

0143

BOX:

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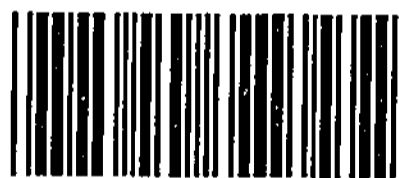
3571

DESCRIPTION:

Smith, Justus J.

DATE:

01/28/90



3571

0144

POOR QUALITY
ORIGINAL

Witnesses,

Judge Wolman

After examining the case
against the defendant I
am satisfied that it would
be impossible to secure
conviction. I am of the
opinion that the crime
charged was not com-
mitted. There was no
forcible entry at all.
Respectfully recommending
that this indictment
be dismissed.

Part 3 April 9/90

Wm. Travers Jerome
Dep. Atty.

Counsel,

Filed

Reads,

306
Wm. H. Kafir
1499 Bldg
day of Aug 1889
Chas. J. Smith

THE PEOPLE

vs.

Chas. J. Smith

Indictment
May 27/89

JOHN R. FELLOWS,

District Attorney.

A True Bill

Part 3 April 9/90
On recm. of Dist. Atty.
indict. dis. P.B. M.
J.

0145

POOR QUALITY
ORIGINAL

Witnesses,

Judge Woloman

Counsel,

Filed

Pleads,

306

Wm. H. Chapin

1779 Bldg

day of May 1889

Chapin vs. Chapin

THE PEOPLE

vs.

Justice J. Smith

Surrogate & Com. by Ch. May 8/89

Handwritten notes: 1779 Bldg, Chapin vs. Chapin, Section 46.5 and 46.7 Penal Code.

JOHN R. FELLOWS,

District Attorney.

After examining the case against the defendant I am satisfied that it would be impossible to secure conviction. I am of the opinion that the crime charged was not committed. There was no forcible entry at all. I respectfully recommend that this indictment be dismissed.

Part 3 April 9/90

Wm. H. Chapin
Def. Atty.

A True Bill.

Thos B. Woolley
Part III April 9/90 Foreman.

On recim. of Dist. Atty.
indict. dis. R.B.M.

Court of General Sessions.

The People

vs.

Justice J. Smith

§§ 465 & 467
Penal Code

Report.

The defendant is indicted of the crime of forcible entry and detainer and of unlawful intrusion in, of and upon the premises known as No. 152 West 76 Street, the property of the complainant Philip Mahling. It was conveyed to him by the defendant by a bargain and sale deed, dated January 18, 1888. This deed was given as a security for the repayment of certain moneys which the complainant had advanced and did thereafter advance to the defendant, and the original agreement between the parties was that on a sale of the said property, the equity should be divided equally between

them. The complainant contends that this understanding should extend to the 1st of May, 1888, and no further; while the defendant maintains that ~~was~~ it was to continue until the sale of the property. When the said deed was delivered, the ~~said~~ house on said premises had not been finished, and the defendant, at complainant's request, acted as the superintendent of the house, until all the work had been done. The defendant claims that he continued and was by the complainant requested to continue to act as such superintendent, until this proceeding was commenced. The complainant denies this statement, but admits that he employed the defendant as an agent to sell the said premises. Complainant's own witnesses have testified that the defendant had a key to the said house and had

free access to the same up to the time of his arrest. The removal of the furniture, alleged in complainant's affidavit, was done by the defendant for the purpose of facilitating the sale of the said premises and with the consent of Mrs. Otto, the owner of the said furniture.

The papers herein do not contain any proof of a forcible entry and detainer, nor of an unlawful intrusion upon said premises by the defendant. A conviction of the defendant upon the facts stated in the depositions herein, in my opinion, is out of the question.

I therefore, recommend the dismissal of the within indictment.

Dated N.Y., April 8, 1890

Edward Grose
Dep. Assistant.

0149

Court of General Sessions

The People

vs.
James J. Smith

REPORT.

For the District Attorney.

Dated April 3 1950
Edward J. Grose
Secretary

0150

TORN PAGE

HARLE

COU

The People

-vs-

JUSTUS J. SMITH.

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-

TESTIMONY.

-x-x-x-x-x-x-x-x-x-x-x-x-x-x-

CHAS. A. MORRISON,
Stenographer,
229 Broadway,
New York.

H A R L E M P O L I C E C O U R T .

-----x
The People :

BEFORE,

-vs- :

M u r r a y ,

J U S T U S J . S M I T H . :

J.
-----x

New York, November 16, 1888.

A P P E A R A N C E S :

JOHN JEROLOMAN, ESQ, For the People.

WILLIAM H. NAFIS, ESQ, For the Defendant.

Counsel for the People offers in evidence a deed,
dated January 18th, 1888, from Justis J. Smith and Jennie
S., his wife, to Phillip Maling, recorded in liber 2098, of
Conveyances, page 467, January 21st, 1888.

Admitted and marked Exhibit A.

P H I L I P M A L I N G, the complainant, re-called.

BY MR. JEROLOMAN:

Q Did you take possession of the premises in question under
that deed?

A I did.

CROSS EXAMINATION BY MR. NAFIS:

Q Have you produced in court a statement of Mr. Smith's indebtedness to you?

Q You did not pay it?
 A No, sir. **Objected to** on the ground that there is no evidence here of any indebtedness on the part of Mr. Smith and Mr. Maling.

Q Since the date of this deed how much money have you let Mr. Smith have?
 A THE COURT: We will see later on. If it is not shown, why, the testimony will be stricken out.

A Yes, sir. that the witness has let Mr. Smith have money.

Q At the time you received this deed how much money did Mr. Smith owe you?
 A I cannot tell exactly.

A I cannot tell exactly; \$500 or \$600.

Q Where did you first see this deed?
 A In my office.

Q Where is that?
 A On the Boulevard, 74th and 75th streets, in my own office.

Q Who showed it to you?
 A Mr. Smith.

Q Can you state on what day that was?
 A I don't recollect the day exactly.

Q About what time was it?
 A About the time the deed bears date.

Q Did you record this deed?
 A I handed it --- I will not swear to this, because I was busy and didn't write it up at that time, and I went and wrote out a check or give him some money and had no time to enter it, and then I entered it the next day.

Q Do you know who did record it?
 A Yes, sir.

Q Who?
 A Mr. Smith did it for me.

Q And Mr. Smith paid for it?
 A I suppose so.

MR. NAFLIS: I read from this statement, commencing

January 20th and ending October 29th, 1888, the various dates inclusive. This statement designates an amount of \$4,556.98 paid by Mr. Maling to Mr. Smith.

Q Is that substantially correct?

A No, not to Mr. Smith; it was paying bills and everything, and there are more bills back yet that are not paid.

Q This statement includes money that you have paid to Mr. Smith personally?

A Given him to pay bills with.

Q And for moneys that you yourself have in some instances paid personally?

A Yes, sir.

Q And this indebtedness ~~arose~~ arose out of the completion of that house 152 West 75th street,----the same house that there is trouble about now?

A Yes, sir.

The defendants counsel offers the memorandum which was shown to the witness in evidence, and the same is admitted and marked Defendant's Exhibit 1.

Q Did you receive a key of this house from Mr. Smith?

A No, sir.

Q You had a key by which you could go in and out of the house at your pleasure, did you not? A When the house was finished I had three keys of Mr. Smith. I want to correct that statement.

Q You have had a key of this house, then?

A Yes, sir; two keys.

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Q When did you get the first key?
A When the house was finished.
Q When do you say the house was finished?
A About three months ago.
Q That would bring it about August?
A Somewheres along there.
Q Mr. Smith has had a key of this house also, hasn't he?
A Yes, sir.
Q So that he could go in and out at his pleasure?
A Yes, sir.
Q And you knew that he had this key?
A Yes, sir.
Q And you knew that he went in and out as he saw fit?
A Yes, sir.
Q He still has a key of that house, hasn't he?
A No, sir; unless he got one made.
Q Since when?
A I can't tell the exact date; not very long.
Q Within a week?
A Since election, I think.
Q But the key that he had before election fitted the same lock that was on this door when you received the key of it?
A Yes, sir; but I have got that key which he had.
Q How many keys were there to each house?
A Three.
Q Would you know the key if you saw it?
A Yes, sir.

- Q Have you ^{the} key of that first lock in your possession here now?
- A No, sir; the man in possession there has it.
- Q No, I mean the first key?
- A The same key.
- Q Is the same lock upon that door now that was there three months ago?
- A Yes, sir.
- Q Has not the ~~key~~ ^{lock} been changed within a week?
- A No, sir; only the key has been changed.
- Q Another key made?
- A Yes, sir.
- Q How has the key been changed?
- A I cannot explain it; I am not a lock-smith.
- Q When was the key changed?
- A After the first time that Mr. Smith took possession of the house.
- Q Since election day?
- A No, once before I think.
- Q How long before?
- A Two months ago.
- Q Has it been changed since?
- A No, sir; that lock has not been changed, but I put a dead lock on it; at least, a key in the dead lock, only the day before yesterday.
- Q Is it not a fact that the keys did not work very well in that lock that was upon that door?
- A The keys were all right.

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Q Was the lock all right?

A Yes, sir.

Q Did not they work with difficulty?

A Not mine.

Q Do you not know that the keys to that door worked badly and they were obliged to have a lock-smith to repair the lock?

A Not as I know of.

Q Do you know Mr. Nafis---myself?

A I saw you once in Judge Jeroloman's office.

Q Can you state about what time that was?

A That was about three weeks ago.

Q Was it in October?

A I can't tell exactly the date.

Q Do you know of an agreement having been prepared for execution between yourself and Mr. Nafis, myself?

A No, sir.

Q Did you ever see an agreement, written on type writer, between Mr. Nafis and yourself?

A No, sir.

Q At the time you were at Judge Jeroloman's office and saw me there was there not lying upon the table an agreement, not signed, ready for execution, between yourself and Mr. Nafis?

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

Q While at Judge Jeroloman's office on that day did you say to Mr. Nafis that you would be very glad to take your money that you had put into this house?

A Undoubtedly.

Q And you would have been glad to have taken it?

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A Yes, sir.

Q And given a deed of the house?

A Yes, sir.

Q Judge Jeroloman is your attorney?

A Yes, sir.

Q And has been your attorney in this action?

A Yes, sir.

Q Were you sued by a Mr. Young along in the early part of October; were papers served upon you?

A There were some papers served upon me.

Q Did you read them?

A No, sir.

Q What did you do with them?

A I gave them to Judge Jeroloman.

Q Do you know what that suit was brought for?

A No, sir.

Q Papers have been served upon you in another suit since then, have there not?

A I don't know.

Q Were any papers served upon you about the 29th of October in a foreclosure suit brought by Mr. Cornish, as plaintiff, against yourself?

A What ever papers I got I gave to my lawyer.

Q Well, you were served with papers along in the latter part of October?

A Yes, sir.

Q Do you remember who the plaintiff in that action was?

A No, sir.

MR. JEROLOMAN: I will admit that a foreclosure suit was commenced by a man named Charles L. Cornish against this property, to foreclose a second mortgage of \$5,000, with interest for nearly a year and a half.

MR. NAFIS: And that the principal is past due?

MR. JEROLOMAN: Yes.

