

BOX:

42

FOLDER:

490

DESCRIPTION:

Smith, Patrick

DATE:

06/16/81



490

affirm
June 28

B.M.

ay of Trial
counsel, *C. S. Spencer*
16 day of June 1881
Pleads Not guilty (20)

THE PEOPLE

30. 6. 1881
99. 6. 1881
Patrick W. Smith
Henry

DANIEL G. ROLLINS,

District Attorney.

Candley Court
June 16/81

True Bill.

W. J. Johnson Foreman.
July 14. 1881

Freed & convicted
S. 2 Year
July 18. 1881

683
No. 3
New York, June 13, 1881.

Mr. William Cartwright and
Mary Cartwright, do her and each of
us, do hereby certify and return to the
undersigned writ of habeas corpus:

That Mary Smith in the said writ
of habeas corpus named is an infant of
the age of fourteen years; that said
Mary Smith is the child of Patrick
N. Smith and of Kate Smith, the
latter being in her lifetime a sister of
your respondent Mary Cartwright; that
in or about the year 1870, said Patrick
N. Smith abandoned his said wife and
the said Mary Smith, leaving them
entirely destitute; that said Kate
Smith after said Smith abandoned her, was
compelled to seek employment in order to
support herself, the child being supported
by your respondents and by Mrs. Margaret
Bramnick, another sister of Mrs.
Smith; most of the time since 1870, the child
has been an inmate of the family of
respondents; about 1877, Mrs. Smith be-
came afflicted with cancer of some in-
ternal organ and was no longer able to
support herself and she became to live
with your respondents, who for about a
year supported both her and the child;
thereafter Mrs. Smith with the child went
to live with Mrs. Bramnick, with whom she

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remained until his death in March, 1880; since that time the child Mary Smith has lived with respondents, wholly supported by them, and in all respects treated as if she were your respondents' child; that since 1870, said Patrick W. Smith has never contributed anything whatever toward the support of his said child and has never in any way exhibited any interest in or claim over said child except upon one occasion in 1880; that said child has been ever since ~~be~~ said Smith abandoned his family in 1870, wholly supported by your petitioners respondents and by Mrs. Brannick, as was her mother for periods amounting in all to four or five years, without reward or hope or expectation thereof; that said child has no means whatever, and were it not for your petitioners and said Mrs. Brannick would have become an object of public charity.

Your respondents further show that said Patrick W. Smith is a person wholly unsuited to have the care and control of said Mary Smith; that he is a person of bad moral character, consorting with persons of ill repute, intemperate and violent and abusive in his manners; that while he lived with his family his wife often showed bruises which she declared to be caused by his beating her; that he is a plunderer by trade, but so far as your re-

1 respondents can learn, has followed no regu-
 2 lar or lawful employment; that he has
 3 only at long intervals ~~and~~ made any in-
 4 quiry ~~made any inquiries~~ concerning his
 5 child and has never since 1870 expressed
 6 any desire to see her; that about the year
 7 1872 he was convicted of obtaining money
 8 under false pretences and was sentenced
 9 to the State Prison for three years, as your
 10 respondents are informed and believe; that
 11 he has served out his sentence; your re-
 12 spondents pray leave to refer to the case
 13 of The People v Patrick W. Smith, 47 New
 14 York Reports, 303, where the opinion of the
 15 Court of Appeals upon his case may be
 16 found -

17 Your respondents further show that
 18 they are persons of some means and of good
 19 repute; your respondent William Cartwright
 20 has been for some years a dealer in fish and
 21 oysters at No. 523 Third Avenue, where he
 22 still resides, but has lately sold out his busi-
 23 ness and is now awaiting an opportunity to
 24 again engage in business; that this child
 25 Mary Smith has been treated in all respects
 26 as if she were their own, your respondents
 27 having no children; that she has been sent
 28 to school and is receiving as good an educa-
 29 tion as is usual in their station in life; that
 30 she is well and comfortably clad and is kindly
 31 treated and is under no restraints except such
 32 as is usual and proper for a girl of her years;

that it is the wish of your respondents that she should remain with them until maturity and such is the wish of all the child's relatives by her mother's side; that the child knows no other home than with your respondents and should her wishes be consulted she would choose to remain with them; that she is of an age and character that needs the some gentle restraint; and your ~~dear~~ respondents believe that by allowing them the custody of said Mary Smith her best interests would be consulted, as said Patrick W. Smith would be likely to give no attention whatever to her education or exercise any supervision over her moral conduct.

And your respondents return that they have the said Mary Smith in their custody in the manner and by reason of the matters aforesaid, and not otherwise.

Sworn to before me
this thirteenth day of
June 1884
Geo O Simons
Com of Deeds
my

Mrs Cartwright
Her
Mary X Cartwright
Wife

2
Mr. Lipton

matter
7th

against

application of
Patrick W. J. Smith for
out of New York.

Recess

KNOX & MACLEAN,

Attorneys for Respondents

7 NASSAU STREET,

New York City.

Filed April 13/87

Due and timely service of a copy of the within

admitted this

day of -----18

To ----- Esq.,

Attorney for-----

6⁹ I he
Folio 1.

18/81
To

The Supreme Court of the State of New York:

The Petition of Patrick W. J. Smith respectfully shows that Mary Smith, of the City of New York, is restrained of her liberty at number 537 Third Avenue, in the City, County and State of New York, by Mary Cartwright and William Cartwright, her husband. That she has not been committed and is not detained by virtue of any mandate issued by a Court or Judge of the United States, nor has she been committed nor is she detained by virtue of the final judgment or decree of any competent Tribunal of civil or criminal jurisdiction, nor by the final order of such a Tribunal made in a special proceeding instituted for any cause, nor by virtue of an execution or other process issued upon such a judgment, decree or final order. That the cause or pretence of such restraint, according to the best knowledge and belief of your Petitioner, is as follows, to-wit: That the said Mary Cartwright and William Cartwright,

3. her husband, claim and insist upon the right to have the care and custody of the said Mary Smith, and to have received the same from the mother of the said Mary Smith. That the said Mary Smith is the daughter and only child of your Petitioner, and is the child of your Petitioner and his deceased wife, Catharine Smith, who was a sister of the aforesaid Mary Cartwright. That your Petitioner's said wife died while he was absent in California, and as he is informed and believes consigned the said Mary Smith, his child, to the custody of the said Mary Cartwright. That your Petitioner is engaged in business as a plumber, steam and gasfitter, having his place of business at 390 Sixth Avenue, in the City of New York, and resides in said City. That his business is prosperous. That he has sufficient means, and is able and willing to care for, support and educate his said daughter, said Mary Smith. That it is his intention and he is about making arrangements if the custody of the said child be awarded to him to place her
- 4.
- 5

in a Catholic educational institution or seminary, where she will be properly cared for and educated at Petitioner's expense. That your Petitioner has been refused by the said William Cartwright the right or privilege of seeing his daughter aforesaid, or of conversing with her, and has been ordered by him away from his place. That the aforesaid Mary Smith, Petitioner's daughter, is of about the age of thirteen years. That your Petitioner is a Roman Catholic, as was the mother of said Mary Smith, and they were married in this City by the Reverend Felix H. Farwell, a Roman Catholic clergyman. ^{February 8th 1866} That as your Petitioner is informed and believes, his said daughter, the said Mary Smith, is being educated and brought up as a Protestant, and is sent to a Protestant Church in the City of New York, which is in opposition to the wishes of your Petitioner. That as the father of said Mary Smith your Petitioner is entitled to the custody and control of his said daughter, never having in any way consigned her to the care or custody of the said Mary Cartwright or William Cartwright. She is not related to the said

William Cartwright.

8 That your Petitioner is advised by David
McClure, Esq., who resides at number 145
East Eighteenth Street, in the City of New York,
and is a Counsellor of the Supreme Court and the
Petitioner's Counsel herein, that such restraint is
illegal in that your Petitioner, as the father of
the said Mary Smith, is entitled to the control,
charge, care and custody of her, the said Mary
Smith, and to the right to see and converse
with her at any and all times, and the said
Mary Cartwright and the said William Cartwright
are not nor is either of them entitled to the posses-
sion, care or custody of said Mary Smith nor the
right to prevent her being seen and visited by
her father, your Petitioner.

9. Wherefore your Petitioner applies
for writ of habeas corpus for the pur-
pose of inquiring into the cause of such
restraint, and of delivering the said Mary
Smith therefrom.

Dated the 10th day of June, 1881.
David L. McClure
Atty for Petitioner -

Patrick W. J. Smith

City and County of New York, ss.

Patrick W. J. Smith,
being duly sworn, says that he is the

Petitioner above named, and believes the
above Petition by him subscribed to be
true.

Sworn to before me, } Patrick W. Smith
This 10th Day of June, 1881. }

Louis W. Fulton.

Notary Public
N.Y.S.

Supreme Court.

In the Matter of the
Application of
Patrick W. J. Smith
for a writ of Habeas Corpus
to inquire into the cause of
the restraint of Mary Smith.

