

0631

BOX:

419

FOLDER:

3876

DESCRIPTION:

Feuerhalin, Herman

DATE:

12/18/90



3876

0632

Witnesses;

H. H. H. H.
Official Clerk

After an examination of
 Complainant in open court
 he appears to have no
 appreciation of the nature of
 an oath. There is no other
 evidence in the case.

The Society report shows
 that defendant has an
 excellent reputation.

Jan 20, 1911 Vernon M. Davis
 Asst

I move the dismissal of
 this indictment.

Jan 20, 1911 Vernon M. Davis
 Asst

#202 Osborne

Counsel,

Filed

day of

1890

Pleads

THE PEOPLE

vs.

Herman Feuerhahn

Grand Larceny, 1st Degree.

(From the Person.)

[Sections 538, 539 - Penal Code].

JOHN R. FELLOWS,

District Attorney.

Off the Court at this request
 H. H. H.

A True Bill.

H. H. H. H.
H. H. H. H.

Part 2 - Jan. 20, 1891. Foreman.

H. H. H. H.
 on Motion of District Attorney
 Indictment Dismissed

0633

Police Court—3 District.

Affidavit—Larceny.

City and County }
of New York, } ss.

Jacob Heyman
of No. 11 Delancey Street, aged 10 years,
occupation Newsboy being duly sworn
deposes and says, that on the 15 day of November 1896 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
and person of deponent, in the night time, the following property, viz:

One pocket-book containing Forty-
nine cents in good and lawful
money of the United States. The book
being valued at three cents, togeth-
er forming a total value of Fifty-
three cents

.52 cents

the property of

this 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 Herman Deuerhahn (now
here) from the fact that the said
property at the said time was in
the right hand pocket of the jacket
worn on the person of the deponent
as he was standing at the corner of
the Bowery and Delancey Street and
the defendant came up thrust his
hand into the said pocket and ran
away with the said property

Jacob Heyman

Subscribed and sworn to before me, this 16 day
of November 1896
[Signature]
Police Justice.

0634

Sec. 198-200.

CITY AND COUNTY }
OF NEW YORK, } ss.3d District Police Court.

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

Question. What is your name?

Answer. Herman Feuerhahn

Question. How old are you?

Answer. 14 years

Question. Where were you born?

Answer. New York

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

Answer. 187 Orchard St. (1 year.)

Question. What is your business or profession?

Answer. Card Publisher

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

Answer.

I am not guilty-

Herman Feuerhahn

Taken before me this

16th

day of

NOVEMBER

1900

at

187 Orchard St.

New York

City

Police

Justice

of the

Police

Justice

of the

Police

Justice

of the

Police

Justice

0635

BAILED,
No. 1, by Wm. J. Dwyer
Residence 102 Oakland Street.
No. 2, by _____
Residence _____ Street.
No. 3, by _____
Residence _____ Street.
No. 4, by _____
Residence _____ Street.

Police Court--- 3rd District. 1/38

THE PEOPLE, vs.
ON THE COMPLAINT OF

James J. Brennan
William J. Brennan

Offence Larceny from
The Person

Dated November 16th 1890

Duffy Magistrate.
Cohen Officer.

11th Precinct.

Witnesses Case Officer.

No. _____ Street.

No. 100 East 23rd Street.

No. 100 East 23rd Street.



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

Defendant

I order that he be held to answer the same and he be admitted to bail in the sum of One Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated November 16th 1890 D. Duffy Police Justice.

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

Dated Nov 17 1890 D. Duffy Police Justice.

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

Dated.....18..... Police Justice.

0636

Court of General
Sessions

The People
agst
Herman Feuerhahn

REPORT OF THE NEW YORK SOCIETY FOR
THE PREVENTION OF CRUELTY
TO CHILDREN.

100 EAST 23^d STREET,

New York, Nov. 18th 1890

CASE NO. 53088

OFFICER

DATE OF ARREST

CHARGE

AGE OF CHILD

RELIGION

FATHER

MOTHER

RESIDENCE

AN INVESTIGATION BY THE SOCIETY SHOWS THAT

the boy
has never been arrested before
and that the parents are respectable

All which is respectfully submitted,

To Dist. Atty.

O. Hollows Burlington
N.Y.

*Court of General
Sessions*

<i>The People against German Feuerhahn</i>	<i>Lawrence for the Person</i>
--	--------------------------------

PENAL CODE, 1866

Report of the New York Society
for the Prevention of Cruelty
to Children.

ELBRIDGE T. GERRY,
President, &c.,
100 East 23d Street,
NEW YORK CITY.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,
against

Herman Feuerhahn

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

Herman Feuerhahn
of the CRIME OF GRAND LARCENY in the *first* degree committed as follows:

The said *Herman Feuerhahn*

late of the City of New York, in the County of New York aforesaid, on the *fifteenth*
day of *November* in the year of our Lord one thousand eight hundred and
ninety, in the *night* - time of the said day, at the City and County
aforesaid, with force and arms,

in the
one silver coin of the kind called quarter
dollars of the value of twenty-five cents,
three silver coins of the kind called dimes
of the value of ten cents each, four nickel
coins of the kind called five cent pieces of
the value of five cents each, nine coins
of the kind called cents of the value of one
cent each and one pocketbook of the value
of three cents

of the goods, chattels and personal property of one *Jacob Hyman*
on the person of the said *Jacob Hyman*
then and there being found, from the person of the said *Jacob Hyman*
then and there feloniously did steal, take and carry away, against the form of the statute in such
case made and provided, and against the peace of the People of the State of New York and their
dignity.

John R. Fellows,
District Attorney.

SECOND COUNT—

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

of the CRIME OF RECEIVING STOLEN GOODS, committed as follows:

The said

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

of the goods, chattels and personal property of one

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

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

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

JOHN R. FELLOWS,
District Attorney.

0640

BOX:

419

FOLDER:

3876

DESCRIPTION:

Field, Josephine

DATE:

12/08/90



3876

0641

Witnesses;

Officer Nelson

Counsel,

Filed

day of

1890

Pleads,

THE PEOPLE

vs.

Josephine Field

KEEPING A HOUSE OF ILL FAME, ETC.
[Sections 822 and 835, Penal Code.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

John R. Fellows
Part III January 8/91, Foreman.
Indictment dismissed
J.R.F.

after examining Officer
Nelson - I am
convinced Defendant
has not committed
any crime - She
was not the Proprietress
but a servant in
the House - I wish
that the Indictment
be dismissed
Jan 8th 91 G.S.D.
A.D.A.

0642

Sec. 151.

Police Court— 2 District.

CITY AND COUNTY } ss *In the name of the People of the State of New York; To the Sheriff of the County*
 OF NEW YORK, } *of New York, or to any Marshal or Policeman of the City of New York, GREETING:*

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police Justices for the City of New York, by Raymond A. Reenan of No. 36 West 41 Street that on the 30 day of June 1890, at the City of New York, in the County of New York, James Dor did keep and maintain at the premises known as Number 36 West 41 Street, in said City, a House of Prostitution and there unlawfully procure and permit as well men as women of evil name and fame, and of dishonest conversation to visit, frequent and come together for unlawful sexual intercourse, and for the purpose of prostitution, and there unlawfully and wilfully did permit said men and women of evil name and fame there to be and remain drinking, dancing, fighting, disturbing the peace, whoring and misbehaving themselves whereby the peace, comfort, and decency of persons inhabiting and residing in the neighborhood and there passing is habitually disturbed in violation of the statute in such case made and provided.

THESE ARE, THEREFORE, in the name of the People of the State of New York, to Command you, the said Sheriff, Marshals and Policemen, and each and every of you, to apprehend the body of the said

James Dor and all other disorderly and improper persons found upon the premises occupied by said James Dor and forthwith bring them before me, at the 2 DISTRICT POLICE COURT, in the said City, or in case of my absence or inability to act, before the nearest or most accessible Police Justice in this City, to answer the said charge, and to be dealt with according to law.

Dated at the City of New York, this 12 day of June 1890

Solomon B. Berman Police Justice

0643

Police Court— District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

WARRANT—Keeping Disorderly House, &c.

Dated 188

Magistrate

Officer.

Precinct.

The Defendant
taken, and brought before the Magistrate, to answer
the within charge, pursuant to the command con-
tained in this Warrant.

Officer.

Dated 188

This Warrant may be executed on Sunday or at
night.

John B. Smith
Police Justice.

having been brought before me under this Warrant, is committed for examination to the
WARDEN and KEEPER of the City Prison of the City of New York.

Dated

188

The within named

Police Justice.

0644

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

George F. Lessor
of *the 15th Precinct Police Station* being duly sworn, deposes and says,
that *Josephine Rose Field* (now present) is the person of the name of
Jane Doe mentioned in deponent's affidavit of the *2*
day of *June* 18*90*, hereunto annexed.

Sworn to before me, this *27*
day of *July* 18*90* } *George F. Lessor*
John J. Murray POLICE JUSTICE.

0645

Sec. 322, Penal Code.

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK, }

George I. Leeson
 of *the 15th Precinct Police* Street, in said City, being duly sworn says,
 that at the premises known as Number *36 West 11th* Street,
 in the City and County of New York, on the *30* day of *June*, 18*90*, and on divers
 other days and times, between that day and the day of making this complaint

Jane Roe her proper name *being unknown*
 did unlawfully keep and maintain and yet continue to keep and maintain a *House of*
Brothel and did then, and on the said other days and times, there unlawfully procure
 and permit as well men as women of evil name and fame and of dishonest conversation to visit, frequent and come
 together for unlawful sexual intercourse, and for the purpose of prostitution and lewdness, and then and on the said
 other days and times, unlawfully and wilfully did permit and yet continues to permit said men and women of evil
 name and fame there to be and remain ~~drinking, having, fighting,~~ disturbing the peace, whoring and misbehaving
 themselves, whereby the peace, comfort and decency of persons inhabiting and residing in the neighborhood, and
 there passing is habitually disturbed, in violation of the statute in such case made and provided

Deponent therefore prays, that the said *Jane Roe*
 and all vile, disorderly and improper persons found upon the premises, occupied by said

Jane Roe
 may be apprehended and dealt with as the law in such cases made and provided may direct.

Sworn to before me, this

2

day

of

*July*18*90**George I. Leeson*

Solomon Blum
 Police Justice.

0646

Police Court—2 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Chas. J. Pearson

vs.

AFFIDAVIT—Keeping Disorderly House, &c.

Dated *July 3* 188*7*

Smith Justice.

Officer.

Precinct.

WITNESSES :

0647

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

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

Answer.

Question. What is your business or profession?

Answer.

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

Answer.

*I am not guilty Rose Brunet
is the owner of the House I had
Charge of the House for three months
during the time Rose Brunet was
in Paris*

Josephine Paris

Taken before me this

27

day of

July

189

Arthur J. Brown

Police Justice.

0648

BAILED,
No. 1, by *Joseph S. Heller*
Residence *2574 Broadway* Street.
No. 2, by _____
Residence _____ Street.
No. 3, by _____
Residence _____ Street.
No. 4, by _____
Residence _____ Street.

Police Court-- 2 District.

1156

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Joseph S. Heller

Joseph S. Heller

Offence *Dis. Honor*

Dated

July 29 1890

Judge

Alfred Officer

Precinct

Witnesses

No. _____

Street

No. _____

Street

No. _____

Street

No. _____

to answer

5110 *JS*

Ward

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named _____

Alfred

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, _____ and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *July 29 1890* *John J. Hoffman* Police Justice.

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

Dated *July 29 1890* *John J. Hoffman* Police Justice.

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

Dated _____ 18 _____ Police Justice.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,
against

Josephine Field

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

(Sec. 322,
Penal Code.)

Josephine Field
of the CRIME OF KEEPING AND MAINTAINING A COMMON BAWDY HOUSE AND
HOUSE OF ILL-FAME, committed as follows:

The said

Josephine Field

late of the *15th* Ward of the City of New York, in the County of New York aforesaid,
on the *thirtieth* day of *June* in the year of our Lord
one thousand eight hundred and *ninety*, and on divers other days and times, as well
before as afterwards, to the day of the taking of this inquisition, at the Ward, City and
County aforesaid, a certain common bawdy house and house of ill-fame, unlawfully and
wickedly did keep and maintain; and in the said house divers evil-disposed persons, as well
men as women, and common prostitutes, on the days and times aforesaid, as well in the night
as in the day, there unlawfully and wickedly did receive and entertain; and in which said
house the said evil-disposed persons and common prostitutes, by the consent and procurement
of the said

Josephine Field

on the days and times aforesaid, there did commit whoredom and fornication; whereby divers
unlawful assemblies, disturbances and lewd offences on the days and times aforesaid, as well
in the night as in the day, were there committed and perpetrated; to the great damage and
common nuisance of all the good people of the said State there inhabiting and residing, in
manifest destruction and subversion of and against good morals and good manners, against
the form of the Statute in such case made and provided, and against the peace of the People of
the State of New York, and their dignity.

SECOND COUNT—

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

Josephine Field

(Section 335,
Penal Code.)

of the CRIME OF MAINTAINING A PUBLIC NUISANCE, committed as follows:

The said

Josephine Field

late of the Ward, City and County aforesaid, afterwards, to wit: on the *thirtieth*
day of *June* in the year of our Lord one thousand eight hundred

and *ninety*, and on divers other days and times between the said day and the day of the taking of this inquisition, at the Ward, City and County aforesaid, with force and arms, unlawfully did keep and maintain a certain common, ill-governed house, and in *her* said house, for *her* own lucre and gain, certain persons whose names are to the Grand Jury aforesaid unknown, as well men as women, of evil name and fame and dishonest conversation, to frequent and come together then and on said other days and times, there unlawfully and wilfully did cause and procure, and the said men and women in said house, at unlawful times, as well in the night as in the day, then and on said other days and times there to be and remain, tippling, drinking, gaming, cursing, swearing, quarreling, making great noises and otherwise misbehaving themselves, unlawfully and wilfully did permit and suffer, to the great annoyance, injury and danger of the comfort and repose of a great number of persons, good citizens of our said State there residing, and passing and repassing, to the common nuisance of the said citizens, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

THIRD COUNT.—

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

Josephine Field
of the CRIME OF KEEPING A DISORDERLY HOUSE, committed as follows:

The said

Josephine Field

(Section 323
Penal Code.)

late of the Ward, City and County aforesaid, afterwards, to wit: on the *thirtieth* day of *June* in the year of our Lord one thousand eight hundred and *ninety* and on divers other days and times between the said day and the day of the taking of this inquisition, at the Ward, City and County aforesaid, unlawfully did keep a certain ill-governed and disorderly house, the same being a place of public resort, and in the said house and place of public resort, for *her* own lucre and gain, certain persons, as well men as women, of evil name and fame, and of dishonest conversation, to frequent and come together, then and on the said other days and times, there unlawfully and wilfully did cause and procure, and the said men and women in *her* said house, at unlawful times, as well in the night as in the day, then and on the said other days and times, there to be and remain, drinking, tippling, gambling, rioting, disturbing the peace, whoring and misbehaving themselves, unlawfully and wilfully did permit, and yet continues to permit, by reason whereof the peace, comfort and decency of the neighborhood around and about the said house were, and yet are, habitually disturbed, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

0651

BOX:

419

FOLDER:

3876

DESCRIPTION:

Finn, Eliza

DATE:

12/24/90



3876

0652

Witnesses;

Lizzi Bellman

for

Counsel,

Filed *24* day of *Dec*, 18 *90*

Pleads,

THE PEOPLE

vs.

Eliza Finn

Grand Larceny, *with* Degree.

(From the Person.)

[Sections 523, 530, Penal Code.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

William T. Cunningham

Foreman.

Part III January 5/91
read and convicted. G.R. 2^d day

2 yrs 1 m Pen 9/91

0653

Police Court 2 District.

Affidavit—Larceny.

City and County } ss:
of New York,

Lizzie Holmes
of No. 345 East 15 Street, aged 37 years,
occupation House-keeper being duly sworn,
deposes and says, that on the 18 day of December 1890 at the City of New York,
in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in
the night time, the following property, viz:

one Pocket book containing gold and
lawful money of the issue of the United
States consisting of Silver and Nickel
Coin in all of the value of Eight Cents

80 ¢

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 Eliza Finner (boarder)

from the fact that deponent was
standing on 14th Street near the 6th
avenue when deponent had said
pocket book in the pocket of the Cloak
then worn upon deponent's person
deponent felt a jerk upon said
pocket and immediately discovered
that said pocket book was stolen
and carried away

That said defendant was standing
near deponent, and deponent accused
her of having stolen said pocket book
said defendant denied of having stolen
said pocket book, and deponent insisted

Sworn to before me, this

of

189

day

Police Justice.

that she did steal said pocket book
 and defendant opened her shawl
 when defendant discovered her pocket
 book in her shawl when she said
 defendant then threw said pocket
 book away

Sworn to before me this } Lizzie Helmer
 19 day of December 1890 }

John J. Ryan Police Justice
 " " "

0655

Sec. 199—200.

2

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK,

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

Question. What is your name?

Answer. *Eliza Timm*

Question. How old are you?

Answer. *30 years*

Question. Where were you born?

Answer. *England*

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

Answer. *Boston 12 months*

Question. What is your business or profession?

Answer. *I am married*

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

Answer. *I am not guilty*

Eliza Timm
Witness

Taken before me this

14

day of *November* 188*2**John J. Hyman*

Police Justice.

0656

BAILED,
No. 1, by _____
Residence _____ Street _____
No. 2, by _____
Residence _____ Street _____
No. 3, by _____
Residence _____ Street _____
No. 4, by _____
Residence _____ Street _____

Police Court---

District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

John A. Bell
348 E. 13th St.

John A. Bell

1 _____
2 _____
3 _____
4 _____

Offence *Larceny from person*

Dated *Dec 19* 18*90*

Reginald Magistrate.

Thomas H. Lee Officer.

130 Precinct.

Witnesses.

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____

No. _____ Street _____



\$ *1000*

to answer

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named _____

defendant

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, _____ and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *Dec 19* 18*90* *John A. Bell* Police Justice.

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

Dated _____ 18 _____ Police Justice.

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

Dated _____ 18 _____ Police Justice.

At first I was a little undecided, but I accused her of it. I said she must have taken it because there was nobody around so near, and she looked very suspicious. I says: "Give me what you have" and she says: "I have nothing". I says: "You must have my purse because I had ^{it} a few moments ago", and she says: "I have not". I says: "I don't believe it. I think you must be the person". She had this bundle in her hand with the shawl carelessly thrown over it and over her arms. I says: "You have it right there in the shawl. I see it there" and she says: "Madam, search me", and she lifted up both her hands to see if my purse was there. She told me to examine her bundle also and with that my purse fell to the ground. Several gentlemen saw me pick it up and, of course, I grabbed her by the shoulder. The purse that fell from her hand to the ground was the purse which I had previously had in my pocket. I afterwards had the defendant arrested.

CROSS-EXAMINATION:

- Q You say the only reason you had her arrested was because she was the nearest one to you ? A Because she had it in her shawl and she dropped it to the ground.
- Q Didn't you say that you felt in your mind that she was the person who took it because she was the only person that could ? A Well, like any person would, I took a look at the woman and I kind of thought she was guilty.
- Q That is what you had in your mind when you had her ar-

rested ? A No, sir; that is not the reason I had her arrested. She was arrested because it was found in her possession.

Q You didn't find it in her possession? A It fell to the ground; she let it fall.

Q You had not seen your pocketbook up to the time it fell?
A No, sir.

Q You found it on the ground ? A Yes, sir; right alongside of her. A little distance from her.

Q Did you have anybody else with you on that day ? A No, sir; I did not.

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

I am a Police Officer attached to the 15th. Precinct. I was on duty on the afternoon of December 18th. in the vicinity of 14th. Street. I was detailed specially at Macy's for the holidays. I saw the prisoner and arrested her. I heard the complainant shout "Police" and I went over and inquired into the matter. A lady told me that this woman had taken her pocketbook. I said: "Did you find it?" and she said "Yes, I have it here". I said: "Who took it ?" and she pointed out the defendant to me. I told the defendant she must come to the Station House and I brought the complainant along so that she would make a complaint.

CROSS-EXAMINATION:

Q Were you in the Police Court the next morning ? A Yes, sir.

- Q Was there any other gentleman there ? A Yes, sir. He gave his name at the Station House. He was a stranger to me.
- Q Did he come to Court the next morning ? A Yes, sir.
- Q Was this man asked at any time to make an affidavit about the case ? A No, sir.

DEFENSE:

ELIZA FINN, the defendant, sworn, testified:

Boston is my home, but for a short time previous to this occurrence I was residing at Troy. On the Wednesday night before I was arrested I came down to the City of New York in company with my husband to buy holiday presents. I do not know where my husband is now, but I believe that he has returned to Troy. On the afternoon of the 18th. of December I was in 14th. Street. I stood looking into a window waiting until my husband came out of a cigar store, and while I was standing there I heard the cry of this woman, who was also looking into the window. I stood quite close to the lady and then she said she was looking for her purse. She asked me if I had it and I told her no, that she could search me. In a few moments she found her purse lying upon the ground. She called Officer Kelly and had me arrested, accusing me of taking the purse. There was a young man present who was afterwards in the Police Court who saw the purse lying upon the ground. I have never been arrested, nor have I ever

been in a Court Room before in my life. My husband and I are engaged in business in the City of Troy. We only came to New York on the evening before my arrest and on the evening of my arrest my husband and myself were on our way to take the boat to return to Troy. My husband went into a cigar store in 14th. Street and before he returned I had been taken to the Station House.

CROSS-EXAMINATION:

- Q Do you know anybody in Troy ? A Yes, sir; I know a man named Eagan.
- Q Who is he ? A He is a gentleman.
- Q How did you come to New York City at that time ? A We came down by the boat.
- Q Did you intend returning by the boat ? A Yes, sir.
- Q Where did the boat land ? A Somewhere along the North River.
- Q What time did you get into the City of New York ? A In the early morning.
- Q You are sure you came on the boat ? A Yes, sir.
- Q How long had you lived in the City of Troy ? A Only two months.
- Q Were you ever arrested in Troy ? A No, sir.
- Q What was the name of the boat upon which you came ? A I could not tell you that.