MR. NAFIS: And that mortgage was assigned to Mr. Cornish by Robinson ~~et al~~, to whom it was made by Justus J. Smith and wife on the 29th day of October, the same day the action was commenced, and that Mr. Nafis appears as plaintiff's attorney in that suit?

MR. JEROLOMAN: Yes, sir; and then I will admit that a summons---no other paper except a summons---was served upon Mr. Maling, in the suit of Young vs. Maling and others, about the first of October, and no complaint has been served in that action.

MR. NAFIS: I will state that the time for the serving of the complaint in that action has been extended by Judge Jeroloman.

MR. JEROLOMAN: At the request of your side.

MR. NAFIS: But at the intimation of Judge Jeroloman that there might be no occasion for serving the complaint.

MR. JEROLOMAN: No, I do not admit that.

MR. NAFIS: Well, I will put in evidence in this connection a letter from Judge Jeroloman, counsel for the complainant in this case, dated October 12th, 1888.

(Marked Defendant's Exhibit 2.)

Q Did you have an agreement with Mr. Smith, or did you agree with Mr. Smith, that upon the sale of this property being effected you and he were to divide the profits, over and above the cost?

A Up to a certain time.

Q Just answer my question?

A No, sir.

Q You had no agreement?

A No.

Q Did you, while at Judge Jeroloman's office in the latter part of October, say to Mr. Nafis, in substance, that your agreement with Mr. Smith was that you and he should divide the profits of this house when sold, over and above its cost?

A On or about the first of May.

Q Answer my question?

A On or about the first of May. Don't forget that.

Q I am entitled to an answer yes or no?

THE COURT: (To the witness). You say you did make that statement?

THE WITNESS: Yes, sir; on or ~~at~~ before the first of May.

THE COURT: That is, if the house was sold on or before the first of May?

THE WITNESS: Yes, sir.

Q Did you say to Mr. Nafis at that interview anything about the first of May? A Yes, sir; I did.

Q Have you, since the middle of October, offered to carry out that agreement?

A No, sir.

Q Was this house finished on the first of May?

A No, sir.

Q Not for a long time after?

A No.

Q When was this agreement between you and Mr. Smith made as to the division of profits of the house?

A I don't know exactly; some day in January.

Q About the time you received the deed?

A Yes, sir.

Q Who was present?

A Nobody else.

Q Where was that understanding arrived at?

A At my office.

Q At that time was anything said about the limitation of time when that agreement should be carried out?

A Yes, sir.

Q And was the first of May then fixed upon as the time?

A Yes, sir.

Q Do you know Mr. Robinson Gill?

A No, sir; I might know him if I saw him.

Q Do you know Mr. ~~Kenny~~ ^{Keonig}, a butcher?

A Yes, sir.

Q Did you say to Mr. Gill or to Mr. Keonig that your agreement with Mr. Smith was that you and he were to divide the profits of this house?

A I might have said so before the first of May, but not since.

Q Have you said so to them within six weeks?

A No, sir.

Q Have you had any conversation with either of those gentlemen within six weeks or two months?

A I cannot tell you.

Q You say you did say to them that you did have this agreement with Mr. Smith?

A Yes, sir.

Q Did you say anything to them when talking to them on this subject that the 1st of May was the limitation when this time expired?

A No, sir; I don't think I did. I don't think I bothered much with those people.

Q But you did tell them that you had this understanding?

A Yes, sir.

Q Have you talked with others and told them the same thing?

A Not as I know of.

Q Have you, since the middle of October, offered to settle this matter with Mr. Smith or anybody in his behalf?

A I have.

Q Who?

A A man that had the second mortgage over on the east side of Morrisiana.

Q Have you, since the middle of October, offered to give a deed of this property to Mr. Nafis, or to the parties he represented?

A To give them ~~my~~ a deed----to give any one a deed that would

give me my equity out of it.

Q Answer the question?

A Yes, sir.

Q Were you in negotiation in regard to giving adeed of this property down to about the 29th of October?

A No, sir.

Q Had you any conversation with Judge Jeroloman on or about the 29th of October this year, wherein ~~xxx~~ you authorized him to say that you would take \$7,000?

A Yes, sir.

Q And give a deed of this house?

A Yes, sir.

Q To parties that Mr. Nafis represented?

A I don't know who.

MR. NAFIS: I offer this letter in evidence, from Judge Jeroloman, in this connection.

((Marked Defendant's Exhibit 3.)

MR. JERLOMAN: You might at the same time offer the answer to it.

MR. NAFIS: Yes, I also offer in evidence my answer to that letter.

(Marked defendant's Exhibit 4.)

BY THE COURT:

Q How long was it after you received that deed before you ~~xx~~ ceased giving Mr. Smith the privilege of going in and out of that house?

A Until the house was finished.

Q How long was that after you got the deed from him?

A I think six months or over.

Q Then, for a time after you received the deed you recognized the fact that he had an interest in the building?

A Undoubtedly;

Q You recognized the fact while you had the deed, and after you had received the deed, that he had some right in that house?

A Oh, no, sir.

Q Do you recognize the fact that he was to get an interest in it if it was sold on or before the 1st of May?

A Yes, sir; but it was not.

Q Was not that after you got the deed?

A Oh, yes; after I got the deed.

MR. JEROLOMAN: Won't your Honor ask him right in that connection what the condition of that house was at the time he got the deed?

MR. NAFIS: It was unfinished; we admit that.

THE COURT: There is one thing certain: that you admit, Judge Jeroloman, and that is that up to a certain time and subsequent to the deed being given to Mr. Mal-
ing this defendant had a right to go into that house.

MR. JEROLOMAN: A right to go into it as our super-
intendent.

THE COURT: A right to go in there---an interest
in it?

MR. NAFIS: Precisely, your Honor.

MR. JEROLOMAN: If your Honor will look at this
paper it says: "Accepted by Justus J. Smith, Superinten-

dent". That shows that he was acting as superintendent. Now, I want to show your Honor that we forbid him from going in there.

THE COURT: Very well; go on.

RE-DIRECT EXAMINATION BY MR. JEROLOMAN:

Q This house was not finished by the first of May, was it?

A No, sir.

Q Was that any fault of yours?

A No, sir.

Q After the house was finished did you put any person in charge there; and, if so, whom?

A Yes, sir; a house-keeper.

Q What was her name?

A Mrs. Otto.

Q How long had she been in that house?

A About five months.

Q Living there?

A Yes, sir.

Q Having her bed and bedding and furniture in one room in the house?

A Yes, sir.

Q After that lady moved in there did you say anything to Mr. Smith about his not going into those premises; and, if so, what?

A Mr. Smith went in and out of those premises and I allowed him to do so until I found out that he was playing a ~~game~~ game on me.

MR. NAFIS: I move to strike that out.

THE COURT: Yes; strike that out.

Q I want to know if you said anything to Mr. Smith about his going into that house?

A Yes, sir; about two months ago I went and closed up the house and I forbid Mr. Smith to go in. I told him that he had no business and no right in that house any more.

Q Did you at that time, or before that time, put up any bills: "To-Let or For Sale" on that property?

A I did.

Q By whose advice did you do that?

A By your advice.

Q Did you change the keys on the doors of that house since that lady moved in there?

A Yes, sir; I had the lock-smith fix them.

Q And had other keys made to enter the house with?

A No, the same keys, but they were fixed.

Q Did you say anything to Mr. Smith about not going in there?

A I did. I told him that if I caught him going into the house I would break his neck; I would make him a foot shorter.

Q In other words, you told him emphatically not to go into that house any more?

A Yes, sir; I did.

Q On or about October 26th, 1888 did you receive this letter from the Equitable Life Insurance Co?

(Handing a paper to

witness).

A Yes, sir.

Q Being a demand for the payment of interest due them?

A Yes, sir; and I gave the letter to you.

Q You received that deed on the 18th of January, 1888?

A Yes, sir.

Q Did Mr. Smith after that time make any assignment of his property?

A He did.

Q How long after that time?

MR. NAFIS: That was made on the 25th of January.

MR. JEROLOMAN: I offer in evidence an assignment, dated January 25th, 1888, signed by Justus J. Smith and Thomas E. Drake, setting forth the fact that they were partners composing the firm of Smith & Drake; said assignment being made to Luther E. Kimball, of East Boston, Massachusetts.

MR. NAFIS: I object to the admission of this in evidence.

THE COURT: Wait until we hear it read.

MR. JEROLOMAN: (Reading the Assignment) "Have granted, bargained, sold, assigned, transferred and set over, and by these presents do grant, bargain, sell, assign and transfer to the party of the second part, his successors and assigns, all and singular, * * * * * his successors and assigns."

MR. NAFIS: I object to that on the ground that it was made eight days after the deed of this property was given.

THE COURT: I will admit it.

MR. NAFIS: We take an exception to its admission.

(Marked Plaintiff's Exhibit B.)

Q At the time that Mr. Smith ~~gave you~~ gave you that deed did he say anything to you about his going to make an assignment of his property for the benefit of creditors?

A No, sir.

Q Did you know it until you saw it in the papers that he had made an assignment?

A No, sir.

Q At the time you got the deed of that property did you know there were any mechanics' liens filed against it?

A No, sir.

Q You knew at that time that there were \$24,500 of mortgages upon that property?

A Yes, sir.

Q And that the Equitable Life Insurance Co., held one of \$19,500.

A Yes, sir.

Q And that a man named Robinson Gill held a second mortgage of \$5,000?

A Yes, sir.

Q How much money did you pay to different parties for the completion of this building from August 1887, down to the time the house was finished?

A Something over \$5,000.

Q Now, before the 18th of January 1888, had you not advanced

Mr. Smith from time to time loans amounting to about \$1,500 or upwards?

A Yes, more than that.

Q On the 18th of January, or about that time, did you and Mr. Smith have a settlement in reference to those transactions?

A No, sir.

Q There was something that he had not paid back on the 18th of January

A Yes, sir.

Q And that money was advanced towards the completion of these six buildings that he had there?

A Yes, sir.

Q And since that time you have advanced \$5,000, paid bills, etc, on the house 152 West 75th street, for the completion of that house, have you not?

A Yes, sir.

Q What were Mr. Smith's duties in relation to that house and the other five houses adjoining it, if you ~~know~~ know?

A Superintendent.

Q Did he superintend their construction?

A Yes, sir.

Q They are not finished yet, are they?

A No, sir.

Q Did the Equitable Life Insurance Company send you that letter on or about October 27th, 1888. (Showing paper to witness.)

A Yes, sir.

MR. JEROLOMAN: I offer it in evidence.

Objected to as immaterial. Objection
overruled. Defendant's counsel excepts.

(Marked Plaintiff's Exhibit C.)

Q Does that letter refer to the property 152 West 75th street?

A Yes, sir.

Q Look at the paper I now show you, dated November 7th, 1888.
Did you receive that through the mail. (Handing paper to witness.)

A Yes, sir; and this is the envelope that it came in (indicating).

MR. JEROLOMAN: I offer this letter and the envelope in evidence.

Same objection, ruling and exception.

(The letter and the envelope are marked Plaintiff's Exhibit D.)

Q Have the taxes been paid upon that property for the year 1888?

A No, sir.