John C. Petition

TURNER, LEE & MCCLURE,

Attorneys for Petitioner.

20 NASSAU STREET,

New York.

Filed June 10. 1887

believe, I am trying to do justice to him and to do justice to myself. Whatever he may think he said to me - I think I have got pretty good hearing - I swear here solemnly (and if I could admit anything to the contrary I deserve to be in his place) that he never in my hearing or in answer to any questions of mine he never said that he was in State prison.

The jury rendered a verdict of guilty with a recommendation to mercy. He was remanded for sentence.

Testimony in the case
of
Patrick W. J. Smith

Filed June
1881

50 folios

CORRECTION

9.
The People
vs.
Patrick M. J. Smith { Court of General Sessions, Part I
Indictment for perjury. { Before Judge Cowing. July 13. 1881.

Louis M. Fulton, sworn. I am a lawyer; I am the manager for Turner, Lee and McClure, 20 Nassau St. I have seen the paper before which you hand me; it was prepared in our office; the paper itself was written by our stenographer [It was the petition for a writ of habeas corpus.] I have not the certificate of my appointment as notary public with me. I have it at the office and will produce it in the morning. Did you as notary public on the 10th of June 1881 take this affidavit from the prisoner - did he swear to that affidavit before you that day? He did; he signed it and swore to it before me. What was done with it after it was signed? I presented the petition to Judge Lawrence sitting at Chambers. Supreme Court; he is a judge of the Supreme Court in the first Judicial Department. I applied for a writ of habeas corpus upon that petition. I think the writ is on file in our office.

Thursday, July 14. 1881. Louis M. Fulton recalled. Have you got your certificate here? In accordance with the direction of the Court I brought the certificate of my appointment as Notary Public of the City and Co. of New York. I was sworn under that, took the oath of office and entered

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upon the duties of Notary Public. This is the petition
 (People's Ex. 1) which I presented to the Supreme
 Court; that is the petition which the prisoner veri-
 fied before me as Notary Public on the 10th day
 of June 1881. This is the writ (People's Ex. 2) that was
 allowed on that petition? That is the writ, sir, that
 was allowed on that petition. [M. Lynn: the writ of
 habeas corpus is dated the 10th of June and
 directed to Mary Cartwright and commands them
 to produce the body of Mary Smith before the Supreme
 Court at a special term to be held in the Court
 room in the Court House of the city of New York
 on the 13th day of June at 10.30 in the
 forenoon of that day. That is signed and attest-
 ed and allowed in the usual way. After that
 writ was allowed was it served? It was. Who
 served it? I served it. On whom? On the persons
 to whom it was directed - the Cartwrights. How
 did you serve it? I served it by personally del-
 ivering to each of them respectively a true copy of
 the writ and leaving it with them. Did you
 show them the original? I showed them the
 original; that was unnecessary under the new
 Code. Were you present in Court upon the return
 of the writ? I was. Was the child produced? The
 child was not produced. Was there any return
 made to the writ? A return was made. Do you
 know whether this is the return that was made

to the writ? This is the return filed by Knox and McLean, attorneys for the respondents. to the writ of *habeas Corpus*, which was read in open Court on the original return day of the writ. [The return to the writ was marked, *Peoples Ex. 3.*] Upon the making of that return were any further proceedings had before Mr. Justice Lawrence? There were. A traverse was filed to the return. Is this the traverse (paper shown)? That is the traverse. By whom was that prepared? That was written by the same stenographer who wrote ^{out} the petition. Did you have charge of the proceedings on behalf of this prisoner in Court there? No sir, I did not. But you were present at the proceedings? I was present at part of them, not at the entire proceedings. This traverse bears your signature? It was verified before me; it bears my signature as Notary Public. By whom? By the prisoner Patrick M. J. Smith. You administered an oath to him, did you? I did, sir. What was the corporal oath you administered? "You solemnly swear that the answer to the return by you subscribed is true, so help you God." What answer did he make? He said, I do. Then you subscribed your name to it? I then subscribed my name to it as Notary Public. He having first subscribed his name? He having first subscribed his name to the traverse and to the verification. I desire to correct

That answer. I remember distinctly as to having sworn him as to his belief. I merely desire to correct a misapprehension as quickly as I can when it is called to my mind. That I have made such a mistake, and that is to state, that when the prisoner took the oath before me, I took it, as stated in the verification, upon his belief. Do you remember what the oath was you administered to him? I do. Now tell us what it was? "You solemnly swear that the answer to the return by you subscribed you verily believe to be true, so help you God." You said you administered an oath to this prisoner, did you do anything else before you administered the oath to him? Certainly I did. What was it? In connection with this matter? Yes? I read the answer to him. I read that paper, his traverse or answer to the return. Upon this traverse that was so put in were any further proceedings had? Of those I have no personal knowledge. Cross Examined. Is your recollection about reading that document to Mr. Smith as clear as your recollection was as to the oath you administered to him that you swore to him the first time? I recollect very distinctly reading the answer to the return to Mr. Smith. You stated positively did you not since you have been on that stand that you swore him absolutely as to the truth of those statements did you not?

I did. You afterwards retracted that did you not state that you only swore him that he verily believed that? The record shows that. Is it not possible that your recollection is treacherous about reading the paper to him? It is possible, sir. That is the name of the stenographer that drew up this traverse? Drew. He is not in Court to my knowledge. Who were present at the time you say you read that paper to Mr. Smith? I do not remember who were in the room; it was in the main office. What hour of the day was it you read that traverse to him? Sometime between 12 and 3 o'clock. Had you read any other paper to anybody during that three hours? I have no personal recollection of doing so. Is it not a fact that you told him to sign that and that is all there was of it? It is not a fact. Mr. McClure was in his own office; he was not there. Do you know he was on the premises at all? I could not state actually of my own knowledge. Was Mr. Turner there? Mr. Turner was ^{not} there. Can you recollect now anybody that was there at the time you read that document to him? I could not state positively. I presume the stenographer and a number of clerks were in the office at the time. Are there any of them here? I think not. I see no one in the Court room whom I recognize as being any clerks in that office. Is that

traverse in your handwriting? No sir, it is not. In whose handwriting is that traverse? That is in the handwriting of the stenographer. You are not a member of the firm? No sir, I am not. This traverse was merely handed to you to have you swear him, who handed it to you? It was handed to me by the stenographer Mr. Drew. Do you recollect anything that happened that day except your reading of this paper to him? I recollect directing the original to be taken up to the County Clerk's office and filed by one of the boys, and I also remember directing a copy to be served upon Knox and McLean, attorneys for the respondents. Who was it that was doing this business for Mr. Smith? Mr. David McClure acted as Counsel for Smith, I was not the attorney. You had no other relation to Mr. Smith except as Notary public? I think I might be considered as having more. I do consider myself as having other relations. Did he at any time employ you to do anything for him? Never. I did not know him except as Mr. McClure introduced him. Did he have any confidential talks with you about his case? No sir, I think not. Something has been said about the stenographer preparing this statement were you present when anything was dictated to the stenographer? I was not. Mr. McClure was the

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member of the firm who had charge of the case
Can you remember on the day you allege you
saw Mr. Smith reading over a paper to any
one else he made an affidavit before you?
You are referring to the answer to the return.
Any other paper sworn before you that day? I
do not remember any other paper. In the ordinary
course of business I may possibly have done others.
Do you always read over papers to clients of your
firm when sworn to before you? No sir, I do
not. Mr. Drew is still at your office? He is.
Do you occupy the same office with McClure?
I am the managing clerk for Turner, McClure
and Lee. Do you occupy the same office?
Certainly. What is Mr. Drews name? T. O. L. or
T. A. L., I am not sure which.

Emile Stark, sworn and examined, testified

Mr. Lyon. I offer in evidence from the files of this Court an
indictment against the prisoner, Patrick M. Smith
Counsel. He offers a document here that purports to have
been found on the 20th of April 1871. This return
alleges that my client was sent to the State
prison in 1872. [The Court: This answer was,
he never was in State prison in his life.]
I allow the indictment in and will give you
an exception [Mr. Lyon read, peoples Exhibit
No 5, an indictment against Patrick J.
Smith, 20th of April 1871.]

