. Yes sir.

0297

CASE # 39

Q Did anybody go with you when you told your father ?

A. No sir.

Q When did you see Della and Toussaint and Martha Pell talking together ? A. About half-past six.

Q Where were you at that time ? A. I was looking out of the window.

Q Where were they ? A. Della was sitting on the milk wagon and Toussaint was standing by the milk wagon and Martha Pell.

Q Della was on the milk wagon and the other two were standing on the side of the wagon ? A. Yes sir.

Q Were they on the same side of the street you were on ? A. Yes sir.

Q You were sitting in your window ? A. Yes sir.

Q The window was open, of course, 'it being August ? A. Yes sir.

Q How far were they from you -- across the sidewalk ? A. Yes sir.

Q Was anybody else there ? A. No sir.

Q No one else around ? A. No sir.

Q What was it you heard them say ? A. Martha Pell asked Hooker why he let the other man hit him; he said because he could not fight him. She told him "Why didn't you take

a knife?" He said he didn't know how to use a knife; she told him to take a brick, he knew how to use that.

Q That was all? A. Yes sir.

Q You did not see anyone else you know around them at the time? A. No sir.

By a Juryman:

Q Did the defendant deny that he threw the brick? A. No sir, he didn't say anything.

By the Court:

Q When the policeman took him in your father asked you for a chair? A. Yes sir.

Q Was there anyone else there? A. Yes sir.

Q Who? A. I don't know who all was in the room, a great many. He said "That man hit me in the head with a brick; I want you to lock him up." The defendant did not say anything; I am sure of that.

By Mr. Pentecost:

Q Have you had any talk with Barbara Wilks about what you heard Foglestein -- A. No sir, not at all.

Q Have you been to the police court where the examination was made before Judge Hogan? A. Yes sir.

Q Who did you go there with? A. My uncle; Mrs. Wilks and Mrs. Washington.

Q How many times did you attend the police court ? A. I was there every day.

By the Court:

Q About how many days ? A. Three days.

By Mr. Pentecost:

Q Each time you went with your uncle, Mrs. Wilks and Miss Washington ? A. Yes sir.

Q Were you at the Coroner's office when the inquest was taken ? A. Yes sir.

Q Whom did you go with ? A. My mother, ~~Miss Brooks~~ Mrs. Wilks and Mrs. Washington.

Q You all went to the police court together and to the Coroner's office together ? A. Yes sir.

Q You have not had any conversation with Barbara Wilks at all upon that subject ? A. No sir.

Q Any words ? A. No sir.

Q Did you ever hear Barbara Wilks say she hear Touissant, Miss Pell and Della talking together ? A. No sir.

Re-Direct EXAMINATION by Mr. Osborne:

Q Did you hear the testimony in the police court, all of it ? A. Yes sir.

Q Did you hear what Mrs. Wilks said ? A. Yes sir.

By the Court:

CASE # 39

Q Could you hear everything that was said ? A. No sir.

By Mr. Osborne:

Q And you could not hear what was sworn to in the Coroner's court, could you ? A. Yes sir.

Q Were you close up in front ? A. No sir.

Q Did you hear all that Mrs. Wilkes swore to in the Coroner's court ? A. No sir.

By Mr. Pentecost:

Q Were you examined in the court ? A. No sir.

Q Were you examined in the Coroner's office ? A. No sir.

Q Was the room in which the Coroner's examination took place as large as this room ? A I don't think it was.

Q Was it half as large as you remember ? A. Yes sir.

Q How far back in the room did you sit ? A. I was in the back seat.

Q You heard Mrs. Wilkes testify before the Coroner ? A. Yes, sir.

Q Can you remember what you heard her testify to ? A. No sir.

Q Not a bit ? A. No sir.

Q You heard it ? A. Yes, but could not hear it plain; I was in the back of the room.

Q Don't remember anything she testified to at all ? A. No sir

CASE # 39

REBECCA WASHINGTON, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

- Q You are a married woman ? A. Yes sir, and I live at 7 Sixth Avenue.
- Q The same place as Mrs. Talbot does ? A. Yes sir.
- Q You live there with your husband ? A. Yes sir.
- Q You remember the afternoon of the 15th of August ?
- A. Yes sir.
- Q On that afternoon did you see John Doeser ? A. In the afternoon about four o'clock.
- Q Did you see Della Hooker at that time in the afternoon ?
- A. Yes sir.
- Q Where ? A. In Minetta Lane; they were on the street at that time in front of 25 Minetta Lane.
- Q Tell us what you saw ? A. I saw in the afternoon when Della Hooker had thrown the piece of watermelon in Doeser's face; I saw that in the afternoon, that is all I saw.
- Q Later than that did you see Della Hooker ? A. About half past seven or a quarter of eight I was sitting in the door with my child in my lap, and I saw Della Hooker come across the street -- Sixth Avenue.
- Q Before that did you see him ? A. About half an hour before

CASE # 39

that I saw him at the brick pile picking up two bricks.

By the Court:

Q Where was the brick pile? A. I live at No. 7; I guess it was a new building kind of around the corner about four doors from where I live -- the new building.

Q About what time was it you saw him pick up the bricks?

A. About quarter past seven.

Q Was there a pile of bricks on the same side of the street you were on? A. Yes sir, only off the sidewalk -- on the avenue.

Q After he picked up the two bricks what did he do?

A. He went up Minetta Lane.

Q When did you next see him? A. About half an hour afterwards.

By Mr. Osborne:

Q What did you see him doing? A. As I was sitting in the door with my child I happened to look up and saw him come across Sixth Avenue; he came this way (indicating); as he got about three feet from where Doerer was standing talking to Green, at the oyster stand --

Q On which side was Green? A. Mr. Green was on the street side and Doerer was on the sidewalk. Della got about three feet off, just stepped on the curb. I said, "Look out,

John". As I said that he threw the brick and struck him alongside the head. He reeled and fell, Doeser did. He threw another brick, and that caught him about the side here (indicating).

Q Then what? A. Then I went over to Doeser, and I said "John, can you get up?" He did not answer.

Q What did you see the defendant do? A. Ran -- after he threw the brick. After I said "Why don't you go and catch that man?" then I saw this Ambrose Davis.

By the Court:

Q You saw him throw the brick after you said "John, look out"? Is that right? A. Yes. As I said "John, look out", he threw the brick.

Q Then you saw Doeser -- what did he do? A. He threw his hands up in his face.

Q Turned around? A. No sir, only his hat blew off his head, and he fell. Then Doeser was down on the ground when the other brick was thrown, and then the defendant ran. He ran across the avenue towards Third Street and then I lost sight of him.

Q Did you then speak to Doeser? A. I went over to him and spoke.

Q When you went over where was Doeser? A. Laying on the

ground.

Q Did you speak to him? A. I said "John, can you get up?"
He never answered me.

Q What next did you see? A. I saw nothing only they helped
him across the street. I saw somebody lift him up.

Q Who was it lifted him up? A. I think Mr. Talbot was one
person and the other couldn't tell, there was such a crowd--
couldn't tell exactly.

Q When you went over and stooped down to speak to him you
said "John, get up"; did you notice anything about his face?
A. I noticed his jaw was turned kind of sideways and his
hat was off; didn't notice blood.

Q And the last you saw of defendant was when he got in Third
Street? A. Yes sir; they took the dead man across to
his house. I did not follow him.

By Mr. Osborne:

Q Did you notice the men run after Hooker? A. After Hooker
I saw Ambrose Davis and Bristow Bright; that is all I am
acquainted with.

Q Did you notice Doeser's head -- notice any blood about it?
A. No sir, only as he lay there before they picked him up
there was about three drops of blood came out of his ear.

Q After Doeser was taken home did you see him at any time?

CASE # 39

A. No sir.

Q Did you see him in the hospital? A. No sir.

Q You saw him after he was dead? A. After he was dead, that was the next day, after they brought him home.

Q Did you see Hooker after they started to run after him at all? A. No sir. I saw him when they were chasing him on the other side of the street; they said "There he goes" with the officer."

CROSS EXAMINATION by Mr. Pentecost:

Q What direction did Hooker come from when you saw him come across the street with his arms like that (indicating)?

A. As I said before, I had the child in my arms, and I saw him coming across -- as he stepped on the curb. It looked as though he came across Sixth Avenue.

Q Did he come out of Minetta Lane? A. I did not notice whether he came out of Minetta Lane when he struck the man. He could not have come directly across from Minetta Lane, because he came on this side from Dooser, and Minetta Lane is this side (indicating).

Q Minetta Lane is directly opposite? A. Yes sir, opposite No. 5.

By the Court:

Q And the oyster stand was where? A. In front of No. 7,

0306

CASE # 39

and that is where I live.

By Mr. Pentecost:

Q Mr. Green kept some of his stock in the cellar? A. Yes, I believe he did; the cellar is under No. 5, and the stand is more in front of No. 7. There is a barber's pole in front of the cellar where Green kept his stuff.

Q You testified in the police court before Judge Hogan at the time the examinations were had? A. Yes sir.

Q You did not say anything about seeing Hooker pick up two bricks from a brick pile then, did you? A. No sir.

Q Did you ever see Hooker pick up two bricks from a brick pile? A. Yes, that evening, as he went up the lane. That was before he struck Dooser; I saw him pick up two bricks.

Q You did not tell that in the police court? A. No sir.

Q Did you tell that in your examination before the Coroner? A. Yes sir.

By the Court:

Q You were examined before the Coroner? A. Yes sir.

Mr. Pentecost: We have the stenographic notes of the Coroner's inquest.

Mr. Osborne: She never told me about it until this day.

Q Are you sure that you testified about seeing Della pick up those two bricks when you testified before the Coroner ?

A. I am positive I did.

By the Court:

Q Do you know where the Coroner's office is ? A. I know -- over there (indicating).

Q Where is it ? A. The Coroner's office is opposite the Court House.

Q You saw the bricks ? A. Yes sir.

Q Sure about that ? A. Yes sir.

By Mr. Pentecost:

Q ~~You~~ testified at the police court or before the Coroner that you saw Della throw two bricks at Doerer ? A. Yes sir.

Q Is not this what you testified to before the Coroner "Q. Were you in the neighborhood when this affray took place?

A. I was sitting in the door nursing my child and Doerer was standing in front of the stand talking to Green. I saw this Hooker come across the street and when he got on the curbstone he fired this brick, and it struck young Doerer on the left side of the head. He fell; before I could say "Look out, John" he had fallen." -- Is that right ?

A. Yes sir.

Q "Q. You saw Hooker throw the bricks ? A. Yes." That is

CASE # 39

correct, is it ? A. Yes sir.

Q Did you say anything about two bricks when you testified before the Coroner ?

Objected to as ~~unfair~~. improper.

By the Court:

Q Did you say before the Coroner that you saw him with two bricks ? A. I said the first brick struck him in the head, and when the second brick was fired it struck him in the side.

By Mr. Pentecost:

Q You said that before the Coroner ? A. I am positive I did. But whether I said to the Coroner he took the two bricks out of the pile, I am not positive I told him that.

Q Tell us how long you were sitting in your door that evening with your child ? A. Couldn't say exactly how long I was sitting there; it was warm weather.

Q Was it ten minutes or an hour ? A. I guess it was more than half an hour.

Q Before this thing took place, did you see anyone else at Green's stand ? A. I did not.

Q You saw Doeser talking to Green and nobody else ? A. That is all I saw at the time; I didn't see any other person.

Q Who was with you on the stoop ? A. Mrs. Talbot.

Q Standing in your doorway you can look up Minetta Lane quite a distance ? A. No sir.

Q Can't you see up Minetta Lane from your door ? A. No sir. I say if you go in front of No. 5 you can look up there quite a distance.

Q You can see some distance up there ? A. Yes sir.

Q You can see John Doerer's door from your house? A. No sir; cannot see his door but can see his house.

Q That blue door, you can see that from No. 7 ? A. Yes.

Q You can look up Minetta Lane as far as 25, can't you ? A. Yes.

Q Did you pay any attention to Minetta Lane during the time you were sitting there with your child ? A. No sir; I was not looking for nothing like that at all. It did not occur to my mind at all.

Q Was your attention attracted up Minetta Lane ten or fifteen minutes before that ? A. No sir.

By a Juryman:

Q You say you saw him pick up the bricks and fire ? A. Yes.

Q Where did he go after he fired that ? A. Up the lane, Minetta Lane.

By the Court:

Q This was half an hour before it happened ? A. Yes sir.

CASE # 39

JAMES F. THOMPSON, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

- Q You are connected with what precinct? A. Fifteenth Precinct, Municipal force of this city.
- Q Do you know Stephen A. Hooker the defendant? A. Yes sir.
- Q How long have you known him? A. About five years, I guess.
- Q Did you have some talk with him some time before the 15th of August? A. About three weeks previous, I believe.
- Q Just state it?

Objected to.

The Court: If it is something immaterial to this case, it can be stricken out.

Mr. Osborne: It is something in relation to the deceased, and something to do with this matter.

The Court: Mr. Pentecost, suppose this man made a threat three weeks before the 15th of August to do some act of violence, that would be admissible wouldn't it? All I can say is this, that I cannot determine whether the conversation is material until I hear it, and then I will entertain a motion to strike it out if it is immaterial.

- Q State the conversation you had with defendant? A. He met

me in Bleecker Street, and he said "John Doeser is going to put you on to me". I said "What for?" he said "We have had some words." I was in a hurry to go to the barber's shop, and I said "I will see you again."

Mr. Pentecost: I move to strike out the conversation.

By the Court:

Q Is that all he said? A. Yes sir.

The Court: Strike it out. The jury will disregard what the officer stated.

By Mr. Osborne:

Q On the night in question, the 15th of August, state what you saw and what was done? A. I was on the post of McDougal Street, Minetta Lane and Minetta Street. I was coming down McDougal Street, and I saw the prisoner Hooker run through from Third Street and up McDougal Street -- running.

Q Was anybody running after him? A. There was a crowd some distance behind him running and he was running. He ran down through Fourth Street.

Q Where did he run? A. He ran up McDougal Street and then through Fourth Street. I ran after him.

Q Where did you start in on the chase? A. Ran to Sixth

Avenue, and up Sixth Avenue to Washington Place where I ran near him and called upon him to stop which he did. Then I arrested him.

By the Court:

Q What time was that? A. About seven o'clock in the evening.

Q What time did you go on duty? A. Six o'clock.

By Mr. Osborne:

Q State what was said and done? A. I asked the prisoner what the trouble was, and he said he had a fight with Doeser. So I brought him down Sixth Avenue and turned him over. Some one in the crowd shouted that he had hit a man with a brick and killed him. I turned the prisoner over to Officer Perry of the 9th precinct.

✓ Q Did he say anything else excepting ^{he} had a fight? A. No sir.

Q Did you ask him anything? A. No sir. Somebody said he had hit a man with a brick and had killed him and he made no reply.

Q At the time you saw the prisoner running was anybody running after him? A. There was a crowd some distance behind him.

Q Did you hear the crowd say anything? A. No sir. As soon as I saw the crowd and him running I ran after him.

Q Where did you join in the chase? A. From McDougal Street.