Q Or the Croton Water tax?

A No, sir.

MR. JEROLOMAN: I offer these tax bills in evidence.

THE COURT: It is not necessary to put them in.
If the City is entitled to anything it will collect it.

Q Is there a suit pending in the Supreme Court, Westchester County, wherein John Charles Anderson is plaintiff and yourself and others are defendants, in relation to this very

property?

A Yes, sir.

MR. JEROLOMAN: I will testify in relation to that later on.

Q Are you receiving and rents or issues out of that property?

A No, sir; nothing whatever.

MR. JEROLOMAN: I desire to read a brief clause in the deed in relation to that, giving us the right-----

MR. NAFIS: (Interposing) Oh, it is an ordinary bargain and sale deed. It conveys the title if it conveys anything, of course.

MR. JEROLOMAN: (Reading) "And all reversion, reversions, remainder and remainders, issues and profits thereof."

Q Have you tried to rent those premises?

A Yes, sir.

Q Has any person taken the bills "To-Let or For Sale" off of the property?

A Yes, sir; Mr. Smith has.

Q Did you give him permission to do that?

A No, sir.

Q Who was in possession of the house at the time of the taking of those bills off?

Objected to.

BY THE COURT:

Q Did you see him take them off?

A No, sir; but he told me he had taken them down.

BY MR. JEROLOMAN:

Q Where were those bills placed?

A They were inside of the windows.

Q So that a person had to go inside of the house in order to take them down?

A Yes, sir.

Q Was that after you had put Mrs. Otto in possession there?

A Yes, sir.

Q And after you had told Mr. Smith not to go into those premises or you would make him a foot shorter?

A Yes, sir.

Q Are you receiving any rents or income of any kind from that property?

A No, sir; not a cent.

BY THE COURT:

Q Did you ever get anything out of it?

A No, sir.

BY MR. JEROLOMAN:

Q Have you ever received a penny of interest on any money which you have paid out for the completion of that property?

A No, sir.

BY THE COURT:

Q Let me ask you right there: Do you know directly or indirectly of any claim that this defendant has on that property?

A No, sir; I do not.

Q Is there any secret or verbal understanding between you and him?

A No, sir.

Q When did his claim, if he had any, cease?

A On the first of May.

BY MR. JEROLOMAN:

Q And any talk you had with Mr. Smith in relation to dividing any of the surplus which that property might sell for on or before the first of May, was that verbal or in writing?

A Verbal; just plain talk.

Q There was nothing reduced to writing in relation to it?

A No, sir.

Q So that there is no other paper in existence between you and Mr. Smith and his wife than the deed which I now show you, is there?

A No, sir.

RE-CROSS EXAMINATION BY MR. NAFIS:

Q Since the first of May have you not sent parties to Mr. Smith for him to show them through that house?

A Yes, sir.

Q ~~Have not~~ Hasn't he shown parties through that house at your request within a month?

A Yes, sir.

Q Hasn't Mr. Smith had a key of that house down to about Election Day?

A No, sir.

Q Have not his men had a key to that house?

A No, sir.

Q Do you know a man named Reilly?

A I do.

Q Isn't it a fact that Mr. Reilly has been and is in Mr. Smith's employ?

A I don't know.

Q Well, he works around there?

A Yes.

Q Do you not know that he has gone into that house time and again day after day from May last down to about Election Day?

A No, sir.

Q Has he not gone into that house and opened and aired it?

A Not while I had possession of it.

Q Down to Election Day?

A No, sir.

Q Has he not cleaned the cellar out between May and November?

A No, sir; not in four months. I have had a house-keeper there.

THE COURT: It appears to me, Mr. Nafis, that it is a little late in the day for us to go into the Equity part of this transaction where a deed is produced.

MR. NAFIS: The ownership makes no difference. If we had a key we had a right to go in. I know very well that we cannot try the question of title here, but we have shown your Honor that there was an agreement between these parties to divide the profits on this house.

THE COURT: That is another thing.

MR. NAFIS: Mr. Maling has sworn, it is true, that that agreement ended on the first of May-----

THE COURT: (Interposing) If this complain-

ant has the right to go in and take possession of those premises that he has the deed for, why, certainly he has the right to hold it for an unlimited time; he has the right to enforce his ownership there. Now, what do you propose to do,-- to hold possession there in spite of him?

MR. NAFIS: I propose to show that we have had possession of that property by this Complainant's permission. Now he makes a complaint that we have broken into this house. Therefore, if we can show that we have had a key by his assent, then this complaint must be dismissed.

THE COURT: Are you in there now?

MR. NAFIS: No, sir; I believe not.

MR. JEROLOMAN: They were there when we commenced this proceeding.

THE COURT: Then, Judge Jeroloman, do you want to go any further with this matter, if they are out of the premises?

MR. JEROLOMAN: We want this man to stay away from there, and we ask that he be committed.

THE COURT: Is your party going to stay out, Mr. Nafis?

MR. NAFIS: I don't know. We don't propose to commit any crime, I will say that to your Honor, and we have not committed any crime.

Q Is it not a fact that the keys of this house have been hanging in what is called the office nearly opposite to these buildings?

A I don't know anything about it.

Q The key that Mr Smith had?

A Yes, that key was there.

Q And his men had possession of that key and could go in and out of your house at pleasure?

A To show it when anybody came there, by my instructions.

Q Did you read this complaint?

A I did.

Q You have ~~ex~~ sworn that Mr. Smith did use great force in order to enter this building. What force did he use. Were you there?

A I was not there.

Q You swore that he forcibly broke into it. How did he break into it?

A I don't know.

Q How did he use great force. In what respect?

A I don't know.

Q Then, of your own knowledge you do not know how he entered this house?

A No, sir; no more than what I have heard.

Q Do you not know that he entered that house by reason of the key that he has had of it?

A No, sir; because I did not know that he had a key--not the last two months.

Q Have you not sent people to Mr. Smith within the last two months for him to show them this house?

A No, sir; Mr. Smith sent after me to ~~ask~~ come and show the house to people.

Q Did you go?

A I did.

Q Did not others come there from you to Mr. Smith to be shown the house?

A Mr. Smith came up and asked me the privilege of showing the house to these people because they were his customers and he thought he might as well make the percentage on the sale as anybody else.

Q Who were those parties?

A I don't know.

Q Did you not send parties to Mr. Smith for him to show the house when you were not there?

A No, sir; not within two months.

Q Do you swear to that?

A I will not swear to it, because I don't know.

Q Then you do not know whether you had done so or not?

A I don't think so, at least.

Q (Repeated).

A No, sir.

Q BY MR. JEROLOMAN: Your house was finished?

A Yes, sir.

Q The others were not finished?

A No, sir.

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Q Was there anything said between you and Mr. Smith about your showing your house to parties that might want to buy some of the others so that they might see how it was finished?

A Of course, if he sold it he would get the per centage the same as anybody else.

Q But did parties want to see your house in order to see how the others were going to be finished?

A I don't know about that.

JOHN REILLY, being duly sworn, testified as follows:

BY MR. JEROLOMAN:

Q Do you know this house 152 West 76th street?

A Yes, sir.

Q You have been watching some unfinished buildings there?

A Yes, sir.

Q You were in Mr. Smith's employ at one time?

A Yes, sir; and am now.

Q There are five houses there that are unfinished?

A Yes, sir.

Q Do you know Mrs. Otto?

A Yes, sir.

Q How long has she been living there?

A Four or five months.

Q With her furniture and bedding?

A I don't think she had any bedding there.

Q Did you go in that house since Election Day, or before, with Mr. Smith and take her things out of that house?

A With her consent.

Q Did you do it?

A Yes, sir.

Q Who told you to take the stove out?

A I did not hear anything about the stove.

Q Did Mr. Smith give you any orders about it?

A He asked me would I do so; he said "Will you be so kind as to lend this lady a hand to take the things out."

Q He was in the house, then?

A The Sheriff went in first and this lady Mrs. Otto next and I went in third. I went up-stairs and I sung out for Charlie, and I saysn "What is the first I shall take." Then she pointed to the sofa.

Q Well, all her things were taken out at that time by you and Mr. Smith, were they?

A Yes, sir.

Q Do you recollect one afternoon when Mr. Maling and myself and another gentleman came there and went into the house?

A Yes, sir.

Q Do you recollect Mr. Maling putting up some billson the window: "To-Let or for Sale".

MR. NAFIS: Was that before or after the 6th?

MR. JEROLOMAN: After the 6th.

MR. NAFIS: Then I object to it.

MR. JEROLOMAN: I say on or before the 6th, in my papers.

THE COURT: Let him answer the question then.

A He put up some bills, but what he put up I couldn't say.

Q And we had to break into the house to get in, did we not?

A Mr. Maling broke in, yes, sir.

Q Who placed that board against the front door after you took this lady's things out, if you know?

(Objected to. Objection overruled. Defendant's counsel excepts.

A I did.

Q By whose direction?

A The boss'

Q Who was that?

A Mr. Smith.

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Q The defendant here --- Justus J. Smith?

A Yes, sir.

Q After you say Mr. Maling and myself and a gentleman came there did you go into the house after that?

A Yes, sir.

Q Did Mr. Smith go with you?

A Yes, sir.

Q How did you get in?

A We had the key of the door.

Q Did you go in through the front door?

A Yes, sir.

Q After you went in there did you baricade the doors and the windows in that house?

A Yes, sir. The doors were not baricaded right away, not until we came away that night.

Q Who told you to do that?

A Mr. Smith. He told me to lock up the doors so that no one could get in.

Q Who took the notices off of the windows?

A That I couldn't say?

Q Were they taken off while you and Mr. Smith were in there?

A Yes, sir; while I was up-stairs.

Q Who else was in the house then?

A Nobody but Mr. Smith and me.

Q Did you take them off?

A No, sir.

Q But when you went out they were off, were they?

A I did not take notice until the next morning, and then they

were off, and then I went and got a knife and a sponge and scraped the glue off.

Q You went in there by Mr. Smith's directions?

A Yes, sir; because he told me to.

Q How many doors did you baricade in there at that time?

A Sure, I baricaded all the doors I could.

CROSS EXAMINATION BY MR. NAFIS:

Q These doors were baricaded at night when you went out?

A Yes, sir; and opened every day to let the fresh air in, because when I went in there you could hardly stand ~~xxx~~ because of the fumes of dampness and mildew, which you can see there to-day.

Q Have you been in the habit of fastening up that house when you came out at night?

A Yes, sir.

Q For how long a time?

A Until this lady came there.

Q For two or three, or four months?

A Yes, ever since I have been there.

Q And you fastened up the house in the same way?

A Yes, sir.

Q And you could go in and out of this house by a key to one of the doors, and the rest of the doors were fastened?

A Yes, sir.

Q And the windows were fastened?

A Yes, sir.

Q And why were they fastened?

A To keep people out nights who had no business there.

Q And you have been in the habit of fastening doors and windows there that way?

A Yes, sir.

Q And you fastened the other houses for Mr. Smith?

A Yes, sir.

Q And every morning you would go there and open them?

A Yes, sir.

Q Now, you have had a key of this house?

A Yes, sir.

Q For how long a time have you had the opportunity of going in and out of that house with this key?