Edward Hall, sworn and examined, testified. You are what? Deputy Clerk of the Court of General Sessions. That is that (paper shown) that is an indictment found by the Grand Jury of the Court of General Sessions, dated April 20. 1871. From the files of this Court? Yes sir. What book is it you have in your hands? The minutes of the Court of General Sessions. Of the City and Co. of New York? Yes sir. Has any record been made up in the case of Patrick M. Smith? No sir. What proceedings were had upon this indictment? He was tried and convicted for obtaining goods by false pretences before Recorder Hackett, April 21. 1871 by a jury and sentenced to the State prison for the term of three years as appears by the minutes. Cross Examined. In whose handwriting are those minutes? John Sparks. Have you any distinct recollection where you were about four o'clock on the afternoon of the 21st of April last? No sir. By Mr. Lyon. Have you any idea about where somebody will be this afternoon? Yes sir. Emile Stark recalled. Emile Stark, is that your name? That is my name. Do you know this prisoner? I do. Did you know him in 1871? Yes sir. Did you have any transactions with him in 1871? Yes sir. Did you cause his arrest in that year - was he in custody in that year? He was in custody that year. Were you present in this Court on his

trial in that year? Yes sir. And you testified upon the stand in that case did you? Yes sir. I want to know if that is the charge you made before the Magistrate? That is the charge. And that is the charge upon which he was tried here in Court was it? Yes sir. You testified on the stand to that charge? I did. This is the complaint here that you made before the Magistrate, you went before the grand jury about these facts afterwards and then testified here as a witness? I did. Were you present afterwards when the jury came in? I was. What was done with him? He was sent to State prison. For how long? Three years. Do you see the man here in Court? The prisoner is the man. The prisoner is the man who was charged here under the name of Patrick T. Smith is that so? Yes sir.

Mr. Lyon

Is it necessary for me to call any more witnesses on that point? I have a number of witnesses who were present at the time of the sentence. [Counsel: I do not doubt the truth of what Mr. Stork has sworn to.]

Mr. Lyon

It appears by the indictment that this prisoner was indicted for obtaining from Emile Stork, who was just in the witness chair, a certain sum of money by false pretences. That is my case. This indictment is admitted in evidence.

The Court:

Yes sir [Counsel: I want the indictment marked and made a portion of the exhibits in this case.]

Patrick Wm J. Smith, sworn and examined testified.
 Mr. Smith, how old are you? Going on thirty two, sir.
 Is that all? That is all, sir. What is your business?
 I am a plumber, steam and gas fitter. You were
 convicted here in 1871, were you not? In 1871 I was
 convicted here, yes sir. In April 21? Yes sir. Were
 you guilty of that charge of which you were
 convicted? I signed that check, but I really
 was not guilty of it because I was drunk when
 I done it. What bank did you sign that check
 on? On the Fifth National bank. Where did
 you keep your account? At the Bulls' Head bank.
 Did you have an account in that bank at
 that time? I had. Mr. Smith, you served out your
 time, didn't you? I did, sir. And have you
 been working in New York? Ever since I served
 my time. What have you been working at? When
 I came out of the State prison I went to work on
 a farm in New York. You came here and
 worked at your trade? At my trade. What is
 your trade? I am a plumber, steam and gas
 fitter. Have you got a shop of your own? Yes sir.
 You have got a lot of contracts that you were
 doing work for, respectable men when you were
 arrested? Yes sir. This little girl of yours, it is
 your only child I understand? It is my child.
 Yes sir. You went down to this office where this
 man was that wore the gray suit? I never

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seen him only once. You went down to try to get
your girl, didn't you? I did, sir. About this paper
that you have read where you said you never had
been in State prison, was that paper read to you?
It was never read. Did you swear to anything?
No sir. You went down, what happened? I went down
there and I asked Mr. McClure to get my daughter
for me. Can you read writing? No sir, I cannot.
Did he read that paper to you? No sir, he never
read it to me. What did you suppose you were
swearing to? I did not know because I did
not read it; he did not read it to me at the
time. "Sign that Mr. Smith, it is right." You
knew they charged you with being sent to State
prison in 1872 didn't you? In 1872 in the
Supreme Court they said I was there. Had you
been sent to the State prison in 1872? No sir,
in 1871. Did you tell Mr. Fulton you had been
sent in 1872? I did not tell him anything about
it. Did you know at the time you signed that
paper there was anything in that paper deny-
ing that you had ever been in State prison?
I did not; if I knew there was anything about
it in the paper, I would not have sworn to it.
Did you tell your counsel truthfully all the
facts about your history? I told Mr. McClure, yes sir.
You are a Catholic in your religion are you
not? I was brought up a Catholic. Did you have

any motive on earth in trying to get your daughter except her own good? No sir, no more than to educate her. If the Judge will let you, you may name to the gentlemen here one or two men you have got contracts for plumbing work for at the time? Yes, I can show his Honor here if the jury wish to see them they can. Cross Examined. You told Mr. McClure all about this case did you? I did, sir. About whether you had been in State prison or not did you? I did, sir. What did you tell him about whether or not you had been in State prison? I told him when I went down to his office I was recommended to him unfortunately by a sister of charity; she told me to go to Mr. McClure. Then did you tell Mr. McClure that you had been in State Prison? The morning after the writ was taken out. Before you signed this affidavit? Yes sir. You told him then you had been in State prison? I did, sir; he asked. There was it that you told him that? In his office. You were in Court were you not when the return was made to this writ? I was, sir. Mr. McClure got up in the Court room and read all this paper that I read to the jury? Yes sir. And he read it very plainly and very distinctly too? I did not hear him read it, I was on the other side of the Court room getting my child from this Courtwright. You did not hear Mr. McClure? I have witnesses to prove that. Did you

understand at all before you left the Court room
what the contents of the paper was that Mr. McLean
read? I did not. Not at all? I did not. Did your
Counsel come to you in the Court room and tell you
what there was in that paper? He did not. Did your
Counsel turn around and ask you if that paper
was true? He did not. Did your Counsel after he
had talked with you, after that paper had been
read get up and say to the Court that you had
told him that that was utterly false? No sir.
And that you were ready to go on the stand and
swear to it? He did not. Mr. McLean did not say
that in the Court room? He did not. Then you
went away from the Court room did you? I did.
You went to his office? I went with Mr. McClure.
Mr. McLean read the paper to the Court. Well
now that all happened when you left the Court
room on the day that the return was read up
to that time you had not told Mr. McClure about
your being in State prison? I have told him.
He did not ask you anything about it? I have
told him. You had told him before hand? I did, yes,
sir. What day was it you told him about being
in State prison? On a Tuesday. What was the
day that this affidavit of yours was read?
On a Monday the first writ was read. Judge
Lawrence said it was wrong. On a Monday
the writ was taken out, and Judge Lawrence

~~said it~~ was going to dismiss the writ because it was not issued right. Mr. McClure begged the judge to look over some mistake about the writ, I don't know what it was, and Judge Lawrence said, "All right; bring the child here tomorrow morning." That was on Tuesday morning. This Mr. McClure's son or nephew, I don't know what he is to him, he came there and said, "I don't know what he said - about bringing the child to Judge Lawrence, he said he would have the child there on Tuesday morning. On Tuesday I went to Mr. McClure's office and he got an affidavit and paper ^{wrote} ~~made~~ up. His man, that man that was ~~there~~ this morning he asked me to sign it. He said, "Smith, sign this paper," and I signed it. That was in the morning of that day that you signed that paper in the office? Between eleven and twelve o'clock. That was on Tuesday morning? Yes, that was on Tuesday morning. You went up in Court when that was read? The affidavit did not come up in Court at the time; it was on Monday the affidavit was wrote. That day were you arrested? It was on Thursday - Wednesday or Thursday, I don't know which. Don't you remember even that? I do not, I think it was on Thursday. That was when Judge Lawrence dismissed the writ and ordered you to be committed? It was Wednesday.

Counsel Objected to. We have nothing to do with any orders of Judge Lawrence.

Mr. Lyon I want to fix the date in some way.

Counsel Never mind the day. I understand the motive. It is for this jury to say whether this man ought to be convicted or not.

Mr. Lyon. I ask that my question be answered. (Objected to.)

I ask if it was on the day that Judge Lawrence dismissed the writ and remanded the child to Mr. and Mrs. Cartwright. [By the Court: Was it the day the writ was dismissed? Yes sir.

By Mr. Lyon That was Thursday was it? That was on the Wednesday I believe.

Well know, the day before that was the day that your affidavit was read in the Court room.

There was an affidavit, I don't know whether it was mine or not. Did it you hear it read?

I did not hear any of these two affidavits read.

Never any of them? No sir. Well, it was on Tuesday morning then that you signed this paper in Mr. McClure's office? On some between eleven and twelve o'clock? On Tuesday? Yes sir.

When was it you told Mr. McClure you had been in State prison? On Monday. What time of day on Monday did you tell him? I told him after he brought me down to his office about three o'clock, after I had been to Court.

You went down to his office, you told him you had been in State prison? I did.