By the Court:

03114

- Q When you got the man under arrest did you take him to the lock-up ? A. No sir; took him down Sixth Avenue, and turned him over to Officer Perry.
- Q And that ended your duty ? A. I went to the house with Officer Perry.
- Q Where did you meet Officer Perry ? A. On Sixth Avenue near Third Street.
- Q Why did you turn him over to Officer Perry ? A. It happened on Officer Perry's post.
- Q Then where did you go ? A. To 25 Minetta Lane.
- Q Did you see deceased there then ? A. Yes sir.
- Q What was said by the deceased in the presence of the prisoner at that time, if anything ? A. The prisoner claimed he was hit on the head with a brick.
- Q The prisoner ? A. No sir, the deceased.
- Q What did you hear ? A. I did not hear the conversation; heard that much; there was quite a crowd in the room.
- Q You heard the deceased say he hit him on the head with a brick ? A. Yes.
- Q Did you hear anything else ? A. No sir.
- Q What was the next thing that was done ? A. Officer Perry took the prisoner and complainant, the deceased, to the stationhouse.

CASE # 39

Q Did you go with them ? A. No sir.

Q Was your duty ended at the house -- is that right ?

A. Yes sir.

CROSS EXAMINATION by Mr. Pentecost:

Q Do you remember that it was about seven o'clock when you made this arrest ? A. About that, in the neighborhood of seven o'clock.

Q Have you any way in which you can say whether you know it was seven o'clock or not -- did you notice the time in any way ? A. I asked the time after I arrived at 25 Minetta Lane, and it was then about 25 minutes or half past seven.

Q You are sure it was about that, that it was 25 minutes or half past seven ? A. Yes sir.

THOMAS PERRY, a witness, called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Osborne:

Q Are you a member of the municipal force of this city ?

A. Yes, the 9th precinct.

By the Court:

Q You know Officer Thompson ? A. Yes sir.

Q Did you receive the defendant from Officer Thompson on the evening of the 15th of August ? A. Yes sir.

Q Where ? A. Opposite Third Street on Sixth Avenue, about that.

By Mr. Osborne:

Q Where were you on the evening of the 15th of August ?

A. I was on the post on Carmine Street and Sixth Avenue from Fourth Street to Houston from six o'clock to twelve.

Q About what time was it you saw Officer Thompson with the defendant ? A. About a quarter after seven I judge.

Q Where did you go ? A. To John Doerer's house in Minetta Lane.

Q Did you see John Doerer that afternoon ? A. I saw him that evening at the house; did not see him before.

By the Court:

Q When you brought the prisoner to Doerer's house did you see the deceased ? A. Yes.

Q Where was the other officer ? A. He wasn't there.

By Mr. Osborne:

Q Did you see John Doerer laying on the sidewalk ? A. Yes.

Q What did you do with him ? A. I helped pick him up.

Q Did you see any bricks about there ? A. I think I saw two half bricks.

Q What did you do with John Doerer ? A. I left him there and went in the direction that defendant ran to Third Street

0316

CASE # 39

- Q Did you see Hooker ? A. Not until he was brought to me by Thompson.
- Q Did you see anybody running ? A. I saw a crowd running through Third Street.
- Q What did you next see with regard to defendant ? A. I came back and by the time I got back they had taken Doeser to his house. I walked up Sixth Avenue. By that time I saw a crowd coming back; they had caught him. Officer Thompson had the prisoner and handed him over to me. I brought the prisoner to John Doeser's house.
- Q Did you take him before ~~Magn~~ John Doeser ? A. I did.
- Q Did you say anything ? A. I asked John ~~Doeser~~ Doeser if this was the man who hit him; he said yes.
- Q Did he say anything more besides that ? A. No sir, he did not; I asked him if he was able to go to the stationhouse; he said yes. I said "Does your head hurt you?" He said it was the prisoner hit him with a brick.
- Q What did you do ? A. I asked him if he was able to go to the stationhouse; he said yes; I said "Don't your head hurt" He said "It hurts a little" So I started across Sixth Avenue to Carmine and from Carmine to Bleecker down to the stationhouse. I had the defendant and Doeser walked behind.
- Q Did you take him to the stationhouse ? A. All hands went

to the stationhouse, the prisoner, Doeser and I.

- Q When you got to the stationhouse was the charge made against the defendant ? A. Yes, of assault. At the stationhouse he didn't say anything that I remember; he did not deny it. The deceased went out with a couple of women. I don't know where he went to.

By the Court:

- Q Didn't the sergeant say you had better take him over to the hospital ? A. I was searching the prisoner at the time.
- Q You took this defendant to the stationhouse -- what stationhouse ? A. 9th precinct in ^{Charles} ~~Neater~~ Street. There was a sergeant behind the desk. I took him before the sergeant. The deceased was there then.
- Q What charge was made against the defendant ? A. Doeser made the charge of assault against Hooker; he said that Stephen Hooker hit him with a brick on the side of the head.
- Q What else ? A. That is all I can remember.
- Q Then I suppose the sergeant told you to take him and lock him up ? A. Told me to search him. I searched him and found nothing but a packet of cigarettes and a handkerchief. Searched him in front of the desk.
- Q After you searched him what did you do then ? A. The prisoner went outside. They rang for a doorman and he took

CASE # 39

him downstairs. Before I went out on the post the deceased had went out. Don't know where he went to.

By Mr. Osborne:

Q On the way to the stationhouse from Minetta Lane did you have any talk with the prisoner? A. Yes sir.

Q What was it? A. I asked him why he hit this man; he said he did it in self-defense. I asked him what he called self-defense; he said that Doeser hit him with a brick in the afternoon in the calf of the leg. I said "Did you have any trouble at the stand?" He said no, but in the afternoon he did.

Q State about the trouble in the afternoon -- what he said? A. He said there were some boys wrestling and they bunched against Doeser's door and Doeser came out and blamed him and slapped his face and threw a brick at him which hit him in the calf of the leg.

CROSS EXAMINATION by Mr. Pentecost:

Q Did you take any particular notice of Doeser's head or face at that time? A. No sir.

Q Did you see any blood running out of his ears? A. No sir.

Q If there had been blood running out of his ears, would you have seen it? A. I may not.

Q What time was it when you got to Doeser's house with the

CASE # 39

other officer ? A. The other officer was not with me.
When he delivered the prisoner to me he left me and went
back on his post.

By the Court:

Q What time was it you brought the prisoner into the station-
house ? A. At 7.40.

By Mr. Pentecost:

Q Was not Officer Thompson with you when you went to Doerer's?
A. He may have been there; there was a crowd of people
around; the room was small.

P e o p l e R e s t .

Mr. Pentecost opened for the defense.

The Court gave the usual admonition to the
jury.

Adjourned until to-morrow morning at 11 A. M.

New York, November 14th, 1893.

TRIAL RESUMED.

FRANK E. TOWLE, a witness called on behalf of The People, being duly sworn, testified as follows:

Direct Examination.

By Mr. Osborne:

Q Mr. Towle, what is your business?

A. City surveyor.

Q How long have you been engaged in that business?

A. About twenty-three years.

Q Do you understand the making of surveys? A. Yes, sir.

Q And have made a great many in this city? A. Yes, sir.

By the Court:

Q Did you make that survey which is produced? A. Yes, sir.

Q That is a diagram showing Minetta Lane? A. Yes, sir.

Q From Sixth avenue; is it not? A. Yes, sir.

Q It shows both sides of Minetta Lane? A. Yes, sir.

Q And also shows the side-walk on Sixth avenue?

A. Yes, sir.

Q Both sides? A. Yes, sir.

Q Is that a correct diagram of the premises described upon it?

A. Yes, sir.

Q And the distances indicated upon that, in red ink, are cor-

CASE # 39

rect; are they not?

A. Yes, sir.

Q And the scale to which you made those measurements is ten feet to one inch?

A. Yes, sir.

By Mr. Osborne:

Q Look at that diagram and tell me how wide the curb line is?

A. Thirty feet to an inch.

Q How wide is it from curb to curb?

A. Fifteen feet.

Cross Examination.

By Mr. Pentecost:

Q Doesn't Carmine street go off here, corresponding to that angle?

A. Well, further down, but it doesn't show on that map.

Q Further down on the map?

A. Yes, sir.

Q Are you familiar with that neighborhood, Mr. Towle?

A. No, sir, I am not very familiar with it.

Q Do you know whether there are new buildings on Carmine street, around this corner?

A. I couldn't tell you; I didn't notice it yesterday.

Q On a part of Carmine street?

A. I didn't notice it.

Q You don't know whether there are new buildings there or not?

A. No, sir.

The diagram referred to was offered in evidence,

CASE # 39

admitted, and marked People's Exhibit No. 1 of this date.

STEPHEN A. HOOKER, THE DEFENDANT, was called to the witness-stand and sworn.

Mr. Pentecost: I will withdraw this witness, for the present, and call another witness.

WILLIAM MCKENZIE, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination.

By Mr. Pentecost:

Q Where do you live, Mr. McKenzie? A. 233 Monmouth street.

Q Do you remember the afternoon of the 15th of August last?

A. Yes, sir.

Q Where were you in the afternoon of that day?

A. I was in Minetta Lane.

Q Do you remember being in front of John Dozier's place on the afternoon of that day? A. Yes, sir.

Q Who was with you? A. Stephen Hooker, a boy named Willie Jackson, and another named Henry Washington.

Q Who else was with you, if anybody? A. Well, those

CASE # 39

three I can remember perfectly.

Q Were there more boys there? A. Yes, sir; there were several others.

Q That was in front of No. 25 Minetta Lane; was it?

A. Yes, sir, I think that is the number.

Q What time did you get to that place, in front of No. 25?

A. It must have been a little after 4, I believe.

Q A little after 4? A. Yes, sir.

Q How long did you stay there? A. Well, it must have been nearly 5 o'clock or so.

Q You were there between 4 and 5 o'clock?

A. Yes, sir.

Q As nearly as you can remember? A. Yes, sir.

Q Now, while you were there, what did you do, and what happened, if anything? Just proceed to tell the Court and Jury?

CASE # 39

0325

Q Just proceed now and tell the Court and jury what happened while you and these other boys were there? A. Well we stood there in the street for some time and the boys commenced to shoot dice, and after they got through shottng they sat down; well there was several of them went on the other side of the street, nand went along about their business. I sat down on the stoop myself.

Q What stoop? A. Well, there was a barber shop there before but there was none there then, and that was where this Mr. Dozier was supposed to have lived.

Q Opposite No. 25? A. No, sir, I dont know the number of the house.

Q Was it John Dozier's stoop? A. That is the stoop. It is supposed to have been his.

Q John Dozier's stoop? A. Yes, sir.

Q Not across the street? A. No, sir, on that stoop. There were two others sat on the stoop that was the boy Hooker and a boy named Jackson. Henry Washington was on the sidewalk. They stood there and commenced fooling, this Henry Washington and a boy called Jackson, and this boy Washington took this boy Jackson by the shoulders and shoved him against this door and bursted the door open. Then I believe the girl, Birdie Dozier went sinside and told her father the boy was out there and bursted in his door; he came right around

CASE # 39

there.

- Q The father did ? A. Yes, sir/ Mr. Dozier did and all the boys got out, there was myself and this boy Jackson; he came there To Delly , he got up and commenced to slap him.
- Q That is the defendant ? A. Yes, sir; Stepehn Hooker.
- Q He slapped him ? A. Yes, sir; he hit him three or four times and he was about to kick him when this boy Henry Washington grabbed hold of him and said "Dont kick him; with that this boy Hooker ran and got a piece of watermelon rind and threw it at him; he did not hit him and he got a brick and threw that at him and he did not hit him with that brick.
- Q Who ? A. The defendant . Mr. Dozier picked up the brick and ran after Delly, threw the brick at him and hit him in the leg; his leg was swollen up ; Hooker turned around and came back; Dozier went into the saloon on the corner and stayed in there for some time; of course he did not come out, and this Hooker went around in Minettal Lane with myself.
- Q That was the end of that ? A. Yes, sir .
- Q Did Hooker say anything to Dozier during this trouble that they had ? A. No, sir .
- Q Try and think so as to be careful. You remember everything that happened when Dozier came around the corner of the yard there. Did he say anything to Hooker at all? A. Well not that I remember .

CASE # 39

0327

Q Did you hear any conversation at all when Dozier came around, did you hear anything? A. Yes, sir that is what he said to him "What are you doing here?".

Q Who said that? A. Dozier.

Q "What are you doing here?" A. Yes, sir.

Q Anything else? A. Delly stood there and did not say anything to him and of course that angered him and he struck him.

Q The defendant said nothing? A. No, sir.

Q Are you sure that was all that was said between the two?

A Yes, sir, that is as far as I can remember.

Q Now, you say that Dozier chased Hooker up 6th avenue?

A Yes, sir.

Q Did you go up Sixth Avenue at the same time? A. Yes, sir.

Q Did you see anything that happened in Sixth Avenue? A. The only thing that I seen was that Dozier threw this brick at Delly, and hit him with it.

Q He hit him with the brick? A. Yes, sir.

Q Where was he when he hit him? A. Delly was near Third Street on 6th avenue.

Q Did you see what part of the body he hit Delly on?

A He hit him in the calf of the leg.

Q Do you know anything about the affair that occurred in the evening at all? A. No, sir, I do not.

CASE # 39

Q That is all you know about it ? A. Yes, sir .

Q What you have told ? A. Yes, sir .

CROSS EXAMINATION by Mr. Osborne: .

Q I understood you to say that Hooker ran away and that he came back immediately ? Is that right ? A. He came back after Mr. Dozier went into this saloon; Hooker came back and went to the Lane.

Q Right into Minetta Lane ? A. Yes, sir .

Q When Dozier came out he went up and told Hooker to get away, is that right ? A. He came out and he asked him "What are you doing there?" .

Q Hooker did not say anything ? A. No, sir . Hooker did not say anything .

Q Then he slapped him, is that right ? A. Yes, sir .

Q He did not say to him "You bald headed old son of a bitch, I will not go away until I get good and ready"? A. No, sir he did not .

Q Dozier said to him "Get away from here", and because Hooker did not say a word he hit him, is that right ? A. Yes, sir.

Q After he had hit him because he did not say anything, then he kicked him ? A. He was about to kick him .

Q He was about to kick him, and Dozier got mad because Hooker did not answer him? A. It sounded something like that.

CASE # 39

- Q The man came out quietly and easily and said to the boy "Get away from here?" is that right? A. No, sir he said "What are you doing here?".
- Q And then because the boy did not answer him he slapped him, ~~is~~ that right? A. Yes, sir.
- Q And then after he had slapped him what did the boy say?
- A He did not say anything at all.
- Q Then, didn't he call him and old bald headed son of a bitch?
- A No, sir.
- Q Are you sure of that? A. Yes, sir.
- Q Then he started to kick him? A. Yes, sir.
- Q Now after he kicked him what made Delly run,? A. He did not ~~xxx~~ kick him.
- Q What made Delly run? A. He was not going to stand there, I suppose, and let that man try to beat him more.
- Q Didn't you say that Washington caught hold of him and told him not to kick him? A. He says "Dont'kick him".
- Q Then Delly ran? A. Yes, sir, he got out of the way.
- Q He ran and got the watermelon rind? A. First he threw this watermelon rind at him, and then he went and got this brick and threw it at him.
- By the COURT:
- Q Where did he get the brick from? A. Near the corner of 6th Avenue.