A Right up until the other day---until the Sheriff came there and put me out.

Q Who do you call the Sheriff?

A The man that ordered me out. That is the man (witness pointing to one of the police officers.)

Q Where did you see this officer there?

Objected to.

Q Where was the key of the house kept?

A Sometimes I kept it, and sometimes I would leave it in the shanty across the street.

Q And you had a key of this house since last January and down to about election day?

A Yes, sir; and I had it then.
Have you seen

Q ~~After xxxxxxxx~~ Mr. Maling there from January down to Election Day?

A Yes, sir.

Q And has he seen you go in and out of that house?

A Yes, he has seen me there.

Q Has he ever objected to your going in and out?

A No, sir.

Q You are in Mr. Smith's employ?

A Yes, sir.

Q Does Mr. Maling know that you were watching these houses for Mr. Smith and that you were in Mr. Smith's employ?

A Yes, sir.

Q Can you read or write?

A No, sir.

Q Were you here in this court room a few days ago, on Monday last?

A Yes, sir.

Q Did you sign a paper here?

A I touched a pen to a paper.

Q Was a paper read over to you?

A No, sir. The man only asked me where I lived and what was my name and how old I was.

Q Was that paper, or any paper, read to you?

A No, sir; no paper was read to me.

Q Did you see Mr. Smith on or about the 6th of November break into that house?

A No, sir.

Q In a forcible manner?

A No, sir; he never did break in.

Q Did he use any force, to your knowledge, to get into that house?

A No, sir; I used to open the house.

Q And it has been opened continuously every day for the last

six months?

A Yes, sir.

Q And you have gone in and out?

A Yes, sir.

Q And you have cleaned that house?

A Yes, sir.

Q Has Mr. Smith, to your knowledge, at any time entered that house by any force whatever?

A No, sir.

BY THE COURT:

Q Did you have a conversation with me here the other day?

A Yes, your Honor.

Q Do you remember what you told me in relation to Mr. Smith going in there?

A Yes, sir.

Q What did you say?

A I said that Mr. Maling-----

Q (Interposing) No, about Mr. Smith. What did you say to me about Mr. Smith?

A I said nothing to your Honor about Mr. Smith.

Q Now, just think about that for a moment. You remember talking to me here?

A Yes, sir.

Q And do you remember my asking you about Smith going into the building there, and do you remember about your hesitating

A Well I understood it was Mr. Maling.

Q No, Mr. Smith, I said?

A No, sir.

Q Do you remember your hesitating, and then stating in a very

decided manner that you saw Mr. Smith go in?

A No, sir. It was Mr. Maling that I meant, because if I did say it was Mr. Smith I must have been swearing false.

BY MR. NAFIS:

Q Did you have a conversation about this with me yesterday?

A Yes, sir.

Q And did you tell me what had transpired when you came here?

A Yes, sir.

Q What did you say to me about what you had stated to the Judge as to who broke into that house?

A I said that Mr. Maling went in first and there was another gentleman went next.

Q Who did break into the house? A Mr. Maling.

Q How did he break in?

A Well, first I said: "There is nobody allowed to go into this building without Mr. Smith's orders."

Q Well, Mr. Maling broke in?

A Yes, sir; he went in the basement where the window was broken in.

BY THE COURT:

Q Along about the 6th of November, Election Day, did you see Mr. Smith there?

A Yes, sir.

Q Did he give you any orders about that building?

A Yes, sir; not to let anybody go in.

Q He told you to hold possession there, did he?

A Yes. He told me to let nobody in there without an order from

him or from Mr. Cornish.

BY MR. NAFIS:

Q Mr. Smith has been there every day since January last?

A Yes, sir.

Q In and out of this building and the other buildings?

A Yes, sir.

Q He has continued to go in and out every day down to about Election Day?

A Yes, sir.

Q The keys of the other houses, where are they kept?

A They are kept over in the office. They all hang together on a string. The key of the front door had a string into it and that is the way we used to tell it.

Q The keys were all kept there together?

A Yes, and Mr. Maling knowed they were kept in the shanty.

RE-DIRECT EXAMINATION BY MR. JERLOMAN:

Q You got that key from Mr. Smith, didn't you?

A Yes, sir.

Q You did not get it from Mr. Maling?

A No, sir.

Q How long since did you get it from Mr. Smith---before the first of May?

A Yes, sir.

Q Did you get it from him before the first of May?

A I answered you too quick; I could not say exactly.

Q When were the doors put on the houses?

A I could not say. We used to barricade them up every night.

Q And they have been fastened ever since that time?

A Yes, sir.

Q At any rate, whatever keys you got to that house you got from Mr. Smith?

A Yes, sir.

Q Did not Mr. Maling tell you that neither you nor Mr. Smith had any business to go into that house?

A No, sir. He never made use of those words to me.

Q Do you recollect the day I was there telling you that Mr. Smith had no business in there and that you had no business in there?

A No, I didn't hear you say that. I heard you say that Mr. Smith was not the owner but that Mr. Maling was.

Q And that Mr. Smith had no right or business in there?

A No, sir; I did not hear you say that.

M R S . M A T H I L D A O T T O, being duly sworn, testified as follows:

BY MR. JEROLOMAN:

Q Where do you live? A 1225 Tenth Avenue.

Q Did you at any time before election day reside in 152 West 76th street?

A Yes, sir.

Q How long had you been living there?

A Since the 3rd of July.

Q Who put you in there?

A Mr. Maling.

Q Who paid you for being there?

A Mr. Maling.

Q What did you do about that house?

A I had to keep the house clean, and, if any parties came there to see the place, I was to show it to them.

Q Did you air the house?

A Yes, sir.

Q And you had a key to go in and out?

A Yes, sir.

Q From whom did you get it?

A From Mr. Maling.

Q Do you recollect the time that your furniture was taken out of that house about Election Day?

A Yes, sir; it was the 6th of November, Election Day.

Q Who came to your house that day?

A Mr. Smith sent the watchman there and said that a party wanted to see the house, and-----

BY MR. NAFIS:

Q (Interposing) Was Mr. Smith present when the watchman told you this?

A No, sir.

BY MR. JEROLOMAN:

Q Did you see Mr. Smith there at that house that day?

A Yes, sir.

Q Tell the Judge what Mr. Smith said to you?

A Mr. Smith came there and asked me about showing the house. He said: "There is a party that would like to look through the house; it is a fine party, and I would like to take your furniture out of the house for a couple of hours because this party is very particular and wouldn't buy a house where anybody had slept before." I said: "Mr. Smith, I have to ask Mr. Maling about it", because I did not know what to do. T

Q Did you move out then?

A He moved me out. He called Reilly and Charlie, and he and they moved me out. Mr. Smith carried off my sewing machine and I haven't got it yet.

Q Have you got your things back?

A No, sir. He promised to bring them back that afternoon boy four o'clock, but he never has.

Q Did Mr. Maling tell you to give him permission to move you out?

A No, sir; Mr. Maling told me I should not let him in.

Q You say you were in that house from the 3rd of July?

A Yes, sir.

Q And that Mr. Maling put you in there and paid you for staying there?

A Yes, sir.

Q After he put you in there did you see Mr. Smith and have a talk with him, or say anything to him, about his not going in there?

A Yes, a good while ago. First off, Mr. Smith had a right to come in there, and then afterwards Mr. Maling told me that I should not let in Mr. Smith or any of his men any more.

Q And did you tell Mr. Smith that?

A Yes, sir.

Q Now, tell the judge what you told him exactly?

A First he sent one man there who wanted to look to see how the walls were finished. I said to him that Mr. Maling did not allow any one to come in the house. So he went away. In a little while Mr. Smith came there himself and he says to me: "Did you say I should not come in the house or my men?" I said: "Yes, because Mr. Maling told me so." He says: "Oh, that is all right, I will show you something; you will have to go right away from here and look for another place."

Q You told Mr. Smith that Mr. Maling had told you not to allow him to come in the house?

A Yes, sir; that was about two months ago.

CROSS EXAMINATION BY MR. NAFIS:

Q Mr. Smith has had a key of that house, hasn't he?

A Yes, before, but Mr. Maling changed the key on the door. That was about two months ago, about the time he told me not to let Mr. Smith in the house any more.

Q Has not Mr. Smith, or his man Reilly, had a key of this house so they could go in and out down to Election day?

A Mr. Smith opened the house afterwards himself, after my

things were put out.

Q He had a key?

A Then he had a key, yes.

Q Haven't you asked Mr. Reilly, within two months to let you in this house sometimes when you forgot your key?

A No, sir; I always had my key in my pocket.

Q Has not Mr. Reilly opened the door of that house for you within the past two months at your request?

A I don't remember.

Q Have you seen Mr. Reilly in that house during the last two months?

A No, sir; not Mr. Reilly.

Q Would you remain there all day?

A Generally all day, but I would go and get my meals up to Mr. Maling's restaurant.

Q Have you slept in that house within three months?

A I slept in there the first month, and then after that I slept in there when I liked.

Q How many times did you sleep there?

A I did not count the times.

Q Did you sleep in that house half a dozen times?

A Oh, more than that.

Q Have you slept in there since the first of October?

A I don't think so, but I wouldn't say for sure.

Q What things did you have in the house?

A I had a sewing machine, a bedstead, and a bed that belongs in it, a lounge, a rocking chair, a table, a bureau, some dishes, a wash basin---all what a woman needs, you know.

Q And a stove?

A No, sir; I did not cook there.

Q And you have not slept there within two months past?

A I could not say for sure.

Q Have you not seen Mr. Reilly in the house within the last two months?

A No, sir; Mr. Reilly always called me if a party wanted to see the house.

Q Don't you know that Reilly has gone in and out of that house within the last two months just the same as he did before?

A Oh, yes, but I don't know sure when that was. I could not open the cellar door.

Q What did he open the cellar door for?

A To get fresh air in the house.

Q And he opened the windows, too, didn't he?

A No, I opened the windows myself. But I know when he came in he opened the cellardoor, but I am not sure it was the last two months.

Q How did he get in?

A He came and knocked at the door or rang the bell and I let him in.

Q Did he have a key?

A No, sir; I let him in.

Q Don't you know that he had a key?

A No, sir.

Q Did you never see him go over to the shanty and get a key?

A No, sir.

Q Have you not asked him to go to the office and get a key and

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let you in?

A No, sir; I always had my key.

Q These things were taken out of the house on Election Day morning, were they?

A Yes, sir.

Q Were they taken out with your consent?

A Yes. I said yes when he asked me because he told me that I should have them all back again by three or four o'clock that afternoon.

Defendant's counsel moves to strike out the last sentence of the answer as not responsive.

Motion denied. Defendant's counsel excepts.

Q But you did say to him that he might take out your things?

A Yes, sir; only my things in the top room; not those things down stairs in the basement, but he took out everything.

Q Didn't you know that everything was taken out?

A No, sir; he took them out when I was out to my dinner; and he took the signs off, too.

Q Who took the signs off?

A I don't know who, but they were taken off when I come back at two o'clock.

Q You were willing that your things should be taken out?

A Yes, I was willing.

Q Did you clean up the rooms afterwards?

A Yes, sir; I did.

Q You came back and cleaned up the rooms?

A No, I was there.