The jury returned a verdict of "Guilty of Grand Larceny in the second degree".

been in a Court Room before in my life. My husband and I also engaged in business in the City of Troy. We only came to New York on the evening before my arrest and on the evening of my arrest my husband and myself were on our way to take the boat to return to Troy. My husband went into a cigar store in Wall Street and before he returned I had been taken to the Station House.

INTERVIEW

Q Do you know anybody in Troy? A Yes, sir; I know a man named Egan.

Q Who is he? A He is a constable.

Indictment filed Dec /24-1890

COURT OF GENERAL SESSIONS

Part III.

The People &c.

against

ELIZA FENN.

Abstract of testimony on

trial New York Jan. 5th

1891.

Q How long had you lived in the City of Troy? A Only two months.

Q Were you ever arrested in Troy? A No, sir.

Q What was the name of the boat upon which you came? A I could not tell you that.

The jury returned a verdict of "Guilty of Grand Larceny in the second degree."

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Eliza Finn

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

Eliza Finn
of the CRIME OF GRAND LARCENY in the *first* degree committed as follows:

The said

Eliza Finn

late of the City of New York, in the County of New York aforesaid, on the *eighteenth* day of *December* in the year of our Lord one thousand eight hundred and *ninety*, in the *night* - time of the said day, at the City and County aforesaid, with force and arms,

one silver coin of the United States of the kind called half dollars, of the value of fifty cents, two silver coins of the kind called quarter-dollars, of the value of twenty-five cents each, four silver coins of the kind called dimes of the value of ten cents each, eight nickel coins of the kind called five-cent pieces of the value of five cents each, two coins of the kind called cents, of the value of one cent each and one pocketbook of the value of twenty-five cents

of the goods, chattels and personal property of one *Lizzie Helmer* —
on the person of the said *Lizzie Helmer*
then and there being found, from the person of the said *Lizzie Helmer*
then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

John L. Bellows,
District Attorney.

SECOND COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further accuse the said
of the CRIME OF RECEIVING STOLEN GOODS, committed as follows:

The said

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

of the goods, chattels and personal property of one

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

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

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

JOHN R. FELLOWS,
District Attorney.

0665

BOX:

419

FOLDER:

3876

DESCRIPTION:

Finn, James

DATE:

12/03/90



3876

0666

Witnesses :

Officer Hooking
Christian Hudson
Officer Haddock

#44

USA

Counsel, *J*
Filed *3* day of *Dec* 188*9*
Pleads *Not guilty - 4*

THE PEOPLE

35 vs.
8 Prince St

James Finn

ABDUCTION,
[Section 32 of Penal Code.]

JOHN R. FELLOWS,

District Attorney.

Part 2 Dec. 9

A True Bill.

Part 3 Dec. 10

William K. Kinner
Foreman.

Jan 9. 1891
Part 2 - Jan. 9th 1891
Pleads Guilty of Abduction
S.P. 5 apd.

New-York General Sessions

The People of
James Finin

City & County of New York ss3 -

I, John Finin being
duly sworn do depose & say:

I am over 21 years of age a
builder & I reside at 129 E 86th
Street this City -

I am a brother of the Defendant.

He is about 30 years of age.
When about 4 years of age he be-
came afflicted with an impediment
in his speech, occasioned by the
turning of the palate of his mouth
& could not speak up to the age
of 18 or 20 years -

Since his early life he has
had fits, & at times his mind has
been deranged.

The day before his arrest
on the present charge to wit Throatsbury
Circ. 1870 my brother Joseph Finin
was to 57 St. Court to have the defendant
locked up & enquire into his sanity.

and was informed that no monies
would be issued until after thank-
sgiving day.

I honestly believe my father
(defendant) is of unsound mind at
the present time & unable to intelligently
make known his defense, or to com-
prehend what he is doing.

Subscribed before me this
9 day of December 1890

John Finn
James Davenport
Notary Public
W.C.C.

The People Dec 190

James Finn

Affidavit

Society for Prevention Cruelty to Children;

After a delay caused by absence from town and illness I have succeeded in getting to the City Prison to-day.

The prisoner is not now insane, nor is he "shamming" in the ordinary sense of the word.

I believe that he performed his act in an alcoholic mental state, of which he has no recollection sufficient to enable him to advise his counsel.

He is in a wretched physical state, and gives the impression of being one of those unfortunates, in whom a bad heredity, subsequent somatic disease (Small pox) and accessory circumstances are responsible for bad habits, rather than the vicious will of the individual.

The prisoner admits the possibility of his having committed such an act, and states that it shall be "a lesson" to him never "to touch another drop of drink."

As I informed him from the first what my exact purpose was, it is scarcely conceivable that a person of his degree of intelligence, which is low, would have simulated on this head. However as he began to realize - for he did not so realize until I was about to leave the prison - what bearing his admissions might have, he did falsely lengthen the period of his alleged amnesia in order to cover the time of his appearance in court.

I do not attach much importance to this. Most accused persons, sane or insane, may resort to such a subterfuge without thereby influencing the judgment of an alienist.

If the prisoner did not at this present moment exhibit profound physical signs of alcoholism (meaning the protracted signs of chronic alcoholism) I would require you to submit to me in a hypothetical form the testimony of others, who knew the prisoner before the incriminated period, and who saw him on the various occasions mentioned in the history, before acknowledging the validity of his assertion as to the period of the crime itself.

As I am not a defender of the present codex criminalis, and recognize the irresponsibility of persons suffering from alcoholic delirium and other alcoholic mental states, I will formulate my conclusions in harmony with the requirements of the code in question.

1. Mr. Finn is now of sufficiently sound mind to stand trial.
2. Mr. F. is suffering from certain physical signs, provoked by prolonged debauches, which do not affect his ability to consult with his counsel, to any extent greater than that which may be alleged in the case of one half of the prisoners ordinarily called on to plead.

3. The inability of Mr. F. to consult with counsel, regarding the crime itself is probably based on a genuine amnesia of alcoholic origin.

4. It would not be advisable to allow a person subject to such amnesia states to be at large.

While I regret that circumstances compel my giving an opinion as unsatisfactory as this one must be to the legal mind, I must admit that with a mind prejudiced against the legal representatives of the prisoner - whom I felt convinced, on a former occasion closed their eyes to (if they did not connive at) - a scientifically indefensible plea of mental disease - I think that the claim as to inability to advise with counsel regarding the act itself is a truthful one.

Yours very truly, E. C. SPITZKA.

Hon. E. T. Gerry.

COURT OF GENERAL SESSIONS OF THE PEACE
IN AND FOR THE CITY AND COUNTY OF NEW YORK.

The People

v.

BRIEF FOR THE PEOPLE.

James Finn.

STATEMENT OF THE CASE.

The defendant, 20 years old, residing at 516 First Avenue, and a bricklayer, is indicted for rape on a little girl named Christina Johnstone, aged 12 years, on November 27, 1890, at No. 45 Bleecker Street, and was caught in the act. The facts appear in the evidence.

EVIDENCE FOR THE PEOPLE.

CHRISTINA JOHNSTONE. - Is 12 years old, and lives at No. 1342 Third Avenue, 2nd floor, with her aunt and uncle Henry and Emily Korn. Has lived with them three weeks. Previous to that lived with her grandmother Mrs. Johnstone at 47 Bleecker Street, who died three weeks ago. Her father Mark Johnstone, who is a drunkard, living at some lodging house in the Bowery, has been to the Island several times and does nothing for a living. Her mother has been dead ten years. Her uncle and aunt formerly had a flower and feather business in Bond Street which they gave up two months ago and sold the shelving to the defendant who owns a carpenter shop at 45 Bleecker Street and who still owes her uncle \$25 for material, and witness has been sent there on different occasions to get the money. On November 26 witness went to 45 Bleecker Street, and defendant told her to come on the 27th and he

would have the money for her. She went there about half past 4 in the afternoon, and he told her to come in in about ten minutes. She came back in 15 minutes and he then told her to come back in half an hour. When she came back, the four workmen who were in the shop had left, and there was no one there but the defendant Finn and Eddie Ross, 11 years old, who lives at 43 Bleecker Street. Defendant told witness to wait as a man was coming in to give him the money with which he would pay her. She sat by the fire and waited two hours or more, with no one but the little Ross boy in the shop. The defendant sent the boy out for beer, and as soon as the boy left he seized witness, threw her upon the floor, put his hand upon her mouth and hurt her cheek and mouth terribly. Then he pulled up her clothes and had connection with her. She felt his penis in her private parts. Witness screamed and defendant struck her with his fist. While still on her, an Italian man came in the door and saw the witness and the defendant on her. The man went out and called a police officer who arrested Finn. Before coming for the money witness had gone to her aunt's, 180 Lenox Avenue, where her grandfather and grandmother, Henry and Christina Bartels, live, to take them a rabbit for Thanksgiving dinner, and she went from there to Bleecker Street. Six months ago witness had intercourse with a young man who lived in the same house with them at No. 47 Bleecker Street.

Debeness ANTONIO LOOPE. - Resides at No. 50 Street,
Long Island City, and is a railroad foreman. Was in Bleecker
Street at about 7.30 P.M. on November 27th, and met a boy who was
inquiring for a police officer, stating that a man had knocked a
little girl down at 45 Bleecker Street and was hurting her.

Witness entered No. 45 Bleecker Street, and in an inside room saw the defendant lying upon the child, having her clothing raised up and her limbs exposed. The child was screaming and trying to get away from the man. Witness started to find a police officer, and met one in the hall-way, the officer having been called by the boy. *[Let the witness identify separately the defendant, the girl, the boy (Edward Roos) and the officer (Haddock)]*

EDWARD ROOS. - Is 11 years old and resides at 45 Bleecker Street. On Thursday, November 27th, about 7.45 P.M., witness was in the carpenter shop No. 45 Bleecker Street, and the defendant and the girl Christina Johnstone were there in the shop. Defendant asked witness to go out for a pint of beer, and when he returned to the shop defendant had the girl on the floor. She was screaming and trying to get away. Witness ran out upon the street and met the witness Antonio Loope, and told him to come in and stop the fight. He then told the boy to go for a police officer, and in a minute or two an officer came and arrested the defendant.

OFFICER HADDOCK. - Is an officer of the Metropolitan Police connected with the 10th Precinct. On the day in question at No. 45 Bleecker Street, made the arrest of the defendant. Found the defendant on top of the child when he made the arrest.

EMILY KORN. - Lives at No. 1342 Third Avenue, is the aunt of the child, and will testify to her being 13 years old.

DR. J. CLIFTON EDGAR. - Is Attending and Examining Physician to The New York Society for the Prevention of Cruelty to Children. On November 28, 1890, made an examination of the person of Christina Johnstone and found evidence of recent penetration of the vagina by some blunt instrument.

0673

N. Y. GENERAL SESSIONS

THE PEOPLE

AGAINST

James Finn

RAPE

PENAL CODE, //

BRIEF FOR THE PEOPLE.

Court of General Sessions - Part 3.

The People vs.

vs.

James Funi.

Rapin

New York, ~~September~~, 10th 1890.

It is stipulated that the testimony of Antonio Lupo be now taken in the presence of the defendant James Funi, upon an indictment charging rape now pending in the Court of General Sessions, and that the testimony of said Lupo be read upon the trial of said Funi with the same force and effect as if said Lupo were produced in Court and should then and there swear before the jury as he now testifies, saving and reserving to both defendant and People such objection as to the competency of the testimony in like manner as if Lupo had been himself called and sworn before the jury. Proof of absence of Antonio Lupo, and inability of the People to call him is hereby expressly waived.

Witness my hand the signing of the testimony.

Antonio Lupo, being duly sworn testified:-
2 (By Mr. Jerome) Where do you live?

- A Long Island City, 4th St. No. 50.
- Q What is your business? A. Railroad man.
- Q Were you in Bleeker St. in this City about half past seven on the evening of November 27th of this year? A. Yes sir.
- Q Did you see this boy Edward Ross that night at that place? A. Yes sir; he was looking for a policeman. I saw that boy there.
- Q Did you go any where with this boy?
- A. No sir.
- Q Did you go to No. 43 Bleeker St.?
- A. Yes sir.
- Q In consequence of what the boy said to you? A. Yes sir.
- Q Did you go into the building No. 45 Bleeker St. in this City?
- A. Yes sir.
- Q Did you go into an inside room in that building? A. We went through the front room into a small office, and through this office we looked inside.
- Q Did you see this girl there? (Christine Johnson)
- A. Yes sir.
- Q Where did you see her?
- A. Inside in the office.
- Q Inside this room where you went? A. Yes sir.

- Q. Where was that room?
- A. I don't know the number but it was in Bleeker St.; it was a back room, behind and a door outside.
- Q. You went through with the boy that was here?
- A. The boy took me in and showed me the place.
- Q. Now do you see the defendant at the bar, James F. Fine?
- A. Yes sir.
- Q. Did you see him there that night?
- A. Yes sir.
- Q. In this room? A. Yes sir.
- Q. Was he there with this girl Christina Johnson?
- A. Yes sir.
- Q. What was he doing with her? if anything?
- A. The girl was lying on the floor, and he was on top of her.
- Q. How about her clothing, Christina Johnson's clothing?
- A. I could not see her face, but I could see her leg exposed.
- Q. You say the defendant was lying on top of her?
- A. Yes sir, he was half on top of her and half not.

- Q. On the floor? A. Yes sir, on the floor.
- Q. Was the prisoner's person exposed?
- A. No sir; I did not see anything.
- Q. What did you do then? A. I looked on them and then at the same instant the police arrived.
- Q. Did the officer come? (Officer Haddock)
- A. Yes sir.
- Q. What was the child doing, was she making any noise? A. She was trying to get up and get away.
- Stricken out.
- Q. How as to noise? A. She was crying.
- Q. Was she saying any articulate words that could be understood?
- A. The girl told him; I heard her saying "Let me get up, and take off my coat."
- Q. You heard him say that? A. I heard the little girl say that.
- Q. "Let me get up and take off my coat"? A. Yes sir.
- Q. You got a policeman? A. Yes sir.
- Q. What did you do when you met the policeman?
- A. The police officer went inside and I followed him.
- Q. The policeman then arrested the defendant? A. Yes sir.
- Q. Then you came away? A. Then I went away to the Police Station.
- No Cross Examination.

Court of General Sessions
Part 3.

The People vs

James Funn.

Testimony of Antonio
Lupo a witness for
the People, taken before
Judge Conning, December
10th 1890.

Peter B. McLaughlin,
Stenographer.

0679

CHARLES NAYNE
1046 LEXINGTON AVE.
NEW YORK.

New York, January 7th 1891

Mr. Davis:-

Assistant District Attorney

Dr. Magee is very sick, confined
to his room & unable to
leave the house to-day.

Respectfully

Mrs C. K. Magee.

P.S. Have tried all morning to
reach you by telephone but
couldn't get you.

0680

District Attorney's Office.

Part 3.

PEOPLE

vs.

James Finn

Dec 10th

All served personally
Dec 11/90 Myman

New York General Sessions.

-----X

The People, etc., :

-vs- :

James Finn,

-----X

City & County of New York, ss:

JOHN FINN being duly sworn, says:

I am of full age and the brother of the above named defendant. I am a carpenter and builder, and reside at No. 129 E. 86th St .

About the time the defendant was charged with committing the offense to which he pleaded guilty, he had been indulging in the excessive use of alcoholic stimulants. The above named defendant is a carpenter by trade, and has been employed for 20 years in that business, working for various firms in this city. He has never been in trouble of any kind whatever except for intoxication. He is an honest, hardworking and upright man, and his only weakness is his desire for intoxicating stimulants.

Sworn to before me this

12th day of January, 1891.

Louis B. Allen

Natary Public

N.Y.C.

3 John Finn

STATE OF NEW YORK, }
CITY AND COUNTY OF NEW YORK, } ss.:

..... being duly
sworn, says that he resides at No.
New York; that he is years of age; that on the Street, in the City of
1890, at Number day of
New York, he served the within in the City of
the on
by leaving a copy thereof with
.....
.....
.....

Sworn to before me this
day of 1890. }

Wm. Edward Garrison
The People
Plaintiff,

against
James Y. Yum
Defendant.

Affidavit of
good character

HOWE & HUMMEL,
Attorneys for *septa*
87 & 89 CENTRE ST., New York City.

Due and timely service of copy of the within
hereby admitted
this day of 1890.
Attorney.

To
.....
.....

0683

Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer. *James Fin*

Question. How old are you?

Answer. *40 years.*

Question. Where were you born?

Answer. *Illinois*

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

Answer. *576-1st Ave. 1 year.*

Question. What is your business or profession?

Answer. *Brick layer*

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

Answer. *I am not guilty*

Taken before me this

day of

November 1894

Police Justice.

0684

1791
Police Court---10th District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Frank B. Buckley

James Finn

Offence Rape -

Dated Nov - 28 1890

James Magistrate.

Call Maddock Officer.

1000 Precinct.

Witness Christine Johnston

No. 6 2nd St. Street.

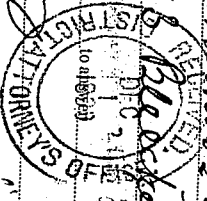
Can of J.P.C. Co.

as entering

No. Anthony Cook Precinct.

Edmund Keas Precinct.

No. 48 1st St. Street.



can within five

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named

James Finn

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of

Hundred Dollars, and be committed to the Warden and Keeper of

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

Dated Nov 28 1890. *James Finn* Police Justice.

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

Dated 18 Police Justice.

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

Dated 18 Police Justice.

State of New York }
 County of New York } ss

Antonio Loope, of No. 50 Fourth Street Long Island City, occupation - R. R. Foreman - being duly sworn deposes and says that he was in Bleecker St. at about seven thirty pm. on Nov. 27th, and met a boy who was inquiring for a police officer, and stated to deponent that a man had knocked a little girl down in No. 45 Bleecker Street and was hurting her; deponent entered No. 45 Bleecker Street and in an inside room saw a man who deponent now recognizes, as the assailant of the child - the man was lying upon the child, and had her clothing raised and her limbs exposed; the child was screaming, and trying to get away from the man; deponent started to find a police officer - but met one in the hallway - the officer having been

0686

called by the boy-

Aug. 20th

Seen and Subscribed to
before me this 28th day of
November 1890

My Comm.

Police Justice

State of New York, } ss:-
 County of New York }

Edward Roos, of No. 43
 Bleeker Street, aforesaid, deposes and
 says, that on Thursday Nov. 27th
 at about 7:45 pm. he was in
 the carpenter shop No. 45 Bleek-
 er Street, that James Finin,
 and Christina Johnstone were
 there - in the shop - that James
 Finin asked deponent to go
 out for a pint of beer, when
 deponent returned to the
 shop said Finin had said
 Christina Johnstone upon the
 floor - the said Christina was
 screaming, and trying to
 get away; deponent ran out
 upon the street, and met a
 man whom I now recognize
 as Antonio Lope, and told
 him to go in and stop the
 fight - I then told a boy to
 go for a police officer, and in
 a minute or two the officer
 came and arrested said Finin.

Edward Roos

Subscribed and sworn to before
 me this 28th day of Nov. 1890 -

John J. O'Brien

Police Justice

0688

*The New York Society for the
Prevention of Cruelty to Children*

100 EAST 23^d ST. (COR. FOURTH AVE.)

New York, *December 1st*, 1890.

*Court of General Sessions of the Peace in and for the
City and County of New York.*

<p><i>The People</i> against <i>James Finn</i></p>	} <i>Notice of Prosecution.</i>
--	---------------------------------

*To the District Attorney of the
City and County of New York,*

*Sir: This Society is interested in the prosecution of
the above defendant, and is familiar with the facts of the
case. It respectfully requests that before sending the papers
to the Grand Jury, fixing the day of trial, consenting to
any postponement thereof, or to any reduction of bail, or
final disposition of the charge, you will duly notify me as
its President and Counsel, so that I may confer with you
in regard thereto. This request is made pursuant to the
statute (Laws of 1886, Chapter 30, -Section 1), and in
furtherance of the ends of Justice.*

I have the honor to remain, with great respect,

Edwidge T. Perry,
President, &c.

0689

N. Y. GENERAL SESSIONS

THE PEOPLE



CRUELTY TO CHILDREN.

Page 2

NOTICE OF PROSECUTION

BY THE SOCIETY.

ELBRIDGE T. GERRY,

President, &c.

0690

DR. J. CLIFTON EDGAR, /

115 EAST 35TH ST.,

UNTIL 10.
4-6.

NEW YORK.

November 28, 1890.

Hon. Elbridge T. Gerry, Esq.,
Dear Sir.

This is to certify that I
have this day examined
Christine Johnstone, age 12 yrs,
of 1342 3rd Avenue, and
found evidences of recent
penetration of the vagina
by some blunt instrument.

Respectfully submitted,

J. Clifton Edgar, M.D.

0691

Police Court, 10th District.STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss:

Frank E. Barkley
 of No. 100 East 23^d Street, in said City, being duly sworn,
 deposes and says, that a certain male child called Christina Johnston
 [now present], under the age of sixteen years, to wit, of the age of 12 years, is a
 necessary and material witness on behalf of the People of the State of New York in a certain
 criminal case now pending in the Court of General Sessions of, in and for the City and
 County of New York, entitled, The People against James Quinn
 _____, wherein the said James Quinn
 _____ is charged with the crime of Rape, under
 Section 282 of the Penal Code of said State, in that he, the said James

Quinn did unlawfully, wilfully, and
 feloniously, at and with promises No.
 45 Bleeker St. take receive, harbor and
 use a certain female called Christina
 Johnston (above named) for the pur-
 pose of sexual intercourse, not
 being the husband of said child
 in violation of provisions of the
 Statutes aforesaid.

and that the said Christina Johnston
 will, as deponent verily believes, unless duly held to appear on trial thereof, avoid giving his
 testimony at the instance of the people.