David McClure sworn and examined, testified.
 You were subpoenaed to attend here as a witness?
 Yes sir, and I did not want to be here either.
 Were you employed by this prisoner as counsel
 in the matter of obtaining the custody of his daughter?
 I waited until there should be a question put, and I suggest to the Court that I would rather not be examined in this case. If the facts can be proved by any other person but me I think it had better be. I suggest it to the good taste of the District Attorney. I shall decline to answer any questions that come within the range of confidential communications or transactions as between lawyer and client. Any facts that occurred in public court rooms or that are provable by papers I prefer should be proved by somebody else. I submit myself to the direction of the Court. I wish to have that entered. I was employed by the prisoner as counsel in the habeas Corpus proceedings. I was present in Court upon the return of the writ. Mr. Charles F. McLean presented the return. Did he read it? He did. Was the prisoner present at that time? I object to answering that question. He was in the room, behind me, sitting there all the time. How near to you? As near as the judge is at present. When Mr. McLean read the return was he there? He was. In what voice did

Mr. McLean read the return, so that it could be read? Yes sir. There was no mistake in the writ or in the petition. It was returnable on a Monday if I remember right. When it came into Court, Mr. McLean, as he was in duty bound to do, and as he was paid to do, made objection to the form. The judge overruled his objection, and he then read his return ~~upon~~ that same day. Upon the reading of the return, and after the thing was through, an adjournment was taken until the next day, to allow us to traverse the return. There was no overlooking the defects; there was no defect. He did not produce the child that day, as Mr. Smith says; he produced her the next morning. Did you hold any communication with your client after the reading of that return? I request the District Attorney to withdraw that. Did you subsequently see the prisoner on that day in your office? Yes sir. Do you know how that paper came to be drawn? I do. Was this paper drawn by your direction? I think the fact that that paper was drawn by my direction does not enter into any confidential relation. Is that so Colonel (meaning Mr. Spencer)? It was drawn by my direction. In whose handwriting is it? It is in the handwriting of Mr. Drew, one of our stenographers. Did you dictate to Mr. Drew the

substantial matter contained in that return? I suggest that inasmuch as Mr. Drew informed me he has been subpoenaed, you had better ask him. Do you think it is a professional matter? I do not, I would rather you would not press me. I dictated that, and every word of it, both Drew. Was the prisoner present when you dictated it? I won't answer that unless the Court requires me to. Was the prisoner present and in hearing when you dictated it? It was dictated in my room, which is not very large. Was the prisoner present when you dictated it? I told you, you had better pass that. You overrule me? Yes, I overrule you with the consent of the Court. Tal Drew, sworn and examined, testified By Mr. Lyon. Look at that paper if you please, that is the traverse to the return, in whose handwriting is that? In mine.

Counsel
The Court

I make the same objection and same appeal to your Honor trying this case afresh. It is strictly rebuttal. Until your ~~client~~ ~~you~~ client took the stand and stated that he informed his lawyer of all the facts, this evidence ~~did~~ not come in. The District Attorney called these witnesses for the purpose of placing themselves right.

By Mr. Lyon

Did you write that paper? Yes sir. From what did you write it? From the shorthand notes

taken by me. Then and where did you take the shorthand notes? In the office of Mr. McClure, his private office. Who was present when you took them? Mr. McClure and Mr. Smith. Mr. Smith was present was he? Yes sir. At whose dictation did you take the notes?

Counsel I object to anything that passed in that lawyer's office.

The Court The evidence is here now that the Counsel was fully informed and that he dictated an affidavit which makes him party to the fraud.

Counsel I feel it my duty to stand here now. I want Mr. McClure to hear me - and say that Smith, who is half crazy today (I am not defending him on the ground of insanity) I do not believe Mr. McClure ever heard that statement, and yet the man was chattering and Mr. McClure paid no attention to it.

The Court He swears he told it to Mr. McClure.

Counsel He talked to me till I am nearly dead. In fact I know Mr. McClure well enough to know if he (Mr. McClure) had been aware of that fact he would not have permitted that answer to be put in. This prisoner is what I call a "crank." I am willing to strike out all that the prisoner said to Mr. McClure.

Witness His room in which the affidavit was dictated in is a very small room about

fourteen feet square, I should think, something like that. Mr. McClure sat at his desk, and the prisoner sat right next to me at the end of the desk. Did the prisoner make any suggestions when the affidavit was dictated? Yes sir. After you had taken the notes that were dictated in his presence did you then reduce them to writing? I did, sir, after reading them to him Cross. Examined. I have not the original minutes here; they are at home. I had no idea I was going to be subpoenaed until half an hour ago. David McClure recalled. This prisoner has testified here in Court that on Monday after returning from the Supreme Court he stated to you in your office that he had been convicted and served a term in the State prison, is that true? After that paper was dictated, it was read over from the notes. I then called in Mr. Fulton, who is our managing clerk, and who had something to do in the case. I said, Mr. Fulton, I want you to take that paper when it is written out, I do not want to see it, and read it over in cold blood to Mr. Smith and swear him; and I never saw the paper until after it was sworn to and it was handed me to come to Court. Whatever Mr. Smith may say or whatever he may

believe, I am trying to do justice to him and to do justice to myself. Whatever he may think he said to me - I think I have got pretty good hearing - I swear here solemnly (and if I could admit anything to the contrary I deserve to be in his place) that he never in my hearing or in answer to any questions of mine he never said that he was in State prison.

The jury rendered a verdict of guilty with a recommendation to mercy. He was remanded for sentence.

Testimony in the case

of
Patrick W. J. Smith

filed June

1881

50 folios

DISTRICT ATTORNEY'S OFFICE,

New York, _____ 188

Sidney G. Law. Chaplain Tomb
from letter

~~Louis~~ Louis in Fulton (notary)
20 Nassau St.

James, Lee & MacChes
13 Nassau St.

Henry C. Knox -
U.S. Marshal

Emil Shook

Ch. Greenwich & Fulton

de ~~Thomas Lewis~~ } 19
de ~~Philip Lambury~~ } 19
rec

Solomon Lewis, Jr.
333 E. 57th St.

Co. Clk. (Pet. & papers -

John Sparks, (Hob. Corp.)
- Jackson, Sing Sing Prison with
rep. S.

Whitaker:

For Tuesday
12'

New York, Lake Erie & Western Railroad Co.

Office of Attorney, 21 Cortlandt St.

C. L. Atterbury,
Attorney

New York, July 12th 1881

My dear Sir:

Our Vice Pres. W. Geo.
R. Blanchard has been
subpoenaed for your office
to attend before the Grand
Jury today.

His engagements today
& tomorrow are such,
owing to the business of
the Company, as to make
it very difficult for him
to appear as desired.
Would it be too much
a trespass upon your
courtesy, to ask that

to be excused until
say Thursday morning.

The matter I understand
from him is a charge
of want of honesty against
Mr Michael Egan. I suppose
of Mr Blanchard for stealing
a very valuable dog.

Will you kindly
let me know your
pleasure in the matter
of the beam

Very truly
Yours
Chas. L. Lathrop

D. J. Rollins &

D. J. Rollins &

32 Chambers St

**POOR QUALITY
ORIGINAL
DOCUMENT(S)**

and was sentenced to State Prison for
three years, and that he has served
out his sentence, and denies that
he was in any year or at anytime
ever convicted of any crime or sen-
tenced to any State prison or ever
served out any sentence in any
prison, and denies that he is the
same person referred to in the case
of the People against Patrick W. Smith,
recorded in 47 New York Reports, page 303.
He also denies that the said Mary
Cartwright and William Cartwright are
of sufficient means to give the said
Mary Smith the education support and
care that he, the said Patrick W. Smith,
would be able to give her, the said
William Cartwright having formerly kept
only a small fish stand on Third
Avenue, and having now been for some
time out of business. Further an-
swering the said return, the said
Patrick W. Smith also denies that he
ever abandoned his family and
shows that in or about the year
1870 he separated from his wife, they
having lived very unhappily together.

for some time, their trouble having
been largely caused by the said Mary
Cartwright and her sister, that he left
with her considerable property of the
5 value of about fifteen hundred
dollars; that he went to the west
and returned in or about the year
1872, and at that time caused said
Mary Smith, his daughter, to be taken
from the house of said Margaret
Smith and to be placed in the home
for children connected with the
Catholic Church in Twenty-eighth Street
in his City, where she was visited by
her mother and remained until removed
by her said mother, and taken away
by said mother without his knowledge.
That your petitioner thereafter went
west and remained west until the
6 year 1880 when he returned to his
City. That he called upon the said
William Cartwright shortly after his
return, with reference to said Mary
Smith, and was by the said William
Cartwright ordered out of his house
and threatened that if he came there
again he, said Cartwright, would shoot

him. That he has at different times attempted to see the said child and obtain her, and has been met with abusive language by the said Cartwright and with threats.

7. That your petitioner does not know what care or attention education or support the said Mary Smith has been receiving from the said Mary Cartwright and William Cartwright her husband, and your petitioner is informed that she is kept entirely secluded and in the house to the detriment of her health and education. That your petitioner has been informed and believes that the said William Cartwright is a man of bad moral character, and entirely unfit to have the charge of any child, particularly of one not related to him and of the age of petitioner's daughter. That your petitioner has never been engaged in any business other than that of plumbing, steam and gas-fitting, was never engaged in the Regas business, and that he has been engaged

in the City of New York since his
return from the war in 1861
ing. He has and was fitting his place
of business at the present time being
124 South Street.

Patrick C. English

1 City and County of New York
I, Patrick C. English, do hereby
being duly sworn, depose that he is the
petitioner herein, and believes the
contents of the petition to be true.
I declare under oath that the
contents of the petition are true and
correctly stated to be true.