Q You said a moment ago that you were out when he took the

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things away?

A He took out the things between nine and ten o'clock, and I was there until eleven o'clock. I was there until the things on the top floor were taken out.

Q And didn't you see the things taken out of the cellar?

A No, sir. Those were not taken out while I was there.

Q Whose things were those down stairs?

A They were things to take care of the house with; there was a chair and some pails and brushes.

Q Who bought those pails?

A I don't know. I brought some of those things there from Mr. Maling's place. I brought soap and a pail.

BY MR. JEROLOMAN:

Q Did you give Mr. Smith permission to take those things out?

A No, sir; I did not.

BY MR. NAFIS:

Q When were you hired by Mr. Maling?

A I was in that place since the third of July.

Q Was Mr. Smith present there then?

A No, sir; Mr. Maling brought me there. He advertised for a woman

Q Didn't Mr. Maling send for Mr. Smith to come out on the sidewalk when you were there?

A No, sir.

Q When did you first see Mr. Smith?

A It was on a Sunday.

Q How did you know him?

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A I did not know him. Mr. Maling said that was Mr. Smith the builder of the house.

Q And was not the time you were hired by Mr. Maling the time you first came there?

A Oh, Mr. Maling told Mr. Smith: "That is the woman I hired for the house".

Q And that is the time you were hired there?

A I was hired there before that.

Q And Mr. Maling told you: "This is Mr. Smith, the builder of the house"?

A "This is the builder", he says.

Q Mr. Smith went in and out of that house after that time, didn't he?

A Yes, sir; he was a good friend at that time with Mr. Maling.

Q And after that time, did he not want any money from Mr. Maling?

A Yes, sir; he was a good friend at that time with Mr. Maling. And after that time, he was a bad friend? Mr. Maling always said to me, "I don't want any money from Mr. Smith."

COMPLAINT RESTS.

Defendants counsel moves to dismiss the complaint.

Motion denied. Defendant's counsel excepts.

ADJOURNED, to Friday, November 23rd, 1888 at
3. P. M.

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District Attorney's Office.

Part 2

PEOPLE

vs.

Mary 13th 1897

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

Police Court, District.

Philip Moling

of No. 1225. Smith Avenue, being duly sworn, deposes and

says, that on or about the 6th day of November 1888

at the City of New York, in the County of New York, one Justice J.

Smith & other persons unknown to deponent, forcible broke into and entered upon and retained from deponent certain premises or lands of this deponent, with the building thereon erected, known and designated as No. 152 West 76th, in the City of New York, and that said Smith in entering upon said land and premises did use great force in order to enter into the same, the said land and premises at the time being inclosed and the door and windows thereof duly secured, locked and fastened at the time: That deponent is the owner of the land & premises and entitled to the lawful possession thereof.

That said entry upon said land and premises by said Justice J. Smith and others, was without the knowledge or consent of this deponent, and said entry upon said land and premises by said Justice J. Smith and others, & the detainer, was and is in violation of sections 465 and 467 of the Penal Code of the State of New York.

That one John Riley was present at the time of the said forcible entry by said Justice J. Smith and others, as deponent is informed and believes

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and known of the fact of said
J. Smith, gained with the aid
of others, breaking into, and entering
upon said premises & of his detainer
thereof from this deponent

That up to the 6th of November 1888
said premises were inclosed and the
door and windows thereof duly locked and
fastened, and in deponents absolute pos-
session for several months prior thereto

That one Mrs. Otto, resided upon said
land & premises for about 5 months last past
by the permission of deponent & took care
of the land and premises for deponent
until of her deq, when said J. Smith
unlawfully & freely removed her things therefrom.

That she also knows of the said
Smiths private entry & detainer of the
land and premises. This unlawful &
private entry, intrusion and detainer
thereof. Deponent prays that said J. Smith
may be arrested & dealt with according to
law.

Subscribed and sworn to
November 12/1888

Philip Kaling

Police Justice

Police Court, District.

THE PEOPLE, &c.

ON THE COMPLAINT OF

vs.

AFFIDAVIT.

Dated 187

Magistrate.

Officer.

Witness.

Disposition.

0200

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 57 years, occupation Watchman of No. 002 East 113th Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of Philip Moling

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

Sworn to before me, this 12th

day of November 1888

John X Reilly
Mark
Police Justice.

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POLICE COURT 5 DISTRICT.

City and County of New York, ss.:

THE PEOPLE,

vs.

Justus J. Smith

On Complaint of

For

Philip Moline
forcible entry & detainer

After being informed of my rights under the law, I hereby ^{Demand} ~~have~~ a trial, by Jury, on this complaint, and demand a trial at the COURT OF ^{General} ~~SPECIAL~~ SESSIONS OF THE PEACE, to be holden in and for the City and County of New York.

Dated Nov 16 1888

Wm. Brown

Police Justice.

Justus J. Smith

0202

Sec. 193-200.

District Police Court.

CITY AND COUNTY OF NEW YORK, ss.

Justus J. Smith 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. *Justus J. Smith*

Question. How old are you?

Answer. *40 years*

Question. Where were you born?

Answer. *Maame*

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

Answer. *145 E 127th Street*

Question. What is your business or profession?

Answer. *Builder*

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 of the charge*
Justus J. Smith

Taken before me this
day of *Feb* 1908

Police Justice.

POLICE JUSTICE.

0204

Police Court District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Warrant-General.

Dated 188

Magistrate

Blass Officer.

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.

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

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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

Justus J. Smith
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 27th 1888 H. M. Seymour Police Justice.

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

Dated Nov 30 1888 H. M. Seymour Police Justice.

There being no sufficient cause to believe the within named

guilty of the offence within mentioned, I order he to be discharged.

Dated _____ 188 _____ Police Justice.

0207

CITY AND COUNTY OF NEW YORK, SS.

This is to certify that I JOHN RILEY was watchman of house No. 152 West 76th Street, during the summer and fall of 1888. I was there at the time of the moving of the furniture from house No. 152 to house No. 154 West 76th Street, of the woman who did the cleaning at the said house 152, and the woman was there and packed up the things for us to move and helped all she could. She washed up the floor and cleaned the room after the furniture had been taken out of the house. I have heard read the affidavit of Justus J. Smith, and I know of my own knowledge that he the said Smith had the keys to the house and went in at will. He also showed the house to customers and employed me to look after the said house during that time, and that the woman went out of the house quietly and without any force or protestations on her part, and the only breaking into the house was done by Philip Maling who forced his way in with one Wm. Lee and a man he called his lawyer.

his
John Riley
mark
Sworn to me the third day of Feb
1890

Frank Jarvis
Notary Public
New York Co.

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CITY AND COUNTY OF NEW YORK, SS.

This is to certify that I CHARLES RENAL was day watchman of house No. 152 West 76th Street, during the summer and fall of 1888, I was there at the time of the moving of the furniture from house No. 152 to house No. 154 West 76th Street, of the woman who did the cleaning at the said house 152, and the woman was there and packed up the things for us to move and helped all she could. She washed up the floor and cleaned the room after the furniture had been taken out of the house. I also have read the affidavit of Justus J. Smith, and I know of my own knowledge that he the said Smith had the keys to the house and went in at will. He also showed the house to customers and employed me to look after the said house during that time, and that the woman went out of the house quietly and without any force or protestation on her part, and the only breaking into the said house was done by Philip Maling who forced his way in with one WM. Lee and a man he called his lawyer.

Charles Renal

*Sworn to before me the third of
Feby, 1890*

*Y
Frank Jarvis
Notary Public
New York Co.
no 6*

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JEROLMAN & ARROWSMITH,

WM. ARROWSMITH.

ATTORNEYS AND COUNSELLORS AT LAW,

229 BROADWAY,

New York, City, 2nd July 1888

Mr W^m H. Noyes
Counselor at Law
Dear Sir:

Will your client
give \$7,000, and take
the property?

I presume you
know that the Equitable
Life threatens to fore-
close ~~their~~ its mortgage
if the interest is not imme-
diately paid.

Let me hear from you
as soon as possible.
Very truly yours
J^{no} Jerolman
& Counsel for Mortgage

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CITY AND COUNTY OF NEW YORK, SS.

JUSTUS J. SMITH, being duly sworn, deposes and says,

I first remember meeting Philip Maling in August, 1886, we became well acquainted in 1886. In 1887, we were quite friendly and met very often. In October, 1887, at Maling's request, I made arrangements to build a stable for his and my own private use. We were to share the expense of the building and to own and occupy it jointly. I commenced work on the stable November, 1st, 1887, and finished it in about a month and when completed we both put our horses in it and occupied it in common. On the 10th, day of January, 1888 I went down to Mr. Maling's new store at the corner of 10th avenue and 74th street and met Mr. Wm. Lee and while there Mr. Maling came in and appeared pleased to see me as I had not seen him for several days. He opened a bottle of wine and we spent a pleasant evening. In the course of our conversation I mentioned my firm's embarrassment and explained something of the causes, and the said Maling then said he thought he could raise me five thousand dollars and would, if it would help me. I thanked him and as it was getting late we went home.

0211

2.

A few days later he let me have some money, and about January 18th, I had a deed drawn up of house, 152 West 76th St for Philip Maling, subject to mortgages of twenty-five thousand dollars, interest and taxes. When properly executed, I showed the deed to Mr. Maling and told him that, as things looked as though we might be obliged to assign, I had drawn it to protect him. In our conversation, we talked of the validity of the deed, should we (meaning Smith and Drake) assign. We then agreed that he should hold the deed as security for the money which he had loaned and was going to loan, and which in all was to amount to five thousand dollars (\$5,000), and that upon the completion of the said house, the equity was to belong equally to the said Maling and myself. By the "equity", I mean whatever was above the incumbrances then on the house, with the addition of the five thousand dollars which the said Maling was to advance. Up to January 21st, 1888, about the time the arrangements were completed between Maling and myself, I had borrowed of him but four hundred and three dollars, (\$403.00). It was decided not to have any papers drawn up regarding our agreement, as it might affect Maling's security for moneys which Maling should advance after our (Smith and Drake's) assignment. I finished the house, getting moneys from Maling as follows :

January 23rd,	\$200.00 :	February 25th	\$115.00
" 25th	\$100.00 :	" 27th,	\$150.34
" 28th,	\$25.00 :	" 28th,	\$25.00
" 31st,	\$125.00 :	" 29th,	\$70.00
February 4th,	\$75.00 :	March 9th,	\$62.50
" 6th,	\$50.00 :	" 15th,	\$75.00
" 8th,	\$55.50 :	" 13th,	\$50.00

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February 10th,	\$42.32.	:	March 17th,	\$78.80.
" 11th,	\$175.00.	:	" 19th,	\$100.00.
" 15th,	\$25.00.	:	" 21st,	\$45.00.
" 16th,	\$34.80.	:	" 24th,	\$160.00.
" 18th,	\$335.20.	:	" 26th,	\$253.00.
" 21st,	\$50.00.	:	" 27th,	\$140.00.

At sundry times later on \$722.00. Making in all

In addition to this there were some other bills which were paid by my order but not knowing the exact date of their payment or amount I have not included them above. The orders will however show for themselves. The full five thousand dollars was never advanced by the said Maling, though the house was completed early in the spring of 1888, which according to our agreement made the money due at that time.