CASE # 39

- Q In the lane ? A. Yes, sir .
- Q Out of a pile of bricks ? A. No, sir, laying in the street .
- Q Laying in the street ? A. Yes, sir .
- Q Was it a big brick ? A. No, sir, a small piece .
- Q A piece of brick ? A. Yes, sir about so large (indicating)
- Q He threw that at this man Dozier ? A. Yes, sir .
- Q And did not hit him ? A. No, sir .
- Q Where was Dozier ? A. Standing near that gate .
- Q Where was he standing when he threw that brick at him ?
- A He stood in the middle of the street .
- Q In the middle of Minetta Lane ? A. Yes, sir .
- Q That Lane is a narrow lane ? A. Yes, sir .
- Q And didn't Dozier dodge that brick ? A. Yes, sir .
- Q And then Delly took up the watermelon, is that it ?
- A Yes, sir, he threw the watermelon first .
- Q Then he took the brick ? A. Yes, sir .
- Q And then what was the next thing that was done ?
- A He threw the brick at him, and the Dozier picked up the brick, the same brick, and Delly ran up Sixth Avenue to Third St.
- Q The defendant threw the brick at him ? A. Yes, sir .
- Q Right on Sixth Avenue ? A. Yes, sir .
- Q How close were you to him ? A. Well, I stood on the corner.
- Q You stood on the corner of 3rd street ? A. On the corner of Minetta Lane .

CASE # 39

- Q How far is Minetta Lane from 3rd street ? A. One block.
- Q You watched him down at the corner of Third Street, a block away throw it ? A. Dozier stood about midway in the block, and Dellyn was near the corner; he threw the brick at Delly and hit him in the leg.
- Q Delly was running away ? A. Yes, sir .
- Q Where did the brick hit him ? A. In the leg; I said in the calf of the leg .
- Q It hit him in the calf of the leg ? A. Yes sir .
- QX You saw all that ? A. Yes, sir
- Q And you were a half a block away ? A. Yes, sir .
- Q Did Delly continue to run after that ? A. No, sir; he stopped and turned around and came back; Dozier walked right back to the saloon.
- Q Where was the saloon ? A. On the corner of the Lane and 6th avenue.
- Q Delly came back again ? A. Yes, sir .
- Q He walked around the lane and stayed there ? A. Yes, sir.
- Q Did you ? A. Yes, sir .
- Q How much longer did he stay there ? A. Well, I don't know because then it was about nearly five o'clock and I went up to supper in my house .
- Q How long did you stay there in the Lane after this ?
- A I could not tell you .

CASE # 39

- Q About how long ? A. I dont know .
- Q About an hour ? A. I dont know, no, sir.
- Q You went in your own house and left him there ? A. Yes, sir .
- Q Did you see anybody else there ? A. Only these boys.
- Q Did you see Mr. Toussaint Vogelsang there ? A. No, sir, I dont remember of having seen him there .
- Q Do you know him ? A. Yes, sir .
- Q Did you see Mrs. Martha Pell there ? A. No, sir .
- Q Did you see her there atball that day ? A. No, sir, I only seen her in the early part of the afternoon.
- Q You did not see her about there when this trouble was ?
- A No, sir .
- By a Juror:
- Q When this boy Washington shoved this other boy through the window, what did these other boys do then? A. Jackson was shoved in the door and they stood there until Dozier came around and then, of course, the boys got up.
- Q They shoved Washington through Dozier's door ? A. Yes, sir, they shoved him up against the door and burst the door open.
- Q How soon after that did Mr. Dozier come out ? A. Well, it must have been about seven minutes or so .

CASE # 39

- Q Sen minutes ? A: Yes, sir, in a minute or som he came out.
- Q He came out ? A. Yes, sir .
- Q What became of Washington ? A. Washington stepped out in the middle of sthe street. I stepped down there, and this boy Jackson went on down the street .
- Q Did Washington see the brick thrown ? A. Yes, sir .
- Q And Jackson saw the brick thrown ? A. Well, I known nothing about Jackson, I could not tell you .
- Q You could not tell anything about Washington ? A. I seen Washington stand on the corner when I stood there .
- Q You dont know whether Jackson saw the brick thrown or not ? A. No, sir .
- Q Did the boys run when Dozier came out ? A. Yes, sir .
- Q How far did they run ? A. Well, only about a few feet away from where the stoop was; there was a slanting door there, a cellar door and I stood on ther other side of the cellar door.
- Q You could hear ,verything Dozier said ? A. Yes, sir .

By MR. Osborne:

- Q Washington is a man ? A. Yes, sir, he is a young man, he must be about nineteen years old .

By MR. Pentecost:

- Q How long is that block from Minetta Lane to Third Street ?
- A I think it is about 65 or 70 yards.
- Q About 65 or 70 yards ? A. Yes, sir .

CASE # 39

Q Do you know about how many houses there are in that block between Minetta Lane and 3rd street ? A. About nine.

Q Along 6th avenue ? A. Yes, sir, about nine houses.

By Mr. Osborne:

Q You say that when Dozier came out all of those boys ran except Hooker ? A. Yes, sir .

Q He stayed ? A. Yes, sir .

Q You all only ran a few feet away about ten or fifteen ?

A Yes, sir .

Q Dozier could have hit any of you if he wanted to, couldn't he?

A Yes, sir.

Q He did not do it ? A. No, sir .

Q Had he any grudge against Hooker, do you know ?

A Not as I know of .

JOHN VOGELSANG, a witness for the defendant was called to the stand and sworn:

Mr. Pentecost: After consultation with my associates I wish to withdraw this witness and put him on bye and bye. Your Honor understands, no doubt, that Mr. Perlinger is the counsel for the co-defendants in this case, and there are some two or three witnesses whom we wish to put onnnnw with whom he is familiar, and I am going to ask you to allow him to examine them.

The Court : Yes.

CASE # 39

BERTHA HAYES, a witness called on behalf of the defendant,
being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Berlinger:

- Q Are you a married lady? A. Yes, sir.
- Q What is your husband's name? A. George Hayes.
- Q Where do you live, Mrs. Hayes? A. No. 213 Sullivan St.
- Q Have you a family? A. Yes, sir.
- Q Do you know a man named Vogelsang? A. Yes, sir.
- Q Toussaint Vogelsang? A. Yes, sir.
- Q How long have you known him? A. Well, I have known him about three or four years.
- Q Have you given us your address? A. Yes, sir.
- Q In Sullivan Street? A. Yes, sir.
- Q Do you remember the 15th day of August last? A. Yes, sir.
- Q You do? A. Yes, sir.
- Q Was Toussaint in your house that day? A. Yes, sir.
- Q Will you be kind enough please to tell us when he came, what time of the day? A. About eleven o'clock in the morning.
- Q How long did he remain there? A. Till between half past seven and eight o'clock he went away.
- Q At night? A. Yes, sir.
- Q Were you at home all the afternoon, madam? A. Yes, sir.
- Q Are you related to Mrs. Barbara Wilkes? A. Yes, sir.
- Q By marriage? A. Yes, sir.

CASE # 39

Q What is the relationship, if you please? A. Mother in law.

Q Mrs. Wilkes is your mother in law? A. Yes, sir.

CROSS EXAMINATION by Mr. Osborne:

Q Do you know the day of the week the 15th of August occurred on? A. Yes, sir.

Q What day was it? A. Tuesday.

Q When did you find that out? A. I knew that all the time.

Q How did you happen to recollect that day any more than any other day? A. Well, because I met the young man Monday night and he asked me to call around and see ~~my~~ my husband Tuesday.

Q What time did he come on Tuesday? A. About eleven o'clock.

Q When was he arrested? A. I don't know.

Q You don't know the day he was arrested? A. No sir, he was arrested that evening, I could not tell you what time.

Q After he left your house? A. Yes, sir.

Q But you know it was the 15th of August? A. Yes, sir.

Q You have no way of fixing it, except because you know it?

A Because I do know it.

By Mr. Berlinger:

Q Have you no way of fixing only, as Mr. Osborne says, because you do know it, or has nothing transpired that day?

A Nothing at all.

CASE # 39

Q Nothing at all ? A. Nothing at all .

Q What kind of a day was it ? A. It was a clear day .

Q A fine clear day ? A. Yes, sir.

By the COURT:

Q What were you doing all this time, from ~~xxxxxxx~~ eleven o'clock until half past seven, did you go out at all?

A No, sir, I did not leave the house .

Q You did not leave the house ? A. He only went out once when I sent him to the baker's .

Q What time did you send him to the bakers? A. About twelve o'clock.

Q What time did he get back from the bakers ? A. He came back between twelve and half past twelve. I dont know exactly what time.

Q Did he go out again ? A. No, sir.

Q A moment ago you said he did not leave there from eleven o'clock until half past seven or eight? A. Only to go home.

Q He went out to the bakers ? A. Yes, sir .

Q Did you go out at all ? A. No, sir, I did not.

Q Are you sure about that ? A . Yes, sir.

Q You stayed in that house all the time from eleven o'clock until half past seven ? A. Yes, sir .

CASE # 39

Q Where did you go to at half past seven ? A. I did not leave the house that day .

Q Or that night ? A. No, sir .

Q What time did your husband come back ? A. A. A little after six; he leaves the store at six o'clock .

Q Was Vogelsang in the house when your husband got there ?

A Yes, sir .

Q And e saw him did he ? A. Yes, sir .

Q At half past six ? A. No, sir; he came before half past six .

Q Whattine did he come ? A. I cannot tell the extact time; he leaves the store stat six.

Q What time did he get to your house ? A. That I dont know.

Q Did he get there before Vogelsang left ? A. Yes, sir.

Q Are our sure about that ? A. Ues, sir, I am sure .

Q Why cant you tell what time he got there ? A. Becuase I did not notice the clock when he came in .

Q Bid you notice the clock when Voglesang went out ??

A No, sir .

Q How do you know what time it was ? A. Between half past seven and eight o'clock .

Q You did not notica the clokc ? A. No, sir .

Q You cannot tell when your husband came in ? A. He came in after six, I dont know just the time .

0336

CASE # 39

Q What time was Vogelsang arrested ? A. I cannot say .

Q Who told you he was arrested ? A. I did not hear about it until the next morning, Mrs. Nichols told me about it the next morning; she went out and heard he was arrested .

By Mr. Osborne:

Q What did you do all that day ? A. Sewing .

Q Sewing ? A. Yes, sir .

Q What was Vogelsang doing all that day ? A. Sitting there at the window reading a book .

Q All day long ? A. Yes, sir .

Q Until half past seven o'clock ? A. Until half past seven o'clock .

Q From eleven o'clock until half past seven ? A. Yes, sir .

Q He ceased reading the book when he went to the bakers ?

A Yes, sir; all the other time he was reading the book.

By Mr. Berlinger:

Q Mrs. Nichols, you say, told you the next day that Vogelsang was arrested ? A. On Thursday she told me that Vogelsang was arrested .

Q Did she say anything about why he was arrested, or what had been the cause of his arrest ? A. Mrs. Nichols told me she heard that Vogelsang was connected with this murder in some way. and that is why .

CASE # 39

- Q The murder of whom ? A. Of John Dozier.
- Q Now, after giving me that answer you now remember why you fix the 15th of August ? A. No, sir .
- Q That he was in your house ? A. No, sir, I know it was on a Tuesday, because I met him Monday night.
- Q Has the assault upon Mr. Dozier anything to do with your memory as to the date ? A. No, sir, I dont know .
- Q Nothing at all ? A. No, sir.

JANE NICHOLS, a witness, called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by MR. Berlinger:

- Q Where do you live ? A. No. 213 Sullivan Street .
- Q Who do you live there with ? A. I keeps house .
- Q Are you all alone ? A. Nobody but my grandson.
- Q He lives there with you ? A. Yes, sir.
- Q Do you know Mrs. Hayes ? A. Yes, sir .
- Q Do you know where she lives ? A. Yes, sir, she lives in the basement, right under me .
- Q You live in the same house ? A. In the same house; I live on the first floor, and she lives in the basement .
- Q Do you know Toussaint Vogelsang ? A. Yes, sir.

CASE # 39

Q Do you know himlang?? A. Well, I gues I have known him off and on for about two or three years .

Q Do you remember the 15th of August last as well as you remember any day ? A. Yes, sir.

Q Now, tell me, Mrs. Nichols, did you see Toussaint on the 15th of August last ? A. Yes, sir, I saw him from two o'clock up until near eight o'clockm between seven and eight o'clock .

Q Where ? A. In No. 213 Sullivan street .

Q Those are the room s occupied by Mrs. Hayes ? A. Yes, sir.

By the COURT:

Q You live on the first floor ? A. Yes, sir .

Q And Mrs. Hayes lives in the basement ? A. Yes, sir .

Q You saw Toussaint Vogelsang at two o'clock ? A. I saw him coming through the hall and going into Mrs. Hayes.

Q He was coming through your hall ? A. We always come through the hall; we live in the rear house .

Q There is a front house and a rear house ? A. Yes, sir .

Q You live in the rear house ? A. Yes, sir .

Q You are on the first floor ? A. Yes, sir .

Q And Mrs. Hayes is in the basement ? A. Yes, sir .

Q Are there any steps going up to that house ? A. Into my house? The steps go right up the front.

CASE # 39

- Q The first floor ? A. Yes, sir; the steps go right up the front and turn into the room .
- Q You saw Tousaint Vogelsang in the hall ?
- A Coming through the hall going i to Mrs. Hayes .
- Q The n what did you see ? A. I went into my front room and at the window; I was standing in the hall then.
- Q He came in and got into Mrs. Hayes' at two o' clock? A. Yes, sir.
- Q Then when did you next see him ? A. The next time I seen him was about three .
- Q Where was he then ? A. Sitting in Mrs. Hayes' by the win-dow.
- Q How long did you see him sitting by the window? A. He was there when I went out in the street ~~about four~~ o'clock to the market to get some meat for my dinner, and when I came back I seen him sitting at the window with a book in his hand reading.
- Q What time did you come back ? A. He was sitting by the window.
- Q You had gone out to the market ? A. Yes, sir.
- Q When you came back what time was that ? A. I was gone about half an hour.
- Q Where did you see him? A. Sitting at the same place by the window.

CASE # 39

Q What doing ? A. He had a book in his hand.

By Mr. Berlinger:

Q You did not see him again that day ? A. Yes, sir .

Q Now tell us where you saw him in your own way ?

A I saw him going out between seven and eight o'clock.

Q You saw him going out between seven and eight o'clock ?

A Yes, sir, that evening.

Q Did you go into Mrs. Hayes' room at all that evening ?

A No, sir I spoke to her at the window; I just came right down-stairs.

Q When you spoke to Mrs. Hayes at her window you saw him in there ? A. Yes, sir, he was sitting right there at the window .

Q Are ou sure about that ? A. Yes, sir .

CROSS EXAMINATION by Mr. Osborne:

Q Did you hear Mrs. Hayes testify just a moment ago ?

A No, sir, I did not .

Q You have no way of fixing the 15th of August any better than any other day. Do you know the day Vogelsang was arrested A I A. I do not know it; I was only told of it.

Q He was arrested that same night ? A. No, sir, I did not hear of it until a day after that .

CASE # 39

- Q You heard he was arrested that night? A No, sir, I did not hear he was arrested that night.
- Q What night did you hear he was arrested? A. The day after I heard it.
- Q You heard it the next day? A. No, sir, not the next day.
- Q What makes you say it was the 15th of August? A. Well, because that morning I heard the man got killed, and it was on the 15th of August in the morning when I came out to the door in the hall.
- Q You don't read or write? A. No, sir, I don't read or write.
- Q You have no way of fixing that day any more than any other day?
- A No, sir.
- Q Somebody told you? A. About the 15th, when you rent a house you have to see about the rent.

By the Court:

- Q Did you talk to Mrs. Hayes about this? A. We talked about it.
- Q Did you tell Mrs. Hayes about seeing Toussaint that day? A. He was there, you know.
- Q Did you talk about it? A. We didn't have anything to say, only just spoke.
- Q Didn't you and Mrs. Hayes say that you remembered he was there on the 15th of August? A. Certainly, we remembered that.