Subscribed and sworn to before me
this 13th day of June, 1861

John M. Foster

Notary Public

1861

Patrick C. English

in the City of New York since his
return from the West in 1840, and
ing, steam and gas-fitting, his place
of business at the present time being
124 South Street.

Patrick C. Wright

1.

City and County of New York ss.

Patrick W. Smith
being duly sworn, says that he is the
petitioner herein, and believes the
petition of William Cartwright and
Mary Cartwright to be true.

Subscribed to before me

This 13th day of June, 1881 } Patrick C. Wright

Wm. M. Fulton

Notary Public

N.Y.C.

W. Clerk. with
 original
 Records of the
 office
 Solomon Simon
 305 333-E, 57
 Jan. 1871

Supreme Court.

In the matter of the ap-
 plication of Patrick W. J.
 Smith for a writ of Habeas
 Corpus to inquire into the
 cause of the restraint of
 Mary Smith.
 Copy Answer to return.

TURNER, LEE & MCCLURE,
 Attorneys for Plaintiff.

20 NASSAU STREET,
 New York.

You will please take notice that the
 answer to the
 within is a copy of the return herein which
 was this day filed herein in the office of
 the Clerk of the Court.
 Dated June 13 1871. Turner, Lee & McClure,
 Attorneys for Plaintiff.
 Done service of a copy of the within
 answer filed of the foregoing notice of
 filing the same is hereby admitted this
 13th day of June, 1871. Herse & Moxley,
 Attorneys for Cartwright.

City Prison June 28/81

Hon. J. Smyth
Dear Sir

My case was before
you to day for trial and I was
ready, but was adjd by the Dist
Ctly -

I would like to have my trial
as soon as possible say the 29th
or 30th and before your Honor,
for the following reason

I have 3 or 4 ~~contracts~~ on
hand ~~one~~ for Plumbing work,
One with Mr Sutphen 20
Massan St, whom you no
~~do not~~ know - all the contracts are
freely done - and I will lose all
if my trial is not soon put
on, and my witnesses being
all business men they will

become weary of waiting-

I am almost certain being
acquitted, and in the name of
Justice ask you to have the trial
brought on this week.

Yours Respectfully
Rat X Wm J. Smith

Mr. Lyons.

Recd July 8. 67,
by mail!
J.W.

Dear Sir,

Pardon me for writing to you. But I thought I would. I have been here near my the tomb for ~~the last~~ three weeks. I am very sick with dyspepsia and I have thought it rather long, as I have been ready for trial all the time. I am a plumber, I have a shop outside. it is now closed up, on account of my absence. I have got contracts and am afraid I will lose them if I am not tried soon. I have no friends but God, and I beg you to bring me for trial, as

soon as possible.

I Remain

Yours Respectfully

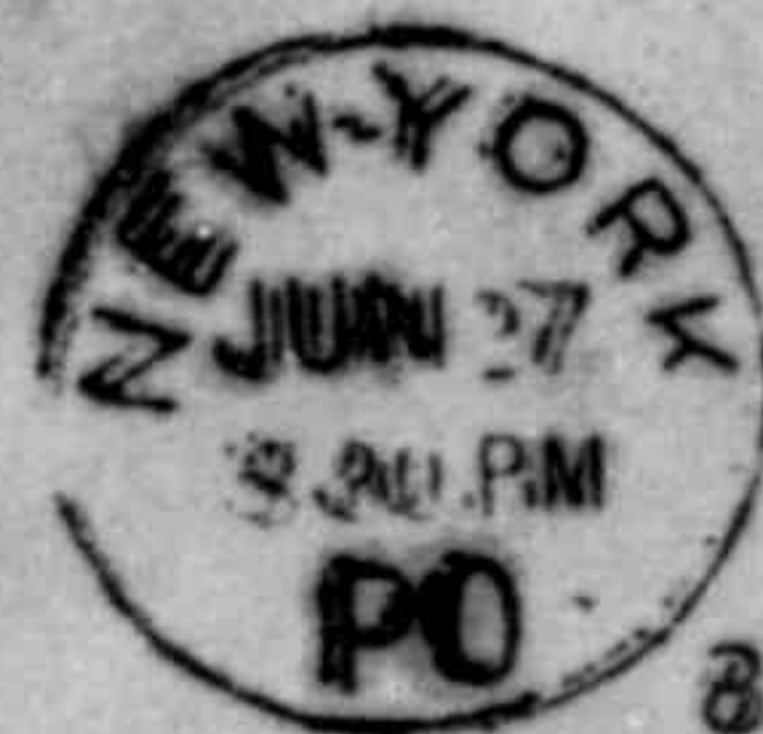
Mr. J. H. Lyon

Patrick W. J. Smith.

P.S. Mr. Lyon, if you
could get my ball
reduced, I think I can
get back.

P.W.J.S.

Pat. W. J. Smith



Hon W. L. Beecher
Ass^t District Attorney
237 Broadway
New York

The Rev
apt
Patrick W Smith } Court: F. Pretences -
Apr 21. 1871 -
sentenced S.P. 3 yrs.

Witnesses names on the complaints

Emil Stork

250 8th Ave

Herman Koehler

West side 1st Ave bet 29 & 30th St.

Solomon Ginn

~~342 4th St~~
1014

2nd Ave cor 54th St.

Rebecca Graunig

Jacob De Goff } 370 1st Ave

Wm F. Macy

206 8th Ave

Thomas Levins

Philip Lambrecht

} Officers

19th Dist Police

City & County of New
York ss:

William Cartwright
of 527 3^d Avenue in the
City of New York being
duly sworn alleges:

That he is informed
and believes that on
the 10th day of June
1881 application was
made to the Supreme
Court of New York by
petition for a writ of
Habeas Corpus to en-
quire into the cause
of the restraint of one
Henry Smith; that
the writ was issued as
prayed by one of the
Justices of said Court
and department and
his wife appeared in
response thereto and
made return in writ-
ting on the 13th day of
June 1881; That on
the 14th day of June

1881 Patrick W. J.
Smith, the petitioner
for the writ, appeared
at ~~Chancery~~ ^{Office of} said
Court before the Hon.
A. R. Lawrence, a jus-
tice thereof, and sub-
scribed and annexed to
the said return, sub-
scribed by him the
said Patrick W. J.
Smith and verified
by his oath, taking be-
fore me Louis H. Ful-
ton a Notary Public
for the County of New
York, duly authorized
to administer oaths.
That among the mat-
ters material to be in-
quired into in the
proceedings aforesaid
was an allegation in
the return to the said
writ ^{as was the fact} that the said
Smith had been there-
tofore convicted of a
criminal offense; that

* and I believe that the witness is a man of good character and of good reputation in the community of the State Prison at the time of the trial of the said Patrick W. J. Smith.

the said Patrick W. J. Smith in the answer so as appears by him subscribed and verified, in and to his oath declared as follows: "Patrick W. J. Smith xx denies that he was in or about the year 1872 convicted of obtaining money under false pretenses and was sentenced to State Prison for three years; that said declaration and statement was & wilfully and corruptly false, and that in truth and in fact the said Patrick W. J. Smith was on the 21st day of April 1871 in the Court of General Sessions committed upon an indictment charging him with obtaining property upon

Also sentences and
sentences to the State
Prison for a term of
three years, as ap-
pears by the records
of said Court and
will be shown by the
testimony of Solomon
Simmons, of 333 E. 57 St.
New York City.

Given to before me Wm Cartwright
this 16th day of June 1881

Jess Dwyer
Notary Public N.Y.C.

The People
v.
Pat^r. W. J. Smith

Admission
of William
Cartwright

Witnesses:
Solomon Simmons
333 E. 57 St.
John A. Frank
Clerk etc.
County Clerk
with his name
transcribed
Loring W. Fulton
300 Madison St.
Emile Frank
106 W. 28 St.

6th 14/81

W. Reid Gould, Law Blank Publisher and Stationer, 168 Nassau St., N. Y.

The People of the State of New-York, TO

Mary Cartwright and William Cartwright,
and each of them,

GREETING :

We Command You, That you have the body of Mary Smith,

HAB. CORPUS
TO BRING UP PERSON.

by you imprisoned and detained, as it is said, together with the time and cause of such imprisonment and detention, by whatsoever name the said Mary Smith shall be called or charged before the Supreme Court, at a Special Term thereof to be held at the Court-room of said Court in the Court House in the City of New York on the 13th day of June, 1881, at 10.30 o'clock in the forenoon of that day.

to do and receive what shall then and there be considered concerning the said Mary Smith; and have you then there this writ.

Witness, The Hon. Abraham R. Lawrence One of the Justices of said Court,
the 10th day of June, in the year one thousand ^{eighteen} hundred and eighty-one.

Attorney

No. 20 Nassau St.
New York City.

CLERK.

By the Court
Wm. Butler

City and County of New York, ss: Louis M. Fulton being duly sworn says that
 is twenty-one years of age and resides in the City of New York: that on the 10th
 day of May, 1881, at No. 527 Third Avenue in the City of New York, he served
 the within writ upon Mary Cartwright and William Cartwright, the
 persons to whom said writ is directed, by delivering to each of them a copy
 of said writ and leaving the same with them and each of them.
 Deponent further says that he knows the persons so served as aforesaid
 to be the persons to whom said writ is directed.
 Sworn before me this 11th day of June, 1881.