Wherefore, deponent prays that the said child Christina Johnston
 may be held as a witness to appear on the trial of the aforesaid criminal case, and be committed
 temporarily to an institution authorized by law to receive children on final commitment, and to
 have compensation therefor from the City or County authorities, as a witness, to appear on the
 trial of the aforesaid criminal case, in pursuance of the statutes in such case made and provided,
 and especially of Section 291 of the Penal Code of the State of New York.

Sworn to before me, this
 day of Nov- 1890

28

1890

Frank E. Barkley
 Police Justice.

0692

POLICE COURT. 10th DISTRICT.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Frank B. Buckley



Christina Johnston

vs. 12-1372 BLANZ

Dated Nov. 28 1890

Brown Magistrate.

Officer.

Disposition, *Ans. to Ky.*

Society, Rev. and
& Children

STYLES & CASH, STEAM PRINTERS, 77 EIGHTH AVENUE, NEW YORK.

0693

First District Police Court.

STATE OF NEW YORK,
CITY AND COUNTY OF NEW YORK, } ss.

Frank G. Barkley

of Number 100 East 23d Street being duly sworn,
~~that he has reason to believe and does believe~~
deposes and says, that on the 27 day of Nov 1890, at theCity of New York, in the County of New York, one James Finio, now
present, did at and within premises
No. 40-35 Eleventh Street, in said city, un-
lawfully, wilfully and feloniously take,
receive, harbor and use a certain
female child called Christina John-
stone, who was then and there
under the age of sixteen years, &
out of the age of ten years, for
the purpose of sexual intercourse,
said Christina Johnstone not
being the wife of said James
Finio, in violation of section 282
of the amended Penal Code of
the State of New York

Wherefore the complainant prays that the said

James Finio

may be apprehended, arrested and dealt with according to law.

Sworn to before me, this

28

day of

Nov.1890

Frank G. Barkley

Jy 6 1890

Police Justice.

0694

CITY AND COUNTY }
OF NEW YORK, } ss.

Christina Johnstone

aged *12* years, occupation *(none)* of No.

1342 Third av. Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of *Frank E. Barkley*

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

Sworn to before me, this *28* }
day of *Nov.* 18*90* } *Christina Johnstone*

Ray C. W.

Police Justice.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

James Finn

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

James Finn —

of the CRIME OF ABDUCTION, committed as follows:

The said *James Finn*, —

late of the City of New York, in the County of New York aforesaid, on the
Twenty seventh day of *November*, in the year of our Lord one
 thousand eight hundred and eighty *seventy* at the City and County aforesaid, did
 feloniously take, receive, harbor, employ and use one *Christina Johnston*,
 who was then and there a female under the age of sixteen years. to wit: of the age of
 — *Twelve* — years, for the purpose of sexual intercourse, he, the
 said *James Finn* — not being then and there
 the husband of the said *Christina Johnston*, —
 against the form of the Statute in such case made and provided, and against the peace of
 the People of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.

Second COUNT:—

AND THE GRAND JURY AFORESAID, by this indictment, further

accuse the said *James Finn* —

of the CRIME OF PERPETRATING AN ACT OF SEXUAL INTER-
COURSE WITH A FEMALE UNDER THE AGE OF SIXTEEN YEARS,
NOT HIS WIFE, committed as follows :

The said *James Finn*, —

late of the City and County aforesaid, afterwards to wit: on the day and in the year
aforesaid, at the City and County aforesaid, with force and arms, in and upon a certain
female not his wife, to wit: her, the said *Christina Johnson*, —
then and there being, wilfully and feloniously did make ~~another~~ assault, she, the said
Christina Johnson being then and there a female under the
age of sixteen years, to wit: of the age of — *twelve* — years; and the said
James Finn, — then and there
wilfully and feloniously did perpetrate an act of sexual intercourse with her, the said
Christina Johnson — , against the form of the
Statute in such case made and provided, and against the peace of the people of the
State of New York and their dignity.

JOHN R. FELLOWS, *District Attorney.*

0697

BOX:

419

FOLDER:

3876

DESCRIPTION:

Foley, Jennie

DATE:

12/15/90



3876

0698

BOX:

419

FOLDER:

3876

DESCRIPTION:

Foley, Jennie

DATE:

12/15/90



3876

0699

Witnesses;

Rich. Munkin
for Eli
Offic. Sum

\$1.50

Counsel,

Filed

day of

Dec 18 90

Pleads,

Not guilty Jan 5/91

THE PEOPLE

vs.

Jennie Foley

(H&D 1)

JOHN R. FELLOWS,

District Attorney.

Grand Larceny, Second Degree.
[Sections 828, 831, Penal Code]

A True Bill.

William H. Pennington
Foreman.
July 5/91
Spicer & Co. 5/11

0700

Sec. 192.

1st District Police Court:

Undertaking to appear during the Examination.

CITY AND COUNTY }
OF NEW YORK, } ss.

An information having been laid before Ans J White a Police Justice
of the City of New York, charging Jennie Foley Defendant with
the offence of Grand Larceny on the Complaint
of One Japt Ellis

and he having been brought before said Justice for an examination of said charge, and it having been made
to appear to the satisfaction of said Justice that said examination should be adjourned to some other day, and
the hearing thereof having been adjourned,

We, Jennie Foley Defendant of No. 274
West Street; by occupation a Hair Keeper
and Jacob S. Norden of No. 110 West 131
Street, by occupation a Machinist Surety, hereby jointly and severally undertake
that the above named Jennie Foley Defendant
shall personally appear before the said Justice, at the 11th District Police Court in the City of New York,
during the said examination, or that we will pay to the People of the State of New York the sum of One Thousand
~~Hundred~~ Dollars.

Taken and acknowledged before me, this 24day of January 1890Ans J White POLICE JUSTICE.Jennie Foley
Jacob S. Norden

0701

District Police Court.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Joseph Ellis
vs.
James Foley

Undertaking to appear
during the Examination.

Taken the *24* day of *Jan* 18*90*

Justice.

Frederic J. Braden

Sworn to before me, this
24 day of *Jan* 18*90*
Police Justice.

CITY AND COUNTY }
OF NEW YORK, } ss.

Sworn to before me, this
the within named Bail and Surety being duly sworn, says, that he is a resident and
holder within the said County and State, and is worth *Five*
exclusive of property exempt from execution, and over and above the amount of all his debts and liabilities,
and that his property consists of *Home and 10 parcels of dr.*
110 West 131st Street and 1 unit
the sum of One Hundred Dollars
for as clear

0702

CITY AND COUNTY
OF NEW YORK, } ss.

POLICE COURT, 1 DISTRICT.

of No. 5th Avenue Street, aged 37 years,
 occupation Police Officer being duly sworn deposes and says,
 that on the 2nd day of September 1890,
 at the City of New York, in the County of New York, He caused

the arrest of John S Brown
charged with keeping a House of
Prostitution and Jennie Foley
charged with Grand Larceny on
the complaint of Joseph N Ellis and
the same corroborated by Ruby Murphy
deponent now says that said Ellis
and Murphy are material witnesses
for the people and irremovable
persons and deponent asks that they
be placed under a bond for their appearance
Edward Handy

Sworn to before me, this 2nd day of September 1890

J. W. [Signature]
 Police Justice.

0703

Police Court— District.

Affidavit—Larceny.

City and County }
of New York, } ss.

of No. 51 Bowery Street, aged 30 years,
occupation Bird fancier being duly sworn
deposes and says, that on the 22 day of November 1898 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the night time, the following property, viz:

Eight 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 Jennie Foley (now Lee)

from the fact that deponent
occupied a room in premises
244 West Street with a woman
by the name of Ruby Symphers
that while in said room he deposited
said amount of money in a
pillow slip in the bed in said
room that while occupying said
room said Foley entered and
changed the pillow slips and
against deponent's protest removed
the pillow slip containing deponent's
money and she departed with
the same and the money contained
therein. Joseph Ellis

Sworn to before me, this

day

Police Justice.

0704

Sec. 198-200.

District Police Court.

CITY AND COUNTY
OF NEW YORK, ss.

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

Question. What is your name?

Answer. *Jennie Foley*

Question. How old are you?

Answer. *22 years*

Question. Where were you born?

Answer. *W.S.*

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

Answer. *394 West St.*

Question. What is your business or profession?

Answer. *Housekeeper*

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

Answer. *I am not guilty*
Jennie Foley

Taken before me this
day of *November* 189*0*

Police Justice.

0705

on motion of defendant
16
1890 26

BAILED,
No. 1, by _____
Residence _____ Street _____
No. 2, by _____
Residence _____ Street _____
No. 3, by _____
Residence _____ Street _____
No. 4, by _____
Residence _____ Street _____

[Signature]
1890 26

Police Court--- District

THE PEOPLE, &c.,
ON THE COMPLAINT OF

[Signature]
James J. J. J.

Offence
[Signature]

Date
Jan 24 1890

Magistrate
[Signature]

Officer
[Signature]

Witnesses
[Signature]

No. 365 1890 26

Comp. and

No. _____ Street _____

No. _____ Street _____

No. 544 1890 26

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named _____

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of _____ Hundred Dollars, _____ and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated _____ 18 _____ Police Justice.

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

Dated _____ 18 _____ Police Justice.

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

Dated _____ 18 _____ Police Justice.

0706

Police Court

1792
District

THE PEOPLE, &c.,
ON THE COMPLAINT OF

John A. Ellis
484 West 11th
Jennie Kelly

John A. Ellis
Officer

BAILED

No. 1, by *John A. Ellis*
Residence *110 Wm 131st*
Street

No. 2, by *John A. Ellis*
Residence *440 Wm 131st*
Street

No. 3, by *John A. Ellis*
Residence *440 Wm 131st*
Street

No. 4, by *John A. Ellis*
Residence *440 Wm 131st*
Street

No. 5, by *John A. Ellis*
Residence *440 Wm 131st*
Street

No. 6, by *John A. Ellis*
Residence *440 Wm 131st*
Street

Dated *Nov 26 1890*
Magistrate

Henry L. Blum
Officer

Henry L. Blum
Officer

Henry L. Blum
Officer

Henry L. Blum
Officer

Henry L. Blum
Officer

Henry L. Blum
Officer



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

Defendant

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *500* Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *Nov 26 1890* *anyway* Police Justice.

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

Dated *Nov 26 1890* *anyway* Police Justice.

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

Dated.....18..... Police Justice.

0707

COURT OF GENERAL SESSIONS OF THE PEACE, OF THE CITY AND COUNTY
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Jennie Foley

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by

this indictment, accuse *Jennie Foley* —

of the CRIME OF GRAND LARCENY IN THE *second* DEGREE,
committed as follows:

The said

Jennie Foley —

\$60.00
late of the City of New York, in the County of New York aforesaid, on the *22nd*
day of *November* in the year of our Lord one thousand eight hundred and
ninety, at the City and County aforesaid, with force and arms, in the
night - time of the same day, divers promissory notes for the payment of money, being
then and there due and unsatisfied (and of the kind known as United States Treasury
Notes), of a number and denomination to the Grand Jury aforesaid unknown, for the
payment of and of the value of *thirty* —

dollars; divers other promissory notes for the payment of money, being then and there due
and unsatisfied (and of the kind known as Bank Notes), of a number and denomination
to the Grand Jury aforesaid unknown, for the payment of and of the value of *thirty* —

dollars; divers United States Silver Certificates of a number and denomination to the Grand
Jury aforesaid unknown, of the value of *thirty* —

dollars; divers United States Gold Certificates of a number and denomination to the
Grand Jury aforesaid unknown, of the value of *thirty* —

dollars; divers coins of a number, kind and denomination to the Grand Jury aforesaid
unknown, of the value of *thirty dollars*

of the goods, chattels and personal property of one *Joseph Ellis*

then and there being found,

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

JOHN R. FELLOWS, *District Attorney.*

0708

BOX:

419

FOLDER:

3876

DESCRIPTION:

Foley, John J.

DATE:

12/11/90



3876

0709

Witnesses;

J. Louise Hilton

Counsel,

Filed

day of

18

Pleads,

THE PEOPLE

26
489
Washington St.

John J. Foley

Grand Larceny, Second Degree.
(From the Person.)
[Sections 538, 539, — Penal Code].

Page 2 - Dec. 15/90
Pleads Guilty

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Dec. 19

William H. Pennington

Foreman.

2 yrs 1 month Pen

J. Dec. 19

0710

District Attorney's Office.

PEOPLE

vs.

Dec.
four 40
between.
Brown Edward

+
Nov 90.
Maguiness, Thomas

0711
East side Hackman St.
5th house from Plummer Ave.
Brooklyn.

also notify
W.C. Beecher
237 Broadway.

George
C.

Italy -
single

0712

Police Court—

7 District.

Affidavit—Larceny.

City and County }
of New York, } ss.

of No. 281 Chestnut Louisa Hilton
Street, aged 27 years,
occupation Married being duly sworn

deposes and says, that on the 5th day of December 1896 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the day time, the following property, viz:

One pocket book containing
one Six 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 J. Foley from her

from the fact that deponent had,
said property in her dress pocket
was standing in front of Gr
Park Road where she felt
her pocket disturbed looked
around about her and saw
her property in the hand of
said Foley who passed the
same to some unknown person
standing near him

Louisa Hilton

Sworn to before me, this
day of December 1896
at New York
Police Justice.

0713

Sec. 198-200.

District Police Court.

CITY AND COUNTY
OF NEW YORK

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

Question. What is your name?

Answer. *John J. Foley*

Question. How old are you?

Answer. *36 years*

Question. Where were you born?

Answer. *England*

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

Answer. *489 Washington St. New York*

Question. What is your business or profession?

Answer. *Machine Operator*

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

Answer. *I am not guilty*

John J. Foley

Taken before me this

day of

September 1903

Police Justice.

0714

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

Police Court

District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

James V. Sullivan
389 Chestnut St.
John J. Foley

Offence

Dated

Dec 8 1890
Magistrate
Charles H. Officer

Witnesses

No.

Street.

No.

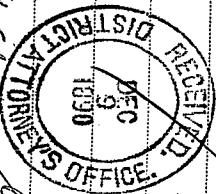
Street.

No.

Street.

No.

to Justice



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named

Refundant
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *Dec. 8* 1890 *A. J. White* Police Justice.

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

Dated 18 Police Justice.

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

Dated 18 Police Justice.

0115

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

John J. Foley

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

John J. Foley
of the CRIME OF GRAND LARCENY in the second degree committed as follows:

The said

John J. Foley

late of the City of New York, in the County of New York aforesaid, on the *eight* day of *December* in the year of our Lord one thousand eight hundred and *ninety*, in the *day* - time of the said day, at the City and County aforesaid, with force and arms,

\$6.00 *one* promissory note for the payment of money of the kind commonly called United States Treasury Notes, of the denomination and value of *five* dollars; *one* promissory note for the payment of money of the kind commonly called Bank Notes, of the denomination and value of *five* dollar; *one* United States Gold Certificates, of the denomination and value of *five* dollar; *one* United States Silver Certificates, of the denomination and value of *five* dollar;

two promissory notes for the payment of money of the kind commonly called United States Treasury Notes, of the denomination and value of *two* dollars each; *two* promissory notes for the payment of money of the kind commonly called Bank Notes, of the denomination and value of *two* dollar each; *two* United States Gold Certificates, of the denomination and value of *two* dollar each; *two* United States Silver Certificates, of the denomination and value of *two* dollar each;

six promissory notes for the payment of money of the kind commonly called United States Treasury Notes, of the denomination and value of *one* dollar each; *six* promissory notes for the payment of money of the kind commonly called Bank Notes, of the denomination and value of *one* dollar each; *six* United States Gold Certificates, of the denomination and value of *one* dollar each; *six* United States Silver Certificates, of the denomination and value of *one* dollar each;

daivers coins, of a number, kind and denomination to the Grand Jury aforesaid unknown, of the value of *six* dollars and *one* pocketbook of the value of *fifty* cents of the goods, chattels and personal property of one *Louisa Hilton* on the person of the said *Louisa Hilton* then and there being found, from the person of the said *Louisa Hilton* then and there feloniously did steal, take and carry away, against the form of the statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

John R. Fellows
District Attorney

00116

SECOND COUNT—

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

of the CRIME OF RECEIVING STOLEN GOODS, committed as follows:

The said

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

of the goods, chattels and personal property of one

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

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

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

JOHN R. FELLOWS,
District Attorney.

BOX:

419

FOLDER:

3876

DESCRIPTION:

Ford, Mary

DATE:

12/18/90



3876

#94 CMC

Witnesses:

J. B. Smith
Ellen Halloran
M. A. Ryan

Counsel,
Filed 18 day of Dec 1891
Pleads, Not guilty vs

THE PEOPLE
39
98 vs 57
unsubscribed
vs.
B
Mary Ford

PETIT LARCENY.
[Sections 528, 533 Penal Code].

JOHN R. FELLOWS,
District Attorney.

A True Bill.

Abraham Van Kessel
Part of January 14 Foreman.
Pleads guilty vs
Pleads Petit Larceny.
16
Jan 16/91
2 mos Pen J.

Police Court- 2 District.

Affidavit-Larceny.

City and County } ss.:
of New York,

James H Brooks
of No. 32 to 36 West 23 Street, aged 53 years,
occupation Floor Walker being duly sworn
deposes and says, that on the 7th day of December 1888 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the day time, the following property, viz:

Two pair Ladies Stocking
of the value of Three dollars
and sixteen cents (\$3 ¹⁶/₁₀₀)

the property of Stern Brothers, in deponent's
care and custody,

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 Mary Ford (now here) from
the following facts to wit: that the
said property was lying on the Hosiery
Counter in the aforesaid premises, on
the aforesaid date,

And that deponent is informed by
Jella Halloran of No 213 East 118th
that, that she saw the said defendant
take, steal and carry away said property.
And deponent further says that he
found the said property, secreted in
a patcher, then and there held
in defendant's hand, and in the
defendant's possession

James H Brooks

Sworn to before me, this 11th day of December 1888,
of the County of New York,
Police Justice.

CITY AND COUNTY }
OF NEW YORK, } ss.

Ella Halloran
aged 24 years, occupation Sales Lady of No. 213 East 118 Street, being duly sworn deposes and

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

Sworn to before me, this

day of

2
December 1889 Ella Halloran

[Signature]

Police Justice.

0121

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY
OF NEW YORK, ss.

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

Question. What is your name?

Answer.

Question. How old are you?

Answer.

Question. Where were you born?

Answer.

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

Answer.

Question. What is your business or profession?

Answer.

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

Answer.

I am not guilty
and demand a trial by jury
Mary Ford

Taken before me this

day of

188

Police Justice.

000 bail for ex
Dec 10 a.m.

Police Court...

1822
District

THE PEOPLE, &c.,

ON THE COMPLAINT OF

James H. Smith

1000 E. 4th St. N.Y.C.

Mary Ford

Offence

Larceny

Dated December 2 1890

Magistrate

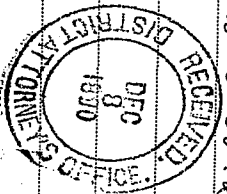
Officer

Witnesses

Ella Williams

316 36 33rd Street

No. Street



No. Street

Police Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Defendant

guilty thereof, I order that She be held to answer the same and she be admitted to bail in the sum of five Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated December 4 1890 John J. Herman Police Justice.

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

Dated Decr 5 1890 Charles J. Linton Police Justice.

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

Dated 18 Police Justice.

0123

Court of General Sessions

The People

vs.

Mary Ford.

I hereby authorize James M. Bull and
~~Attorney & Counselor~~ at Law to appear in
my behalf under Secs 294 & 356,
of the Penal Code of the State of
New York.

x Mary Ford

On this 12th day of December 1890 personally
appeared before me Mary Ford the person
described in the above instrument and
well known to be the person described therein and
acknowledged that she executed the
same for the purposes therein mention-
ed.

John Bohmer
Clerk of Courts
N. Y. C.

County of Cook, Illinois

The People

vs.

Mary Ford

Authorized to ap-
pear

Geo. O. W. Chittland

of Counsel

No. 113 6th Ave.

N.Y.

0125

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Mary Ford

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

Mary Ford

of the CRIME OF PETIT LARCENY committed as follows:

The said

Mary Ford

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

two pair of stockings of the value of one dollar and fifty-eight cents each pair

of the goods, chattels and personal property of one

Isaac Stern

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

John L. Fellows,
District Attorney.

0126

SECOND COUNT---

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

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

The said

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

of the goods, chattels and personal property of one

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

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

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

JOHN R. FELLOYS,
District Attorney.

0121

BOX:

419

FOLDER:

3876

DESCRIPTION:

Fortunato, Michael

DATE:

12/22/90



3876

0128

Witnesses:

Philomena Taverdi
Mary Carson

July 2/92

Bailed by
Jacob Gudering

His defendant was tried off
1892 by Vernon M. Davis Assit.
Dist. Attorney. It resulted in a
disagreement. I have had an
office detailed to ascertain the
whereabouts of the Italian witnesses
but without success. I therefore
recommend the discharge of
defendant on his own recognizance
April 28-1898.

Volley J. Hunsperger
Rep. Clerk.

#219 D. C. McClelland
Counsel, 64 H Street
92 Liberty

Filed 22 day of Dec 1890

Pleads, Not guilty 23

ENTERED
T. J. W.

THE PEOPLE

vs.

Michael Fortunato
(2 cases)

Grand Larceny 1st Degree.
[Sections 538, 539] Penal Code.

JOHN R. FELLOWS,
District Attorney.

P2 Jan 12, 1892
Tried and jury disagree
9 2
3 2

A True Bill.

Part 2 April 28th 1898
On motion of Dist Atty. deft discharged
on his own recognizance R 39
I have been informed

Foreman.

For trial Jan 11/92 by
agreement with defendant V. M. D.

Part 2, Jan 8/92 V. M. D.

0124

Sec. 192.

2nd District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }
OF NEW YORK, } ss.