CASE # 39

Q So then you talked together about it? A. I remembered it was the 15th.

Q When did you talk to her last? A. Not for some time now.

Q Be kind enough to tell me? A. I don't know as we had anything to say about it not for a month.

Q Then you talked it over? A. Only spoke.

Q What did she say to you about it? A. She only said he was there.

Q Did she ask you if you recollected seeing him on that day? A. She didn't need to ask me because I recollected it myself.

Q Did she ask you? A. No, sir, she did not ask me.

Q You told her you recollected it? A. Yes, sir.

Q What kind of a day was it? A. Do you mean what day of the week it was?

Q What day of the week was it? A. I don't know, I think it was a Tuesday.

Q What kind of a day was it? A. A pretty nice day as far as I can think.

Q Was it raining? A. No, sir, it was not raining, because I went out in the street.

Q Did you see Toussaint the day before in Mrs. Hayes' place?

A. The day before that, no, sir.

Q You never saw him before? A. I only saw him that day.

CASE # 39

0346

Q You never saw him before or since? A. She had not been long there and that is the first time he paid a visit to her.

Q Have you ever seen him before or since? A. No, sir, I have never seen him since.

By Mr. Osborne:

Q Did you recollect any body visiting Mrs. Hayes the day before that, on the 14th? A. No, sir, not as I know of, I don't recollect.

Q Nor the 13th? A. No, sir.

Q Do you recollect anybody going to see her on the 13th of August? A. No, sir, I don't recollect anybody coming to see her on the 13th, no, sir.

By Mr. Berlinger:

Q You don't remember anybody visiting Mrs. Hayes, that has been arrested for murder? A. I don't know.

Q That fact might call it to your memory? A. Yes, sir.

N E L L I E M O R G A N, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. Berlinger:

Q Where do you live? A. No. 34 Minetta Lane.

Q Do you know Toussaint Vogelsang? A. Yes, sir, I know him when I see him?

Q Are you a married lady? A. Yes, sir.

CASE # 39

- Q How long do you know Toussaint? A. About a year or two.
- Q On the 15th day of Augst last, did you see Toussaint?
- A. Yes, sir, I did.
- Q Where? A. At Bertna Hayes' house at eleven o'clock.
- Q Tell us how often you saw him? A. I saw him from eleven o'clock until half past four; at half past four o'clock I left and that is all I know about it.
- Q You were there in Mrs. Hayes' all the time, weren't you? A. I was there from eleven until half past four o'clock and at half past four o'clock I left.
- Q Did he go out at all during that time? A. No, sir, he did not go out at all, he stayed there reading a book.
- Q From eleven? A. Yes, sir, I left him right there with the book in his hands.
- Q Are you sure about that? A. Yes, sir.
- Q Did he go out to the bakery? A. Yes, sir, I think he did go to the bakery, I could not tell you, but I think he did go to the bakery one time and he came in; I left him there at half past four o'clock, he certainly was in Mrs. Hayes' sitting down reading a book when I left.
- Q You didn't look at any clock to see whether it was half past four o'clock? A. No, sir, when I went home it was half past four o'clock, when I got my supper it was half past four o'clock when I got home.

Q You got your supper? A. Yes, sir.

CROSS EXAMINATION by Mr. Osborne:

Q Did you say he went to the bakers? A. I think he went to the bakers; he went out one time and I don't know where he went, I think it was to the bakers.

Q How long was he out? A. I don't know, I could not tell you that.

Q Did you know Toussaint was arrested? A. I heard when he was arrested.

Q Did you hear he was arrested the night he was at Mrs. Hayes' house? A. No, sir, I didn't hear it; I knew he was arrested about Saturday, that was when I found out he was arrested.

Q Did you hear the day he was arrested? A. No, sir, I don't think so.

Q Was he arrested the day he was at Mrs. Hayes'? A. I could not tell.

Q How do you happen to recollect the 15th, if you don't know the day he was arrested? A. I could not tell you when he was arrested, but I know it was that day, the day of the fuss, of course, when I saw him ---- when the trouble was.

Q You saw Toussaint? A. Yes, sir, at Bertha's house for I went there and saw him.

Q You don't know whether it was the day that Toussaint was arrest

0348
CASE # 39

ed that you saw him at Mrs. Hayes' house or not? A. I knew it was the day the trouble was, you won't get any more out of me, that is all I know and that is all you can get out of me.

By Mr. Berlinger:

Q That is just as you told it to me this morning? A. Yes, sir, that is all I know, I don't know any more.

By the Court:

Q You know Mrs. Nichols, don't you? A. Yes, sir, when I see her.

Q She lives in the same house with Mrs. Hayes? A. yes, sir.

Q She lives on the first floor and Mrs. Hayes lives in the basement? A. I could not tell you where she lives, but I know she lives in the same house, I have never been in her house.

Q Did you see Mrs. Nichols that day? A. No, sir, I told you all I know, I don't know any more.

Q You will answer me, and I will be very polite? A. I am very polite too, but I don't know any more.

Q Did you see Mrs. Nichols that day? A. She said she went out that day.

Q Tell me if you saw Mrs. Nichols? A. No, sir, I don't think I did see her.

Q Did you see her talking to Mrs. Hayes at the window? A. No,

CASE # 39

sir. I just told you all I know about it, I haven't any more to tell you.

Q You were there from 11 o'clock until half-past four? A. Yes, sir.

By Mr. Osborne:

Q You didn't see any fight, did you? A. I told you all I know.

Q Did you see any of the fight? A. No, sir, I don't know anything about a fight.

Q You were not there when it occurred? A. No, sir, I don't know anything about it at all.

Q Not a thing? A. No, sir.

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

CASE # 39

1

After Recess

151

MALVINA LINDSAY, a witness called on behalf of
the defendant, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

By Mr. Pentecost:

Q Where do you live, Mrs. Lindsay? A. 15 Minetta street.

Q Do you remember the 15th day of last August?

A. I do.

Q Do you know Martha Pell, Mrs. Martha Pell? A. Yes, sir.

The Court: Who?

Mr. Pentecost: Mrs. Martha Pell.

Q Did you see Mrs. Pell on that day? A. I did.

Q At what time in the day? A. I seen her in the
morning, between half-past 7 and 8 o'clock , and I didn't
see her no more until in the afternoon, at 5 o'clock, be-
cause I was in the house all day; and I went down stairs at
5 o'clock; she was in her room, laying on the sofa, by her-
self, and I went in and spoke to her.

By the Court:

Q At what time -- 5 o'clock? A. At 5 o'clock; I
went in the street, and I went around Cornelia street, and
then I came back and it was half-past 6; and I went in and
spoke to her again; I says, "My! you are still sleeping, but

CASE # 39

9352

152

2

you are no comfort to me; I am going up stairs;" so I went on up in the house. I didn't see her no more until about 7 or 8 o'clock, when I was looking out of the window, and she was going out. I hollered for her. I says, "Where are you going?" She says, "I will be right back." A little girl come to her, crying, and she says, "What is the matter?"

Mr. Osborne: Never mind that.

A. Anyhow, she went up the Lane; so I heard her quarreling up the Lane-----

By the Court:

Q What lane? A. Minetta Lane; and I says to a little boy I am going to see what was the matter.

Q You heard her quarreling up the lane?

A. Yes, sir, and I came right down stairs. By the time I got to the stoop, she was back.

Q What time was that? A. Well, it must have been 8 o'clock.

By Mr. Pentecost:

Q Now, where does Mrs. Pell live? A. 15 Minetta street.

Q In the same house with you? A. She lives on the second, and I live on the third floor.

Q Now, when she came back at 8 o'clock, about 8 o'clock, she

CASE # 39

had been out of the house how long?

A. About ten or fifteen minutes.

Q About ten or fifteen minutes?

A. Yes, sir.

Q Did you see her all the time that she was out of the house, or did you not see her?

A. Did I see her all the time that she was out of the house or did I not see her?

Q Yes; she passed out of your sight?

A. Yes, sir, she passed out of my sight. I put on my shoes, of course, and went down stairs; I couldn't see her at first.

Q This quarreling that you heard had nothing to do with her; had it?

The Court: Oh, no, she said that she heard Mrs. Pell quarreling.

Q Did you say that you heard her quarreling, or that you heard a quarrel?

A. I heard Mrs. Pell quarreling about the child.

Mr. Pentecost: I was mistaken, your Honor.

Q Now, do you know what she was quarreling about?

(Objected to, as irrelevant and immaterial.)

The Court: Say yes or no.

A. Yes, sir.

Q Do you know what she was quarreling about? A. Yes, sir.

0354

154

4

By Mr. Pentecost:

Q Was she quarreling about anything that had to do with the Dozier trouble?

(Objected to)

A. What do you mean?

By the Court:

Q Was she fighting with anybody, or was it words?

A. Just words.

Q Just words?

A. Just words.

Q Were you there at the time?

A. I tell you I

was coming down stairs.

Q When she was quarreling?

A. Quarreling where?

Q Where you say she was?

A. No, sir; I was looking

out of the window and heard her.

Q She was right down under the window?

A. No, sir; she was in the lane, and I was in Minetta street.

Q How far away from you?

A. A good distance.

Q Quite a distance?

A. Yes, sir; around the corner.

Q So that she was right around the corner, and all you heard was her voice?

A. Yes, sir.

Q And all you heard was her voice?

A. Yes, sir, that is

CASE # 39

0355

155

5

all. I didn't see her, only heard her voice.

Q You didn't see who she was talking to?

A. No, sir, I didn't.

The Court: I don't think that will do.

By Mr. Pentecost:

Q Now, when she came back at 8 o'clock, did she say anything to you about any of the parties in this case?

(Objected to)

The Court: Answer yes or no.

By Mr. Pentecost:

Q Did she say anything to you about Stephen Hooker, the defendant?

A. No, sir, she didn't.

Q Did she tell you that she saw Vogelsang?

A. No, sir, she didn't.

The Court: Those are all the parties in this case.

By Mr. Pentecost:

Q Did she tell you, when she returned to the house, that anything had happened Stephen Hooker, or that she had heard that anything had happened to Stephen Hooker?

(Objected to)

The Court: Why, she might have told any

CASE # 39

quantity of lies. I don't think it is material or proper.

By Mr. Pentecost:

Q Now, Mrs. Lindsay, do you know what that quarrel was about?

(Objected to)

The Court: If she was not present at the quarrel, she can't tell. She knows from hearsay; that is all.

By Mr. Pentecost:

Q Mrs. Lindsay, do you know that Stephen Hooker was arrested that night?

(Objected to) (Allowed)

By the Court:

Q Do you know whether he was arrested or not? A. Yes, I do.

Q That evening? A. Yes, sir.

Q Did you see him arrested? A. No, sir.

By Mr. Pentecost:

Q Now, how do you know he was arrested?

By the Court:

Q Now, how do you know he was arrested? A. Why, everybody was hollering and singing Hooker was arrested, that Delly was arrested.

CASE # 39

Q Did any one person tell you that he was arrested?

(Objected to)

The Court: That is immaterial, whether
any one or more persons told her.

By Mr. Pentecost:

Q Do you know what took Mrs. Pell out of the house when she
went out just before 8 o'clock?

(Objected to)

The Court: She can answer yes or no.

Q Do you know what took Mrs. Pell out? A. She was going to
look at the soldiers.

Q She was going to look at the soldiers? A. Yes, sir.

Q Did she tell you that? A. Yes, sir.

Q Now, just before Mrs. Pell went out of the house, did you
see Mrs. Pell's child go to her? A. Just before
she went out of the house?

Q Yes? A. She just got to the stoop when her child
came to her.

Q Yes. Was her child crying?

(Objected to)

A. Yes, sir.

Mr. Pentecost: Well, I want to show that

CASE # 39

Mrs. Pell was out of the house----

The Court: If you will tell me whether it is material, I will let you go on. If you will tell me it is material, go on. I don't want you to make a statement in the presence of this witness.

Mr. Pentecost: Well, it seems to me that it is material.

The Court: Well, I will allow you to put your questions. I told you I would allow you to go on.

Q Was this child crying when she came and spoke to her mother?

A. Yes, sir.

Q Do you know what she was crying about?

The Court: You know she couldn't; it is utterly impossible for this woman to tell why the child was crying.

By Mr. Pentecost:

Q Did the mother go off with the child? A. Yes, sir.

Q When she was crying? A. Yes, sir.

Q And then was it after that that you heard the quarreling around the corner? A. Yes, sir.

Q Now, was it when Mrs. Pell came back to the house that you

heard that Stephen Hooker had been arrested?

A. Yes, sir.

Q Now, you say you saw Mrs. Pell in your house about what time in the afternoon, when she was lying down on the sofa?

A. About 5 o'clock.

By the Court:

Q In her own house?

A. Yes, sir.

Q About 5 o'clock?

A. Yes, sir.

Q And she was then lying down on a couch? A. Yes, sir.

The Court: She said she saw her at half-past 7 or 8 o'clock that morning, and she next saw her at 5 o'clock, when she was lying down on a sofa. She then again saw her at half-past 6 o'clock, and she then said she didn't see her until half-past 7 or 8 o'clock. Then she went up the lane, and she heard a quarrel, and she came back again about half-past 8.

By Mr. Pentecost:

Q After having been out of the house about ten minutes; that is all?

A. Yes, sir.

Cross Examination by Mr. Osborne:

Q Did you see who she went out of the house with, when she

went out? A. She went out by herself.

Q Are you sure of that? A. Yes, sir.

Q Are you sure she didn't go out with Hooker?

A. Yes, sir.; I didn't see Mr. Hooker.

Q You didn't see Hooker at her house all that day?

A. No, sir, I didn't.

Q Not at any time? A. No, sir, I was in my own house that day.

Q Did you see Martha Pell that day? A. No, sir.

Q You never saw her during the day at all then?

A. I didn't; I was in the house all day; I couldn't see down in her house.

Q You don't know whether she went out at any time-----

A. During the day or not.

Q All that you know is that you saw her going out between 7:30 and 8 o'clock? A. Yes, sir.

Q And, at that time, she went out alone? A. Yes, sir.

Q And didn't go out with anybody? A. No, sir.

By Mr. Pentecost:

Q You say that she went out with her little child; don't you?

A. No, sir, I don't; the little child come to her, crying, at the door.

CASE # 39

Q Then she went away, with the little child, from the door?

A. Yes, sir.

ELIZABETH GAINS, a witness called on behalf of the defendant,
being duly sworn, testified as follows:

Direct Examination.

By Mr. Pentecost: —→

Q Now, Mrs. Gains, where do you live? A. 23 Manetta Lane.

Q Do you live around that yard where Dozier lived?

A. Yes, sir; right on the other side.

Q On the other side of that yard? A. Yes, sir.

Q That yard is common to your house and to the Dozier family's house; isn't it? A. Yes, sir.

Q You remember the day when John Dozier was hit with a brick, don't you, by Stephen Hooker; you remember that he was?

A. Yes, sir.

Q At any time since that time -- do you know Barbara Wilkes?

A. Yes, sir.

Q How long have you known her? A. About five years.

Q Do you know Mrs. Pell? A. Yes, sir.

Q At any time since Mr. Dozier died, have you heard Barbara Wilkes express herself about Martha Pell? A. Yes, sir.

Q In connection with this case? A. Yes, sir.

Q About when did you hear her say these things?