L. M. Fulton.

John M. Byrne
 Notary Public N.Y.C.

The hearing upon
 the within writ
 is hereby adjourned
 to 14 June 1881, at the
 same hour & place;
 the petitioner to serve
 a traverse to the re-
 spondent, upon
 Knott & Co. at 11th
 & file said traverse this
 day; the child to be
 mentioned to be served
 at the hour & place to which
 the within writ is directed
 to adj.

N.Y., 13 June 1881.

The hearing is continued to 14 June 1881, at the same hour & place, the child to be mentioned to be served at the hour & place to which the within writ is directed to adj.

This 10th day of June 1881.

John M. Byrne
 Notary Public N.Y.C.

New York

June 27/81

Hon W. C. Beecher

Dear Sir

At the earnest request of a prisoner Patrick J. W. Smith, whose trial is to take place to-morrow, I would like to present to you his statements of his case. Of course it is impossible for me to decide from hearing only one side, and I must therefore ask your indulgence if I am sometimes misinformed. In a recent suit which

he brought for the recovery of his daughter (whom he wished to take from a Roman Catholic school to educate her at his own expense) the tables were turned against him because he had formerly been in State Prison, and he, ^{is now} ~~was~~ accused of perjury.

He says that his lawyer prepared an affidavit which he signed without being made fully acquainted with its contents. He can neither read writing nor write, except his own name. But he took no oath

before a justice, and supposed that what he signed was correct.

He was originally imprisoned for signing a check (in a state of intoxication, hardly knowing what he did) on a bank in which he had no money, although he had money in another bank.

He confessed that he deserved it for his drunkenness, but says that now, for ten years, he has been an active temperance man.

And since his dis-
charge from Prison
in 1874 he has been
living an honest, indus-
trious, and sober
life, and is doing
well in his business
and has accumulated
a thousand dollars.
He felt ready to take
care of his daughter
and thinks it hard
if he shall have to go
to Prison for attempting
to recover her, because
unfortunately, he has
been in Prison once
before. I have no doubt,
if all this be true, you will
show mercy on him for his
error. Yours Respy
Sidney B. Law
Chaplain at the Foul

New York, Lake Erie & Western Railroad Co.
Office of Attorney, 21 Cortlandt St.
C. L. Atterbury,
Attorney.

New York, July 13th 1881

My Dear Sir.

Our V. Gen'l. M. Blanchard
was obliged to go out of
town & will not be back
before tomorrow. Would it
be too much to ask you
to excuse him until then,
He was not aware, when
he left town yesterday that
an indictment had been
found nor did he know
of the enclosed subpoena,
as it was left at his
home whence he had
already gone.
He will probably reach

the City early in the morning
and I will arrange to have
him attend at 10 o'clock
if you desire.

Will you please let
me know of beaver, if
the will suit your
communion.

Yours truly
Chas. H. Chas.

Rev. D. E. Rollins
Dix City.

Eliot Miller has
some testifies. It

am an attendant
at the Court of General
Sergeants, the records
~~Office~~, which I to

providence are from the
Clerk's Office of the General Senate.

Mr Knox offers
an indictment held

April 20th, 1871.

People in Patience &
Smith. Endorse

7/2/71 April 21, 1871
SP 3 years.

That means need
and conclude that
21, 1871. Later Person

In the matter-
of the apprehension
of Patrick M J
Smith

Salomon Summery
own testimony. I
was a wholesale
liquor dealer in
1870 and 1871. Had
transactions in 1871
with Patrick M J
Smith. I took
out a warrant
for him and was

present when he
was here in 1871.
I saw him sentenced
for 2 or 3 years. Can't
say which. The
person sentenced
was the same. That
I had made out a
warrant ^{against}. I have
seen him since.
I saw him here
yesterday and
today. I was here
when he attempted
to kill a man.

this young girl May
Smith. he is the
same person who
was sentenced,
I saw him outside
of this room, about
25 minutes ago.
I saw him talking
with that gentleman
with the long black
hair. I had no
difficulty in recog-
nizing him yesterday.
He was sent pointed
out to me. I checked

him^{only}. He was tried
on the complaint
of a regular dealer
in S^t Avenue.

This is the check
which was given
me for the liquor
he ~~sold~~ bought
of me. He bought
of me under the
name of Melham
Smith. This is the
affidavit on which
I moved for a
warrant.

Recorder Huellett
told him; he ^{Smith} gave the
check to my driver,
and sent it me

personally
from to before
me this 15th
day of June

1881.

Amos T. Lawrence
JAL

3 years
I sum to before me June 1881
Eilert Miller
The Throes office
TSC

Recd from Pabst
bunt 4: Pabst
submitted The People
in the complaint
of Solomon Sumi
in Pabst N Smith

Also complaint
before Police & Magistrate
People in complaint
of Emil Struth
against Pabst
N Smith

William Cunningham
~~Henry ^{at home} ~~testifier~~~~

I am the husband
of the aunt of
Mary Smith. Mary
for the last 10 or
11 years has been
with me on the
other of the island.
of her mother.

I saw Patrick Mc
Smith last, about
15-minutes before
last evening,
from noon, he
had been
~~was~~ ^{was} ~~conversing~~ ^{conversing} with
14

Mr. Kuntz and
the gentleman
with the long black
beard but white
hair. . . He is the
same person who
was purloined out
by the wicked Simon,
and who endeavored
to kiss or embrace
Mary Simon the
other day.

Witnessed
before me
this 15th day of
June 1881
John T. Lawrence
JSC

William F. Kuntz
~~her own testifies.~~

I have become acquainted
with Patrick W J
Smith. I last saw
him a few moments
before the boat
remained after
noon. I saw him
conversing with Mr
Reynolds. The gentle-
man with the
long black hair,
who is a member

of the bar. I
commenced with him
also.

Seen to before ^{W.F. Kintz}
me this 15th
day of June

1881 Albert Thumme the

Knox man
that the with
assumed, ~~of the~~
~~with~~ which is
granted

June 15th 1881. Albert Thumme
Kintz SC

Supreme Court

In the Matter
of the applica-
-tion of Paterson
W. J. Smith
for a writ of
Habeas Corpus
to enquire into
the cause of
the restraint of
Mary Smith

Verdict Taken
before Lamorne
J. June 15th 1871

City and County
of New York ss

The jurors of the people of the
State of New York in and for the
body of the City and County of
New York upon their oath
present

That heretofore on the tenth
day of June in the year of our
Lord one thousand eight hundred
and eighty one at the City of
New York in the County of New York
aforesaid one Patrick W. J. Smith
duly presented a petition ^{in writing} in due
form of law to the Supreme Court
of the State of New York alleging
and stating among other things
in substance and effect that one
Mary Smith was unlawfully
restrained of her liberty by one
Mary Cartwright and William
Cartwright ^{the} husband ^{of the said Mary Cartwright} and
that he the said Patrick W. J.
Smith was the father of said
Mary Smith and that she was
an infant of about the age
of thirteen years and that
thereupon a writ of habeas

Corpus was then and there
duly issued by said Supreme
Court, directed to the said
Mary Cartwright and William
Cartwright requiring and com-
manding them to produce the
body of the said Mary Smith
before a special term of the
said Supreme Court held at
the chambers thereof at the
City and County aforesaid
on the thirteenth day of June
in the year of our Lord one
thous and eight hundred and
eighty one together with the time
and cause of the imprisonment
and detention of said Mary
Smith and that said Mary
Cartwright and William Cart-
wright then and there in pursuance
of the commands appeared
before the said Supreme Court
at a special term thereof at
the aforesaid chambers thereof
at which said special term
the Honorable Abraham R. Lawrence
a justice of the said Supreme
Court was then and there

lawfully presiding as such
Justice on the thirteenth day
of June in the year of our
Lord one thousand and eight
hundred and eighty one ^{and}
^{and they then produced the body of the said Mary Smith and}
duly made return ^{in writing} to said court
~~in writing~~ in due form of law
and which said return amongst
other things stated and charged
in substance and effect that
he the said Patrick W. J. Smith
was and ^{is not} a proper person
to have the custody of the
said Mary Smith and that he
the said Patrick W. J. Smith
had been sentenced to the
State Prison

And the jurors aforesaid
upon their oath aforesaid do
further present

That he the said Patrick
W. J. Smith ^{at that place and County aforesaid on the day and in the year last past} came in his
own proper person before one
Louis M. Fulton who was then
and there a Notary Public of
the ~~Six~~ County of New York
duly and regularly appointed
and qualified as such and

then and there exhibited and
produced before him the
said Louis M. Fulton as
such Notary Public as
aforesaid ~~as~~ Traverse and
~~an~~ affidavit ^{in writing} in answer and reply
to the said return and was then and
there duly sworn by and took his
corporal oath before him the said
Louis M. Fulton as such Notary Public
as aforesaid (he the said Louis M.
Fulton having as such Notary Public
as aforesaid sufficient and competent
power and authority to administer the
said oath to him the said Patrick W. J.
Smith in that behalf) and that he the
said Patrick W. J. Smith being so duly
sworn as aforesaid then and there
before the said Louis M. Fulton as such
Notary Public as aforesaid upon his
oath aforesaid, wickedly, wilfully, falsely,
feloniously and corruptly did say,
swear, depose and make oath in his said
traverse and affidavit in writing among
other things in substance and to the
effect following that is to say:

~~That he the said Patrick W. J. Smith was
never convicted of any crime.~~

That he the said Patrick W.
J. Smith was never convicted
of any crime

That he the said Patrick
W. J. Smith was never sentenced
to State Prison

That he the said Patrick W.
J. Smith never served ⁱⁿ any
prison any sentence of con-
viction of any Court (the
aforesaid matters so sworn to as
aforesaid by him the said Patrick W.
J. Smith and each of them being then
and there material matters)

Whereas in truth and in fact,
he the said Patrick W. J. Smith was
on the twenty-first day of April
in the year aforesaid one thousand
eight hundred and seventy-one
convicted in and by the Court of
General Sessions of the Peace held in
and for the City and County of
New York upon an indictment
charging him the said Patrick W. J.
Smith with the offence of false
pretences and with obtaining
certain property therein mentioned
upon false pretences as by reference

to the said indictment and proceedings
thereon and said conviction more
fully and at large appears all
which he the said Patrick W. J. Smith
then and there ^{at the time} he so swore, ^{and made oath} as aforesaid
~~then and there~~ well knew: and

Whereas in truth and in fact
he the said Patrick W. J. Smith ^{had been} ~~was~~
sentenced by the said Court of General
Sessions ^{of the Peace} to the State Prison for
the term of three years upon the
conviction so had therein as
aforesaid upon such indictment
as aforesaid as he the said
Patrick W. J. Smith then and there
^{at the time he so swore and made oath as aforesaid}
~~when he so swore as aforesaid~~
well knew: and

Whereas in truth and in fact
he the said Patrick W. J. Smith
did serve the aforesaid sentence
of imprisonment in the State Prison
of the State of New York, and

And so the Jurors aforesaid
upon their oath aforesaid do say
That the said Patrick W. J.
Smith on the said thirteenth day
of June in the year aforesaid

one thousand eight hundred and
eighty one at the City and County
aforesaid before the said Louis
M. Fulton as such Notary Public
as aforesaid (he the said Louis
M. Fulton as such Notary Public
as aforesaid having then and
there full and competent power
and authority to administer the
said oath to him the said
Patrick H. Smith in that behalf
of his own det. and accord feloniously
wilfully, wickedly, maliciously
and corruptly ^{did} commit wilful and
corrupt perjury Daniel G. Rollins
District Attorney.

BOX:

42

FOLDER:

490

DESCRIPTION:

Smyth, John

DATE:

06/20/81



490

There is another
Indictment after
the Sept. acc.
Ancient Complaints
for larceny.

F.S.

Counsel,

Filed 20 day of June 1881

Pleads

THE PEOPLE

vs.

Wm. Allen
Chambers

John Smyth.

2 each

David C. Collins
BENJ. K. PHILLIPS,

District Attorney.

Part No. 1 June 21, 1881

Meads S. Co.

A True Bill.

Wm. O. Howard Foreman.

~~Wm. O. Howard~~ F.S.

F.S.

Grand Jurors of Meigs Co., N.Y.
INDICTMENT.

CITY AND COUNTY }
OF NEW YORK, } 88.

THE JURORS OF THE PEOPLE OF THE STATE OF NEW YORK,
*in and for the body of the City and County of New York, upon
their Oath, present:*

That

John Smyth

late of the First Ward of the City of New York, in the County of New York, aforesaid, on the
fifteenth day of *June* in the year of our Lord
one thousand eight hundred and eighty *one* at the Ward, City and County aforesaid
with force and arms.

*One pitcher of the value of twenty dollars.
Eleven spoons of the value of two dollars each.
One goblet of the value of twenty dollars.
One dish of the value of twenty dollars.
Divers other articles of ~~silver~~ silverware (a more
particular description of which is to the
jurors aforesaid unknown) of the value
of fifty-three dollars.*

of the goods, chattels, and personal property of one

Frederick Graetke

then and

there being found, feloniously did steal, take and carry away, against the form of the Statute in such
case made and provided, and against the peace of the People of the State of New York and their
dignity.

And the Jurors aforesaid, upon their oath aforesaid, do further present

That the said

John Smyth

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

*One pitcher of the value of twenty dollars
Eleven spoons of the value of two dollars each.
One goblet of the value of twenty dollars
One dish of the value of twenty dollars
Others other articles of silverware (a more
particular description of which is to the
jurors aforesaid unknown) of the value of
fifty-three dollars.*

of the goods, chattels, and personal property of the said

Frederick Traenkler

by a certain person or persons to the Jurors, aforesaid unknown, then lately before feloniously stolen ~~of the said~~ *taken and carried away from the said*

Frederick Traenkler

unlawfully, unjustly, ~~and for the sake of wicked gain~~, did feloniously receive and have (the said

John Smyth

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

DANIEL G. ROLLINS,

~~BENJ. K. PHELPS~~, District Attorney.

138 Billy Jones
Counsel,
Filed 20 day of June 1887
Pleads

THE PEOPLE
vs.
John Smyth.
2 cases

DANIEL C. ROLLINS,
BENJ. K. PHELPS,

District Attorney.

Part for June 21, 1887
Sentenced or another Indictment.
A True Bill.

W. C. Church Foreman.

Larceny, and Receiving Stolen Goods.

POLICE COURT—FIFTH DISTRICT.

CITY AND COUNTY }
OF NEW YORK, } ss.

John Smyth being duly examined before the under-
signed, according to law, on the annexed charge: and being informed that he was at
liberty to answer, or not, all or any questions put to him, states as follows, viz:

Question. What is your name?

Answer.

John Smyth

Question. How old are you?

Answer.

24 years of age

Question. Where were you born?

Answer.

New York

Question. Where do you live?

Answer.

16 Allen Street

Question. What is your occupation?

Answer.

Shoemaker

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

Answer.

I am not guilty of the charge

John Smyth

Taken before me, this

16

day of

June

1851

J. Wilketh

Police Justice.

5th District Police Court—

Affidavit—Larceny.

CITY AND COUNTY }
OF NEW YORK, } ss.

Emma Cromwell

of No. 110 West 129th Street,

being duly sworn, deposes and says, that on the 23rd day of May 1881

at the _____ City of New York,

in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, and from said premises said street

the following property, viz.:

One pocket-book containing gold and lawful moneys of the issue of the Treasury department of the United States consisting of Bills of various denominations and amounting to the sum of Fifteen-dollars and gentlemen wearing apparel consisting of two coats, one pair pantaloons + one vest together of the value of thirty dollars, said property being in all of the value of Forty-five dollars

the property of deponent and her husband Benjamin F. Cromwell

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen, and carried away by John Smyth (now here) from the

fact that deponent caught and detected the said John Smyth in the act of leaving said premises by means of jumping out of the 2nd story window of said premises - and deponent found a portion of said property to wit: the gentlemen wearing apparel upon the ground under said window after the said John Smyth ran away

Emma B. Cromwell

Sworn before me this

16th day of June 1881
J. H. Smith
POLICE JUSTICE.

5th 609

District Police Court

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Emma Cromwell
40 W 129th St

John Smyth



DATED *June 16* 1886

Kilbuck MAGISTRATE.

Smith & Thompson 12 OFFICER.

WITNESSES:

DISPOSITION

1000 to m.
Con

AFFIDAVIT—Larceny. *Chambers*

POLICE COURT—FIFTH DISTRICT.

CITY AND COUNTY }
OF NEW YORK } ss.

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

Question. What is your name?

Answer.

John Smyth

Question. How old are you?

Answer.

24 years of age

Question. Where were you born?

Answer.

New York

Question. Where do you live?

Answer.

16 Allen St

Question. What is your occupation?

Answer.

Shoemaker

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

Answer.

I am not guilty of the charge

John Smyth

Taken before me, this

16th

day of

June

188

J. Wilbur

Police Justice.

5th

District Police Court—

Affidavit—Larceny.

CITY AND COUNTY }
OF NEW YORK, } ss.

of No. 157 West 130th Street,

being duly sworn, deposes and says, that on the 15th day of June 1881

at the _____ City of New York,

in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, and from said premises said street

the following property, viz.:

One plated Ice Pitcher of the value of twenty-dollars
Eleven tea-spoons of the value of twenty-two dollars
One silver Goblet of the value of twenty dollars
One silver Fruit dish of the value of twenty dollars—
and other articles of silver ware of the value of
Fifty-three dollars said property being together
and in all of the value of one hundred and
thirty-five dollars

the property of deponent

and that this deponent

has a probable cause to suspect, and does suspect, that the said property was feloniously taken,
stolen, and carried away by John Smyth (now here) from the

fact that since the commission of said offense
deponent was informed by Officer Philip H. Smith
12th Precinct Police (now here) that he said Philip H. Smith
arrested the said John Smyth walking along 4th Ave
between 125th & 126th Streets with said property wrapped
up in a table cloth in his said John Smyth's
possession— and deponent fully identifies
said property—

Frederick Traenkle

Sworn before me this 16th day of June 1881

Police Justice.