An information having been laid before Daniel O'Riley Esq. a Police Justice
of the City of New York, charging Michael Fortunato Defendant with
the offence of Larceny in the First Degree

and he having been brought before said Justice for an examination of said charge, and it having been made
to appear to the satisfaction of said Justice that said examination should be adjourned to some other day, and
the hearing thereof having been adjourned,

We, Michael Fortunato Defendant of No. 52
Thorp 146 Street; by occupation a Contractor
and Samuel O'Clutter of No. 1750 Lexington Avenue
Street, by occupation a Real Estate Surety, hereby jointly and severally undertake
that the above named Michael Fortunato Defendant
shall personally appear before the said Justice, at the 2nd District Police Court in the City of New York,
during the said examination, or that we will pay to the People of the State of New York the sum of Twenty five
Hundred Dollars.

Taken and acknowledged before me, this 15th day of December 1890:
M. Fortunato
Samuel O. Clutter
J. C. [Signature] POLICE JUSTICE.

CITY AND COUNTY } ss.
OF NEW YORK, }

Sworn to before me, this 13th day of December 1890

Do *William H. Justice* Justice.

Daniel M. Adler

the within named Bail and Surety being duly sworn, says, that he is a resident and holder within the said County and State, and is worth *Twenty* Hundred Dollars, exclusive of property exempt from execution and over and above the amount of all his debts and liabilities, and that his property consists of *a home lot No. 345 East Broadway in the City of New York valued at twenty thousand dollars for taxation; becomes subject to a mortgage of said amount within*

Daniel M. Adler

District Police Court.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Michael Fortenato

Undertaking to appear during the Examination.

Taken the _____ day of _____ 18

Justice.

0131

CITY AND COUNTY } ss.
OF NEW YORK,

POLICE COURT, 2^d DISTRICT.

John Munkelland
of Central office Police Street, aged 32 years,
occupation Police Sergeant being duly sworn deposes and says
that on the 15th day of November 189.

at the City of New York, in the County of New York, he went in
company with Mary Parsons to No 425
W. 146th Street, to see Michael
Fortunate, in regard to the
complaint made by Phelomena
Tamveda. Depoant says that said
Fortunate acknowledge and confosed
in the presence and hearing of
Complainant Mary Parsons and
himself that he received the sum
of \$1600 - from Complainant to exchange
for station money. Depoant says

Sworn to before me this

188

day

Police Justice

0132

that said Fortunato also stated that
he did not exchange said money as
alleged but used the same in
his business and would return
the same as soon as he would
receive it.

WITNESSED AND BEFORE ME

THIS 17 DAY OF DEC 1890

John T. Sullivan
J. T. Sullivan
JUDGE OF THE PEACE

Police Court, District,

THE PEOPLE, &c.,

ON THE COMPLAINT OF

vs.

ARBITRARY.

Dated

188

Magistrate.

Officer.

Witness,

Disposition,

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 50 years, occupation Mary Parsons of No. 10
P.O. address Rye, New York Street, being duly sworn deposes and
says, that he has heard read the foregoing affidavit of John Munkolland
and that the facts stated therein ~~on information of deponent~~ are true of deponents' own
knowledge.

Sworn to before me, this

day of

188

17 } Mary Parsons
1888

De J. C. [Signature]
Police Justice.

0134

Police Court 2 District.

Affidavit—Larceny.

City and County } ss:
of New York,

Philomena Jancredi
of No. 527 W 146th Street, aged 22 years,
occupation Irish being duly sworn,
deposes and says, that on the 23 day of November 1889 at the City of New York,
in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in
the day time, the following property, viz:

Good and lawful money of the
United States of the amount
and value of Sixteen hundred
dollars

the property of deponent who is a widow

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 Michael Fortunato

Deponent says that said defendant
requested her to give him the
aforesaid money and he would
have the same exchanged for
Italian money as he was
about returning to Italy
He said defendant then

Sworn to before me, this
day of
Police Court

0135
and then stating that he would
return the same immediately viz
on the day 7th or 23. 1889 as
aforesaid — Depoent says
that he demanded said
money on the aforesaid date
and on divers other days
following and he said
defendant stated that he
placed the same in Bank
for safe keeping and thereafter
informed depoent that he
spent the money

Wherefore depoent charges
said defendant with feloniously
taking said money and unlawfully
appropriating the same to his
own use with intent to deprive
her of the same

WITN TO BEFORE ME
15. 11 DAY OF Dec 1890
J. J. R. J. J.
CLERK OF JUSTICE

Witnessed and
Signed

CITY AND COUNTY } ss.
OF NEW YORK,*Michael Fortunato*

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

Question. What is your name?

Answer.

Michael Fortunato

Question. How old are you?

Answer.

31 years

Question. Where were you born?

Answer.

Ireland

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

Answer.

527 W 146 St 18m's

Question. What is your business or profession?

Answer.

Contractor

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

Answer.

*This Complainant loaned me the money and I can prove it on Examination
M. Fortunato.*

Taken before me this

day of **DECEMBER.** 1898

Do
Police Justice.

Sec. 151.

Police Court 2 District.

CITY AND COUNTY
OF NEW YORK, } ss.

*In the name of the People of the State of New York; To the Sheriff of the County
of New York, or any Marshal or Policeman of the City of New York:*

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police
Justices for the City of New York, by Philomena Tancredi
of No. 527 W 146th Street, that on the 23 day of November
1887 at the City of New York, in the County of New York, the following article to wit:

Good and lawful money of the United
States
of the value of fifteen hundred Dollars,
the property of Complainant
w as taken, stolen and carried away, and as the said complainant has cause to suspect, and does suspect and
believe, by Michael Fortunato

Wherefore, the said Complainant has prayed that the said Defendant may be apprehended and bound to
answer the said complaint.

These are Therefore, in the name of the PEOPLE of the State of New York, to command you the said
Sheriff, Marshal and Policemen, and every of you, to apprehend the bod y of the said Defendant
and forthwith bring h before me, at the 2 DISTRICT POLICE COURT, in the said City, or in
case of my absence or inability to act, before the nearest or most accessible Police Justice in this City, to answer the
said charge, and to be dealt with according to law.

Dated at the City of New York, this 11 day of Dec 1888

Samuel R. [Signature] POLICE JUSTICE.

Police Court 2d District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Warrant-Larceny.

Dated _____ 188

Magistrate

Officer.

The Defendant _____
taken, and brought before the Magistrate, to answer
the within charge, pursuant to the command con-
tained in this Warrant.

Mulholland + Foley Officer.

Dated _____ 188

This Warrant may be executed on Sunday or at
night.

Do + F. J. Mulholland Police Justice.

having been brought before me under this Warrant, is committed for examination to the
WARDEN and KEEPER of the City Prison of the City of New York.

Dated _____ 188

Police Justice.

The within named

0134

Police Court-- 2
District. N. 1862

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Edmund Varnado
Michael Varnado

BAILED,
No. 1, by Samuel J. Kelly
Residence 173 1/2 Broadway

No. 1, by Bernard Rinnach
Residence 403 East 47th St.

No. 3, by _____
Residence _____

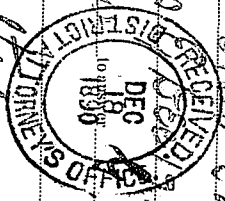
No. 4, by _____
Residence _____

Dated Dec 17 1890
Offence Larceny

David A. Kelly Magistrate.
Johnston Officer.

Witnesses John Johnston at
Whitey Sney Street.

John Parsons Street.



It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Defendant

Guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Twenty Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated Dec 17 1890 Samuel J. Kelly Police Justice.

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

Dated Dec 17 1890 Samuel J. Kelly Police Justice.

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

Dated _____ 18 _____ Police Justice.

COURT OF GENERAL SESSIONS OF THE PEACE, OF THE CITY AND COUNTY
OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,
against

Michael Fortunato

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by
this indictment, accuse *Michael Fortunato*

of the CRIME OF GRAND LARCENY IN THE *first* DEGREE,
committed as follows:

The said *Michael Fortunato* —

late of the City of New York, in the County of New York aforesaid, on the *23rd*
day of *November* in the year of our Lord one thousand eight hundred and
eighty-nine, at the City and County aforesaid, with force and arms, in the
day time of the same day, divers promissory notes for the payment of money, being
then and there due and unsatisfied (and of the kind known as United States Treasury
Notes), of a number and denomination to the Grand Jury aforesaid unknown, for the
payment of and of the value of *eight hundred* —

\$1600.
dollars; divers other promissory notes for the payment of money, being then and there due
and unsatisfied (and of the kind known as Bank Notes), of a number and denomination
to the Grand Jury aforesaid unknown, for the payment of and of the value of
eight hundred
dollars; divers United States Silver Certificates of a number and denomination to the Grand
Jury aforesaid unknown, of the value of *eight hundred*

dollars; divers United States Gold Certificates of a number and denomination to the
Grand Jury aforesaid unknown, of the value of *eight hundred*

dollars; divers coins of a number, kind and denomination to the Grand Jury aforesaid
unknown, of the value of *eight one hundred dollars*

of the goods, chattels and personal property of one *Philomena Lencioni*
then and there being found,

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

JOHN R. FELLOWS, *District Attorney.*

0141

BOX:

419

FOLDER:

3876

DESCRIPTION:

Fowley, John J.

DATE:

12/22/90



3876

0142

214.

Witnesses:

*H. J. [unclear]
H. C. Thompson*

Counsel,

Filed

day of

1890

Pleads

212 day of *Dec*
Guilty Jan 9/91
THE PEOPLE

vs.

John J. Fowler

*Grand Larceny, 2d degree
(MISAPPROPRIATION,
Sections 528 and 531 of the Penal Code).*

JOHN R. FELLOWS,

District Attorney.

A True Bill.

William K. [unclear]
Foreman.

Jan 9/91
Past the January 13/91
Defendant discharged on
his own recog.

January 13/91

Upon reading the
within within annual
Petition and
excellent character
of defendant, I
am convinced that
the ends of justice
will be satisfied
by giving defendant
a chance to be a
good citizen & ask that
he be discharged on his
own recognizance.

COURT OF GENERAL SESSIONS OF THE PEACE.

-----0
THE PEOPLE
:

vs.
:

JOHN J. FOWLEY.
:
-----9-

City and County of New York ss:

L.C. TUFTS, doing business
at 119 Elm street in the City of New York ,being duly sworn,

deposes and says :That he has known the defendant ,JOHN J.

FOWLEY,for the last 20 years .That FOWLEY was in his em-
ploy for fourteen years .That he has always known him to be
honest ,trustworthy and industrious and that any clemency
that may be extended to him by this Honorable Court will
be fully appreciated .

Sworn to before me this

31 day of

Dec L C Tufts

J M Roberts

NOTARY PUBLIC,
NEW YORK CO. NO.

3

COURT OF GENERAL SESSIONS OF THE PEACE.

-----o
: :
THE PEOPLE :
: :
against :
: :
JOHN J. FOWLEY. :
-----e:

City and County of New York ss:

JOHN BRENNAN, being duly sworn, deposes and says : That he is a commission merchant doing business at 31 Wooster street , in this city . That he has known the defendant , JOHN J. FOWLEY, for the last 20 years . That said FOWLEY was formerly in better circumstances ; that he always knew him to be honest , industrious and trustworthy .

Deponent believes that if Your Honor will extend clemency in this case it will be a lesson to the defendant .

Sworn to before me this 30th
day of December, 1890.

John Brennan

Harold T. May
Notary Public N.Y. Co.

COURT OF GENERAL SESSIONS OF THE PEACE.

THE PEOPLE
against
JOHN J. FOWLEY.

City and County of New York ss:

WILLIAM COURT ,being duly sworn, deposes and says ; That he is a carpenter and builder, doing business at 105 Mercer street , in this cit y .. That the defendant , JOHN J. FOWLEY , was employed by him at the time of the preferring of this charge . That he knows the said defendant to be a first class mechanic , and if Your

Honor will extend clemency and suspend sentence I will take him into my employment as soon as he is at liberty . I know his family to be respectable people and that he has a wife and eight children depending upon him for support .

Hoping that Your Honor will extend this mercy ~~and~~ I feel confident that he will never again transgress the law.

Sworn to before me this 3rd day of January 1891

Antonie C. Hartung William Court
Notary Public P. 25,
New York County

COURT OF GENERAL SESSIONS OF THE PEACE .

-----O
THE PEOPLE :
VS. :
JOHN J.FOWLEY. :
-----O

City and County of New York ss:Ebum F.

EBUM F. HAIGHT, being duly sworn ,deposes and says :That he is a builder doing business in this City at 152 Prince street .That he has known JOHN J. FOWLEY for twenty years ,part of which time said FOWLEY was in his employ .That he always knew him to be honest ,industrious and a good workman.

Sworn to before me this 3rd
day of January 1891 *Ebum F. Haight*

Ed Macchusky
Notary Public
Kings Co

0147

Court of Municipal
of the Place

The People
vs
John J. Forley

Affidavit of
Good Character

0748

Police Court—H District.

Affidavit—Larceny.

City and County }
of New York, } ss.of No. 221 West 25th Hugh Jones
Street, aged 31 years,
occupation Carpenter being duly sworndeposes and says, that on the 26 day of September 1890 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the night time, the following property, viz:

Good and lawful money of the
United States of the Amount
and value of Sixty two dollars
and Sixty five cents (\$62.⁹⁵/₁₀₀)

the property is in the Care and Custody of deponent as
Chairman of the Board of Trustees of the United
Brotherhood of Carpenters and Joiners of America
Local Union No 509

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 J. Farley (nowhere)

for the reason that on said date defendant
was Treasurer of said organization
and as such was empowered to receive
sums as dues, Assessments and
initiation fees from members of
said organization with instructions
to account for same at a meeting
held by said organization each
quarter of the year that at the last
quarterly meeting October 3rd 1890 said
was the duty of defendant to
account to said organization
the above named sum of money
collected by him at the last

Sworn to before me, this

day

Police Justice.

weekly meeting preceding said quarterly meeting Dec 3, 1890. That defendant failed to appear at said quarterly meeting or make any return or statement of said money collected by him. That defendant then caused an investigation to be made of the books of said organization and discovered that said sum had not been accounted for by said defendant.

Defendant further says that he has since made demand upon said defendant for said money but he has failed to return the same.

Wherefore defendant charges defendant with collecting said money and appropriating the same to his own use and benefit.

Subscribed and sworn to
this 15th day of Dec 1890 } Elugh Jones
By ~~William~~
Police Justice

0750

Sec. 198—200.

CITY AND COUNTY
OF NEW YORK } ss

14 District Police Court.

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

Question. What is your name?

Answer. *John J. Howley*

Question. How old are you?

Answer. *46 years old*

Question. Where were you born?

Answer. *Ireland*

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

Answer. *No 437 West 25th St. 3 years*

Question. What is your business or profession?

Answer. *Carpenter*

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

Answer. *I am not guilty*
John J. Howley

Taken before me this

day of

Jan

1896

Wm. H. Howley

Police Justice.

0751

BAILED,
No. 1, by _____
Residence _____
Street _____
No. 2, by _____
Residence _____
Street _____
No. 3, by _____
Residence _____
Street _____
No. 4, by _____
Residence _____
Street _____

#214 Bail Oct 1891
Police Court... District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF
Frank Jones
John J. Stanley
Offence *Larceny*
(felony)

Dated *Dec 15*
M. S. M. M. M.
Magistrate.

Witnesses
John A. Nolan
Precinct.

No. *1204 East 19th*
Street.
Frank E. Thompson

No. *304*
Street.
RECEIVED DEC 18 1890

No. *1000*
Street.
Attorneys Office

Elmer

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named *Defendant*

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Ten* Hundred Dollars, and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated *Dec 10* 189*1* *H. T. Mahan* Police Justice.

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

Dated _____ 18 _____ Police Justice.

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

Dated _____ 18 _____ Police Justice.

COURT OF GENERAL SESSIONS OF THE PEACE.

X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-0

THE PEOPLE

against

JOHN J. FOWLEY.

X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-0

TO THE HONORABLE

Justice Presiding

We respectfully present this petition to Your Honor in relation to the above matter .

The above defendant, JOHN J. FOWLEY, was Treasurer of Local No. 509 of the UNITED BROTHERHOOD OF CARPENTERS OF AMERICA, and for many years was respected and beloved by them. During the last summer he became addicted to the use of intoxicating liquors, and while on one of his spree squandered ^{the money} complained of in the complaint, being the property of this Local intrusted to his care.

The defendant, JOHN J. FOWLEY, has a wife and eight children who depend upon him for a support and living.

At a regular meeting of Local No. 509 held on Friday evening, December 26th, 1890, the committee which was instructed to have this petition presented to you requesting Your Honor to allow said Local to withdraw the complaint if said request is consistent with the laws ;or if Your Honor would suspend sentence we will all do all in our power to have him placed in good standing among his fellow workmen once more.

0753

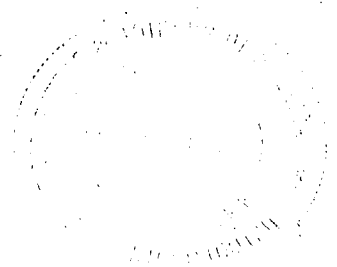
Respectfully submitted

John A. Nolan President

Hugh Jones

Chairman & Trustees

Thomas Murtough } Committee
Patrick Kavanagh }



0754

Court of General Sessions
of the Peace

The People
agst
John J. Forley

Petition

New York General Sessions.

PEOPLE ON MY COMPLAINT,
VERSUS

John J. Fowley

As complainant in the above case, I beg to recommend the defendant to such leniency and clemency as the Court and District Attorney may see fit to show; but I expressly assert that my reasons for so doing are not controlled by any advantage to myself.

As Trustee of Local Union No. 509 of the United Brotherhood of Carpenters and Joiners of America, I made the Complaint in the above action And at a regular meeting, held on the 26th day of December 1890. as appears by the petition on file with Affidavits, and the aforesaid Local have unanimously requested me to make this recommendation.

*Dated New York
January 13. 1890.*

*Hugh Jones
Chairman of Trustees*

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

John F. Bowley

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

of the CRIME OF *John F. Bowley* LARCENY, in the second degree, committed as follows:

The said

John F. Bowley

late of the City of New York, in the County of New York aforesaid, on the *Twenty-fifth* day of *September*, in the year of our Lord one thousand eight hundred and *eighty-ninth* at the City and County aforesaid, being then and there the clerk and servant of *an officer, to wit: the Treasurer of a certain association known as the United Brotherhood of Carpenters and Joiners of America, Local Union Number 509,* and as such clerk and *officer and Treasurer* servant, then and there having in his possession, custody and control certain moneys, goods, chattels and personal property of the said *association.*

the true owner thereof, to wit: *the sum of sixty-two dollars and ninety-five cents in money, lawful money of the United States of America, and of the value of sixty-two dollars and ninety-five cents,*

the said

John F. Bowley

afterwards, to wit:

on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, did feloniously appropriate the said *sum of money*

to his own use, with intent to deprive and defraud the said *association*

of the same, and of the use and benefit thereof; and the same moneys, goods, chattels and personal property of the said *association.*

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

JOHN R. FELLOWS,
District Attorney.

0757

BOX:

419

FOLDER:

3876

DESCRIPTION:

Franko, Nahan

DATE:

12/02/90



3876

0758

Witnesses:

Victor S. Fischer

J. E. Freund

W. O. O'Brien

#20

Deputy

Counsel,

Filed

day of

1890

Pleas,

Shirley

THE PEOPLE

vs.

Mahan Franko

JOHN R. FELLOWS,

District Attorney.

Dec 24 1890

Dec 16/90

A TRUE BILL.

Remitted overuled
Dec 18/90

William T. ...

Foreman.

Dec 24, 1890.

1st Monday in April 1891

Part III April 1891

On Bond & discharge

Post III April 20/91

Indictment dismissed

See Memorandum on back of complaint

TO THE CHIEF CLERK.

Please send me the Papers in the Case of

PEOPLE

vs.

Mahan Franko

Testimony in

Police Court

Filed in drawer

District Attorney.

0759

Witnesses:

Victor S. Tucker

J. E. Frazier

G. O. Ostrich

Counsel

Filed

day of

Pleads

THE PEOPLE

vs.

Nathan Franko

Ex B.

March 27/93

7702

JOHN R. FELLOWS,

District Attorney.

Dec 16/90

A TRUE BILL.

Remunerated
Dec 18/90

Nathan Franko

Foreman

1st Monday in April 1901
Part III April 1901

On Remunerated
Part III April 1901

See Memorandum in back of complaint

TO THE CHIEF CLERK.

Please send me the Papers in the Case of

PEOPLE

vs.

Nathan Franko

Testimony in
Police Court
filed in drawer

Respectfully,
District Attorney.

COURT OF GENERAL SESSIONS OF THE PEACE.

FOR THE CITY &. COUNTY OF NEW YORK.

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x
 THE PEOPLE OF THE STATE OF
 NEW YORK Etc.
 - against-
 NAHAN FRANKO.
 -x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x-x

x
 x
 x
 x
 x
 x
 x
 x
 x

The defendant hereby Demurrs to the Indictment herein found against him for the reasons

(1) That the same does not shows facts charging him *with* the commission of any Offense nor contain facts sufficient to constitute or Warrant the conviction of the Defendant for the Offense of Libel or of any Offense whatsoever

(2) That the same shows upon its face that it was and is not founded upon legal evidence required for the finding of indictments for criminal libel and does not show facts sufficient to authorize the conviction of the defendant of any crime or misdemeanor as required by law.

Wherefore defendant prays that the indictment herein be quashed and he bedischarged.

David M. Neuberger

Attorney for defendant

0761

COURT OF GENERAL SESSIONS FOR

The People &C.

-vs-

Nahan Franko.

33333

DEMURRER.

David .M. Neuberger
Attorney for Defendant.
291 Broadway .
N.Y.

filed Dec 4/90

0762

8 TO 11 A. M.
3 TO 4 P. M.
7 TO 8.30 P. M.

J. A. Burke, M. D.,
152 W. 11th Street,
New York.

Apr. 20, 1891.