A. About six weeks ago, on a Sunday afternoon.

Q How do you know it was Sunday? A. Because it was the Sunday afternoon that Joe Thompson was arrested, and I ran out there to see what was the matter, and then it was fifteen minutes after she came along and made this expression.

Q What was it?

(Objected to)

Mr. Pentecost: Your Honor, Mrs. Wilkes testified that he had no feeling against Mrs. Pell and was an unbiased witness.

The Court: You asked her that.

Mr. Pentecost: Well, it is a material fact, in the case whether she is a biased or an unbiased witness.

The Court: Mrs. Pell is not on trial now.

Mr. Pentecost: She is not on trial, but the question of her relationship to this boy or Mrs. Pell on that day is introduced here for the purpose

of proving premeditation on the part of this boy.

Mrs. Wilkes testifies to a conspiracy.

The Court: I understand that.

Mrs. Pentecost: In this case, and that she had no motive.

The Court: Well, if you propose to show by this witness that she said she was not present and had no conversation, why, that is another thing.

Mr. Pentecost: No, I do not propose to show that, your Honor.

The Court: Well, what do you propose to show?

Mr. Pentecost: That Mrs. Wilkes is a biased witness, and had feeling against Mrs. Pell, which accounts for her having testified to a conspiracy.

The Court: Mrs. Wilkes had a feeling against Mrs. Pell?

Mr. Pentecost: Yes, sir.

The Court: Go on and show it.

By the Court:

Q Did she have any feeling against Mrs. Pell? A. I don't

CASE # 39

know anything about it.

Mr. Pentecost: We can show, by this witness, that she heard Mrs. Wilkes say?

By the Court:

Q Now, you heard her talk six weeks ago? A. Yes, sir.

Q When Thompson was arrested? A. Yes, sir.

Q Is that it? A. Yes, sir.

Q You went out and you saw Mrs. Wilkes? A. Mrs. Wilkes.

Q What did you hear her say about Mrs. Pell?

A. She shook her fist in Mary Dawson's face, and said that she would have Martha Pell sent away if she had to lie on her for fifty years, and called her bad names.

Q What did she call her? A. She called her a cock-eyed, black bitch.

By the Court:

Q Is that all you heard her say? A. That is all I heard her say.

Q And that she would have her sent away for fifty years?

A. Yes, sir.

By Mr. Pentecost:

Q Who else was there when you heard this? A. Mary Dawson, Indiana, and Mrs. Vogelsang.

Q "Indiana?" A. I forget her last name.

Q Her first name is Indiana? A. Yes, sir.

INDIANA SALTUS, a witness called on behalf of the defendant, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

By Mr. Pentecost:

Q Now, Mrs. Saltus, do you know Barbara Wilkes? A. Yes, sir.

Q Do you know Mrs. Pell? A. Yes, sir.

Q At any time since the killing of John Dozier, have you heard Barbara Wilkes say anything about Mrs. Pell?

A. Yes, sir.

By the Court:

Q Speak about Mrs. Pell? A. Yes, sir.

Q Tell us what she said? A. I don't like to repeat the words.

Q The substance? A. She said, in substance, that she was going to try to send the cock-eyed bitch to hell, if she would have to lie to send her, for fifty years, and all the rest would have nothing to say about it.

By Mr. Pentecost:

Q Did she say this in the presence of anybody else?

Q Who was there? A. Mary Dawson and Eliza Gains.

By Mr. Osborne:

Q Did she tell you why? A. Why what?

Q Did she tell you why she wanted to send them to hell?

A. She said she didn't like Martha Pell.

Q Did she tell you that she was guilty of putting Hooker up to killing Dozier?

A. No, sir.

Q You didn't hear her say anything about that?

A. No, sir.

By the Court:

Q I suppose you and Mrs. Pell are on good terms?

A. Yes, sir, I am with all of them just the same.

Q All on good terms? A. Yes, sir.

Q Friendly with Mrs. Wilkes? A. Yes, sir.

Q A friend of hers, too? A. Yes, sir; many a time she asked for money to treat her; I don't drink myself.

Q And you treated her? A. I gave her money.

Q You were on perfectly good terms with her?

A. Yes, sir.

Q She didn't want to send you anywhere? A. No, sir.

EMILY VOGELSLANG, a witness called on behalf of the

CASE # 39

defendant, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

By Mr. Pentecost:

Q Where do you live? A. 343 West 36th street.

Q Where did you live last August? A. 23 Minetta Lane.

Q Did you live on the same court with John Dozier?

 A. On the same court, on the opposite side.

Q Do you know Barbara Wilkes? A. I am acquainted with her.

Q Do you know Mrs. Pell? A. I am acquainted with her.

Q At any time since John Dozier died did you hear Mrs. Wilkes say anything about Mrs. Pell? A. Yes, sir.

Q What did you hear her say? A. I heard her say, on Sunday afternoon, there was some kind of a quarrel in the street, and I went to my window to see what it was, and she was in an argument with her cousin, Mary Dawson, and I heard her say, "You needn't put on no airs with me, because I am going to fix your cousin, Martha Pell. I will send the whole three of them -- she used profane language.

Q When she was arguing with Mary Dawson? A. Yes, sir; I heard her say, "You needn't put on no airs with me. I will send the whole three of them to -- well, she used profane language. She said she would send her as far as she could

send her, fifty years if she could give it to her, and she had to lie to get there.

Q Did you hear her call her any names? A. Yes, sir.

Q What did she call her? A. She called her a cock-eyed, black bitch.

Q You were in your window at that time, up above?

A. Yes, sir.

Q Did you hear any further talk than that?

A. Not about Mrs. Pell.

Q What? A. Not about Mrs. Pell.

By Mr. Osborne:

Q Did she say anything about Martha Pell's putting this boy, Hooker, up to hitting John Dozier with a brick?

A. No, sir; I didn't hear that.

Q You never did hear her say anything about that?

A. No, sir.

By Mr. Pentecost:

Q Mrs. Pell has something the matter with one eye?

A. Yes, sir.

Q That is why she called her cock-eyed? A. Yes, sir.

Dorsey
MARY DAWSON, a witness called on behalf of the defendant,

being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

By Mr. Pentecost:

Q Mrs. Dawson, do you know Barbara Wilkes? A. Yes, sir.

Q Do you know Mrs. Pell? A. Yes, sir.

Q Are you related to either one of those women?

A. Mrs. Pell is my first cousin.

Q Do you remember the day when John Dozier died?

A. Yes, sir.

Q At any time since the death of John Dozier, have you heard Mrs. Wilkes say anything about Martha Pell?

A. Yes, sir; she came to me, about six weeks ago, on a Sunday afternoon; she asked me what I was looking mad about. I didn't answer her, and she says, "You are mad because I got your sousing arrested, and if I can send her for fifty years, I will send her to prison, if I have to lie."

Q Did she call her any names? A. Yes, sir, she did; the name I wouldn't like to tell.

Q You might as well tell it? A. She called her a cock-eyed, black bitch.

Q That is in your own house? A. No, sir, at the gate; this occurred at the gate.

CASE # 39

- Q At the gate of where? A. Minetta Lane.
- Q Do you know where Mrs. Pell was on the 15th day of last August? A. No, sir, I don't; I didn't see her all day.
- Q Where do you live? A. 25 Minetta Lane, second floor.
- Q Right above where Dozier used to live? A. Yes, sir.
- Q Do you remember whether you looked out into the lane that afternoon or evening at all? A. Yes, sir, I was looking out nearly all day.
- Q Did you see Mrs. Pell in front of your house at any time that day? A. No, sir, I didn't.
- Q Now, Mrs. Dawson, did you ever hear Mrs. Wilkes quarrel with Mrs. Pell? A. Yes, sir, last July; I don't know what date of the month it was.
- Q Where was it? A. Right across the street from where I lived at.
- Q Was it quite a serious trouble? A. Yes, sir, it nearly came to Blows, and she told my cousin.

Mr. Osborne: I think this whole thing is irregular, because they never called that woman's attention to it at all.

By the Court:

- Q You didn't hear Wilkes and your cousin -- what is your

cousin's name?

A. Martha Pell.

Q Martha Pell, quarrelling?

A. Yes, sir.

Q I suppose you hear lots of quarrels there at that place; don't you?

A. Yes, sir.

Q You said, a moment ago, that you were all day in your own house, on the 15th?

A. No, sir; from the gate to the window all day.

Q From the gate to the window all day; you were looking out of the window all day?

A. From one place to the other.

Q Doing nothing at all?

A. No, sir; I wasn't doing anything.

Q Looking out of the window and standing at the gate; is that it?

A. Yes, sir, that is about it.

Q When did you commence to stand at the gate?

A. I was standing at the gate -- I was from one place to the other all day.

Q You couldn't tell what time?

A. No, sir.

Q Did you see Mr. Dozier there that time?

A. Yes, sir; I seen him coming down.

Q Did you see the prisoner that day?

A. Yes, sir.

Q Did you see them playing craps that day?

A. No, sir, I didn't see that.

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

Q And yet you were there all that day? A. Yes, sir; I didn't see them playing craps.

Q Did you see any other boys playing craps? A. No, sir.

Q Were there any craps played there? A. I didn't see them.

By Mr. Pentecost:

Q You are the janitor of that place?

A. My mother is, yes, sir.

Q Do you remember after John Dozier was struck what happened-- you saw him after he was struck? A. After he was struck I saw him; yes, sir.

Q Where did you see him? A. I saw him right where he got hit at.

Q Did you do anything? A. I helped to bring him across the street; I took a hold of his arm, with another young man.

Q Who was the other young man? A. Ed. Townsend.

By the Court:

Q Where was he when he was hit; at the oyster stand?

A. Yes, sir.

Q You were over there, too? A. After he got hit I ran

right over.

Q You saw Delly then; didn't you? A. No, sir, I didn't see him.

Q Didn't see him running through Sixth avenue, or anybody running after him? A. No, sir.

Q Sure of that? A. Yes, sir.

Cross Examination.

By Mr. Osborne:

Q Do you know Delly Hooker? A. Yes, sir.

Q Did you ever see him with Martha Pell? A. Yes, sir.

Q You have seen him? A. Yes, sir.

Q You were present when Hooker was brought before John Dozier; weren't you? A. No, sir.

Q You were not present when the policeman brought Delly Hooker in before in before John Dozier?

A. No, sir; I was not.

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

Q Didn't you help to bring Mr. Dozier in? A. Yes, sir; after I helped to bring him in, I went right up stairs.

Q Didn't you see Mr. John Dozier when Hooker was brought before him? A. No, sir.

- Q You know your own signature; don't you? A. Yes, sir.
- Q Will you look at that paper there, and see whether you signed it? A. Yes, sir; I signed the name there.
- Q You swore to that before a Notary Public? A. Yes, sir.
- Q You swore to that paper? S. Yes, sir.
- Q Didn't you swear to this, before that Notary: "helped to bring Mr. Dozier in"? A. Yes, sir.
- Q "I saw Mr. Dozier when Stephen Hooker was brought before him"? A. Oh, no, sir.
- Q You never swore to that? A. No, sir.
- Q Look at that now, and see? A. I suppose it is there; I didn't say I never saw him. I set him down and went right out.
- Q You swore to that, before a Notary Public? A. I didn't say I saw him; I didn't see him. I don't know whether he identified Hooker or not.
- Q I ask you if you didn't swear to that paper? A. Yes, sir; sure.
- Q Yes. You didn't put in that paper, did you, that you went right on up stairs? A. No, sir, I didn't put it in there, but I did.
- Q Did you see Martha Pell in the street that day at all?

A. No, sir.

Q Not at all?

A. No, sir.

Q I ask you if you didn't swear to this: "I know Martha was talking to Eugenia Dozier?"

A. Yes, sir.

Q You did swear to that?

A. Yes, sir.

Q Now, where was she talking to her?

A. It was after Mr. Dozier was hit.

Q Where was she talking to her?

A. At the gate.

Q In what place?

A. In the lane.

Q In the lane?

A. Yes, sir.

Q Didn't you swear just now that you didn't see Martha Pell in the lane there that day?

A. It wasn't in the day; it was in the night.

Q What time?

A. About half-past 7 or may be a little after Mr. Dozier was hit.

Q But you did see her in the lane there?

A. Yes, sir.

Q When you come to think of it, didn't you see her in the lane during that day?

A. No, sir.

Q Do you and Barbara Wilkes get on very well together?

A. Yes, sir.

Q Do you speak to her at all?

A. No, sir; not now.

Q You haven't spoken to her for how long?

A. Ever since

my cousin was arrested, she didn't speak to me; she stopped speaking to me.

Q You didn't stop speaking to her? A. No, sir, not until she stopped speaking to me.

Q She quit when your cousin was arrested? A. Yes, sir.

Q Is that right? A. Yes, sir.

Q And she wouldn't speak to you any more? A. No, sir.

Q Now, how did she happen to come up to you and have this conversation you are speaking about?

A. She came up to me, on a Sunday afternoon.

Q And had this talk that you have sworn to?

A. Yes, sir, she did.

Q And yet you have just now said that she quit speaking to you altogether when your cousin was arrested? A. So she did; and she came up and said that to me and my mother.

Q Now, hadn't you quit speaking to Barbara Wilkes long before that? A. No, sir, we always got along.

Q Now, did Dolly Hooker ever have a room in your mother's house? A. No, sir.

Q Did you see Touissant Vogelsagn that day? A. No, sir.

Q Not in the street? A. No, sir.

Q Did you see him anywhere about after John Dozier was hit?

A. Yes, sir.

Q Where did you see him? A. I seen him passing.

Q About what time was that? A. I don't know what time that was; it was after Dozier was hit.

By the Court:

Q What time was it that you went over to the stand and helped to pick Dozier up, after he was hit?

A. I couldn't tell.

Q Can't you give us an idea? A. I couldn't tell.

Q Was it 12 o'clock in the day? A. It was in the evening, the early part of the evening; I don't know what time it was.

Q Wasn't it after 6 o'clock? A. Yes, sir, it was after 6.

Q After 5 o'clock?

By Mr. Osborne:

Q After 6 o'clock when you saw Touissant Vogelsang?

A. Yes, it was after Mr. Dozier was hit I seen him; somewhere about 7 o'clock or 6-- I guess so, I don't know.

Q You saw him in Minetta Lane? A. Yes, sir, I seen him pass.

By the Court:

Q Was that the first you saw of him that day?

A. Yes, sir; that was the first I saw of him.

Mr. Osborne: I offer that paper in evidence.

The Court: You have read it; what more do you want than that? She swore to that affidavit.

By Mr. Pentecost:

Q Where did you swear to this? A. In the other room, somewhere; I don't know.

The Court: I suppose in the District Attorney's office.

By a Juror:

Q Can you read and write? A. Yes, sir.

Q Can you read writing? A. Yes, sir.

Q Did you know what you were signing when you signed that paper? A. Yes, sir, I guess so.

By the Court:

Q Wasn't it all read over to you before you put your name to it? A. Yes, sir.

Q You heard it read over to you? A. Yes, sir.

Q You signed your name to it? A. Yes, sir.

Q And the Notary Public swore you to it? A. Yes, sir.

By Mr. Pentecost:

Q You were called down here by the District Attorney?

A. Yes, sir.

Q Do you remember who you saw when you were called down here?

Mr. Osborne: I drew the affidavit, personally.

Q Did you talk with this gentleman when you came down?

A. Yes, sir.

By the Court:

Q He drew the paper and he read it over to you, and you signed it?

A. Yes, sir.

By Mr. Pentecost:

Q This conversation that Barbara Wilkes had with you was right in the presence of four or five of you?