Our faith in each other, I believe to have been mutual, as I never gave any vouchers for the payment of money to me by Maling, nor did he know how much he had let me have until the account was given him by myself, a part of which statement was given him since this trouble began. On the other hand I did not take any papers from Mr. Maling as to our agreement of January, 1888, whereby we were to own the house mutually, as we did the stable.

I made all of the agreements as to the finishing up of the said house, made the agreement as to the restriction of the street in May, 1888, giving my own note for the same, which he indorsed, made arrangements for the mortgage which were not carried out on account of title, attended to all repairs, paid the watchman and was there Sundays and week days to show the house to customers and no business in connection

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with the house was done without me and my sanction, or tried to be done. After the house was finished we decided to get a woman to keep the house clean, and Mr. Maling advertised for one, and got one, who staid a few weeks. We let her go, as Mr. Maling said he would like to get one who could do work enough at his place for her board and make it cheaper for us, and so the change was made and we got one who by sleeping in the house and doing some work at his, Maling's place, did not cost us but \$3.00 per week. She had one of the latch keys, and Mr. Maling, myself and my watchman each had a latch key. I had the keys to the lock and all of the keys to the rear and inside doors. In September about the 3rd, Mr. Maling came to me and wanted me to consent to the putting up of a sign of a real estate agent in the window. I did not consent, not having a high opinion of the man. One day, about the 15th, of September, when I was away Mr. Maling came up and put up the sign in the window, I took it down and it remained down.

On the 22nd, day of September I sold one of the houses for the estate of Smith & Drake, number 158 West 76th, street. Mr. Maling then said that I was not trying to sell the house number 152 and that the people he spoke of had customers and would sell the house, number 152, in a week if they had a sign up in the window. On the 26th, of September Maling came up and put up the sign in the window and I let it remain. The same day I went down to his place and on the Boulevard we had some warm words about the house and he admitted before witnesses that he and myself owned the house equally subject to the incumbrances which included the money he had advanced me.

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He said he wanted his money. I told him if he would come down town with me I would get it for him, but he said he wanted ten thousand dollars for the three or four thousand dollars advanced. I told him we both would be obliged to wait until the house was sold for our profits. In a few days Mr. Gill came to the house and I told him that Maling was getting ugly and I thought he was badly advised and I felt somewhat uneasy about my position, as there was no written agreement between us. I asked him to go around and see Mr. Maling and see if he owned up to the agreement, previously mentioned, that we were equal owners in the house.

Mr. Gill went around and came back and said that Mr. Maling had said that the agreement was as hereinbefore stated by me, but said he would like to sell the house. Mr. Gill said he asked him how much he had been offered, and he said forty two thousand dollars, but had not been offered it lately.

I had several interviews with Jeroloman, Maling's lawyer and told him our agreement, Maling's and mine, and he always talked about the matter the same as though he so understood it. About the first of November Mr. Cornish of 179 Broadway informed me that he had a customer for the house, No. 152 West 76th street, and would like to show the house if it was clean. He also said he did not want any furniture in the house if it could be removed. I told him I thought it could and would see to it. I went up to the house and sent my watchman for the woman who had her things there and told her I wanted the things out and asked her if there was any objection to putting them in the next house. She said no as

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she did not sleep there any more they could be removed to the next house if I so desired. I then called over my watchman and another young man and they and the woman moved the things into the next house. After they were moved she washed up the floor and cleaned the room and every thing was pleasant. I would not allow the things to be put back in the house, and then Mr. Maling made a great fuss and with his lawyer came up there, and, as I am informed by my watchman and Mr. Renal, as the front door was locked they went around to the rear and got in the house through the window of the cellar, and Maling said he would show Mr. Smith what influence he had in New York

Awhile after I was informed by my watchman that they had a warrant out for my arrest and the next morning I went to the court house and asked Geo. Cruger, clerk of the court, if it was true. He said it was true but claimed he had no right to tell me. I told him I was ready to meet all charges and he went to the sergeant, and the sergeant said the officer had the papers away with him. I told them I would try and be there in the afternoon. I then went down town, and, as my attorney did not come down I did not go to the court until the next morning. I then went and appeared before Judge Murray who paroled me for hearing the next day. We had several hearings but I did not go on the stand as there seemed no justice for me no matter what evidence I had, so after several hearings we waived further examination. In the meantime the court officer who they claimed had my warrant went down to the house and told my watchman, he was a deputy sheriff and showed him some papers, (the watchman by the way could neither read nor write), and by that means got into the

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house and said "get these things out of here quick". Which meant my office furniture and in this way by fraud my things were removed from the house, and they, Maling's people remained in the house. Judge Murray ordered me to have the woman's things put back into the house, and it was done.

Every thing that was done on my part was done without violence or misrepresentation. I was the owner of the house No. 152 West 76th street, in fact, and had never given up possession to any one or been asked to. After this decision of Judge Murray, and Maling got into the house in the manner above stated, Mr. Maling had a watchman in the house and did not let any one in for some time. One day soon after, I was over to the houses and saw that the house was badly damaged by water, the pipes had burst and the house was wet from the third story to the basement, the frescoing which had been ruined was very elaborate and expensive and the house was in a pitiable condition.

Mr. Maling would neither make any arrangements by which the house could be sold or put it in condition himself but let it be in the ruinous condition it was when sold at a foreclosure at a great sacrifice, and I have never received one penny from it or from Mr. Maling.

Justus J. Smith

Sworn to before me this :
10th day of *June* 1890 :

John H. Hafis
Notary Public
for King Co.
Carpenter's field
in New York Co.

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5th District Police Court
N.Y. Nov. 23rd, 1888
(Examination) (Continued)

Wm Lee of 74th Street near 10th Avenue
sworn testified as follows:

Direct Ex.ⁿ - by - Mr. Guilamin

I am a lock-smith and bell hanger. About two months ago Mr. Cushing got me to change the tumblers and the three keys on the outside and vestibule doors; got me to fit the same locks with the original keys. They wouldn't fit the locks - these original keys and would not unlock the doors - they were perfectly free. I have been a lock-smith thirty odd years. Mr. Cushing paid me for doing that. I am familiar with locks of this character and I can state that the locks couldn't be unlocked with the old keys after I fixed the tumblers. I gave him three keys.

Cross Exam - by - Mr.

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I changed the outside and vestibule door locks, on the first floor. It was the latch key I changed. I did not change the main key; I did not do anything with the basement door key.

Defence

Robinson Gell, being sworn testified as follows:

Direct Exam - By -

I keep a store yard at the foot of East 106th Street. I know this defendant and met Mr. Mahling once before this. I received this note (marked Dfts Exhibit No. for identification No. 23/88) ~~which~~ I called on him in response to that note. He was not there at first & I called again & saw him. I asked him what I could do for him and he said he

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I said I called about this note. He said he wanted to sell the house in 276th Street that I had the mortgage on - the first one from 9th Avenue. I told him I did not want to buy any houses as I had all the houses I wanted. He said Smith was acting ugly and contrary and that he wanted to get disconnected with him altogether. I asked him what he wanted for the house and Smith he said about \$34,000. I told him I thought he was offered \$42,000 for the house some time ago and he said he was and I asked him why he did not sell it and he said he couldn't do anything with Smith because if he did he would file a lawsuit. I said "I suppose you have advanced the money to finish the house and Mr. Smith has a claim for whatever equity there was in the house over and above the amount you have advanced." and he said "yes," that was the way the thing stood.

P

He wanted to get rid of Smith, he said, and the house together. That was about the conversation, as near as I can remember. That was about the 25th of September 1888.

(Paper offered in evidence and marked Dfts Exhibit No 2388)
 Corp - Exam - by - ear, Swolamun
 At that time I had a mortgage on this house of \$5,000. At the time I saw Mr. Shelling no part of the principal or interest had been paid on that mortgage. I sold the mortgage since. Mr. Shelling may have asked me if any interest had been made. He wanted to see me about selling me the house. I think I told him the interest wasn't paid.

Re Direct Exam

I don't think I have been in that house since this occurrence. I might have been there probably within a week or two of that occurrence. I went in there

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with Mr. Smith and I think without him. I looked in there two or three times - I think the door was open.

Re Mrs. Egan - by - Mr. Jewellman

I went through the house then. I did not see any room up-stairs with furniture in it. I might have been all through it before this time. I remember going to the upper stories when they were decorating it just after the parlors was done.

~~Arthur J. Blavin, of 803 - 9th Avenue,
New York~~

~~Street - Egan - by - Mr. Jewellman~~

~~I had one man to work on the house
152 West 7th St. He was under
my contract - he fixed the windows.
That was about four weeks ago.
Mr. Smith ordered me to send him~~

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There and Mr. Smith paid for it.

Cross Exam - by - Mr. Jewlaman

I say my man fix the windows. I did not see him fix them. I did not see him there at all.

Mr. Jewlaman moved to strike out all the evidence of the witness.
Motion granted.

John Dove of 129 West 118 St.
sworn say -

Direct Exam - by - Mr.

I am a carpenter and I fixed some oak and doors & put in a cellar door in the house 152 West 76 St. That was about five weeks ago. I worked for Mr. Smith & he paid me for it and directed me to do it. I done it.

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days work on the adjoining houses.
I have been in the houses prior
to & subsequent to this time. I
went in there to look them over.
I got the key from the shanty
across the street. I had no diffi-
culty in getting in the house

Direct Exam - by - Mr. Jewell

- 2 I went in the front door - that was
five weeks ago Monday. I put in
a new back cellar door. I don't
know whether Mr. Smith had any
~~thing~~ money to put that in long ago.
I went all through the house then.
I didn't notice any furniture in there.
and didn't go in any room where
there was any. I see Mr. Otto
in there.
-

Charles Penaly of No. 225 West
76th Street says -

Direct Exam - by -

I am an apprentice to Mr. Smith.
I was in 152 West 76 St about
five weeks ago. I was in there
about Election time last when
Mr. Riley was there. I was in the
habit of going in there once or
twice a day. I got in by the key which
was hanging in the shanty across
the way. I knew Mrs Otto who
was in 152. She asked me to
close the windows - as she said
she wouldn't be back & when she
would go away and say she
wouldn't be back she would
lock the door and pull it after her.
She had a key for the door and I
had a key. When she went away
I went ^{to look after the windows} got in by the key in the
shanty.

Cross Exam - by - Mr. Jewellman.

Mrs Otto opened the windows and
asked me to close them. Mr. Morking
asked me to go in there. I know that
Mrs Otto was placed there by
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Mr. Molling. I didn't know whether
 Mr. Smith put her there. She had
 furniture, bedding, sewing machine,
 pails, brooms & scrubbing brushes
 there I suppose. She occupied the
 back room on the top floor. I helped
 to take the things out of there to the
 next house. They have not been sent
 back to the house. I saw her there
 mostly every day - going in and out
 of the house. I went in there with-
 out Mr. Molling's permission

Re-Direct, Somay — by —

Riley opened the doors to let the air in
 there in the last month or two and
 swept the cellar out. Mr. Smith
 sent me there to open and close
 the windows. She pays me. I asked
 Mrs. Otto if she wanted those things
 and she said she wanted them
 back in the house, but I couldn't
 get in the house to put them there.