This is to certify that
I am attending Mr. William
M. Lyddy professionally and
that he is suffering from
a nervous condition brought
on by the recent death
of his brother and that
he is unable to attend
his professional duties.

J. A. Burke, M. D.

0763

BENNO LOEWY,
COUNSELOR AT LAW,
206 & 208 BROADWAY,

Evening Post Building,

NEW YORK.

TELEPHONE: "LAW 503."
CABLE ADDRESS: "LANATED, NEW YORK."

NEW YORK, April 17, 1891

People vs Nathan Frank

Hon. Wendell Lyman

Assistant District Attorney

Dear Sir:

Replying to your letter of this date I beg to say that I have peremptory engagements for Monday next in the trial of a number of insurance cases in the City Court before Judge MacFay and that I do not know when I find my client at this time. I do however repeat that neither you nor any one else can try this case without careful preparation, which you could not make, even if I could devote my whole time and your yours exclusively to it between now and Monday. The placing of cases on the calendar rests with the

0764

BENNO LOEWY,
COUNSELOR AT LAW,
206 & 208 BROADWAY,

Evening Post Building,

NEW YORK.

TELEPHONE: "LAW 503."
CABLE ADDRESS: "LANATED, NEW YORK."

NEW YORK, April 17 1891

District Attorney - If he sees fit
to put on cases without proper
preparation the responsibility rests
with him - not with the complainant
nor with

Yours cc.

0765

David M. Heuberger,
Attorney and Counsel,
291 Broadway.

New York, 189
(2)

by the complainant to Miss Powell.

This case against Miss Franko has been transferred from one assistant to the other and none of the gentlemen seems as if they wished to dispose of the cause by trial.

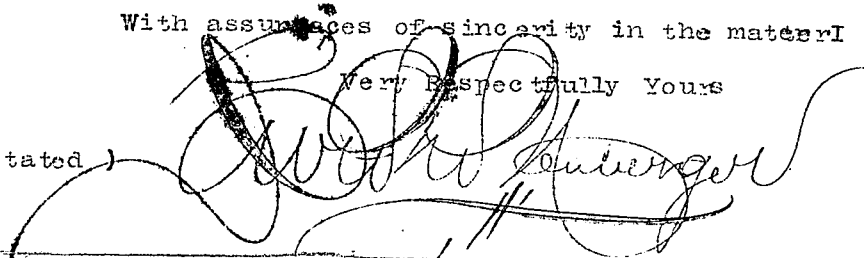
I say this with the greatest deference and simply mention it as a reason why the indictment in my opinion cannot be sustained by a trial.

Will you not kindly if you conclude that the case is as I say and the facts warrant kindly recommend a dismissal or some disposition by trial whereby the defendant can be relieved of the suspense by reason of the pendency of the case.

With assurances of sincerity in the matter I am

Very Respectfully Yours

(Dictated)

A large, stylized handwritten signature in dark ink, appearing to read 'David M. Heuberger', is written over the typed name and extends across the bottom of the page.

0766

GLUED PAGE

New York, April 3rd. 1891.

W. DE LANCEY NICOLL.

DEAR SIR:-

In the case of The People vs. Franko, the defendant was indicted in December last for Libel. The complaint is made by one Victor S. Flechter a dealer in violins in this City. The defendant is an artist (Violinist). Five or six times the case has been on the calendar for trial and although the defendant for whom I appear, was ready, the case was either not called at all or adjourned. In one instance February 24th, I had notified Mr. Weeks in whose part it was to be tried that my witness was absent and I had an out of town engagement, and did not expect to be ready, on receiving his reply saying that he had arranged for a trial of the case in another part on February 25th I waived the absence of my witness and my own engagement and notified the office that I would be ready and was ready. The cause appeared in Part I on the 25th, I was ready and endeavored to have the case tried but it was not called although his Honor Judge Cowing and previous recorder Smythe stated that case should be disposed of. I deem it my duty in view of that which has taken place to write you. The Complaint was subpoenaed by me to appear on February 25th but failed to appear.

A number of times we have subpoenaed such gentlemen as Mr. Edmund B. Stanton and other artists and well known citizens and they have become tired of attending and their presence I will be unable I think to obtain again. I have also had witnesses from out of the City whom I will be unable to again have I am informed.

The complainant in the case is using the indictment for his own and his business purposes and as I am informed harps upon the fact that he boasts he will hold the indictment over the defendant as long as he chooses.

A motion was made by me to dismiss for failure to prosecute and Judge Cowing on Tuesday last requested Mr. Davis to inform the Court by Monday whether the District Attorney really intended to try the case. I therefore take the liberty of calling these facts to your attention and at the same time to state that if anything the case is one for the Civil Courts and this I doubt very much in view of what has been testified about complainant already. I might also add that since the finding of this indictment a verdict was recovered in the Court of Common Pleas by Miss Maud Powell against the complainant for damages by reason of false representations in the sale of a Violin.

David M. Newberger,
Attorney and Counsel,
291 Broadway.

New York, Feby. 21st. 1891.

BARTOE S. WEEKS, ESQ.

My Dear Sir:-

I trust you will pardon the liberty ^{be} taken in writing you at your residence but I will ^{be} unable to try the Franko case on Tuesday next, by reason of the absence from the City of three witnesses, whose testimony is very material and important to the defendant on the trial of this case.

My Subpoena server has been searching for them at various places and just informs me of the above fact; in addition to this I am obliged to leave the City on Tuesday evening to be absent for some days. Under the circumstances I hope you will consent that the trial be adjourned for one week.

Thanking you in advance for your courtesy,

I am,

(DICTATED)

Very Truly Yours,
David M. Newberger

STATE OF NEW YORK :
 : ss:
 County of New York :

VICTOR S. FLECHTER being duly sworn says that he
 resides in the *City of New York & does*
business at No. 23 Union Square in said City

that on or about the 21st day of July, 1890, one Nahan Franko
 did falsely, maliciously and scandalously frame, make, write
 and compose in a certain false, scandalous and libelous writ-
 ing of, concerning and against the said Victor S. Flechter *to*
a copy of which is hereto annexed to
 the purport and effect following, to wit: "Mr. Flechter (mean-
 ing the said deponent Victor S. Flechter) makes nearly all his
 violins, old and Italian, himself, and conducts a swindling
 business. He is a usurer of the worst kind, having in one
 instance taken no less than 1000 per cent, and collateral for
 the loan of a small sum of money to a musician who was in tem-
 porary distress", and that with intention to scandalize and
 disgrace the said Victor S. Flechter, and to bring him into
 contempt, infamy and disgrace, the said Nahan Franko did after-
 wards on or about the 25th of July, 1890 or subsequently at
 or in the City of New York, in the State and County first
 aforesaid deliver and publish to the Editor of the Music Trade
 Review, a newspaper published in the City of New York, who
 published the same in said paper, also to one J. Berry, *J. A.*
John C. Foreman Editor of the American Musician of New York
 Schwab and Mr. Kuehl, whose full names *are* not known to de-
A. Oestlicher, Edwin Schuler & others
 ponent and to one Mr. Carl Fisher, said false, scandalous and
 libelous matter aforesaid in that he did knowingly, intention-
 ally and maliciously as aforesaid deliver and publish to them
 and each of them the aforesaid persons and others, the said

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false, scandalous, and libelous matter in writing as aforesaid.

Subscribed and sworn

to before me this

day of August, 1890.

13 *Victor J. Pickles*

A. J. White
Police Judge

FRANKO REPLIES TO FLECHTER.

LELAND HOTEL, CHICAGO, ILL., July 21, 1890.
To the Editor of THE MUSIC TRADE REVIEW:

DEAR SIR: A number of clippings from various New York newspapers have been sent to me containing a report of a suit brought against me by Victor S. Flechter, a dealer in violins, in which he relates his side of the story, taking advantage of my absence from New York by publishing a number of falsehoods for the sake of advertising himself and to injure my reputation while I am too far away to defend myself, except in this way. I, therefore, most humbly submit this statement of facts for your kind consideration.

First: I was unable to appear in court on July 8th, to defend myself against the false and fraudulent charges made against me by Mr. Flechter, having left New York on June 29th, with the Thomas Orchestra, for a six weeks' engagement. Being only too anxious to have a chance of publicly laying bare the queer business methods of this man for the benefit of all New York musicians, I authorized Mr. John Levine (15 East Fourteenth street,) to represent me in court and to ask for a postponement of the case until the middle of August, when I would return to New York. But Mr. Lavine having been out of town the night preceding the trial, reached the court room too late, the case having been disposed of shortly before his arrival, by rendering judgment by default in Mr. Flechter's favor. I have already taken steps to have the case appealed to a higher court.

Second: It is true that I have received two strings from Mr. Flechter, the cost of which should be at the highest, \$2.00 for the two; but on learning that he charged the modest sum of \$2.50 for each, I returned them, together with a silk handkerchief, his viola and viola bow, without having damaged any of these articles.

Third: For the use of the viola in question, during the German opera season in New York, Mr. Flechter again showed his modesty by writing to Mr. Ed. C. Stanton, asking for a number of seats in the orchestra for each performance, as a compensation for the loan of his viola, which, at a low figure, would be equivalent to \$20.00 in money weekly. Even this unreasonable de-

mand was granted by Mr. Stanton, until his demands for seats grew so impertinent that the director ordered me to return the viola to him without delay and not to have anything further to do with him. Whenever I had occasion to use the instrument after that time, I have paid Mr. Flechter liberally for it.

Fourth: As to the value of the instrument, I wish to say that I have had quite some experience in the handling of instruments, having played on the violin since early childhood, and I hereby declare, and can prove by abler judges than Mr. Flechter and myself, that the viola in question, which I have used considerably and had opportunity to test in every direction, is not worth \$1,000, not to speak of \$5,000, but as Mr. Flechter is known to have sold \$40.00 violins for about \$600.00 and \$60.00 violins for about \$1,000.00 and more, this little difference in our estimation of that particular viola should not be surprising.

Fifth: And last, I wish to state that this viola does not even belong to Mr. Flechter, but, according to his own writing now in my hands, belongs to a gentleman in Boston, who personally called on me while I was in that city with the German Opera Company, and demanded its return after hearing that Mr. Flechter had rented it to me without his consent or knowledge.

After having made these statements, which I can prove to be correct in every detail, I wish to inform you, before closing, that I have the offer of nearly every prominent violinist in the country to testify in my behalf when the case will be called for trial. I am in the position to prove not only that Mr. Flechter makes nearly all his violins, old and Italian, himself, and conducts a swindling business, but that he is a usurer of the worst kind, having in one instance taken no less than 1,000 per cent. and collateral for the loan of a small sum of money to a musician who was in temporary distress.

Yours most respectfully,

NAHAN FRANKO.

0771

Staher Franko
2304 2nd av.

—

0772

Sec. 108-200.

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK, }

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

Question. What is your name?

Answer. *Naham Franko*

Question. How old are you?

Answer. *29 years of age*

Question. Where were you born?

Answer. *United States*

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

Answer. *2304 7th Avenue 1 year*

Question. What is your business or profession?

Answer. *Musician*

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

Answer. *I am not guilty*

Naham Franko
[Signature]

Taken before me this

19th

[Signature]
188
Police Justice.

0773

Sec. 151.

Police Court District, 1st.

CITY AND COUNTY } ss. In the name of the People of the State of New York; To the Sheriff of the County
OF NEW YORK, } of New York, or to any Marshal or Policeman of the City of New York, GREETING :

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police
Justices for the City of New York, by Victor J. Sleeter
of No. 23 Mueson Sq. Street, that on the 21 day of July
1889 at the City of New York, in the County of New York,

Victor Nathan Franko did commit the
crime of criminal libel by causing
to be published a certain libelous
letter holding the complainant
up to ridicule and contempt.

Wherefore, the said Complainant has prayed that the said Defendant may be apprehended and bound to
answer the said complaint.

These are, Therefore, in the name of the PEOPLE of the State of New York, to command you the said
Sheriff, Marshals and Policemen, and each and every of you, to apprehend the said Defendant, and bring
forthwith before me, at the District Police Court, in the said City, or in case of my absence
or inability to act, before the nearest or most accessible Police Justice in this City, to answer the said charge, and to
be dealt with according to law.

Dated at the City of New York, this 13 day of August 1889
J. H. White POLICE JUSTICE.

Police Court District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs

Nathan Franko

Warrant-General.

Dated 1889

Magistrate.

English Officer.

The Defendant Nathan Franko
taken, and brought before the Magistrate, to answer
the within charge, pursuant to the command con-
tained in this Warrant.

Detention Officer.

Dated 1889

This Warrant may be executed on Sunday or at
night.

2304

Police Justice.

291 B-Way

REMARKS.

Time of Arrest,

Naive of

Age,

Sex,

Complexion,

Color,

Profession,

Married,

Single,

Read,

Write,

291 B-Way

0774

BAILED
No. 1 by *Robert Colebrook*
Residence *1341 Broadway*
No. 2 by _____
Residence _____
No. 3 by _____
Residence _____
No. 4 by _____
Residence _____
Residence *271 33*
Street _____
of them exhibited a
the papers as well as
evidence in the within
case and any opinion
that no conviction can
be obtained of anything
resembling the crime
alleged to be committed
on the 20th of November
last, and that the same
of the same is not likely

No. 110
Police Court
District

THE PEOPLE, Etc.,
ON THE COMPLAINT OF

John J. Hooper
23-Annex St.

Robert Colebrook

Offence

Date *Nov 19 1890*

Smith Magistrate

Officer

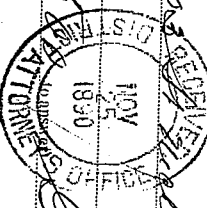
Prisoner

Witness

Police 17
835 Broadway
Nov 19 1890 Street

No. *Robert Colebrook* Street

No. *1103 Broadway* Street



David

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named _____

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of *Five* Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated *Nov 19 1890* *Robert Colebrook* Police Justice.

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

Dated *Nov 19 1890* *Robert Colebrook* Police Justice.

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

Dated _____ 18 _____ Police Justice.

0775

COURT OF GENERAL SESSION OF THE PEACE.

FOR THE CITY & COUNTY OF NEW YORK.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

THE PEOPLE OF THE
STATE OF NEW YORK.

-vs-

NATHAN FRAUMER.

XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

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c

You will please take Notice, That upon the annexed affidavit, the Indictment and all the proceedings herein, I will move this Court in Part One thereof, before Hon. Rufus B. Cowing, in the Court House Number 32 Chambers Street, in the City of New York on Friday March ~~27~~²⁸th., 1901, at 11 O'clock A. M., or as soon thereafter as Counsel can be heard to dismiss the Indictment for and against the defendant herein and for an Order dismissing the indictment herein and for such other Order and relief in the premises as may seem to the Court just and proper.

Dated New York March 16th. 1901.

Yours &c.

DAVID M. NEUBERGER.

COUNSEL FOR DEFENDANT.

291 BROADWAY.

NEW YORK CITY.

TO:-

HON.

DE LANCEY NICOLL.

DISTRICT ATTORNEY.

NEW YORK COURT OF GENERAL SESSIONS.

THE PEOPLE OF THE
STATE OF NEW YORK.

-against-

NANAN FRANKO.

S
X
S
X
S
X
S
X

CITY & COUNTY OF NEW YORK::S:S:..

NANAN FRANKO, being duly sworn, says:- That he is the defendant above named; that on or about the 15th. day of Octob 1890, he was arrested at the instigation and upon the complaint of one VICTOR S. FLECHTER, on a charge of Libel preferred against him by said FLECHTER. That an examination of said charge was had and subsequently and on or about the 22nd. day of December, 1890 deponent was indicted by the Grand Jury.

That on the 22nd. day of December, 1890, deponent pleaded to said Indictment. That deponent was called for Trial in the month of January, 1891, and was ready to proceed, but the people were not, and the case was adjourned.

That the trial thereof was set down for the 10th. day of February, 1891,. That since said time deponent has through his Counsel, MR. DAVID M. NEUBERGER, made every possible effort to bring this case on for trial who has urged and demanded Trial in and out of Court but has to this day been unable so to do by reason of the laches of the People in failing to prosecute this action with diligence.

That deponent has been subjected to a great deal of expense and annoyance and inconvenience in procuring the attendance of a large number of Witnesses some of whom live out of this State.

That on February 24th/, 1891, his Honor Judge Cowing directed that this cause be set down for trial for February 25th. 1891. His Honor Recorder Smyth, had directed that this cause be tried on that day. That on said day deponent attended Court with a large number of witnesses numbering in all about Twenty-two and notwithstanding deponents express wish that said case be then tried and deponent's Counsel's statement to the Court that deponent doubtless would be unable to procure the attendance of his witnesses again and in addition, that the Assistant District Attorney who had charge of this case, had in writing notified on the day previous that said case be tried on said February 25th., 1891, the District Attorney notwithstanding the direction of the Court and the stipulation adjourned this case, and since said 25th. day of February, 1891, said case has never appeared on the Calendar or called for trial.

That as appears by the annexed affidavit a subpoena Duces Tecum, issued out of this Court was served on the Complainant VICTOR S. FLECHTER, whereby he was directed to appear on the 25th. day of February, 1891, that on said day said Fletcher failed to appear. That deponents rights and remedies have been seriously impaired, impeded and prejudice, by reason of the gross and inexcusable laches, negligence of the People in failing to bring said case on for trial; that during all this time the defendants reputation has been attacked by the complainant and by his friends and deponent has been embarrassed by this Indictment hanging over his head in the eyes of the Public and his Associates.

That deponent charges that the said complainant Fletcher, has used the Indictment against defendant to satisfy his anger and vindictive spirit towards deponent and has even used the case for advertising purposes and as deponent was informed and

verily believes to be true it is not his intention to come into Court and attempt to prove the false and malicious charges which he has made against deponent,; this is evidenced among other acts of his by his failure to respond to the subpoena served upon him.

That a number of witnesses subpoenaed on behalf of deponent were loud in their complaint against the inconvenience to which they had been subjected in appearing unnecessarily in Court and they finding their presence unnecessary and the trial adjourned stated that they would not again appear.

Deponent further says that as hereinbefore stated he has been ready at all times to proceed to trial. That it is and has been a great Hardship on deponent to continually adjourn the trial of said proceeding and for the reasons hereinbefore set forth deponent prays that the said indictment against him be dismissed.

Sworn to before me this :

~~25th~~ day of *March* 1891.:
JOHN W. BROWNE,
COMMISSIONER OF DEEDS.
CITY & COUNTY OF NEW YORK.

N A H A N F R A N K O .

Part II
March 30. Fayette
March 31 some here
place H.D. Macine
A.D. 1884

Shuchoff Court of
General Sessions

The People of the
State of Maryland
against

William Shanks.

~~William Shanks~~
Shanks and
Shanks Shanks

291
Attorney General
Office

10/1/84. No Rangey here
Shuchoff Court

0780

TORN PAGE

BENNO LOEWY,
COUNSELOR AT LAW,
205 & 208 BROADWAY,

Evening Post Building,

NEW YORK.

TELEPHONE: "LAW 503."
CABLE ADDRESS: "LANATED, NEW YORK."

NEW YORK,

February 25, 1891

People vs Franks

Hon. H. D. M. Dineen.

Asst Dist Atty.

Dear Sir:

When I called at your office yesterday I learned that you had already gone for the day. As Mr. Neeks wrote me on Sunday that Kunkin had asked for my advice, I, keeping your past experience his ability to get an adjournment naturally allowed my interests to go - the more so as you could not properly prepare this case in even that time. I suggest that you let this case go to next term, that will give me a chance to put you properly. I have a printed brief on the testimony & the law - also a copy of the brief used on the demurrer. Edw. M. Johnson & John D. Kunkin

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TORN PAGE

BENNO LOEWY,
COUNSELOR AT LAW,
206 & 208 BROADWAY,

Evening Post Building,

NEW YORK.

TELEPHONE: "LAW 503."
CABLE ADDRESS: "LANATED, NEW YORK."

NEW YORK,189

are in Circumstances - the names of
the principal witnesses - the persons
who are to appear in publication in the
particular paper named in the in-
dictment are not even on the papers.
None of them have been subpoenaed.
Under these circumstances -
be in view of the sudden change of
prosecutors, you can't try this case to do
with any justice to yourself - that
is not at the people's

Yours very truly,


0782

BENNO LOEWY,
COUNSELOR AT LAW,
206 & 208 BROADWAY,
Evening Post Building, NEW YORK.

TELEPHONE: "LAW 503."
CABLE ADDRESS: "LANATED, NEW YORK."

NEW YORK,

February 21, 1891

Mr. Bartow J. Weeks Assistant District Attorney
260 N. 5th St. City.

Dear Mr. Weeks

I fear we cannot get the Franko case ready by Tuesday as Monday is a legal holiday & I have therefore been unable to see either Freund or Hill - the papers of both appear to be in. I have not heard from Howell - I have offered to pay the expenses & insurance re. Shall I change the date on the subpoena to Wednesday or Thursday or shall I let the matter go till I can see you on Tuesday. Please answer by letter or to my residence 174 E. 75th St. by telegraph at my expense and oblige

Yours very truly



EVENING POST JOB PRINTING OFFICE—N. Y.

Police Court,

FIRST DISTRICT.

The People of the State of
New York on the Complaint
of VICTOR S. FLECHTER

AGAINST

NAHAN FRANKO.

BRIEF ON BEHALF OF THE PEOPLE.

Statement of Facts.

The prisoner is charged with libel.

On or about July 21, 1890, the prisoner, Nahan Franko, composed and mailed to the editors of a number of newspapers a long letter, in which, after making a number of reflections on the complainant's character and business, he alleges—

"I am in a position to prove not only that Mr. Flechter makes nearly all his violins, old and Italian, himself, and conducts a swindling business, but that he is a usurer of the worst kind, having in one instance taken no less than 1,000 per cent.

"and collateral for the loan of a small sum of money to a musician who was in temporary distress."

The defenses interposed are *two*, and they are in consistent.

FIRST.—That the prisoner did not write the letter.