A. Yes, sir; not only them, but everybody in the street heard it. She walked up and down.

Q It wasn't a conversation with you alone? A. No, sir, not me alone.

Q It wasn't a little private talk? A. No, sir, I was out in the street.

By the Court:

Q It was out in the street? A. Yes, sir.

Q Where all the people in Minetta Lane could hear it?

A. Yes, sir.

CASE # 39

- Q Anybody that was on the side-walk? A. Yes, sir.
- Q They were all pretty much out? A. Yes, sir.
- Q You all have talks of that sort up in that neighborhood?
- A. Yes, sir.

ANNIE MILLER, a witness called on behalf of the defendant, being duly sworn, testified as follows:

Direct Examination.

By Mr. Pentecost:

- Q Mrs. Miller, do you know Mrs. Wilkes? A. I do.
- Q Do you know Barbara Pell? A. Mrs. Pell, yes, sir.
- Q Mrs. Martha pell. Did you ever hear Mrs. Wilkes quarreling with Mrs. Pell?

(Objected to)

The Court: Go on.

A. Yes, sir.

Mr. Pentecost: Now, your Honor, I don't want to lengthen this; I am satisfied with this.

- Q Before Mr. Dozier's death? A. Yes, sir.

By Mr. Osborne:

- Q How long since you have gotten out of prison? A. Sir?
- Q How long since you have gotten out of prison?

CASE # 39

A. I got out the 4th of September. I was "pulled" out of the house where I was working. I go out to a day's work, and I was "pulled" out of the house.

Q How long did you go up for that time? A. One month.

By Mr. Pentecost:

Q Whose disorderly house were you "pulled" out of; was Mrs. Wilkes's? A. No, sir, but I was "pulled" out of Wilkes's house once.

Q Were you sent up that time? A. Yes, sir, I got one month on the island; she keeps three places.

By the Court:

Q Were you sent up that time? A. Yes, sir.

Q You got one month twice? A. Yes, sir; the time I was up for her, and this other time. I served a month out of Mrs. Wilkes's house; I got "pulled" out of her place; I was working for her.

By Mr. Osborne:

Q You got one month twice? A. Yes, sir, I was out working.

Q One month for Mrs. Wilkes's house and one month for this other house? A. Yes, sir.

By Mr. Pentecost:

Q When Mrs. Wilkes was in Thompson street, you were her servant?

A. Certainly; she kept three places.

By the Court:

Q And you helped her?
her; I went to work.

A. No, sir, I didn't help

JOHN VOGELSANG, a witness called on behalf of the defendant, being duly sworn, testified as follows:

D i r e c t E x a m i n a t i o n .

By Mr. Pentecost:

Q Where do you live? A. 343 West 46th street.

Q Where did you live last August? A. 23 Minetta Lane.

Q That is right on the opposite side of the court where Mr. Dozier lived? A. Yes, sir.

Q Do you remember the 15th day of last August?
A. Yes, sir.

Q Where were you on the 15th of last August?
A. At my home, 23 Minetta Lane.

Q In your house, 23 Minetta Lane? A. Yes, sir.

Q Now, in the afternoon of that day did you see the defendant in the neighborhood of John Dozier's house?

A. No, sir; not in the neighborhood of his house.

By the Court:

Q Did you see him in the lane?

A. No, sir.

By Mr. Pentecost:

Q Did you see him in front of John Dozier's house?

Mr. Osborne: He says he didn't.

By the Court:

Q When you saw the defendant where was he?

A. Standing in front of 25 Minetta Lane.

Q He was in the lane?

A. Yes, sir.

Q You saw the defendant, that man there?

A. Yes, sir.

Q When did you see him first on the 15th of August?

A. About 4 o'clock I saw him.

Q Where was he?

A. He was sitting on the stoop in front of Dozier's residence.

By Mr. Pentecost:

Q Now, then, just tell what you saw in that connection. Keep your voice up. What did you see in that connection, while Hooker was in front of Dozier's house. Go on and tell these gentlemen here all that you saw?

A. I went out by the gate -- I followed Dozier out of the yard, for his daughter came in and told him that the boys had busted in the front door. I followed Dozier out by the gate, and he walks over to Hooker and struck him three or four different times, and attempts to kick him,

and a boy by the name of Henry Washington grabs his arms and told him not to kick him. Then Hooker picked up a water-melon rind and threw it at Dozier and struck him. Then Dozier picked up a brick, and Hooker turned around and ran towards Sixth avenue. Dozier followed him. Fruther than that, I didn't see anything.

Q Where was Dozier at the time his daughter told him?

A. In the yard.

By the Court:

Q Dozier was sitting in the yard? A. Sitting in the yard.

Q What was he doing? A. He had been playing pinocle, but he had won out the game, and he was sitting watching the others playing when his daughter came in.

Q In the yard? A. Yes, sir; she came in through the room door and told her father that the boys had bursted open the door.

By Mr. Pentecost:

Q Do you know which one of Mr. Dozier's daughters it was that came and told him? A. Yes, sir.

Q Which one was it? A. Birdie.

Cross Examination.

By Mr. Osborne:

Q What did Dozier say when he came out there? A. I didn't

CASE # 39

hear him say anything.

Q Just walked right up to Hooker, right away? A. Yes, sir.

Q You were at 23? A. Yes, sir.

Q You followed him right out of the gate?

A. I followed him right out of the gate; there is two gates; one out of the side facing Sixth avenue, and one out on the other side.

Q How far were you away from Hooker? A. About thirty foot.

Q About thirty foot? A. Yes, sir.

Q and how far were you away from Dozier when he came out of the gate? A. I was right behind him until he got to the other gate.

Q He didn't say a word to Hooker at all? A. No, sir.

Q Were there any other boys out there? A. Yes, sir.

Q What did they do when they saw Dozier coming?

A. One of them stepped out in the gutter, and the other stepped in the street; the same boy stepped in the street.

Q Did they move? A. Yes, sir a little.

Q Hooker sat still? A. Hooker sat still.

Q He was sitting? A. Yes, sir.

Q And Dozier went right up and hit him? Yes, sir.

Q Without saying a word? A. I didn't hear him say-

anything.

Q And then started to kick him? A. Then started to kick him.

Q And then Washington held Dozier? A. Yes, sir; Washington went up to him and grabbed hold of his arm and told him not to kick him.

Q Then Hooker got a watermelon rind and threw it at him and hit him? A. He threw the water-melon rind at him, and hit him.

Q Did he hit him? A. Yes, sir.

Q Then did Hooker throw a brick at him? A. I didn't see Hooker throw no brick.

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

Q You would have seen him, if he had done it?

A. I might have seen it.

Q You would -- weren't you looking on? A. Yes, sir, I was looking on, but there was a crowd of people around there and I couldn't exactly see whether he threw a brick at him or not. I seen Dozier pick up a brick.

Q Did you see Hooker throw a brick at Dozier?

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

Q Then Dozier, after Hooker had gone away -- did Hooker start

CASE # 39

to run after he threw thw water-melon?

A. When Dozier picked up the brick, he started to run.

Q Then did you see Dozier throw the brick? A. No, sir, I didn't see him throw the brick; I seen him follow around Sixth avenue.

Q That is all you saw? A. Yes, sir.

By the Court:

Q Did you see McKenzie there? A. Yes, sir.

Q You saw Dozier come up and slap this man two or three times in the face? A. Punched him.

Q Punched him? A. Yes, sir.

Q With his fist? A. He struck him with his fist.

Q Where? A. Around the face and the body.

Q What did he say when he struck him? A. I didn't hear him say anything.

Q This man got a piece of water-melon, according to your story, he got a piece of water-melon rind, and threw it at him?

A. Yes, sir.

Q Did you see anybody holding Dozier? A. Washington went up and grabbed Dozier by the arm.

Q What did Washington say? A. He says, "Don't kick him."

Q Dozier was trying to kick this man; was he? A. Yes, sir;

he made an attempt to kick him.

Q He didn't kick him? A. No, sir.

Q Now, McKenzie says that Hooker got a brick and threw it at Dozier, and that Dozier dodged; did you see that?

A. No, sir, I didn't see that.

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

Q And then he says that Dozier picked up a brick and chased

the defendant out, and hit him in the leg with it; did you see that?

A. I seen Dosier chase the defendant, but I didn't see him throw the brick.

Q Did you see Mrs. Pell there that day? A. No, sir; I didn't

Q What were you doing in the house all day? A. I had been working the night before, for a man named Samuel E. Ewen, a caterer.

Q Whattime did you get up? A. That morning I got up about 8 o'clock.

Q And stayed around your house all day?

A. Stayed around my house until 4 o'clock.

Q Then where did you go at 4 o'clock? A. I went around to my father's house, in Cornelia street, and came back home again.

Q At 4 you went out? A. Yes, sir, after the fuss was

over.

Q And went around to your father's house, in Cornelia street,
and came back? A. Yes, sir.

Q Dozier was playing pinocle when his daughter came in?

A. He wasn't playing; he had been playing.

Q He was sitting out in the yard; was he? A. Yes, sir, he
was sitting in the yard, right alongside of the men playing
pinocle, watching the game he had been playing; he was
sitting there.

Q Did you see his daughter come after him?

A. His daughter came through this room and hollered,
"Papa, the boys have busted in the front door.

Q Dozier was out sitting at the table? A. Yes, sir, sitting
at the table, watching the players play.

Q He was not in the kitchen? A. No, sir.

Q Are you sure about that? A. Yes, sir.

By Mr. Pentecost:

Q You didn't follow Dozier and Hooker around in Sixth avenue?

A. Yes, sir.

Q You didn't see anything that happened in Sixth avenue at all?

A. No, sir; I didn't follow them around at all.

Cross Examination.

By Mr. Osborne:

Q Did you see a boy named Willie Jackson there?

A. Yes, sir.

Q Did you see Hooker when he came back?

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

By the Court:

Q What time was it when you got back from your father's house?

A. About half-past 5.

Q Half-past 5? A. Yes, sir; I went to my father's, and from my father's into a club house around there, a social club.

Q Where was that? A. That was at 21 Cornelia street.

Q How long did you stay there? A. Until about twenty minutes after 5.

Q Then you came back again to where? A. To 23 Minetta Lane; then I walked around.

Q To where you lived? A. Yes, sir.

Q What time was it when you got there? A. About half-past 5.

Q Then you saw more disturbance? A. Not until between 7 and 8 o'clock-- about a quarter to 8.

Q You did see something at a quarter to 8?

A. Yes, sir; I didn't see any disturbance; I was sitting in a wagon, in front of Carr's.

Q Where was this wagon? A. In front of 21 Minetta Lane.

Q What time were you sitting there in the wagon?

A. About a quarter to 8 I was sitting in Carr's wagon.

Q Who was sitting with you then? A. Howard Baker and Samuel Carr and another young gentleman.

Q What did you see then? A. I didn't say anything but I was sitting there when a boy came running over, hollering, "Birdie Dozier, your father got hit in the head with a brick."

Q Did the boy say who hit him? A. No, he didn't say who hit him.

Q What did you do? A. Then I looked over toward Green's stand, and I seen a crowd collecting, and I ran over there just in time to see Dozier picked up.

Q You saw him picked up? A. Yes, sir.

Q Did you see this man running towards 3rd street?

A. No, sir.

Q You didn't see him at all then? A. I didn't see him until

he was arrested.

Q You saw Dozier picked up? A. Yes, sir, I saw Dozier just as he was getting picked up.

Q And brought back to his house? A. Yes, sir.

Q And you didn't see this man? A. No, sir; I didn't see him until he was brought back by the officer.

Q I don't suppose you saw anybody chasing him up the street?

A. No, sir; my attention was all on Dozier being picked up.

By Mr. Osborne:

Q You are the brother of the other defendant?

A. Yes, sir.

By a Juror:

Q What kind of a wagon was that standing there?

A. An express wagon, Carr's express wagon; I was sitting on the wagon.

Q Any milk wagons standing there?

A. No, sir, no milk wagons standing there.

STEPHEN A. HOOKER, THE DEFENDANT, recalled:

Direct Examination.

By Mr. Pentecost:

Q Where do you live, Stephen? A. 225 West 27th street.

Q You remember the fifteenth day of last August, Don't you?

A All of that day I was to my mother's, up until a little after three, and she asked me to deliver a message for her, which was down town in the neighborhood of Minetta Lane I came down Sixth Ave. It was a little after three,---well, between half past three and four, when I struck Minetta Lane I ~~walked~~ through Minetta Lane, and I met McKenzie, and him and me entered into a conversation; it was quite a lengthy conversation, and I got tired standing, and sat down on the corner of the stoop. While I was talking, two young men began fooling on the stoop, namely, Henry Washington and Willie Jackson. I didn't pay any attention to them, but kept on talking until I heard Jackson say, "Aha! aha! you have knocked me through the door, and the door is bursted. I thought they were only fooling, talking about the door. So I still sat there. Washington jumped back on the end of the curb, and Jackson went somewhere else; McKenzie moved a few steps from me. With that, John Dozier came running out of the yard, and he walked---he didn't walk, he jumped---in the manner of speaking---and while I was still on the stoop, he commenced punching me, and said these words, "You little son of a bitch, if I catch you around here

again, I will try to kill you." When he said that, he jumped up, and, as he did, he made a kick for me. Henry Washington was standing on the end of the curb, arrested his movement, and threw his foot back, Dozier drew his foot back, while I ran across the street. I then picked up a piece of watermelon rind and threw it at Dozier. It struck him somewhere about the body, but where I don't know. I then stepped out into the middle of the street-----

By the Court:

Q Of the Lane?

A In the middle of the Lane, yes sir; and picked up a half brick, and threw it at John Dozier. The brick did not touch him, and he stooped and picked up the identical or another brick, I don't know which; I ran up towards Sixth Ave., and he ran up after me. When I was near Third Street on Sixth Ave., the brick struck me in the leg, some part of the brick, the left leg. After he did that, he turned around and walked back. I stands there a few minutes against a stoop, resting myself, and I walked back to the corner,

Q Corner of where?

A Minetta Lane and Sixth Ave. Henry Washington was standing there, and asked me if my leg was hurt. I says, "Yes, it is; I can hardly stand on

it." I stood there a few minutes, and Washington said, "Come on and take a walk, and may be your leg will get better." I says, "I am going to deliver this message, and then I am going home." Washington says, "Which way are you going?" And I says, "To Macdougall Street," and he says, "Come on down here through Carmine to Bleeker, and I am going to Dolan's, the shoemakers, to get my shoes." We went in there and we got his shoes. I came out, and stopped to talk to some friend.

Q Where? A Dolan's, on Bleeker street just above Minetta. I stopped to talk to a couple of friends of mine, who I met there. I left Washington, and went about my business to take this message. I stayed there at this house where I was, fooling with the children---

Q What house? A 106 Macdougall Street. Fooling with the children until a little after seven, when I came up and walked up Macdougall to Minetta Lane, through Minetta Lane, on the opposite side of the street where Dozier lived--not on the side where he lived--to Sixth Ave. As I got to the corner, there was a car coming up

By Mr. Osborne:

Q Did you say you were walking through Minetta Lane?

CASE # 39

A Yes sir.