City & County
of New York

Philip H. Smith of the 12th Precinct
Police being duly sworn deposes and says that
he has heard read the annexed affidavit
of Frederick Frankle and that so much of
said affidavit as relates to himself is true
of his knowledge and belief -

Sworn to before me this
16th day of June 1881

Philip H. Smith

J. H. Smith
Police Justice

5th 609
District Police Court

AFFIDAVIT - Larceny - Breach

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Frederick Frankle
157 W. 30th St.

John Smythe

DATE June 16 1881

Kilbretts MAGISTRATE.

Smith & Simpson 12th OFFICER.

WITNESSES:

Philip H. Smith

Bennett Thompson

12th Precinct Police

DISPOSITION



Com

CITY AND COUNTY }
OF NEW YORK, } ss.

THE JURORS OF THE PEOPLE OF THE STATE OF NEW YORK,
in and for the body of the City and County of New York, upon
their Oath, present :

That

John Smyth

late of the First Ward of the City of New York,
in the County of New York, aforesaid on the *twenty third* day of *May* in the year
of our Lord one thousand eight hundred and ~~seventy eight~~ *eighty one* at the Ward, City and County aforesaid, with force
and arms, three promissory notes for the payment of money, being then and there due and unsatisfied (and of
the kind known as United States Treasury Notes), of the denomination of one thousand dollars, and of the value of one
thousand dollars each: three promissory notes for the payment of money, being then and there due and unsatisfied
(and of the kind known as United States Treasury Notes), of the denomination of five hundred dollars, and of the value
of five hundred dollars each: twenty promissory notes for the payment of money, being then and there due and
unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one hundred dollars,
and of the value of one hundred dollars each: thirty promissory notes for the payment of money, being then and
there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of fifty dollars,
and of the value of fifty dollars each: fifty promissory notes for the payment of money, being then and there due and
unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the
value of twenty dollars each: sixty promissory notes for the payment of money, being then and there due and
unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of ten dollars, and of the value
of ten dollars each: eighty promissory notes for the payment of money, being then and there due and unsatisfied (and
of the kind known as United States Treasury Notes), of the denomination of five dollars, and of the value of five dollars
each: ninety promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind
known as United States Treasury Notes), of the denomination of three dollars, and of the value of three dollars each:
one hundred promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind
known as United States Treasury Notes), of the denomination of two dollars, and of the value of two dollars each:
one hundred and twenty promissory notes for the payment of money, being then and there due and unsatisfied (and of
the kind known as United States Treasury Notes), of the denomination of one dollar, and of the value of one dollar
each: one promissory note for the payment of money (and of the kind known as bank notes), being then and there due
and unsatisfied, of the value of one hundred dollars: one promissory note for the payment of money (and of the kind
known as bank notes), being then and there due and unsatisfied, of the value of fifty dollars: two promissory notes for
the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied of the value
of twenty dollars each: three promissory notes for the payment of money (and of the kind known as bank notes,) be-
ing then and there due and unsatisfied, of the value of ten dollars each: ten promissory notes for the payment of money
(and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars each: ten
promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatis-
fied, of the value of three dollars each: fifteen promissory notes for the payment of money (and of the kind known as
bank notes), being then and there due and unsatisfied, of the value of two dollars each: thirty promissory notes for
the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value
of one dollar each: bank bills of banks to the jurors aforesaid unknown, and of a number and denomination to the
jurors aforesaid unknown, of the value of one thousand dollars. Two gold coins (of the kind usually known as
double eagles), of the value of twenty dollars each: three gold coins (of the kind usually known as eagles), of the
value of ten dollars each: six gold coins (of the kind usually known as half eagles), of the value of five dollars each:
fifteen gold coins (of the kind usually known as quarter eagles), of the value of two dollars and fifty cents each: ten gold
coins (of the kind usually known as three dollar pieces), of the value of three dollars each: thirty gold coins (of the
kind usually known as dollar pieces), of the value of one dollar each: gold coin of the denomination to the jurors
unknown, and a more particular description whereof cannot be given, of the value of one thousand dollars. Sixty silver
coins (of the kind usually known as dollars), of the value of one dollar each: sixty silver coins (of the kind usually
known as half dollars), of the value of fifty cents each: one hundred and fifty silver coins (of the kind usually known as
quarter dollars), of the value of twenty-five cents each: three hundred silver coins (of the kind usually called dimes),
of the value of ten cents each: six hundred silver coins (of the kind usually known as half dimes), of the value of five
cents each: one thousand silver coins (of the kind known as three cent pieces), of the value of three cents each: silver
coin of a denomination to the jurors unknown, and a more particular description whereof cannot be given, of the value
of fifty dollars. Three thousand coins (of the kind known as cents), of the value of one cent each: five hundred coins
(of the kind known as two cents), of the value of two cents each. One hundred due bills of the United States of Amer-
ica, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomi-
nation of fifty cents each, and of the marketable value of fifty cents each: two hundred due bills of the United States
of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the
denomination of twenty-five cents each, and of the marketable value of twenty-five cents each: five hundred due bills
of the United States of America, the same being then and there due and unsatisfied (and of the kind known as frac-
tional currency), of the denomination of ten cents each, and of the marketable value of ten cents each,

Two coats of the value of ten dollars
One pair of pantaloons of the value of five dollars
One vest of the value of five dollars

of the goods, chattels, and personal property of one

Benjamin F. Bromwell

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

John Smyth

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

DANIEL C. ROLLINS,
District Attorney

And the Jurors aforesaid, upon their oath aforesaid, do further present

That the said

John Smyth

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

with force and arms, at the Ward, City and County aforesaid,

and arms, three promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one thousand dollars, and of the value of one thousand dollars each: three promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five hundred dollars, and of the value of five hundred dollars each: twenty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one hundred dollars, and of the value of one hundred dollars each: thirty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of fifty dollars, and of the value of fifty dollars each: fifty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the value of twenty dollars each: sixty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of ten dollars, and of the value of ten dollars each: eighty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five dollars, and of the value of five dollars each: ninety promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of three dollars, and of the value of three dollars each: one hundred promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of two dollars, and of the value of two dollars each: one hundred and twenty promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one dollar, and of the value of one dollar each: one promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of one hundred dollars: one promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of fifty dollars: two promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of twenty dollars each: three promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of ten dollars each: ten promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars each: ten promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of three dollars each: fifteen promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of two dollars each: thirty promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of one dollar each: bank bills of banks to the jurors aforesaid unknown, and of a number and denomination to the jurors aforesaid unknown, of the value of one thousand dollars. Two gold coins (of the kind usually known as double eagles), of the value of twenty dollars each: three gold coins (of the kind usually known as eagles), of the value of ten dollars each: six gold coins (of the kind usually known as half eagles), of the value of five dollars each: fifteen gold coins (of the kind usually known as quarter eagles), of the value of two dollars and fifty cents each: ten gold coins (of the kind usually known as three dollar pieces), of the value of three dollars each: thirty gold coins (of the kind usually known as dollar pieces), of the value of one dollar each: gold coin of the denomination to the jurors unknown, and a more particular description whereof cannot be given, of the value of one thousand dollars. Sixty silver coins (of the kind usually known as half dollars), of the value of fifty cents each: one hundred and fifty silver coins (of the kind usually known as quarter dollars), of the value of twenty-five cents each: three hundred silver coins (of the kind usually called dimes), of the value of ten cents each: six hundred silver coins (of the kind usually known as half dimes), of the value of five cents each: one thousand silver coins (of the kind known as three cent pieces), of the value of three cents each: silver coin of a denomination to the jurors unknown, and a more particular description whereof cannot be given, of the value of fifty dollars. Three thousand coins (of the kind known as cents), of the value of one cent each: five hundred coins (of the kind known as two cents), of the value of two cents each. One hundred due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of fifty cents each, and of the marketable value of fifty cents each: two hundred due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of twenty-five cents each, and of the marketable value of twenty-five cents each: five hundred due bills of the United States of America, the same being then and there due and unsatisfied (and of the kind known as fractional currency), of the denomination of ten cents each, and of the marketable value of ten cents each,

Two coats of the value of ten dollars each
One pair of pantaloons of the value of five dollars
One vest of the value of five dollars

of the goods, chattels, and personal property of the said

Benjamin F. Bromwell

by a certain person or persons to the Jurors aforesaid unknown, then lately before feloniously stolen of the said

Benjamin F. Bromwell

unlawfully, unjustly, and for the sake of wicked gain, did feloniously receive and have (the said

John Smyth

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