SECONDLY.—That the allegations in the letter are true—whether it is claimed that they were published "with good motives and for justifiable ends" has not yet appeared.

There seems to be also some theory in the mind of the distinguished and very learned counsel for the defense, hitherto unheard of, according to which the publication is excused because the prisoner prefaces his charges with the words "I can prove," which words, so the prisoner's counsel claims, show that the charges are made on statements made to the prisoner by others (who are, however, unnamed). A motion to dismiss the complaint on this ground was made and remains undecided.

A. Proof of Publication.

Mr. Flechter swore that he has seen the prisoner write, and that the signature "Nahan Franko" upon People's Exhibits 1, 2 and 3 are in his handwriting.

John C. Freund, in answer to a question by the Court, testified that the signature to the libel addressed is to him in the prisoner's handwriting and that the envelope in which he received it did not have any marks or anything to show that the contents should be held in confidence. Besides this, the learned Judge can readily satisfy himself as to the genuineness of the signatures BY COMPARING THEM WITH THE PRISONER'S SIGNATURE TO HIS PRELIMINARY EXAMINATION which the Court is under § 2 of Chap-

ter 36 of the Laws of 1880, as amended by Laws of 1888 Chapter 555, § 1, authorized to do.

The prisoner's handwriting is so characteristic as to be easily identified.

Besides, Mr. Freund testified (p. 9 of minutes of October 13, 1890) that since the receipt of the People's Exhibit 2 by his paper he met the prisoner, who asked him somewhat angrily why he did not print his letter; and in answer to a direction from the learned Court to state the whole conversation, Mr. Freund testified: "He (prisoner) somewhat angrily asked me on that occasion why I didn't print his letter, and I told him because I considered it of a libelous character."

On the same occasion prisoner complained that the judgment referred to in his letter had been obtained by default, and to again quote Mr. Freund's own word (foot of p. 10), "he left me with a threat that he should do all he could against Mr. Flechter to injure him, the exact language I cannot remember"—this clearly proves malice in addition to proving the authorship of the letter.

Letters similar to those produced, all signed by the prisoner, reached (among many others) Mr. John C. Freund, editor of the *American Musician*; Mr. Oesterreicher, first violinist of the Seidl Orchestra; Mr. Tows and Mr. Edward Schubert, the music publisher, and others.

It was published in full in the *Music Trade Review*, the *Indicator*, of Chicago; extracts from it appeared in the *New York Times* and other papers. The receipt of duplicate originals by a number of others could have been proven, but as the Court stated there was sufficient proof of publication, it was not insisted on.

B. As to the truth of the charges.

THERE IS NOT A SCINTILLA OF EVIDENCE IN THIS CASE WHICH SUSTAINS THE CHARGES MADE BY THE PRISONER AGAINST THE COMPLAINANT.

(a.) The complainant was examined by the counsel for the prisoner on September 11, 1890, on the subject of faking violins, and testified as follows:

Q. Have you, in any instance in which you have received a violin or purchased them, altered them so as to give them an aged appearance?

A. Never in my life.

Q. Have you ever, in any instance, so altered a musical instrument so that the price is apparently enhanced?

A. No, sir.

* * * * *

Q. Did you ever take a violin and remedy it so as to deceive the purchaser as to its age?

A. No, sir.

Q. Have you caused any such thing to be done?

A. No, sir.

(b.) It will be noticed on a careful perusal of the whole record that this careful and learned counsel omitted to ask any question or offer any proof as to the principal charge made by his client in the libel.

"I am in a position to prove not only that Mr. Flechter makes nearly all his violins old and Italian himself, but," &c., &c.

NO WITNESS TESTIFIED THAT MR. FLECHTER EVER MADE OR PRETENDED TO MAKE, OR WAS ABLE TO MAKE A VIOLIN.

(c.) The letter continued that complainant "conducts a swindling business."

To prove this the prisoner called :

1. Leopold Lichtenberg—WHO NEVER HAD ANY BUSINESS TRANSACTIONS WITH THE COMPLAINANT AT ALL, and testified on his examination:

Q. What dealings have you ever had with him (Flechter)?

A. I never had any personal dealings with him.

It is not necessary here to refer to the animus of this witness—the exhibitions of petty spite and venom which this person gave and which had to be so frequently suppressed by the Court, are doubtless not forgotten. The cross-examination of this person by the present counsel for the people on October 13, 1890, disclosed that he had no personal knowledge as to any transaction between complainant and any one of the persons whom he named, and not one of these persons was called, though a number of them were in court. He was, on recross-examination (pp. 25-26 of Record of Oct. 13), compelled to admit that he knew of sales of instruments by complainant for very large amounts of money—in instances exceeding \$3,000—\$4,000—in which cases the purchasers retained their instruments without objection, and are satisfied with them.

2. John P. Waters was the next witness called by the defense.

This gentleman testified that he has owned and still owns some very valuable violins, and that he has had business transactions with Mr. Flechter.

He testified (p. 29, Record of October 13th):

"MY OPINION OF MR. FLECHTER, AS FAR AS MY DEALINGS ARE CONCERNED WITH HIM, ARE PERFECTLY HONEST, AND I AM PERFECTLY WELL SATISFIED WITH EVERY BUSINESS TRANSACTION I HAD WITH HIM."

(I continue to quote the direct-examination by the prisoner's counsel from p. 30.)

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Q. Has Mr. Flechter ever misrepresented anything to you?

A. Never, sir.

Q. Has he ever, to your knowledge, been guilty of stating a falsehood to others?

A. I never knew him to do so.

Q. Has he ever used your name without your consent?

A. That I cannot tell you.

Q. Do you know?

A. I don't know that he has.

Q. Do you know of any one instance in which he has?

A. I never heard of it.

Q. Never in your life?

A. Never, sir.

And again (at p. 33, still to prisoner's counsel):

Q. Did Mr. Flechter ever make any statement to you of his importations of old violins?

A. Nothing more than was in the papers.

Q. Did he ever make any statement to you that he had labels placed in violins?

A. No, sir.

Q. Did you ever make any such statement to any person?

A. I never made any such statement to a living soul.

Q. Did Flechter ever offer to sell you a violin?

A. He offered them for sale to any person that comes in his place.

Q. Did he ever state that they were Italian?

A. I never asked him, because I know what they are.

Q. Did he ever offer to sell you any bows, what he stated were Tourte bows?

A. He showed me what he called Tourte bows.

Q. Has he ever offered you a genuine Tourte bow that was not a genuine Tourte bow and which he said was?

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A. YES, I BOUGHT IT AS A GENUINE TOURTE BOW, AND IT IS SUCH.

Q. Did he ever offer you any bows which you didn't purchase, and which he stated were genuine and which were not?

A. No, sir.

On cross-examination by me the gentleman testified that the genuineness of an instrument was "a matter of judgment."

Q. One person might judge it to be genuine and another person might differ with him about it?

A. Yes, sir.

Q. So that after all it is not a matter of proof, it is a matter of opinion?

A. IT IS A VERY HARD THING TO JUDGE; YOU MAY FIND THREE EXPERTS AND THEY MAY ALL DIFFER IN THEIR OPINIONS.

3. The next witness on behalf of the prisoner was a business rival of complainant, George Geminder, jr., who testified that complainant's reputation is bad. On cross-examination it appeared that he and complainant had had trouble about some bills for repairing—that complainant had found fault with the witness' work. To quote the witness own language (pp. 41, 42, Record of Oct. 13). " * * * after the 'instruments were finished, that is five or six of them, 'we sent them to him and he made a big face, and 'said we didn't do our part of the work as he ordered 'it and told other parties 'that is the kind 'of work that Geminder makes. Look at that 'work, where does he get his name from?' And 'we told him beforehand that the work should not 'go out that way, but he said that was the way he 'wanted, and we done; we had no idea he was going 'to use it against us in our business. Afterwards he 'wrote very insulting letters, and when we finished 'the last of the work we would not return it to him 'unless he paid us for them, because he refused to

"pay for the others, and we went to our attorney
and he settled it up."

"Q. That is the basis of your opinion that you
would not believe him under oath?"

"A. I have very good reason."

Whether to the mind of a disinterested person the
witness did have a "very good reason" for his testi-
mony is at least an open question.

4. The next witness on behalf of the prisoner was
Victor Herbert. This witness is a remarkable speci-
men of a man who knows nothing against another,
but whose vanity has been hurt because that other
has dared to differ with him in opinion, and who
takes the first opportunity of "getting square," even
though to do it he must expose himself to the con-
tempt of decent people and of all who have some
regard for the sanctity of an oath. We will quote
his testimony:

"Q. Have you had any personal dealings with
Mr. Flechter?"

"A. I ONLY BOUGHT A FEW STRINGS AND SOME
ROSIN FROM HIM."

"Q. And has he ever stated anything to you that
you knew to be false when he stated it?"

"A. I didn't know it was false, perhaps, but I
was not quite sure it was true."

"Q. What is his reputation in the profession?"

"A. It is not a very good one, it is not a good one
I mean."

Almost all the questions put to this witness on his
direct-examination excepting those relating to his
own personal history were excluded, and his only
other testimony relating to Mr. Flechter was to the
effect that he knows him and knows a number of
persons who know him. The admission of the ques-
tions above quoted was accordingly in direct conflict
with all the authorities on the subject.

On cross-examination it appeared that witness

called at Mr. Flechter's place of business and played
on some cellos there. He found some better than
others. Mr. Flechter never mentioned the price of
any instrument to him, and witness testified that
the value of an instrument was a matter of opinion.
I asked him (p. 51):

"Q. Did Mr. Flechter ever ask you to buy any
goods of him—any instruments?"

"A. HE RECOMMENDED ME ONE OF HIS CELLOS
VERY HIGHLY AND SAID IT WAS BETTER THAN MINE,
AND I DOUBTED IT."

"Q. You thought yours was better than his?"

"A. Yes, sir."

NOT ONE WORD ABOUT ANY MISREPRE-
SENTATION OR OF ANY EFFORT OF DECEIT
BY MR. FLECHTER IS STATED BY THE WIT-
NESS.

5. After this witness' performance we are not
surprised by the testimony of the next one, who
is prepared to swear away a man's character
because of a difference with him about the price
of a picture—seventy-five cents. This remarkable
specimen of a man of honor calls himself Joseph De
Bona, aged 36 years, a violinist by profession, who
knows complainant about eight or nine years. I
quote the remainder of his direct-examination by the
prisoner's counsel:

"Q. Have you had business dealings with him?"

"A. Not much."

"Q. Are you acquainted with any number of
persons who know him?"

"A. It seems everybody knows him in the profes-
sion."

"Q. Have you heard him spoken about?"

"A. Now and then; yes, sir."

"Q. And have you associated and come in contact
with a great number of persons that know him?"

"A. In the profession; yes, sir."

Q. What is his reputation, good or bad?

A. Bad, I should say.

Q. WHAT IS HIS REPUTATION FOR TRUTH AND HONESTY?

A. THAT I CANNOT SAY.

That this testimony amounts to nothing is apparent. Both of the last two questions were clearly improper in form, and when witness admits that he "CANNOT SAY WHAT MR. FLECHTER'S REPUTATION FOR TRUTH AND HONESTY IS, the absurdity of the whole thing reached a climax.

On cross-examination it appeared that this witness had but one transaction with Mr. Flechter—he purchased four photographs from him for three dollars, and claims to have paid for them; he subsequently received a number of bills for a balance of *seventy-five cents*. He met Mr. Flechter, complained of the receipt of the bills; Flechter told him not to mind them, that his man had sent them, he subsequently received another bill for the 75 cents and paid it—*ergo, Flechter's reputation must be bad!* Q. E. D. When asked to give the names of the person or persons whom he has heard speak evil of Mr. Flechter, he is able to mention but two—although he knows Flechter 8 or 9 years—these two are the witness, Tubbs and a Mr. Koenig (*now dead*), both *violin makers*; he can't recollect any one who has ever spoken well of Mr. Flechter, so that *if the witness is to be believed at all*, he has heard Flechter spoken of, if at all, only very infrequently, and then only by two persons, both bitter personal enemies.

6. As the testimony of the next witness, Mrs. Minnie P. Powell, was stricken out because of her failure to submit herself to further cross-examination, I shall not waste much time upon it. She has a lawsuit pending against Mr. Flechter.

This lady astonished every one in court by testifying under oath *that the violin which Mr. Flechter had*

sold her HAD GROWN BIGGER IN SIZE than it was when Flechter sold it to her.

This witness had a contract with Mr. Flechter as to the sale of the violin in question, which provided:

"I agree to exchange above violin if in same condition for any violin I may have in stock. If Miss Powell selects a higher-priced instrument I am to take above violin at original cost and Miss Powell pay the difference. This contract good at any time."

This witness admits that she never asked Mr. Flechter to exchange the instrument, she never returned the instrument to Mr. Flechter, she never offered to return it to him, and until Mr. Knopf, who sold it to Mr. Flechter, told her what he claims to have received for it, no fault was found with the instrument except as witness now claims—that it was too big—a fact (if it be a fact) which Miss Powell must have known when she purchased it, AND CERTAINLY SOMETHING AS TO WHICH NO FALSE REPRESENTATIONS COULD HAVE BEEN MADE BY MR. FLECHTER.

On cross-examination she testified:

Q. Tell me, madame, when did you buy that violin?

A. About four years ago; the receipt which Mr. Johnson has will show the date.

Q. And how long after you bought it was it that you found out that the instrument was not as it was represented to be?

A. About two years, I think.

Q. So that for two years that instrument was played on and nobody knew any different than that it was a violin of the maker he represented it to be; is that it?

A. NO COMPLAINTS WERE MADE THAT I KNOW OF.

Q. No complaints were made for two years?

A. No special complaints.

"Q. Meanwhile your daughter and Mr. Flechter were very friendly, were they not?

"A. In a business way.

"Q. Mr. Flechter made your daughter a present of a bow?

"Objected to; objection sustained.

"Q. Did you ever call on Mr. Flechter at all, and ask him for an explanation with reference to this violin, or make any complaint about it, or ask him to exchange it, or do anything at all about it?

"A. No.

"Q. YOU NEVER DID?

"A. NO, SIR.

"Q. DID YOU EVER WRITE TO HIM ABOUT IT?

"A. NO, SIR."

Very wisely did this witness absent herself and prevent the cross-examination, which she had every reason to fear!

7. The next witness was John Tubbs—the great and only Tubbs—Tubbs of London, Brooklyn, New York and Boston—the greatest genius of the age—who for a trifle will turn a worthless fiddle into a veritable Guarnerius del Gesu and do it so successfully as to require its further transformation into an Antonius Stradivarius. "It was too good for a Guarnerius so we changed it into a Stradivarius," this is the burden of his tale. This person stands before the Court a self-confessed swindler, whose performances on the stand excited the evident disgust of the learned Court—this witness' animus was apparent.

This lying knave was nailed by the Court—he had testified on his direct examination as to the Maud Powell violin:

"Q. Is there any particular violin that you can call his attention to; do you remember the violin of Miss Maud Powell?

"A. Yes, that was the same fraud all the way through.

"Q. Do you remember the violin?

"A. Yes, sir.

"Q. What was it?

"A. A GERMAN INSTRUMENT.

"Q. Worth how much?

"A. I would not give any more than twenty-five dollars, the outside price, for it.

"Q. Did you receive any directions from Mr.

Flechter concerning that violin?

"A. No directions; I repaired it.

"Q. What did you do to it? Change the label?

"A. No, I DID NOT; I had an accident with that violin; I fell and broke the neck of it.

"Q. Were you told to repair it by Mr. Flechter?

"A. Yes, sir.

"Q. What directions did he give you about it?

"A. Only to repair it, put a new bridge on it and rearrange it. SO FAR AS FAKING WENT, I DIDN'T DO ANY FAKING TO THAT.

"BY THE COURT:

"Q. WHY DID YOU SAY IT WAS A FRAUD ALL THE WAY THROUGH?

"A. BECAUSE YOU CAN GET JUST SUCH A GERMAN VIOLIN FOR 25 OR 30 DOLLARS.

"Q. YOU DIDN'T DO ANYTHING TO THE INSTRUMENT IN THE WAY OF CHANGING IT?

"A. NO, SIR; BUT I KNOW THE VALUE OF IT.

"Q. DID YOU 'FAKE' IT, AS YOU CALL IT, OR CHANGE THE INSTRUMENT IN ANY WAY?

"A. NO, SIR; I DID NOT."

The Court here dropped him.

On cross-examination this precious rascal admitted that he had no recommendations or credentials of any kind from any of the gentlemen who, as he claimed, had employed him; that he had the bogus labels which he produced printed on his own account, but that he has not paid for them. I asked him:

"Q. Did Flechter order you to get them printed?

"A. NO, SIR; I GOT THEM PRINTED ON MY OWN ACCOUNT TO SERVE WHOEVER WANTED THEM.

"Q. But Flechter didn't order you to have those labels printed?"

"A. No, sir; CERTAINLY NOT" (Record of Nov. 13th, p. 20).

Again I asked him:

"Q. Now, who were some of the customers that came to you and wanted labels put in?"

"A. ANY BODY THAT WANTED A LABEL PUT IN WHO CAME TO ME COULD GET IT, IT DIDN'T MATTER TO ME WHETHER IT WAS AN ORIGINAL INSTRUMENT OR NOT, IF A MAN PAID ME FIFTY CENTS FOR IT, I WOULD DO IT" (p. 17, Record of November 13th).

He testified that he had never seen a genuine *Amati*, *Guarnerius* or *Stradivarius* instrument in America. He went to the Boston Young Men's Christian Association to hear Mr. Nowell play on the *Elijah Stradivarius* and promptly recognized it as the one which he had transformed first into a *Guarnerius* and then into the great *Elijah*. Strangely enough, though, Mr. Bendix subsequently testified to seeing Mr. Nowells' *Stradivarius* in Boston (though he didn't know it came from complainant), and HE SWEARS THAT IT IS THE ONLY GENUINE *STRADIVARIUS* HE EVER SAW.

8. The learned Court's opinion of Mr. Tubbs was so apparent, that we will dismiss him and turn to his half brother-in-trade, the great and only VIOLIN MAKER Henry R. Knopf. This great expert sold the now famous Maud Powell violin to Mr. Flechter. HE SWEARS IT IS A FRENCH COPY. EXPERT TUBBS, AS WE HAVE ALREADY SHOWN, SWORE IT WAS A GERMAN INSTRUMENT.

IT APPEARS, ACCORDINGLY, THAT THESE TWO GREAT EXPERTS DIFFER RADICALLY AS TO THE ORIGIN AND CHARACTER OF THE ONLY VIOLIN WITH WHICH COMPLAINANT IS CONNECTED BY ANY DIRECT EVIDENCE.

"When doctors disagree,
The disciples are free."

At the outset of this case this Maud Powell instrument was used by the defense as the great weapon which would annihilate the complainant; the prisoner's counsel with that brass for which he is so justly renowned had assured the Court that he would show that the complainant had made this instrument—the conspirators, who are manipulating the defense, had even induced a prominent daily to publish a libelous attack on complainant, over a column in length, on its first page, with heavy head lines, in which this violin was spoken of as a "fifty-cent fiddle." The Court and the world at large were lead to believe, so far as the business rivals of complainant and their tools could induce belief, that the complainant Flechter had in some way made or "faked" this violin, when lo! and behold it appears, from a most unwilling witness, that this instrument is today as it was when Mr. Flechter obtained it.

I quote from the record of Knopf's testimony:

CROSS-EXAMINATION BY MR. LOEWY:

"Q. THIS MAUD POWELL VIOLIN THAT YOU SPOKE OF IN ANSWER TO THE QUESTION PUT TO YOU ON THE DIRECT-EXAMINATION, IS TO-DAY IN THE SAME CONDITION IT WAS WHEN YOU SOLD IT TO FLECHTER?"

"A. YES, SIR; EXCEPT THE NECK IS BROKEN."

"Q. FLECHTER DIDN'T DO THAT, DID HE?"

"A. NO, SIR."

"Q. Who did it?"

"A. Mr. Tubbs did it."

"Q. Mr. Tubbs told you that outside of this Court, didn't he?"

"A. Yes, sir."

"Q. Have you had it since it was broken?"

"A. Yes. I had it in my hands two or three times and repaired it once."

"Q. BUT FLECHTER DIDN'T DO ANYTHING TO THAT VIOLIN, DID HE?"

"A. NO, SIR.

"Q. YOU SAY THAT FLECHTER DIDN'T DO ANYTHING TO THAT POWELL VIOLIN?"

"A. NO, SIR; NOT THAT I KNOW OF.

"Q. DID HE RE-VARNISH IT, OR DO ANYTHING OF THAT KIND TO IT?"

"A. NO, SIR.

"Q. WAS THE LABEL CHANGED IN IT?"

"A. NO, SIR; THE LABEL WAS ALWAYS THE SAME.

"Q. What label was in it?"

"A. Duiffoprugcar.

"Q. Was it a Duiffoprugcar?"

"A. No, sir.

"Q. Did you state it was?"

"A. For forty dollars he knew it was not; it was sold three or four times before and everybody knew it was not.

"Q. DID YOU STATE IT TO MR. FLECHTER?"

"A. NO, SIR; Fletcher knew it himself.

"Q. DID YOU TELL HIM ABOUT IT?"

"A. NO, SIR."

How the witness can swear to what Fletcher knew in the absence of any statement or act on his part is not very apparent. The answers given by him show that he was only too willing to testify to anything which he believed would damage Fletcher's case, but still he does not dare to swear that Fletcher ever admitted his belief that the instrument was not what its label indicated or that he had ever told him that he had sold it as a genuine Duiffoprugcar.

In view of the approaching trial of the case of Powell vs. Fletcher, and the failure of Mrs. Powell to appear for further cross-examination, and of the character of the people involved, I did not deem it judicious to go too deeply into the evidence with which Mr. Fletcher will meet Mrs. Powell's attacks on him.