By the Court:

Q To sixth Ave? A There was a car coming up the street. I hurried across the street, in order to pass before the car. As I was crossing the cross walk, the horses was near me, and I takes and jumps across the track, and that brings me directly diagonally to the north side of the oyster stand. As I was crossing, and almost about to step upon the curb, I had my money in my hand, in this fashion, walking selecting enough to pay for my purchase, when a woman hollered, "Look out, John." When I heard her, I saw John Dozier at the stand. He was in the act of picking up a bottle. I immediately stepped upon the curb, and picked up a brick, and threw it and ran. I ran up Sixth Ave. to Third Street, through Third to Macdougall, Macdougall to Fourth, through Fourth to Sixth Ave., almost opposite Inteman's saloon, when officer James Thompson, of the Fifteenth Ward hollered to me and asked me what was the matter. I immediately went back with officer Thompson. Just the other side of Third street, between Third and Minetta Lane, we were met by officer Perry, and Thompson turned me over to Perry, and he took me to Dozier's house, and from

CASE # 39

from there to the station house.

By the Couty:

Q You were taken to Dozier's house first; weren't you?

A Yes sir.

Q Go on and state what took place at Dozier's house?

A. Mr. Dozier was asked if l was the one that hit him with the brick, and he said yes, and he was asked if he would go to the station house and make a complainant, and he said yes, and of course he went to the station house and made a complaint.

By Mr. Pentecost:

Q Now, Stephen, did you, at any time before you struck John Dozier with this brick, have any conversation with Mrs. Martha Pell and Toussant Vogelsagn in regard to doing it?

A. No, sir.

Q When you went across the street to that oyster stand, did you go across with your arms folded like that, with a brick under each of the arms?

A. No, sir; my hands were like this, counting my money.

Q Now, when you threw this brick at John Dozier, did you think he was going to throw that bottle at you? A. I did.

Q When you threw the brick at Mr. Dozier, did you intend to

kill him?

A. I did not.

Q Have you ever been convicted of any crime?

A. Never; I was never arrested.

Cross Examination.

By Mr. Osborne:

Q Where do you live?

A. I live at 225 West 27th

street.

Q How long had you lived there?

A. About four or five weeks, I think.

Q Where does your mother live?

A. 32 West 19th

street.

Q You don't live with your mother?

A. I didn't at that

time; no, sir.

Q How long since you have lived with your mother?

A. About three months.

Q Where did you live before you lived at 225 West 27th street?

A. By my aunt's house.

Q What number was that?

A. 224, if I am not mistaken,

224 Sullivan street.

Q Did you ever live on Minetta Lane or Minetta street?

A. Yes, sir, some years ago.

Q Did you have a room in 23 Minetta Lane?

A. No, sir.

0329

Q Never spent any time in Minetta Lane?

A. I used to go up there.

Q Did you ever have a room there?

A. No, sir.

Q Not for a day or two?

A. Never.

Q Not for a short time?

A. Never.

Q And I understood you to say your business is that of an elevator boy?

A. Yes, sir.

Q That is your regular business?

A. Yes, sir.

Q That is your regular business?

A. I do that more than anything else.

Q How long since you have been an elevator boy?

A. Four months, about; half a month before I was arrested.

Q About two weeks before you were arrested, you were an elevator boy?

A. Yes, sir.

Q Whereabouts?

A. For E. D. Taswell.

Q What is his address?

A. Corner of Broadway and White, or corner of Thomas and Broadway.

Q Is that the place you worked?

A. No, sir; I was running an elevator at 55 White street.

Q You were running an elevator at 55 White street?

A. Yes, sir.

CASE # 39

Q In the month of August, 1893?

A. Well, I don't say it was August.

Q Was it July? A. July.

Q Sure? A. Yes, sir, quite.

Q How long did you work there? A. I was there in a young man's place.

Q How long were you there? A. It was about a week.

Q A week? A. Yes, sir.

Q How long before that had you done any work?

A. About three or four months before.

Q Hadn't done anything for three or four months?

A. Nothing particular, no.

Q So that, during the four months prior to your arrest, you had work one week?

A. Yes, sir.

Q Where did you work before that?

A. I worked for J. G. Lugar, and Son Co, painters and decorators.

Q What did you do there? A. I was in the paint-room.

Q What did you do in the paint-room? A. I served out the paints and different things in the paint-room to the men.

Q How long did you work there? A. I was there about two

months, when I was laid off, on account of slack business.

Q You were laid off? A. Yes, sir.

Q What is the name of that place? A. J. G. Lugar,
Son & Co.

Q What is the number? A. I don't know the number;
it is on Fourth avenue between 22nd and 23rd street.

Q You worked there how long? A. I think two months.

Q Where did you work before that? A. For Banner Brothers.

Q What? A. For Banner brothers.

Q How long before that? A. It was April of the same year
that I left Banner.

Q April, 1892? A. Yes, sir, it was.

Q April, a year ago? A. Yes, sir.

Q How long did you work at Banner's?

A. I worked there about eight months.

Q For eight months? A. Yes, sir.

Q You left Banners and went right away to this Lugar & Co.?

A. No, sir.

Q How long were you out of a job? A. Well, I said
about from April I left Banners, and from there I went to
Lugar & Co., which was about four months ago.

Q How long did you work for Lugar? A. About two months.

Q So that since last April you worked two months and one week?

A. If you wish it to be that way, sir.

Q I want it to be the way it is? A. All right, sir.

Q You had this room at 224 West 27th street for four months?

A. No, sir.

Q How long? A. 220 West 27th street.

Q How long? A. Two, three or four weeks; something like that.

Q Where did you room before that? A. At my aunt's house.

Q And you haven't lived with your mother in four months?

A. Three months.

Q Did you live with your mother three months ago?

A. I did.

Q How long did you live with her? A. All my life up to three months ago.

Q Is that right? A. Yes, sir, three months before my incarceration.

Q Who paid your room rent at 223? A. I paid it myself.

Q Where did you get the money? A. Sporting.

Q Cards and horses? A. Yes, sir.

Q Playing craps? A. I don't indulge in no street games like that.

CASE # 39

53

Q That is the way you made the money to pay your room rent?

A. Yes, sir.

Q How long have you been indulging in cards and horses?

A. A couple of years.

Q A couple of years?

A. Yes, sir.

Q Has that been your principal means of support during that time?

A. No, sir.

Q When you were not working as an elevator boy, you worked at the cards and horses?

A. No, sir, not all the time.

Q Did you see Martha Pell the day of the trouble -- you know Martha Pell; don't you?

A. I do.

Q Did you see her the day of this assault?

A. No, sir.

Q Never during the whole day?

A. No, sir.

Q You had no conversation with her at all that day?

A. No, sir.

Q Do you know where he lives?

A. I do.

Q Where?

A. 15 Minetta street.

Q Haven't you been in the habit of going to Martha Pell's house every day during the time you have known her?

A. Not every day.

Q How long have you known Martha Pell?

CASE # 39

A. About a year and a half or a year and nine months.

Q Well, how often did you go there?

A. Three or four times a week.

Q You would go there in the morning, and spend the greater part of the day with her?

A. If I felt like it, yes.

Q What time does her husband go to work?

A. I don't know.

Q You didn't see him when you went there?

A. I did; I have often met Mr. Pell in the house.

Q You have met him there, in his own house? A. Yes, sir, quite often.

Q And you had a fight with him, about meeting him there?

A. No, sir.

Q Well, he had a fight with you? A. No, sir.

Q No trouble with Bill Pell at all? A. Not about meeting me.

Q You did have some trouble? A. Not about meeting me.

Q Did you have some trouble with Bill Pell about another matter? A. We didn't have a fight; he just slapped me.

Q Bill Pell and you had a fight; didn't you? A. Yes, sir.

CASE # 39

Q You had a fight with him twice? A. No, sir.

Q Only once? A. That is all; only once.

Q Where was that fight? A. In Minetta Lane.

Q What corner? A. on the southeast corner.

Q Of Manetta Lane and what? A. Minetta Lane and 6th
avenue.

Q Didn't you have trouble with him crossing Minetta Lane and
Minetta street? A. No, sir.

Q At no time? A. No.

Q And you were in the habit of going three or four times a
week to Mrs. Pell's house and spending the greater part of
the day there? A. If I felt like it; yes, sir.

Q What did you do when you went there?
A. Laughed and talked and drank.

Q Weren't you there the day of the fight?
A. The day of what fight?

Q The day of the fight with Dozier? A. No, sir.

Q Did you ever have any trouble with Dozier before this
fight? A. No, sir.

Q What did you say to Officer Thompson that Dozier was going
to put Thompson on you? A. No, sir -- somebody told
me.

CASE # 39

Q Because somebody told you that Dozier was going to put Thompson on you? A. Yes, sir.

Q And therefore you knew that Dozier had something against you? A. I didn't know anything of the kind.

Q Somebody told you so? A. They told me so; yes, sir.

Q What was it about? A. I don't know.

Q You don't know? A. No, sir; all I know is I was told some one overheard Mr. Dozier say that he was going to put Thompson on me and the rest of the boys.

Q Going to put him on you and the rest of the boys?

A. Yes, sir.

Q For what? A. That I don't know, sir; I was merely told.

Q Just going to do it for nothing?

A. I don't know; it is impossible for me to say.

Q Now, what made you stop living with your mother?

A. On account of a quarrel with my sister.

Q You drew a knife on your sister; didn't you?

A. No, sir; never.

Q You drew a knife on her, while she was lying on the ground; didn't you? A. No, sir.

Q What sort of a quarrel was it that you had with your sister?

A. On account of my tooth.

Q Of your tooth? A. Yes, sir, that is what it was.

Q How was that? A. I had a swollen face, my tooth ached, it was near Christmas, the day before Christmas if I am not mistaken, and one eye was closed, and she slapped me in the face.

Q You sister did? A. She slapped me in the face, but not intentionally, it was only playful, and I got mad.

Q And what did you do to your sister? A. I didn't do anything to her.

Q Didn't you say that you left on account of that quarrel with your sister?

A. I didn't leave at that time.

Q How long was it? A. Quite some time after, two or three weeks, I don't know; I couldn't say.

Q Well, was it a month? A. No, sir; it wasn't as long as that.

Q Was it as long as three weeks?

A. I wouldn't say; I say it was some time.

Q Was it two weeks? A. Sometime between a month.

Q And because your sister accidentally slapped you in the face

and hurt you, you got mad and left and moved afterwards;
is that right? A. I didn't say I moved.

Q Two weeks after? A. I didn't say two weeks;

Q In the course of a month? A. Yes, sir, I did.

Q And that is the only reason you had for leaving home?

A. Yes, sir, on account of my sister.

Q That is the only quarrel you had with your sister?

A. That is the only one of any account.

Q Now, didn't you leave your mother's house because you were
being supported by Martha Pell? A. No, sir.

Q You never were supported by Martha Pell? A. No, sir.

Q She never paid your room rent anywhere? A. No, sir.

Q She never paid your room rent at 225 West 27th street?

A. No, sir.

Q She didn't pay your room rent before you roomed at your
aunt's? A. No, sir.

Q And she never furnished a room partly for you?

A. No, sir.

Q Who keeps the house at 23 Minetta Lane?

A. 23 Minetta Lane -- I don't know what you mean; if you
mean the janitor-----

Q Who is the janitor there? A. Mrs. Dawson.

63-7-39
CASE # 39

- Q And she is the aunt of Martha Pell? A. She is.
- Q Don't you remember Mrs. Dawson and Martha Pell having a fight about your having a room there? A. No, sir.
- Q You never heard of it at all? A. No, sir.
- Q Did you ever live in Mrs. Simms, 15 Manetta Lane?
- A. No, sir.
- Q Never in your life? A. No, sir.
- Q Never had a room there? A. No, sir.
- Q Did you ever have a fight with a boy named Snowball?
- A. No, sir.
- Q No difficulty with Snowball at all? A. No, I don't know him.
- Q You know who I am talking about? A. No, sir.
- Q You don't know anybody named Snowball? A. No, sir.
- Q One of these men who have testified for you to-day say that you didn't throw a brick at Dozier that day. Did you throw a brick in the lane? A. I throwed a brick; I did.
- Q You did throw a brick? A. I did.
- Q You didn't hit him? A. No, sir.
- Q And then you ran? A. Yes, sir.
- Q You said, as I understand it, that Henry Washington caught

hold of Dozier as he was about to hit you. Is Henry Washington an old man or a young man?

A. I guess Henry is about the same age as I.

Q How old are you? A. Twenty.

Q When you started to go across the street there, Sixth avenue, did you see Mr. Green? A. I did not.

Q Did you see Mr. Green at all? A. No, sir, I did not; for my head was down at the time.

Q When you came out of the Lane? A. No, sir, I did not.

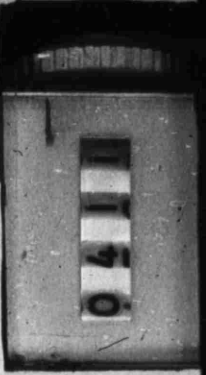
Q You didn't catch any sight of Mr. Green at all?

A. No, sir.

Q Did you see Mrs. Talbot? A. No, sir.

Q The Washington woman? A. No, sir.

Q Or Bristow Bright? A. No, sir.



1

201

- Q Or this Mr. Ambrose Davis? A. No, sir.
- Q You never saw any of those people at all? A. No, sir.
- Q You did not? A. No, sir.
- Q You had a talk with Officer Perry going to the station house, didn't you? A. Not of any account.
- Q Nothing of any importance at all? A. No, sir.
- Q Did you tell Officer Thompson, when he arrested you, why it was you hit Dozier? A. No, sir.
- Q You never said anything about it at all, did you? A. No, sir.
- Q Did you explain in the station house why it was you hit Dozier? A. No, sir.
- Q You never told anybody that Dozier was about to hit you with a bottle, did you? A. No, sir.
- Q You never told Officer Perry that, did you? A. No, sir, I did not.

By the Court:

- Q What time of day was it that this trouble took place?
- A. A little after four?
- Q The first trouble between you and Dozier took place a little after four o'clock? A. Yes, sir.
- Q Where did you go to then? A. 106 McDougal Street.
- Q How long did you stay at 106 McDougal Street? A. Upto a little after seven o'clock.

CASE # 39

2

212

Q Until after seven? A. Yes, sir.

Q That would be about two and one-half hours afterwards?

A. I should judge, I do not know.

Q Between two and one-half and three hours? A. No, sir, I don't think it was that long.

Q If it was half-past four o'clock and you stayed there until after seven? A. It must have been that I was talking for a time on the corner.

Q The first trouble commenced at four o'clock? A. Yes, sir.

Q Where was the first place you stopped after you left the Lane?

A. After I left Minetta Lane the first place I stopped was at Dolan's.

Q What is Dolan's place? A. He is a shoemaker.

Q How long were you in Dolan's place? A. About fifteen minutes

Q And there your friend got his shoes? A. Yes, sir.

Q Who was with you? A. Only him.

Q What is his name? A. Henry Washington.

Q Then you went from Dolan's to McDougal Street, didn't you?

A. I came out of Dolan's and stood outside talking to some friends.

Q How long did you talk to the friends? A. About 25 or 30 minutes.

Q Half an hour probably? A. Yes, sir.

Q Then you started to McDougal Street? A. Yes, sir.

CASE # 39

Q What time was it when you got to McDougal Street? A. I should judge it was somewhere about five o'clock.

Q You remained in McDougal Street playing with the children, as I understood you, until it was, after seven? A. Yes, sir, a little after seven.

Q A little after seven o'clock? A. Yes, sir.

Q You recollect all that? A. Yes, sir.

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

Q Then you came back to where? A. After I left McDougal Street, I walked up McDougal Street to Minetta Lane and through Minetta Lane.

Q Did you go into the Lane? A. I did.