By Mr. J. L. Lamm - Re - Corp Exam.

I didn't tell her the reason why.
I don't know whether Mr. Smith
told her if she wanted them to go
and get them. I didn't hear him
say he would bring them out.

Re - Direct - Exam - by -

Mr. Smith did not give me any di-
rections about taking them back to her.
He told me to ask her where she
wanted them. She was in Mr. Hollings'
house. I asked her if she wanted
any of the things, the machine or
anything and she said "yes". He
told me to ask her if she wanted them
there and she said "no" to take them
where we took them from. She
has not been to the house back
me to put them back. That was
last week.

Re Cross-Examination - by - car. Jewellman

- Q It was since last Friday?
 A I don't know.
 Q They are in that house yet?
 A Yes sir.

Sidney Lemon - of No. 343 West 44th
Sworn being sworn says

Direct Examination - by - car. —

I am a watchman and janitor. I know the house 152 West 46th Street and the row and I looked after them on Sundays for car. Smith and he paid me. I have been in 152 several times to open it for anybody who wanted to see it.

Cross-Examination - by - car. Jewellman

That was about five or six weeks

ago. I think it was before the 1st of September last that I was there. I don't remember particularly, I don't watch them now. It was about five or six weeks ago I last watched them. It was about a week and a half before Election. I was last in the house - Mr. Smith went away and told me to take the key and if anybody wanted to examine them to show them and a lady and gentleman came there and I did so. That was a week and a half or two weeks before Election. I did not get permission from Mr. Colby to go in there or from Mrs. Oct.

Re-Speech Exam - by -

Mr. Smith gave me the key. I don't know where it was kept. I unlocked the door with it and went in there.

Alfred Strap of No. 208 - 27
Street known as

I am a painter and varnisher and
 have worked in the house 152 West
 76th Street about three months ago -
 in August last, Mr. Smith em-
 ployed me to paint there and paid
 me.

Crops - Exam - by - Mr. Seolamun

I saw Mrs. Otto in that house and
 I saw her things in there. I saw her
 go in there, open the door and
 shut it when she went out, and
 I saw her open the windows to air
 the place. Sometimes I got the
 key from a shanty across the way
 or in the houses they have a key. They
 have what is called an office in
 the other houses. Since Mrs. Otto
 opened the door for me, Mr. Smith
 had a book keeper who sometimes
 showed the house to people. He

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would get in through the front
door with a key.

Wm McK. Alcott of 11 West
13th being sworn says:

Direct Exam - by - sw. -

I know Mr. Chasling and Mr. Smith.
I had a short conversation two weeks
ago last Sunday with Mr. Chasling
at his restaurant in 7th Street &
10th Avenue. I went there to see him
about another matter of business. In
the course of the conversation he said
asked me what Mr. Smith was
going to do and I said we were
pushing Mr. Smith's matters as
fast as we could, referring to
some business matters I have with
Mr. Smith and he said he wished
Smith would pay him. I didn't
pay much attention to the conver-

Dation. To the best of my recollection
I asked, pay him what, and he
said he met him on the house,
so that he never gets square. ~~The~~
~~estate~~ referred to the house 152
West 46th Street

Cross Exam - by - Mr. Sewlannon.

I am the assignee of Smith &
Drake - the substituted assignee.
I made up the schedules in re-
lation to Mr. Smith & Drake's
property. That is the statement
sworn to by me in the matter. I ob-
tained the information to make up
these schedules from former
schedules filed by Luther E.
Kimball, the original assignee and
from the books of the Estate and
from Mr. Smith. (Paper offered in
evidence) That schedule does not
include these premises as a part

of the property. It includes the indebtedness by said Marling. The record shows that at the time these schedules were made up that Justice J. Smith, the defendant, in this matter had decided that property, by bargain and sale to Philip Marling. I know nothing except what was on the record at the time. That affidavit was true when I swore to it.

(Marked in evidence as People's Exhibit No. One of November 23rd 1888)

By The Court

The affidavit contains a statement of sum \$3500 due by this complainant to the defendant. The books of the Estate weren't very clear on this subject. I state all the explanation I can find of that and I came to

the conclusion that \$3,500 was due, according to the books of the Estate. If I knew then that Mr. Smith had any other claim then I would have stated it. I thought then it was a correct statement, after a careful research. I searched every department where such information could be got where I could except for instance I did not see Mr. Allowing. I did not investigate some stores. I investigated the public records of the City and did all that I could do and this is the result, of my labor on the subject.

Comp Exam - by - Mr. Jewellman

I understood when Mr. Smith made his assignment to Mr. Kimball, on the 25th of January 1888 and I succeeded ~~him~~ Kimball as Assignee, that I became possessed, under the law,

and vested by that assignment with any rights, privileges, Equity & license which Mr. Smith has at any time, in the premises 152 West 76th Street, as a matter of law.

Re-Direct Exam

I have been engaged in the completion of this row of houses, since Mr. Smith made his assignment and Mr. Smith has been supervising there under my direction.

By "The Court"

- 2 In that house?
 - Q The five houses.
-

Re-Direct Exam (contd)

This house was finished I believe, but I was appointed assignee

By "The Clerk"

2 Did you pretend to give him any authority over that house?
 A I never understood I had any.

Re-Direct Exam (cont'd)

I have no conversation with car-
 colling since I filed these sche-
 dules in May last, respecting
 this house 152 West 76th Street, except
 this I have stated, of any material
 character. I had seen him once
 or twice. I remember once meeting
 him in the street; a little time
 ago and he said he was going
 to have car. Smith arrested and
 I asked him what for and he
 said for breaking into the house
 and I made no remark to him
 whatever.

Re - Corp Exam - by - ew. Jewlamm

I was ew. Smith's Attorney before he made the assignment and I drew the assignment and it is on file in the County Clerk's Office. I knew all about ew. Smith's affairs that he told me about. He and I conversed in relation to ew. holding ~~advancing~~ advancing the money to finish the houses. I knew all about that which he told me. It cost \$58 to record that deed.

Re - Direct Exam - by - _____

I drew that deed at ew. Smith's request and recorded it and I paid for the recording of it and charged it to ew. Smith.

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Adjourned to November 27th 1888
at 3. P.M.

November 27th 1888

Counsel for the defence here waived
further examination in ~~this~~
matter.

[Signature]

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Witnesses,

Chipp Mowley

Mar Cella

Counsel,

Filed

day of

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Pleads,

THE PEOPLE

vs.

Justice J. Smith

[Section 465 of 467, Penal Code.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

[Signature]

Foreman.

[Signature]

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0239

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Arthur G. Smith

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

Indictment accuse

Arthur G. Smith

of the crime of

using and procuring, encouraging and assisting others to use, force and violence, unlawfully in entering upon and obtaining lands and possessions,

committed as follows:

The said

Arthur G. Smith,

Ward of the

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

— sixth — day of *November,* in the year of our Lord one thousand eight hundred and eighty-*— eighth —* *Ward,* at the City and County aforesaid,

unlawfully did use, and procure, encourage and assist and other persons to the Grand Jury of New York, said unknown, then and there to use, force and violence, without any lawful right, authority or excuse, whatsoever, in entering upon and obtaining certain lands and other possessions of one Philip Madry, to wit: a certain lot and parcel of land there situate, with the building and

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dwelling-house thereon erected,
and known and designated as
number one hundred and fifty-
two West Seventy-Fifth Street,
against the power of the State
in such case made and pro-
vided, and against the power
of the People of the State of
New York, and their agents.

0241

Second COUNT.

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

Justus G. Smith

of the ~~Crime of~~ same crime,

committed as follows:

The said

Justus G. Smith,

~~late of the City and County aforesaid, afterwards to wit:~~ On the day and in the year aforesaid,
~~at the City and County aforesaid,~~ together with divers

other persons to the Grand Jury
aforesaid unknown, with force
and arms, into a certain lot and
parcel of land there situate, and
into a certain building and dwelling
house thereon erected, and known
and designated as number one
hundred-and-fifty-two West
Seventy-fifth Street, then and
there being in the peaceable pos-
session of one Philip Mahony,
unlawfully, violently and iniqui-
tously, and with a strong hand,
did enter, and the said Justus
G. Smith, together with the said

0242

other persons, then and there,
with force and arms, and with
a strong hand, unlawfully,
violently, fraudulently and injuriously
did enter, remove and put out
the said Philip Maling from
the possession of the said land
and building, and the said Philip
Maling, so as aforesaid expelled,
removed and put out from the
possession of the same, then
and there, with force and arms,
and with a strong hand, un-
lawfully, violently, fraudulently and
injuriously, have kept out from
the day and year aforesaid, until
the giving of this judgment,
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.

0243

Grand COUNT.

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

Justus G. Smith
of the CRIME of intending upon land in
out authority from the owner thereof.

committed as follows:

The said

Justus G. Smith,

Ward
late of the City and County aforesaid, afterwards to wit: On the day and in the year aforesaid,
at the City and County aforesaid, did intend to intend

upon a certain lot and piece of
land within the bounds of the
said City of New York, to wit:
a certain lot and piece of land
situate in the Ward aforesaid, and
known and designated as number
one hundred and eighty-two West
Seventy First Street, belonging
to one Philip Malin, without
authority from the said Philip
Malin, the owner thereof, against
the form of the Statute
in such case made and
provided, and against
the peace of the People of

0244

The State of New York,
and their dignity.

John R. Folger.

Notary Public.

0245

BOX:

383

FOLDER:

3571

DESCRIPTION:

Smyth, William H.

DATE:

01/08/90



3571

0247

Police Court—2 District.City and County }
of New York, } ss.:of No. 101 West 38th Street, aged 29 years,occupation Saloon Keeper being duly sworndeposes and says, that the premises No. 101 West 38th Street,in the City and County aforesaid, the said being a Three story brickhouse and which was occupied by deponent as a Liquor Saloon and dwelling houseand in which there was at the time ^{no} human being, by namewere BURGLARIOUSLY entered by means of forcibly breakingtwo doors in the cellar and raising
the trap door leading from the cellar
into deponent's saloon in said premiseson the 21st day of December 1889 in the night time, and the
following property feloniously taken, stolen, and carried away, viz:Good and lawful money of the
United States, consisting of
silver, nickel and copper coin
of the value of seven hundred dollars
and one overcoat of the value
of twenty eight dollars together
of the value of Forty five dollars
(\$45.00)the property of Deponent

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

William A. Smyth (the offender)

for the reasons following, to wit:

at the hour of one
o'clock A.M. on said date
deponent locked and securely
fastened the doors of said
saloon, and left said saloon
for the night, leaving said
property therein.Deponent is
informed by Officer Griffin A. Merritt

0248

that at about the hour of four o'clock a.m. on said date he found the said defendant in the hallway of said premises with an overcoat and seventeen dollars in silver, nickel, and copper coin in his possession.

Deponer further says that he was aroused by the officer and upon examining said saloon he discovered that it had been entered as aforesaid and said property had been taken therefrom and that he fully identifies the coat and the money found upon the defendant as his.

Wherefore deponer charges the said defendant with burglariously entering said premises as aforesaid and feloniously taking, stealing and carrying away said property.