9. The last witness on behalf of the prisoner was one Max Bendix, a gentleman whose unsavory reputation is a matter of public notoriety, as the newspapers have at least partially ventilated it. His was another case of a dispute about a bill. Fletcher attached his violin for debt, but much as he tried to bolster up the tottering conspiracy against this complainant, his evidence proved nevertheless to be a boomerang—it helped to destroy the side that called him. On his direct-examination he testified that complainant's reputation is bad and that he would not believe him under oath, "if he was interested in what he was saying."

I will let the record tell the story.

"Cross-examined by Mr. Loewy:

"Q. Did you ever purchase a violin from Mr. Fletcher?"

"A. I DID, AND I WAS LUCKY ENOUGH TO PURCHASE IT.

"Q. And was it represented to you to be of a certain character?"

"A. It was supposed to be an Antonius Stradivarius.

"Q. Did he say that it was?"

"A. I RECEIVED NO GUARANTEE. HE SAID IT WAS A STRAD., AS THOSE THINGS GO.

"Q. Did you receive the instrument?"

"A. I did.

"Q. Where is it now?"

"A. In my possession.

"Q. And is it a Strad.?"

"A. A great number of people tell me it isn't.

"Q. Mr. Fletcher sued you, didn't he?"

"A. He didn't sue me.

"Q. Are you sure of that?"

"A. HE ATTACHED MY VIOLIN.

"Q. And isn't that suing you?"

"A. I don't know, if you call it so, why he sued me.

"Q. You bought the violin from Fletcher?"

"A. I did.

"Q. AND BEFORE YOU BOUGHT IT YOU TOOK IT AND TRIED IT?

"A. YES, SIR.

"Q. YOU SHOWED IT TO THEODORE THOMAS?

"A. I DID.

"Q. AND YOU SHOWED IT TO MR. JACOBSON?

"A. Before I bought it?

"Q. Yes?

"A. I think not.

"Q. NOW, TO HOW MANY OTHER PEOPLE DID YOU SHOW IT BEFORE YOU BOUGHT IT?

"A. THE MAJORITY OF THOMAS'S ORCHESTRA.

"Q. AND AFTER YOU SHOWED IT TO THEM, AND TALKED WITH THEM ABOUT IT, YOU BOUGHT IT?

"A. YES, SIR.

"Q. AND YOU SATISFIED YOURSELF REGARDING THE INSTRUMENT?

"A. I SATISFIED MYSELF SO FAR AS I LIKED IT, BUT I NEVER THOUGHT IT WAS A STRAD."

I then referred to his failure to pay installments due on the instrument, &c., and then the Court asked the witness:

"By the Court:

"Q. THE REASON WHY YOU FAILED TO PAY WAS NOT BECAUSE YOU DOUBTED THE INSTRUMENT AT ALL?

"A. No, sir; I was financially embarrassed, and I was trying to pay it as fast as I could."

On further cross-examination I asked him:

"Q. The question whether an instrument is a genuine Stradivarius or not is a matter of opinion?

"A. Yes, sir.

"Q. And can you tell one now?

"A. I can now, I could not then.

"Q. How many Stradivarius' have you seen in your life?

"A. I have seen ONE THAT MR. NOWELL HAD IN BOSTON, THAT WAS SPOKEN OF. I don't know whether it was the one he received from Flechter or not, and I was told it was a genuine, and I thought it was a genuine one."

We have already quoted the testimony of Tubbs that Mr. Nowell plays upon the great Elijah Stradivarius—which Tubbs claimed to have "faked."

This testimony closed the so-called defense. IT IS ONLY TOO APPARENT THAT NO PRETENSE OF A DEFENSE WAS MADE—THE OPPORTUNITY WAS UTILIZED by a NUMBER OF BUSINESS RIVALS OF COMPLAINANT TO ENDEAVOR TO RUIN HIM.

C. The Usury Charge.

No attempt was made to sustain the charge that complainant "is a usurer of the worst kind." The charge that complainant took "in one instance no less than 1,000 per cent. and collateral for the loan of a small sum of money to a musician who was in temporary distress," is not sustained by any evidence.

Complainant was interrogated about one loan only. The prisoner's counsel asked him:

Q. Did you at any time have in your possession a violin belonging to him (meaning Franko, the prisoner) as security for the payment of \$25 to you?

A. FORTY-FIVE DOLLARS; YES, SIR.

When the attempt to get complainant to admit that the loan was twenty-five not forty-five dollars was again made, Mr. Flechter mentioned the name of the gentleman who redeemed the violin, Mr. Ernest Neyer, and it would have been an easy thing to contradict him by Mr. Neyer if his testimony had

been false. Accordingly it is claimed by complainant that he got five dollars for the loan of forty-five dollars, on the other side it is claimed (*judging by the questions, for no proof was offered to contradict Mr. Flechter*) that he received \$5 for the loan of \$25 for three months—the two persons besides complainant who could have testified as to the transaction are not called—one is the prisoner himself, the other, Mr. Neyer.

In neither case is the charge that Mr. Flechter took 1,000 per cent. made out, while under the well settled rules of law his testimony must be accepted as true and the legal presumption drawn that Mr. Neyer, if called, would have sustained him,—the rule being that where testimony is under the control of a party but is not produced, it must be presumed that such testimony if produced would be against the party who could but did not produce it.

In *Bruce vs. Kelly*, 39 N. Y., Superior Ct. Reports, p. 27, the rule was declared to be “where testimony is clearly within reach of a party an assumption that his omission to produce it was the result of knowledge or fear that his case would not be improved by it, is justified.

In *People vs. Hovey*, 92 N. Y., 554, a case of murder, the Court of Appeals applied the same rule against a prisoner on trial for his life. To same effect are also:

Cifton agst. The United States, 4 How. U. S., 242; decided by the Supreme Court of the United States.

And

United States vs. Schindler, 10 Fed. Rep., 547.

And see

Wylde vs. Northern R. R. of N. J., 14 Abb. Pr. N. S., 213.
S. C., 53 N. Y., 156.

Mr. Flechter gave his version of the alleged usurious transactions on September 11th, so that the

prisoner had ample time and opportunity to contradict him if it could be done successfully. Besides the transaction as it appears in the record does not prove usury at all. To constitute usury under our law there must be an unlawful or corrupt agreement. The mere fact that on the redemption of the violin Flechter received fifty dollars for the forty-five dollars advanced by him, is not sufficient to establish a charge of usury.

Guggenheimer vs. Geiszler, 81 N. Y., 293.

Woodruff vs. Hurson, 32 Barb., 557.

For some reason best known to himself, or perhaps through ignorance, the distinguished counsel for the prisoner omitted to inquire what the original agreement between the complainant and the prisoner was,—that would have determined the question of whether usury was demanded—in the absence of proof on the subject, the Court cannot assume that the complainant was guilty of a wrongful act.

Never was so great latitude allowed a prisoner as was given in this case—every opportunity to explain, defend or excuse was afforded him—but he remains silent—all that bullying and blackguarding could do on his behalf was done. He had the greatest expert in that line at the New York bar as his defender. Witnesses were brought from foreign states—the mountain went forth to labor and the result—a mouse. Most of the persons named by the prisoner's counsel did not dare to go on the stand at all—those who did *accused themselves, not complainant.*

In conclusion, I will refer briefly to the legal principles upon points not already covered which control cases of this kind.

Law.

The law of libel in this State is regulated first by the Constitution; secondly, in criminal cases, by the

Penal Code; and thirdly, in civil suits, by the Code of Civil Procedure and sundry other statutory provisions.

The Constitution, Article I., Section 8, provides: *In all criminal prosecutions or indictments for libels, the truth may be given in evidence to the jury, AND if it shall appear to the jury, that the matter charged as libelous is TRUE AND WAS PUBLISHED WITH GOOD MOTIVES AND FOR JUSTIFIABLE ENDS, THE PARTY SHALL BE ACQUITTED, and the jury shall have the right to determine the law and the fact.*

And on the subject of justification the Penal Code, § 244 provides:

"The publication is justified when the matter charged as libelous is TRUE, AND WAS PUBLISHED WITH GOOD MOTIVES AND FOR JUSTIFIABLE ENDS.

It will be noticed that both under the provisions of the Constitution and of the Penal Code it is not a defense that the matter published is true unless BESIDES BEING THE TRUTH, it was published WITH GOOD motives AND FOR JUSTIFIABLE ENDS.

It cannot possibly be claimed that such is the case here—this case teems with malice on the prisoner's part, and malice alone is clearly shown to have actuated him throughout. WOULD THE LETTER COMPLAINED OF HAVE BEEN WRITTEN IF THE COMPLAINANT HAD NOT SUED THE PRISONER IN THE SIXTH DISTRICT COURT FOR DEBT?

DOES NOT THE LETTER IN ITS TERMS SAY SO?

THE JUSTIFICATION MUST ALWAYS BE AS BROAD AS THE CHARGE AND OF THE VERY CHARGE ATTEMPTED TO BE JUSTIFIED.

Weaver v. Lloyd, 2 B. & C., 678; 4 D. & K., 230; Bissell v. Cornell, 24 Wend., 354; Stilwell v. Barter, 19 Wend., 487; Fidler v. Delevan, 20 Wend., 57; Curtis v. Perkins, 66 Barb., 610; Tull v. David, 27 Ind., 377; Thompson v. Pioneer Press Co., 37 Minn., 285; Torrey v. Field, 10 Vt., 353; Crump v. Adney, 1 Cr. & M., 362; Burford v. Wible, 32

Penn St. Rep., 95; Wilson v. Beighler, 4 Iowa, 427; Van Derveer v. Sutphin, 5 Ohio, N. S., 293; Morrow v. McGaver, 1 Ir., C. L. R., 579; Skinner ags. Powers, 1 Wend., 451; Cooper v. Barber, 24 Wend., 105; McKinly v. Rob, 20 Johns., 351; Kerr v. Force, 3 Cranch C. C., 8; Bennett v. Matthews, 64 Barb., 410.

THE PLEA MUST JUSTIFY THE SAME WORDS AS THOSE CONTAINED IN THE DECLARATION (Skinner v. Grant, 12 Vt., 466; Gregory v. Atkins, 42 Vt., 237; Ormsby v. Douglass, 2 Abb. Prac. Rep., 407; 37 N. Y., 377).

"In pleading justification, you should use the very words alleged to have been uttered" (Restell v. Steward, 1 Charley's Cases at Chambers, 89).

"THERE IS NO SUCH THING AS A HALFWAY JUSTIFICATION. When several distinct things are charged the defendant may justify as to one, though he may not be able to do so as to all; but as to any one charge, the justification will either be everything or nothing. If the charge be of stealing a horse it is not half a defense nor any part of one, to show the plaintiff took the horse by a mere trespass" (Fero v. Ruscoe, 4 N. Y., 165; and see Reg v. Newman, 1 El. & B., 268).

And in Stiles vs. Comstock, 9 How. Pr. Reports, 48, the Supreme Court of this State held (at p. 48):

"To prove that plaintiff forged a note of eighty dollars is no justification of a charge that he forged a note of two hundred and fifty dollars or any other sum. The defendant must confine his defense to the specific charge made (Andrews agst. Van Duzen, 11 Ir. R., 42; Palmer agst. Haight, 2 Barb. S. C., 211; Skinner agst. Powers, 1 W. R., 451)."

SO A CHARGE OF COMMITTING ONE OFFENSE IS NOT JUSTIFIED BY SHOWING THE COMMISSION OF ANOTHER OFFENSE, AL-

THOUGH OF THE SAME OR EVEN GREATER ENORMITY.

Stow vs. Converse, 4 Conn., 17.
Torrey vs. Field, 10 Vt., 353.
Frederitze vs. Odenwalder, 2 Yeates, 243.
Ridley agst. Perry, 4 Shep., 21.

Charging plaintiff with being a "whore" is not justified by the fact that she is a reputed thief, Smith vs. Buckecker, 4 Rawle, 295.
or that she had a bad reputation for chastity. Sunman vs. Brewin, 52 Ind., 140.

A charge of *horse* stealing is not justified by proof of *hog* stealing.

Dillard vs. Collins, 25 Grattan (Va.), 343.

And even the publication of a *correct narrative* of a transaction may be libelous, if it contains unwarranted deductions from the facts.

Edsall vs. Brooks, 2 Robt., 29.
26 How., Pr. 426.
Sandford v. Bennett, 24 N. Y., 20.
McCabe v. Caldwell, 18 Abb., 377.
Thomas v. Croswell, 7 John., 264.

And in the last case on the subject which was before our Court of Appeals it was held per

Andrews, J. (at p. 207):

The evidence renders it clear that no actual injury to the plaintiff was intended by the defendants, but it is not a legal excuse that defamatory matter was published accidentally, or inadvertently, or with good motives and in an honest belief in its truth.

Moore vs. Francis et. al., 121 N. Y., 199.

The so-called motion to dismiss the complaint is an absurdity which only counsel as reckless and brazen as the one selected as the best possible vehicle for the mud-slinging indulged in by this defendant, could be guilty of—the theory that a person can escape liability for slander or libel by prefixing his attacks by the words "*I can prove*" (as was the case here), or by pretending to copy or actually copying an article published elsewhere, or by giving some other person as the author of facts repeated or circulated, has never been recognized in any civilized country. He who repeats the slanders or libels of another does so at his own peril, and it is begging the question to say that he states the truth because he says that a person named by him told him certain facts about another.

Townshend, in the last (4th) edition of his standard work on Slander and Libel, lays the rule down in these words:

"The truth, however, which is admitted as a defense is the truth of the defamatory matter in substance and in fact, and in the sense in which it was used and was intended to be understood. If A says of K that he is a thief, and C publishes that A said K was a thief, in a certain sense C would publish the truth, but not in the sense which would constitute a defense; C's publication would in fact be but a repetition of A's words, which, as we have seen, would not be a defense."

It is no justification that prior to the publication complained against there was a rumor or report current and was generally believed, that the plaintiff was guilty of the offense imputed.

Hampton vs. Wilson, 4 Dev., 468.
Moberly vs. Preston, 8 Mo. R., 462.
Cade vs. Reddit, 15 La. An., 492.
Dame vs. Kenney, 5 Foster (N. H.), 318.
Lewis vs. Niles, 1 Root, 346.

Wolcott *vs.* Hall, 6 Mass., 514.
 Alderman *vs.* French, 1 Pick., 1.
 Watkin *vs.* Hall, 3 Q. B., 396.

Or that the defendant spoke the words as merely giving the report.

Wheeler *vs.* Shields, 2 Scam., 348.
 Smalley *vs.* Anderson, 4 T. B. Monroe,
 367.
 Ryer *vs.* Fireman's Journal, 11 Daly,
 251.

NEITHER PARTICULAR REPORTS, NOR
 PUBLIC REPUTATION OF THE SLANDER,
 NOR OF KINDRED CHARGES AGAINST THE
 PLAINTIFF ARE EVEN ADMISSIBLE IN EVIDENCE.

Inman *vs.* Foster, 8 Wend., 602.
 Kennedy *vs.* Weeks, 4 Wend., 659.
 Watson *vs.* Buck, 5 Cow., 499.

Besides, in this case, the prisoner does not even pretend to rely on others for the charges which he makes against this complainant; he gives no names of any informants; he prefixes his attack with the words, "I CAN PROVE"—*he has not proven* what he set out to prove, and he should pay the penalty of his wrong-doing.

This case will be a lesson not alone to the prisoner but also to the gang of blackguards who, utterly devoid of honor themselves, banded together to destroy, if they could, the honor of another.

If further proof is wanted to show the true inwardness of this attack it will be promptly forthcoming. Nowell was in Court on several occasions, and a dozen witnesses were in attendance on Thursday last to testify on behalf of the complainant and as to the character of those who undertook to assail him.

If the Court has any doubt as to the propriety of holding this prisoner to answer for his cowardly attack, we ask that these witnesses be heard.

NEW YORK, November 19, 1890.

Respectfully submitted,

BENNO LOEWY,
 Of Counsel for the People, &c.,
 206 and 208 Broadway,
 New York City, N. Y.

[U6455]

Police Court,

FIRST DISTRICT.

The People of the State of
New York on the Complaint
of VICTOR S. FLECHTER

AGAINST
NAHAN FRANKO.

BRIEF ON BEHALF OF THE PEOPLE.

Statement of Facts.

The prisoner is charged with libel.

On or about July 21, 1890, the prisoner, Nahan Franko, composed and mailed to the editors of a number of newspapers a long letter, in which, after making a number of reflections on the complainant's character and business, he alleges—

"I am in a position to prove not only that Mr. Flechter makes nearly all his violins, old and Italian, himself, and conducts a swindling business, but that he is a usurer of the worst kind, having in one instance taken no less than 1,000 per cent.

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

The People of the State of New York

-against-

M a h a n F r a n k o.

BRIEF ON BEHALF OF THE PEOPLE UPON DEFENDANT'S
DEMURRER.

STATEMENT OF FACTS.

This is an indictment for libel by the publication of a letter in terms directed against one Victor S. Flechter, which is set forth in full in the indictment, to which indictment the defendant has demurred, on the grounds that it shows no offense, it is insufficient; and upon the further ground that it shows upon its face that it was not found upon legal evidence.

P O I N T S.

1.

So far as the objection taken by the second paragraph of the demurrer is concerned, it is entirely untenable, and is not one of the grounds upon which the Code of Criminal Procedure allows a demurrer.

See Code of Criminal Procedure, section 323.

Again, it is apparent from the indictment itself, that the ground thus taken is absolutely without cause or foundation, since the indictment does not pretend to show the

evidence upon which it was founded, and that evidence is in no wise before the Court or properly subject to any investigation, and the point thus raised is preposterous.

11.

As to the point regarding the sufficiency of the indictment, the ~~xxx~~ penal Code makes any malicious publication which tends to expose any living person x x x x x to hatred, contempt, ridicule or obloquy, or which causes or tends to cause any person to be shunned or avoided, or which has a tendency to injure any person, etc.", if such publication is by writing or otherwise than by mere speech, a criminal libel.

Penal Code, section 242.

Section 244 of the Penal Code provides that where the publication has a tendency to accomplish the objects referred to in section 242, it shall be presumed to be malicious, and it is incumbent in such a case upon the defendant to justify by showing the truth thereof, and his good motive.

Root v. King, 7 Cow., 613; 4 Wend., 114;

Washburn v. Cook, 3 Denio, 110.

The truth must be affirmatively established, and goes to the intent.

Rice v. Withers, 2 Wend., 138.

People v. Tracy, 2 Wh. Cr. Cas., 358.

Section 275 of the Code of Criminal Procedure merely requires an indictment in addition to the title to state "2. A plain and concise statement of the act constituting the crime, without unnecessary repetition".

And it has been held under this section, that an

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indictment for a statutory offense need not follow the very words of the Statute. IT IS SUFFICIENT THAT THE FACTS CONSTITUTING THE CRIME ARE WELL STATED.

Fraser v. People, 54 Barb./ 308;

People v. Stockham, 1 Park., 424;

Thompson v. People, 3 id., 208;

People v. Allen, 5 Den., 76;

People v. Walbridge, 3 Cow., 512;

Tully v. People, 67 N.Y., 15.

And section 284 of the Code of Criminal Procedure, so far as it refers to the statement of the facts of the crime in the indictment, makes the latter sufficient if it appears from the statement, that the act is a crime, and that the act is stated with such degree of certainty as to enable the Court to pronounce judgment upon conviction.

Section 284. subdivisions 6 and 7.

Applying these rules to the present case, it is apparent that all that is necessary to state in the indictment as to the crime of libel defined by section 242 of the Penal Code, is (a) a publication in writing by the defendant.

This is charged in the present indictment.

(b) To set out that publication, and show either by the publication itself, or by allegations outside of it, that it applies to a living person or the memory of any deceased person.

In the present case, the publication is fully set out, and it is shown beyond question and reiterated over and over again that it refers to a certain person, to wit: Victor S. Flechter.

These are the only material allegations of the indictment, outside of the title, for, according to section 244 if the article tends to expose the person mentioned, to hatred, contempt, etc., or to injure him, malice will be presumed, and the article or publication being before the Court, it is for the Court to say as a matter of law whether upon a reading thereof, such publication of itself tends to accomplish the injury against which section 242 of the Penal Code is intended to guard.

And this even though upon the trial the question as to whether the article is libellous or not, would be one for the Jury. Although it would seem that so far as the provisions of the Penal Code refer to the crime of libel, it is no more a matter of fact for the determination of the Jury, as to whether a certain publication upon its face tends to expose to hatred etc., or injury, than it is a question of fact for their determination whether an instrument alleged to be a promissory note is upon its face a promissory note.

If, then this is a true view of the law, applicable to this case, can it be seriously claimed by any person of a sane mind that words such as these contained in the publication under consideration "

"I am in the position to prove not only that Mr. Flechter makes nearly all his violins old and Italian whimsical and conducts a swindling business, but that he is a usurer of the worst kind, having in one instance taken no less than 1,000 per cent and collateral x for the loan of a small sum of money" etc.

do not upon their face expose said Flechter, to contempt, or obloquy or do not tend to injure him in his business? If they do, then the pleader has complied with all that section 242 of the Penal Code requires him to set forth for the purpose of establishing the crime of libel.

But, even, if that were not a fact, it is actually stated in the present indictment, among other words, not referred to in the Statute and which this Court must or may reject as surplusage, that the matter published was false, malicious, and that it was intended thereby to injure ~~and~~ etc., the said Victor S. Flechter.

All of which was, however, entirely unnecessary, under the rules of law hereby contended for.

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People
vs
Nathan Franko

Brief on
Denial

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

THE PEOPLE OF THE STATE OF NEW YORK
-against-
N A H A N F R A N K O.