Q When you got into the Lane, what is the first thing you did?

A. The first thing I did was to keep on walking.

Q You kept on walking until you got where? A. To Green's stand.

Q To Green's stand? A. Yes, sir.

Q And Green's stand was on the same side of the avenue?

A. On the opposite side of the avenue.

Q Then you had to cross the avenue to get to Green's stand?

A. Yes, sir.

Q Is that right? A. Yes, sir.

Q At this time you had some money in your hand? A. Yes, sir.

Q What were you crossing the avenue for? A. To go to Green's

CASE # 39

stand in order to get some plans.

Q That is what took you over there? A. Yes, sir.

Q A car passed you, you said? A. Yes, sir, a car was coming just as I was crossing the track.

Q It was going along the track? A. Yes, sir.

Q And instead of waiting for the car to pass you crossed over ahead of the car, is that right? A. Yes, sir.

Q The car horses were close to you? A. Yes, sir.

Q When you were putting your foot upon the curbstone where Green's stand is, as I understand it, you saw the deceased put his hand towards one of the bottles, is that right? A. Yes, sir.

Q Up to that time you had no brick? A. No, sir.

Q Where did you get that brick? A. I picked it up off the curbstone.

Q Did the man have the bottle in his hand? A. He attempted to pick it up.

Q Did he have the bottle in his hand? A. That I don't know, I know he made an attempt to pick it up.

Q You don't know whether he got it in his hand or not? A. I do not.

Q Now, when you saw that man there and saw him reach for the bottle you had plenty of room to get away from there, didn't you? A. I could not run.

CASE # 39

2-18

5

Q Why? A. Of account of my leg.

Q Why, you have been walking along? A. I was walking.

Q Couldn't you have walked away? A. It was impossible for me to walk away and not get hit.

Q Why? A. Because the man could hit me and I could not run.

Q The man could hit you and you could not run? A. Yes, sir, on account of my leg.

Q That was the reason? A. I could not get away; that moment I heard the warning cry, I seen that so I jumped and picked up the brick.

Q The woman shouted out, "Look out, that man has a brick"?

A. "Look out John".

Q "That man has a brick"? A. I did not hear her say that.

Q You did not hear her say that? A. No, sir.

Q Did you hear anybody say that? A. No, sir.

Q You were the only one she saw with a brick in your hand?

A. I didn't see him with any brick in his hand.

Q You were the only person you saw with a brick in their hand?

A. That woman hollered.

Q Did you see anybody with a brick in their hand before she hollered? A. No, sir.

Q There was no car there then at the time you threw that brick?

A. No, sir.

Q There were plenty of plenty around there? A. That I don't

CASE # 39

know, sir.

Q You know there were people passing up and down the avenue?

A. I did not pay any attention to them.

Q When this man was struck with the brick, what became of him, did he fall? A. Yes, sir, he fell.

Q And you took to your heels? A. Yes, sir.

Q And ran? A. Yes, sir.

Q Now, then, if you were not able to run when you picked up that brick how was it you were able to run after you threw the brick? A. I was compelled to run then because I did not know whether the man was hit or not.

Q Did you tell the officer you were hit in the leg with a brick?

A. No, sir.

Q Did you tell the Police Sergeant you were hit in the leg with a brick? A. No, sir.

Q You didn't tell anybody that? A. No, sir.

Q There are some people who say that you threw two bricks, how is that? A. It may be the brick broke in half, I don't know.

Q You don't know whether you threw two half bricks or one whole brick? A. It was not a whole brick I threw.

Q Did you throw two half bricks? A. No, sir.

Q Some people say they saw you -- or one person says he saw you take a brick out of that pile that was there? A. I took the brick off the curb.

CASE # 39

04117

217

7

Q Off the sidewalk? A. Yes, sir.

Q You must have been pretty cool to stoop down and take the brick off the sidewalk? A. I was.

Q Perfectly cool? A. Yes, sir.

Q You knew what you were doing? A. Yes, sir.

Q And you intended to do just what you did do? A. I didn't intend to do anything.

Q You intended to pick up the brick? A. Yes, sir.

Q You intended to throw the brick, didn't you? A. Yes, sir.

Q And you intended to hit this man with the brick, didn't you?
A. No, sir, I did not.

Q You threw it against him, didn't you? A. Yes, sir.

Q You did not intend to hit Mr. Green, did you? A. No, sir.

Q Or anybody else upon that street? A. No, sir.

By Mr. Pentecost:

Q Did you intend to hit John Dozier in the head with that brick?
A. No, sir.

Q Was there any pile of bricks in that immediate neighborhood that you knew anything about? A. No, sir, not that I know anything about.

Q I understood you to say that you did not pick up the brick from any pile of bricks? A. That is what I said, sir.

Q You are quite sure you only threw one brick? A. I threw one brick.

CASE # 39

By the Court:

- Q When you were taken to the station house was any money found on you when you were searched by the policeman? A. Yes, sir.
- Q How much? A. About 16 or 17 cents.

ANDERSON C. BURRILL, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Pentecost:

- Q Where do you live? A. No. 141 West 30th Street.
- Q What is your occupation? A. I am a porter in the Pennsylvania Railroad.
- Q A porter in the employ of the Pennsylvania Railroad? A. Yes, sir.
- Q Where are you located? A. No. 2 Beaver Street.
- Q How long have you been in the employ of the Pennsylvania Railroad? A. Since 1876.
- Q Continually? A. Yes, sir.
- Q Are you a member of the Zion Methodist Church? A. I am.
- Q Do you hold any office in the church? A. Yes, sir.
- Q Do you know this defendant Hooker? A. Yes, sir, I know him.
- Q How long do you know him? A. I have known him about twelve years.
- Q What office do you hold in the church? A. I am a trustee in Zion Church.

CASE # 39

6170

9

219

Q Do you know Hooker's family and his family connections?

A. Yes, sir.

Q You have known him for 12 years? A. Yes, sir.

Q Has he ever been in your employ? A. Yes, sir, I have employed him to help me in the office.

Q For what length of time? A. For two years, off and on.

Q Do you know this man's general character for peace and quiet?

A. Yes, sir, as far as I know.

Q Is it good or bad? A. It was good always with me; twice working with me his character was fine.

Q As far as you know it was good? A. Yes, sir.

CROSS EXAMINATION by Mr. Osborne:

Q Do you think a man's character is good who supported himself by horses and cards?

Objected to; objection overruled.

A. Whilst he was with me -- that I don't know anything about.

By the Court:

Q How long is it since he worked for you last? A. Up to about two years ago.

Q Since that time you have not had the same chance for knowing anything about him? A. Only meeting him in the church.

Q That is the only way? A. Yes, sir, always meeting him in church.

Q That is about all you do know of him? A. Yes, sir.

CASE # 39

Q How often would you meet him in church? A. Every Sunday evening I met him in church.

By Mr. Osborne:

Q Would he come with Martha Pell? A. No, sir, he would come alone; I don't know Mrs. Pell.

J O S E P H I N E H O O K E R, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION by Mr. Pentecost:

Q You are the mother of the defendant, are you not? A. Yes, sir, I am.

Q What has been this defendant's character for peace and quietness? A. Gentlemen, I am here to testify to the truth and nothing but the truth. My boy is 20 years old the 19th day of last July. I never in my life had any trouble with him until this. Of course a few months ago, not quite a year ago, there was a little trouble. I saw him in the street with Martha Pell; it was the first time and it is the last time I ever saw them together. I took her one side and had a talk with her; I asked her why it was she was gossiping through the streets with my boy, I says, "He is nothing but a child alongside of you, I have been hearing of you and he going about"; she said it was not so, and I says, "I don't wish for you to have me ever catch you with him again"; she said

CASE # 39

she wouldn't, and we talked on some other matters as far as Christianity was commenced and so forth.

By the Court:

Q All you are asked to tell us is whether your boy has a good peaceful disposition? A. Yes, sir. I tell nothing but the truth.

Mr. Pentecost: I have a letter here from the minister of the church which I would like to read.

Mr. Osborne: I have read it and he says he never heard anything against this boy until this trouble.

Mr. Pentecost: That is the substance of it. As far as he knows his character is good.

DEFENDANT RESTS.

R E B U T T A L.

M A R Y A. D O Z I E R, a witness called on behalf of the People, in rebuttal, being duly sworn, testified as follows:

By Mr. Osborne:

Q You are the wife of John A. Dozier? A. Yes, sir.

Q Were you with him when he died? A. Yes, sir.

Q What time of the morning was it? A. Seven o'clock.

Q On the morning of the 16th of August? A. Yes, sir.

CASE # 39

MARTHA BLACKSON, a witness called on behalf of the People, in rebuttal, being duly sworn, testified as follows:

By Mr. Osborne:

Q Where do you live? A. I am now living at 242 West 41st Street.

Q Where did you live on the 15th of last August? A. No. 15 Minetta Street.

Q Did Martha Pell live in that house? A. She did.

Q Do you remember the day John Dozier got hit? A. I do.

Q Did you see Martha Pell that day? A. I did.

Q Where did you see her? A. I saw her going in and out.

Q Of her house? A. Yes, sir.

Q Where was your room? A. On the first floor.

Q Where was her room? A. The next floor above.

Q Did you see Hooker there on that day? A. I did, sir.

Q How much of the day did he spend there -- when do you recollect first seeing him on that day? A. He came there in the morning; he was always there in the mornings.

Q In the morning? A. Yes, sir.

Q How early in the morning? A. Pretty early sometimes.

Q I am talking about the 15th? A. Well, I guess he is there about 8 or 9 o'clock, along that way.

Q 8 or 9? A. Yes, sir.

CASE # 39

Q You saw him up to what time? A. I saw him very nearly all day.

Q Did you see Martha Pell go out of her house that afternoon?

A. Yes, sir, I did.

Q About what time did she go out? A. It was about seven o'clock

Q Did she go out alone or with somebody? A. She went out -- her and "Delly" Hooker went out together.

Q Did you have a talk with Martha Pell the next morning? A. I did.

Q About this fight? A. Yes, sir.

Q Hooker was not there, was he? A. No, sir.

Q What did she say about the murder of Dozier the next morning?

Question excluded.

Q Do you know the general character of this man? A. I do not.

Q You don't know what his character is? A. No, sir.

Q Whether it is good or bad? A. During the little time that I have seen him he seemed to be a very boisterous young man.

A U R E L I A M O O R E, a witness called on behalf of the People, in rebuttal, being duly sworn, testified as follows:

By Mr. Osborne:

Q Mrs. Moore, where do you live? A. No. 15 Minetta Street.

Q Do you know Martha Pell? A. Yes, sir.

- Q Do you know "Delly" Hooker? A. I am just acquainted with him.
- Q You remember the 15th of last August when Dozier was hit, don't you? A. Yes, sir.
- Q Did you see Mrs. Pell that day? A. Yes, sir, I did.
- Q Do you live in the same house with her? A. In the back room, she lives in the front.
- Q On the same floor? A. Yes, sir.
- Q Was Mrs. Pell in her house on that day? A. Yes, sir, she was.
- Q Did you see "Delly" Hooker there on that day? A. Yes, sir, I did so.
- Q About how much of the day did he spend there? A. Well, he spent pretty near the day there, he had been there pretty near the whole day.
- Q Did you hear them talking together in the rooms? A. I did not hear him talking.
- Q You saw them there? A. I only saw him as I passed by the hydrant.
- Q Did Martha Pell leave her house that afternoon? A. That I could not say.
- Q Did she go out that afternoon? A. She went out that evening.
- Q At what time? A. It was seven o'clock when she went out.
- Q Who went out with her? A. "Delly" Hooker went out with her.

15

225

Q That is the same evening Dozier got hit? A. I seen him go out that evening.

Q Did you see Dozier go out? A. No, sir, I seen Martha and Mr. Hooker go out.

Q The evening you talk about when Mrs. Pell and the defendant went out was the same evening Dozier was killed, is that right? A. Yes, sir.

By the Court:

Q I understood you to say you had no personal acquaintance with this man? A. No, sir, I only seen him coming in and out.

Q To Mrs. Pell's rooms, is that right? A. Yes, sir.

Q Then you don't know anything about his general character?
A. No, sir, nothing about his general character, only I seen him coming in and out of Pell's room.

By Mr. Osborne:

Q Is he much with the Pell woman? A. He was there always.

Q He was there always? A. Yes, sir.

Q Every day? A. That is all I seen of him.

By Mr. Pentecost:

Q Was he there all day on the 15th of August? A. I could not tell you whether he was there all day on the 15th or not.

When I seen him it was in the afternoon, he was at the hydrant in the hall; he had a little girl's hat on his head in the hall; they had some company in there and they were making a

CASE # 39

terrible lot of noise all that day.

Q What time was this? A. I could not tell you what time it was because I didn't look at the time.

Q Was it one o'clock or five o'clock? A. I could not tell you.

Q You don't know whether it was one o'clock or five o'clock?
A. No, sir, I could not tell you.

Q You do know about his going away at seven o'clock? A. Yes, sir, it was seven o'clock when he went out.

Q Are you known by any other name except Moore? A. My right name, Aurelia Fix.

Q Moore is not your right name? A. Yes, sir, Moore is my married name.

Q You are a married woman? A. Yes, sir, my husband is dead.

Q Is your husband's name Moore? A. Yes, sir, William Moore.

Q Are you living with your husband now? A. My husband is dead.

Q The other name you have is your maiden name? A. Yes, sir.

Q Don't you live with a young man now named Jay Cox? A. He lived there in my house, he is a lodger the same as Mr. Hooker is when he lodges with Mrs. Pell.

MARY SANSON, a witness called on behalf of the People,
in rebuttal, being duly sworn, testified as follows:

By Mr. Osborne:

- Q You go to the same church with "Delly" Hooker? A. Yes, sir,
occasionally.
- Q You are a member of Zion Church? A. No, sir, I am not a mem-
ber of it now.
- Q You go there? A. Yes, sir.
- Q Where did you live in August last? A. 15 Minetta Street.
- Q You live there yet? A. No, sir, I moved from there last
Tuesday.
- Q Last Tuesday? A. Yes, sir.
- Q Up to that time you did? A. Yes, sir.
- Q You remember the 15th of last August when John Dozier was hit,
do you? A. Yes, sir.
- Q Did you see Mrs. Martha Pell on that day? A. Yes, sir.
- Q Do you know Martha Pell? A. Yes, sir.
- Q What floor do you live on? A. At that time I lived on the
first floor.
- Q Martha lives right above you? A. Yes, sir.
- Q Did you see her that day? A. I did.
- Q Did you see "Delly" Hooker that day? A. I saw "Delly" Hooker
that evening.
- Q About what time? A. About seven o'clock.

- Q Who was with him? A. Martha Pell.
- Q Where did they go? A. Out in the street.
- Q They left the house at that time? A. They did.
- Q Did you see them go out? A. I did.
- Q You live with your husband? A. I do.
- Q You are a married woman? A. I am.

T H O M A S P E R R Y, recalled.

By Mr. Osborne:

- Q What day of the month was it you arrested Toussaint Vogelsang?
- A. It was on the 17th.
- Q About what time in the morning? A. About one o'clock A.M.
- Q Was it between twelve and one o'clock? A. I could not tell you, it was after twelve o'clock.
- Q A little after twelve? A. Yes, sir.
- Q What day of the month was it? A. The 17th.

TESTIMONY CLOSED.

Mr. Pentecost summed up the case on behalf of the defendant.

The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure, and adjourned the case until to-morrow morning, November 15th, at 11 o'clock.

CASE # 39