The Grand Jury of the City and County of New York,
by this Indictment accuse Naham Franko of the crime of
publishing a libel, committed as follows:

The said Naham Franko late of the City of New York,
in the County of New York, aforesaid, on the twenty fifth
day of July in the year of our Lord one thousand eight hun-
dred and ninety, at the City and County aforesaid, being a
person of an envious, evil and wicked mind, and of a most
malicious disposition, and wickedly, maliciously and unlaw-
fully minding, contriving and intending, as much as in him
law, to injure, oppress, aggrieve and vilify the good name,
fame, credit and reputation of one Victor S. Flechter, who
was then and there a dealer in musical instruments, carrying
on business in the said City and County of New York, and to
bring him the said Victor S. Flechter into public scandal,
hatred, infamy and disgrace did unlawfully and maliciously
publish, and cause and procure to be published, in a certain
newspaper and publication, published in the said City and
known as the Music Trade Review, a certain false, scandall-
ous, malicious and defamatory libel, of and concerning the
said Victor S. Flechter, which said false, scandallous, mal-
icious and defamatory libel is as follows,- that is to say:

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"Franko" (meaning the said Nahan Franko) replies to "Flechter" (meaning the said Victor S. Flechter)

"Leland Hotel, Chicago Ill. July 21, 1890.

"To the Editor of The Music Trade Review" (meaning the said Music Trade Review) "Dear Sir: A number of clippings from various New York newspapers have been sent to me" (meaning the said Nahan Franko) "containing a report of a suit brought against me" (meaning the said Nahan Franko) "by Victor S. Flechter, a dealer in violins" (meaning the said Victor S. Flechter) "in which he" (meaning the said Victor S. Flechter) "relates his side of the story, taking advantage of my absence from New York, by publishing a number of falsehoods for the sake of advertising himself" (meaning the said Victor S. Flechter) "and to injure my" (meaning the said Nahan Franko) "reputation while I" (meaning the said Nahan Franko) "am too far away too defend myself" (meaning the said Nahan Franko) "except in this way, I" (meaning the said Nahan Franko) "therefore most humbly submit this statement of facts for your kind consideration.

"First: I" (meaning the said Nahan Franko) "was unable to appear in court on July 8th, to defend myself" (meaning the said Nahan Franko) "against the false and fraudulent charges made against me" (meaning the said Nahan Franko) "by Mr. Flechter" (meaning the said Victor S. Flechter) having left New York on June 29th, with the Thomas Orchestra for a six weeks engagement. Being only too anxious to have a chance of publicly laying bare the queer business methods of this man" (meaning the said Victor S. Flechter) "for the benefit of all New York musicians, I"

(meaning the said Nahan Franko) "authorized Mr. John Lavine (15 East Fourteenth Street) to represent me" (meaning the said Nahan Franko) "in court and to ask for a postponement of the case until the middle of August, when I" (meaning the said Nahan Franko) "would return to New York. But Mr. Lavine having been out of town the night preceding the trial, reached the court room too late, the case having been disposed of shortly before his arrival, by rendering judgment by default in Mr. Flechter's" (meaning the said Victor S. Flechter) "favor. I" (meaning the said Nahan Franko) "have already taken steps to have the case appealed to a higher court.

"Second: It is true that I" (meaning the said Nahan Franko) "have received two strings from Mr. Flechter" (meaning the said Victor S. Flechter) "the cost of which should be at the highest, \$2.00 for the two; but on learning that he" (meaning the said Victor S. Flechter) "charged the modest sum of \$2.50 for each, I" (meaning the said Nahan Franko) "returned them, together with a silk handkerchief, his" (meaning the said Victor S. Flechter's) "viola and viola bow, without having damaged any of these articles.

"Third: For the use of the viola in question, during the German Opera season in New York, Mr. Flechter," (meaning the said Victor S. Flechter) "again showed his modesty by writing to Mr. Ed. C. Stanton, asking for a number of seats in the orchestra for each performance as a compensation for the loan of his" (meaning the said Victor S. Flechter's) "viola, which, at a low figure, would be equivalent to \$20.00 in money weekly. Even this unreasonable

demand was granted by Mr. Stanton, until his" (meaning the said Victor S. Flechter's) "demands for seats grew so impertinent that the director ordered me" (meaning the said Nahan Franko) "to return the viola to him" (meaning the said Victor S. Flechter) "without delay and not to have anything further to do with him" (meaning the said Victor S. Flechter) "Whenever I" (meaning the said Nahan Franko) "had occasion to use the instrument after that time, I" (meaning the said Nahan Franko) "have paid Mr. Flechter (meaning the said Victor S. Flechter) "liberally for it".

"Fourth: As to the value of the instrument I" (meaning the said Nahan Franko) "wish to say that I" (meaning the said Nahan Franko) "have had quite some experience in the handling of instruments, having played on the violin since early childhood, and I" (meaning the said Nahan Franko) "thereby declare, and can prove by abler judges than Mr. Flechter" (meaning the said Victor S. Flechter) "and myself" (meaning the said Nahan Franko) "that the violin in question, which I" (meaning the said Nahan Franko) "have used considerably, and had opportunity to test in every direction, is not worth \$1,000, not to speak of \$5,000, but as Mr. Flechter," (meaning the said Victor S. Flechter) "is ~~for~~ known to have sold \$40.00 violins for about \$600.00 and \$600.00 violins for about \$1,000.00 and more, this little difference in our estimation of that particular viola should not be surprising.

"Fifth: And last, I (meaning the said Nahan Franko) "wish to state that this violin does not even belong to Mr.

according to his own" (meaning the said Victor S. Flechter's) writing now in my hands" (meaning the said Nahan Franko's) "belongs to a gentleman in Boston, who personally called on me" (meaning the said Nahan Franko) while I" (meaning the said Nahan Franko) "was in that City with the German Opera Company, and demanded its return after hearing that Mr. Flechter" (meaning the said Victor S. Flechter) "had rented it to me" (meaning the said Nahan Franko) "without his consent or knowledge.

"After having made these statements which I" (meaning the said Nahan Franko) "can prove to be correct in every detail, I" (meaning the said Nahan Franko) "wish to inform you before closing, that I" (meaning the said Nahan Franko) "have the offer of nearly every prominent witness in the country to testify in my" (meaning the said Nahan Franko's) "behalf when the case will be called for trial. I" (meaning the said Nahan Franko) "am in the position to prove not only that Mr. Flechter" (meaning the said Victor S. Flechter) "makes nearly all his violins, old and Italian, himself, and conducts a swindling business, but that he" (meaning the said Victor S. Flechter) "is a usurer of the worst kind, having in one instance taken no less than 1,000 per cent and collateral for the loan of a small sum of money to a musician who was in temporary distress.

Yours most respectfully

"Nahan Franko" (meaning the said Nahan Franko),

to the great damage, infamy, scandal and disgrace of the said Victor S. Flechter, against the form of the statute

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

JOHN R. FELLOWS,

District Attorney.

(Endorsed)

Kilian Van Renselar, Foreman.

15-7-02
in
Kilian Van Renselar

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People
or
Nathan Franko

Copy in booklet

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Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Nathan Brandao

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

Indictment accuse Nathan Brandao

of the crime of publishing a libel,

committed as follows:

The said Nathan Brandao,

late of the City of New York, in the County of New York, aforesaid, on the

Twenty-fifth day of July, in the year of our Lord one thousand
eight hundred and eighty-nine, at the City and County aforesaid,

being a person of an envious, evil and wicked
mind, and of a most malicious disposition,
and wickedly, maliciously and unlawfully
minding, contriving and intending, as much
as in him lay, to injure, oppress, aggrieve and
injure the good name, fame, credit and
reputation of one Victor S. Fletcher, who was then
and there a dealer in musical instruments carrying on business
in the said City and County of New York, and to
bring him the said Victor S. Fletcher into
public scandal, hatred, infamy and disgrace,
did unlawfully and maliciously publish,
and cause and procure to be published, in
a certain newspaper and publication, published

in the said City and known as the Music Trade Review, a certain false, scandalous, malicious and defamatory libel of and concerning the said Victor S. Blechler, which said false, scandalous, malicious and defamatory libel is as follows, that is to say:

"Fraud" (meaning the said Nathan Frauder) "reply to Blechler" (meaning the said Victor S. Blechler).

"Soland Hotel, Chicago, Ill., July 21, 1890

"To the Editor of the Music Trade Review" (meaning the said Music Trade Review):

"Dear Sir: A number of clippings from various New York newspapers have been sent to me" (meaning the said Nathan Frauder)

"containing a report of a suit brought against me" (meaning the said Nathan Frauder)

"by Victor S. Blechler, a dealer in violins" (meaning the said Victor S. Blechler) "in

which he" (meaning the said Victor S. Blechler)

"relates his side of the story, taking advantage

of my absence from New York, by publishing

a number of falsehoods for the sake of

advertising himself" (meaning the said

Victor S. Blechler) "and to injure mine" (meaning

the said Nathan Frauder's) "reputation while

I" (meaning the said Nathan Frauder) "am

too far away too far and myself" (meaning

the said Nathan Brandes) "except in this way. I" (meaning the said Nathan Brandes) "therefore most humbly submit this statement of facts for your kind consideration.

"First: I" (meaning the said Nathan Brandes) "was unable to appear in court on July 8th, to defend myself" as (meaning the said Nathan Brandes) "against the false and fraudulent charges made against me" (meaning the said Nathan Brandes) "by Mr. Becker" (meaning the said Victor S. Becker) "having left New York on June 29th, with the Wagner Orchestra, for a six weeks' engagement. Being only too anxious to have a chance of getting away from the queer business methods of this man" (meaning the said Victor S. Becker) "for the benefit of all New York musicians, I" (meaning the said Nathan Brandes) "authorized Mr. John Devine (15 East Bankers' Street) to represent me" (meaning the said Nathan Brandes) "in court and to ask for a postponement of the case until the middle of August, when" (meaning the said Nathan Brandes) "would return to New York. But Mr. Devine having been out of town the night preceding the trial, reached the court room too late, the case having been disposed of shortly before his arrival. My rendering judgment my default in Mr.

Flechter's" (meaning the said Victor S. Fletcher's) favor. I" (meaning the said Nathan Brandao) "have already taken steps to have the case appealed to a higher court.

"Second: It is true that I" (meaning the said Nathan Brandao) "have received two items from Mr. Fletcher" (meaning the said Victor S. Fletcher), the cost of which should be at the highest, \$2.00 for the two; but on learning that he (meaning the said Victor S. Fletcher) "charged the modest sum of \$2.50 for each, I" (meaning the said Nathan Brandao) "returned them, together with a silk handkerchief, his" (meaning the said Victor S. Fletcher's) "viola and viola bow, without having damaged any of these articles.

"Third: For the use of the viola in question, during the German opera season in New York, Mr. Fletcher" (meaning the said Victor S. Fletcher) "again showed his modesty by writing to Mr. E. C. Skenton, asking for a number of seats in the orchestra for each performance as a compensation for the loan of his" (meaning the said Victor S. Fletcher's) "viola, which, at a low figure, would be equivalent to \$20.00 in money weekly. Even this unreasonable demand was granted by Mr. Skenton, until his" (meaning the said Victor S. Fletcher's) "demands for seats grew so important that the director

ordered me (meaning the said Nathan Franko)
"to return the note to him" (meaning the
said Victor S. Flechter) "without delay and
not to have anything further to do with
him" (meaning the said Victor S. Flechter).

"Whenever I (meaning the said Nathan Franko)
"had occasion to use the instrument after that
time, I (meaning the said Nathan Franko) have
paid Mr. Flechter" (meaning the said Victor S.
Flechter) "liberally for it."

"Further. As to the value of the instrument
I (meaning the said Nathan Franko) wish to
say that I ~~do~~ (meaning the said Nathan Franko)
"have had quite some experience in the
handling of instruments, having played on
the violin since early childhood, and I"
(meaning the said Nathan Franko) "freely
declare, and can prove by other judges
than Mr. Flechter" (meaning the said Victor
S. Flechter) "and myself" (meaning the said
Nathan Franko) "that the note in question, which
I (meaning the said Nathan Franko) "have used
considerably, and had opportunity to test
in every direction, is not worth \$1,000, not to
speak of \$5,000, but as Mr. Flechter" (meaning
the said Victor S. Flechter) "is known to have
sold \$40.00 violins for about \$600.00 and \$60.00
violins for about \$1,000.00 and more, this little
difference in our estimation of that particular

idea should not be surprising.

"I say, I say, I say, I say" (meaning the said Nathan Franko) "with the idea that this idea does not even belong to Mr. Fletcher" (meaning the said Victor S. Fletcher) "but, according to this one" (meaning the said Victor S. Fletcher) "virtually now in my hands" (meaning the said Nathan Franko) "belonging to a gentleman in Boston, who personally called on me" (meaning the said Nathan Franko) "while I" (meaning the said Nathan Franko) "was in that city with the German Opera Company, and demanded the return after hearing that Mr. Fletcher" (meaning the said Victor S. Fletcher) "had rented it to me" (meaning the said Nathan Franko) "without his consent or knowledge."

"After having made these statements, which I" (meaning the said Nathan Franko) "can prove to be correct in every detail, I" (meaning the said Nathan Franko) "with the inform you, before closing, that I" (meaning the said Nathan Franko) "have the offer of nearly every prominent violinist in the country to testify in my" (meaning the said Nathan Franko) "behalf when the case will be called for trial. I" (meaning the said Nathan Franko) "am in the position to prove not only that Mr. Fletcher" (meaning the said Victor S. Fletcher) "makes nearly all his violinists,

old and Halain, himself, and conducts a
 pinching business, but that he "is a
~~man of~~ (meaning the said Victor S.
 Fletcher)" is a man of the worst kind,
 having in one instance taken no less than
 1,000 percent and collateral for the loan of
 a small sum of money to a musician who
 was in temporary distress.

"Yours most respectfully

"Nathan Franko" (meaning the
 said Nathan Franko). —

To the great damage, injury, scandal and
 disgrace of the said Victor S. Fletcher,
 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 H. Bellows,

~~Attorney~~

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BOX:

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FOLDER:

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DESCRIPTION:

Fritz, Joseph

DATE:

12/08/90



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BOX:

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FOLDER:

3876

DESCRIPTION:

McDonald, Thomas

DATE:

12/08/90



3876

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BOX:

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FOLDER:

3876

DESCRIPTION:

McDonald, Michael

DATE:

12/08/90



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Witnesses :

CS Sanchez
Officer McVay

Counsel,

Filed

day of

1890

Pleas,

THE PEOPLE

vs.

Joseph Fritz,
Thomas McDonald
and
Michael McDonald

JOHN R. FELLOWS,

District Attorney.

A True Bill.

John R. Fellows
Foreman.

all

I read Jury Log
No. 3. Judgt. suspended.
No. 182. Cath. Protec
Dec 12/90 R.M. 12

0822

Police Court—2 District.City and County } ss.:
of New York,

Ernest B. Fancher
of No. 141 Grandview Avenue Street, aged 72 years,
occupation Laborer, being duly sworn

deposes and says, that the premises No. 126 5th Avenue Street,
in the City and County aforesaid, the said being a four story brick building

and which was occupied by ~~deponent as a~~
and in which there was at the time a human being, by name

were BURGLARIOUSLY entered by means of forcibly breaking
open the basement door leading to said
premises

on the 22nd day of November 1890 in the day time, and the
following property feloniously taken, stolen, and carried away, viz:

a quantity of leaden pipe and Gas fixtures
of the value of about one hundred
dollars and one Copper Boiler of the
value of twenty five dollars in all
of the value of one hundred & twenty five dollars

the property of Douglas W. Buchanan & Abraham Buchanan
and in charge of deponent as their agents
and deponent further says, that he has great cause to believe, and does believe, that the aforesaid

BURGLARY was committed and the aforesaid property taken, stolen, and carried away by

Joseph Fritz, Thomas McDonald and
Michael McDonald (all indicted)

for the reasons following, to wit: Deponent is informed by
James McTaggart of the 19 Precinct Police
that at the house of about 11 o'clock
in the morning of said 22nd day of
November 1890 he discovered said door
broken open, and he found said
defendants in the premises and in the
act of stealing said property.

Ernest B. Fancher

Present before me this 22nd day of November 1890
J. C. Sullivan, Notary Public

0823

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 34 years, occupation Police officer of No
19 Precinct Police Street, being duly sworn deposes and

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

Sworn to before me, this 24
day of March 1880 } James M. Vay

Do I C. Granger
Police Justice.

0824

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK, }

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

Question. What is your name?

Answer. *Thomas McDonald*

Question. How old are you?

Answer. *16 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *433 East 13 Street 3 years*

Question. What is your business or profession?

Answer. *Basket Maker*

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

Answer. *The door was open when we
went in the house*

Thomas McDonald

Taken before me this

24

day of *March* 1895*P. J. H. H. H.*

Police Justice.

0825

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer. *Joseph Fritz*

Question. How old are you?

Answer. *17 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *518 East 14 Street 3 years*

Question. What is your business or profession?

Answer. *Robber.*

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

Answer. *The door was open**Joseph Fritz*

Taken before me this

*24*day of *November* 188*2**W. C. McNeill* Police Justice.

0826

Sec. 198-200.

District Police Court.

CITY AND COUNTY } ss.
OF NEW YORK }

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

Question. What is your name?

Answer. *Michael McDonald*

Question. How old are you?

Answer. *15 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *405 East 13 Street 3 years*

Question. What is your business or profession?

Answer. *Work in Ciga Bar factory*

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

Answer. *The door was open when we went in the house**Michael McDonald*

Taken before me this

21st

day of

*March**1926**Ed. J. McLaughlin* Police Justice.

0827

Police Court--- 2 District. 1/63

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Charles J. Tander

1 Joseph Smith
2 Thomas A. Smith
3 William W. Smith

Offence Burglary

Dated November 24 1890

W. H. H. H.

Magistrate. Officer. Precinct. 19

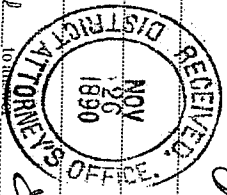
Witnesses deaia affiant

No. Charles J. Tander Street.

100 E. 23rd St.

No. Street.

No. Street. 1000



Capron H. H. H.

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named.....

defendants

guilty thereof, I order that ~~they~~ be held to answer the same and ~~they~~ be admitted to bail in the sum of One Hundred Dollars, Each and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated November 23 1890 Police Justice.

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

Dated..... 18..... Police Justice.

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

Dated..... 18..... Police Justice.

0828

Court of
General Sessions

The People

v.

Michael McDougall

alias

Michael McDonald

REPORT OF THE NEW YORK SOCIETY FOR
THE PREVENTION OF CRUELTY
TO CHILDREN.

100 EAST 23^d STREET,

New York, Dec. 1st 1890

CASE NO. 53199

OFFICER

Becker

DATE OF ARREST

November 22^d 1890

CHARGE

Attempted Grand Larceny

AGE OF CHILD

13 years

RELIGION

Catholic

FATHER

John - a labourer

MOTHER

Mary Ann

RESIDENCE

405 E. 13th Street -

AN INVESTIGATION BY THE SOCIETY SHOWS THAT

Society has
no record of boys ever having been
arrested before, and he is well spoken
of - Boys' home is filthy and
poorly furnished.

All which is respectfully submitted,

To The Court

William L. Lusk
Rpt

Court of
General Sessions

The People.	Penal Code.
vs.	
Michael McDonagh	
alias	
Michael McDonald	

Report of the New York Society
for the Prevention of Cruelty
to Children.

ELBRIDGE T. GERRY,
President, &c.,

100 East 23d Street,
New York City.

New York General Sessions.

PEOPLE ON MY COMPLAINT,

VERSUS

~~Robert~~ McDonald
 Michael McDonald
 & Joseph Ditz

As complainant in the above case, I beg to recommend the defendants to such leniency and clemency as the Court and District Attorney may see fit to show; but I expressly assert that my reasons for so doing are not controlled by any advantage to myself.

I am informed that one of these boys is about fourteen years old; that this is his first offense, and his parents promise hereafter to take care of him. If the others are sent to the Catholic Protector, it would seem to be advisable. The depts have already been confined under this arrest for some time - perhaps sufficient to be a salutary lesson.

Dec. 6. 1890.

Respectfully Submitted,
 Enoch L. Faucher,

229 Broadway
 N.Y.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Joseph Fritz, Thomas
Mc Donald and Michael Mc Donald*

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

*Joseph Fritz, Thomas
Mc Donald and Michael Mc Donald*

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

The said *Joseph Fritz, Thomas Mc
Donald and Michael Mc Donald*, all
late of the *Eighteenth* Ward of the City of New York, in the County of New York
aforesaid, on the *22nd* day of *November* in the year of our Lord one
thousand eight hundred and *eighty-ninety*, with force and arms, in the
day — time of the same day, at the Ward, City and County aforesaid, the
~~dwelling house of one~~ *a certain building, to wit: the*
building of one Douglas W. Burnham

there situate, feloniously and burglariously did break into and enter, with intent to
commit some crime therein, to wit: with intent, the goods, chattels and personal property
of the said *Douglas W. Burnham in the*
said building ~~in the said dwelling house~~ then and there being, then and
there feloniously and burglariously to steal, take and carry away, against the form of
the Statute in such case made and provided, and against the peace of the People of the
State of New York, and their dignity.

SECOND COUNT—

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

Joseph Fritz, Thomas McDonald and Michael McDonald
 of the CRIME OF *the Crime of attempting to commit*
~~of the CRIME OF~~ *Graded* LARCENY in the second degree committed as follows:

The said

Joseph Fritz, Thomas McDonald and Michael McDonald all

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

three hundred pounds of lead pipe of the value of fifteen cents each pound, a quantity of gas fixtures (a more particular description whereof is to the Grand Jury aforesaid unknown, of the value of fifty dollars, and one boiler of the value of twenty-five dollars

of the goods, chattels, and personal property of one *Douglas W. Burnham*

building
 in the dwelling house of the said *Douglas W. Burnham*
in the building

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

John R. Fellows
 District Attorney.

THIRD COUNT.

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

of the CRIME OF RECEIVING STOLEN GOODS, committed as follows :

The said

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,

of the goods, chattels and personal property of

by a certain person or persons to the Grand Jury aforesaid unknown, then lately before feloniously stolen from the said

unlawfully and unjustly, did feloniously receive and have ; (the said

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.

JOHN R. FELLOWS,
District Attorney.