Sworn to before me } Henry Bellard
this 27th day of December 1889

John L. Gorman
Police Justice

Police Court	2 nd	District
THE PEOPLE, & c., ON THE COMPLAINT OF		
Henry Bellard		
vs.		
William A. Smith		
Burglary		
Dated	Dec 27	1889
John L. Gorman		
Magistrate		
Officer		
Clerk		
Witnesses:		
Committed in default of \$		
Bailed by		
No.	Street	

0249

CITY AND COUNTY { ss.
OF NEW YORK, }

aged _____ years, occupation Griffin H. Merritt
Police officer of No.

19 Mercer Police Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of Henry Ballmer

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

Sworn to before me, this 21

day of Dec 1899

Griffin H. Merritt

John Horner
Police Justice.

0250

Sec. 193-200.

CITY AND COUNTY }
OF NEW YORK, } ss.

7 District Police Court.

William H. Smythe 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. William H. Smythe

Question. How old are you?

Answer. 26 years

Question. Where were you born?

Answer. Norfolk, Va

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

Answer. No home

Question. What is your business or profession?

Answer. Laborer

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

Answer.

I refuse to say anything

W. H. Smythe

Taken before me this

day of May

1889

John J. Thompson Police Justice

0251

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 *Sept 1* 18*89* *Wm. H. Hoffman* 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.

0252

100 4 2 1858
Police Court--- District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Henry Bullman
101 es. 2nd St 38 2d

1 *William H. Smythe*

2

3

4

Offence
Burglary

Dated *Dec 21* 1889

Gorman Magistrate.

Merritt Officer.

19th Precinct.

Witnesses *Officer Merritt*

No. *19th Precinct* Street.

No. Street.

No. Street.

\$ *1000* to answer

Chas. Bullman
101 es. 2nd St 38 2d
Henry

BAILED.

No. 1, by

Residence Street.

No. 2, by

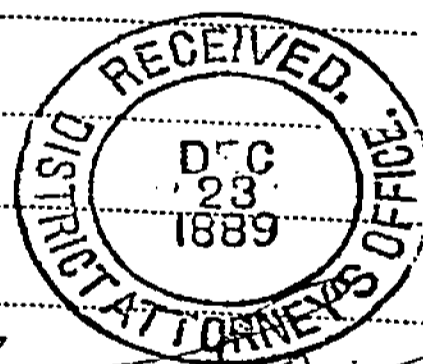
Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.



0253

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

William H Smythe

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

William H Smythe

of the CRIME OF BURGLARY IN THE THIRD DEGREE, committed as follows:

The said

William H. Smythe

late of the *Twentieth* Ward of the City of New York, in the County of New York, aforesaid, on the *twenty-first* day of *December* in the year of our Lord one thousand eight hundred and *eighty-nine*, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the *saloon* of one

Henry Bellmer

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

Henry Bellmer

in the said *saloon* 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.

0254

SECOND COUNT—

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

William H. Smythe
of the CRIME OF *Grand* LARCENY in the second degree, committed as follows:

The said *William H. Smythe*

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

*divers coins of the United States,
of a number, kind and denomination
to the Grand Jury aforesaid un-
known, of the value of seventeen
dollars and one overcoat of the
value of twenty-eight dollars*

of the goods, chattels and personal property of one

in the *saloon* of the said

Henry Bellmer
Henry Bellmer

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

0255

THIRD COUNT—

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

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

The said

William H Smythe

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

*divers coins of the United States of
a number, kind and denomination to
the Grand Jury aforesaid unknown,
of the value of seventeen dollars,
and one overcoat of the value of
twenty-eight dollars*

of the goods, chattels and personal property of one

Henry Bellmer

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

Henry Bellmer

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

William H. Smythe

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.

0256

BOX:

383

FOLDER:

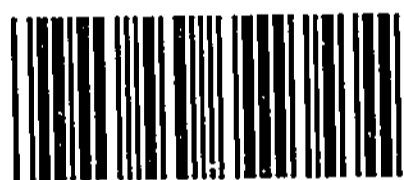
3571

DESCRIPTION:

Somers, Sarah

DATE:

01/22/90



3571

0257

Witnesses;

Wm. M. Carthy

21st Precinct

283
J. W. Herge

Counsel,
Filed 22 day of Jan 1890
Pleads, *Not Guilty*

THE PEOPLE

vs.
25 3.38
310 3.38
Sarah Soners
Grand Larceny Second Degree.
[Sections 528, 531 Penal Code].

JOHN R. FELLOWS,
District Attorney.

A True Bill.

W. H. H. H.
Foreman.

Part III February 7th 1890.
Pleas Guilty. 714
Pen. 2 yrs.
Feb 14/90

0258

Police Court

Police Court—

District.

Affidavit—Larceny.

City and County
of New York, ss.:

of No. 116 East 38th Street, aged 27 years,
 occupation Broker being duly sworn

deposes and says, that on the 17 day of January 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:

One diamond Finger Ring of the value of
Two Hundred and Fifty Dollars
One Clock of the value of One Dollar
One Silver Hair Brush of the value
of Eight Dollars, One Leather
Pocket Book of the value of
Eight Dollars and One Silk
Handkerchief of the value of Two
Dollars and all of the value of
Two Hundred and sixty-nine 100 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 Sarah Summers (now here)

from the fact that said property
 was in said premises, and said
 deponent was employed by
 deponent as a domestic in
 said premises and had access to said
 property and on the aforesaid day
 deponent discharged said defendant
 and soon after said defendant
 had left said premises deponent
 missed said property and deponent
 is informed by Officer by Delius McCarry
 of the 21st Police Precinct that he
McCarry arrested said defendant
 and found said property

Sworn to before me this

day

188

Police Justice.

0259

in her said defendants possession
deponent therefore charges said Sarah
Summers with larceny committed
said larceny and asks that she
may be dealt with as the law
may direct.

Subscribed before me this Burbank Roberts,
18-day of January 1890
Solon B. Seligman
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
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 1888 Police Justice.
I have admitted the above named
to bail to answer by the undertaking hereto annexed.
Dated 1888 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 1888 Police Justice.

Police Court, District,	Office—LARCENY.
THE PEOPLE, &c., on the complaint of	
1.	
2.	
3.	
4.	
Dated 1888	Magistrate.
	Officer.
	Clerk.
Witnesses,	
No.	Street.
No.	Street.
No.	Street.
No.	Sessions.
No.	to answer

0260

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 43 years, occupation Police Officer of No.
the 21st Precinct Police being duly sworn deposes and

says, that he has heard read the foregoing affidavit of Burbank Roberts

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

Sworn to before me, this 15th

day of January 1893

Dennis McCarthy

Salon B. Smith
Police Justice.

0261

Sec. 198-200.

CITY AND COUNTY
OF NEW YORK, } ss.

H/H District Police Court.

Sarah Summers 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 he see fit to answer the charge and explain the facts alleged against h — that he is at liberty to waive making a statement, and that h — waiver cannot be used against h — on the trial.

Question. What is your name.

Answer.

Sarah Summers

Question. How old are you?

Answer.

25 years

Question. Where were you born?

Answer.

England

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

Answer.

310 E 36th St 1 week

Question. What is your business or profession?

Answer.

Cook

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 guilty of the charge

Sarah Summers

Taken before me this

day of

189

John A. Smith
Police Justice

0262

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 Sydney

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

Dated 18 Jan 90 1889 Salon B. Shurt Police Just. cc.

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

Dated _____ 188 _____ Police Justice.

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

Dated _____ 188 _____ Police Justice.

0263

BAILED.

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court 4 District. 110

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Burbank Roberts
116 East 68th
Sarah Summers
2 _____
3 _____
4 _____
Offence harassment

Dated Jan 18 1890

Bennett Magistrate

McCarthy Officer.

Witnesses Dennis McCarthy Precinct 21

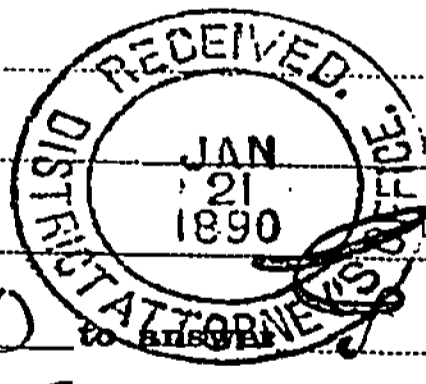
No. 21 Beck Police Street.

No. _____ Street.

No. _____ Street.

\$ 1000 to answer

Com 9/2



0264

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Sarah Somers

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

Sarah Somers

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

The said

Sarah Somers

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

one finger-ring of the value of two hundred and fifty dollars, one clock of the value of one dollar, one hat brush of the value of eight dollars, one pocket-book of the value of eight dollars, one handkerchief of the value of two dollars

of the goods, chattels and personal property of one

Burbank Roberts

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.

0265

BOX:

383

FOLDER:

3571

DESCRIPTION:

Sontheimer, Moses

DATE:

01/16/90



3571

0266

Witnesses;

Janette Schwartz

207

D. F. Hyman
Counsel,
16 day of *May* 1890
Filed
Pleads, *Mcquilly*

THE PEOPLE

vs.

R

Moses Sonthheimer

Grand Larceny Second degree.
[Sections 528, 531 — , Penal Code].

JOHN R. FELLOWS,

District Attorney.

A True Bill

W. H. H. H.

Foreman.

May 22 1890.

Chief & Grand Jurors of
County of San Francisco
May 24 1890

0267

The People
vs.
Moses Southheimer. { Court of General Sessions, Part I.
 Before Recorder Smyth.

Wednesday, January 22, 1890.

Indictment for grand larceny in the second degree.

Janette Schwartz sworn and examined.

Where do you live? No. 243 East 10th Street. Did you live there on the 24th of April, 1889? I did. Did you know this defendant at the bar on that day and did you give him any property for the purpose of pawning it? Yes, I did. What property did you give him? I gave him a silk dress and a winter cloak trimmed with fur, I was in my room on the 24th of April when I gave it to him, it was between eleven and twelve o'clock in the day. I talked with him about it and said, "here is the dress and the cloak and bring me fifteen dollars from the pawn broker." I did not mention any pawn broker, I entirely trusted that matter to him. He left immediately with the goods. The silk dress was new, I had it a few months but only wore it twice, I paid two hundred marks which would be about fifty dollars for it, it was just as perfect as it was when I got it. I never bought a silk dress before, it was a plain black silk dress. I paid twenty dollars for the cloak and six dollars for the trimming. The prisoner returned to me about one hour afterwards and handed me five dollars and a ticket, he said they would not give him any more; then he left. The pawn broker has the ticket and on the 31st of December I went to the pawn broker's place, Mr. Joseph Anderson, 185 Avenue B, I showed him the pawn ticket and he showed me the dress which was pawned and which was mine, he did not show me anything else. I did

0258

not see the Defendant after I came from the pawn broker's. The next time I saw him was at the Court, but I did not talk with him there, I never talked to him about pawning my things but I wrote to him a letter and enclosed it in an envelope and addressed it 173 First Avenue, he lived there at the time, I put the letter in the post-office box corner of 10th Street, that was the day after I came from the pawn broker's which was the first of January, 1890; I received no answer to that letter, I had no talk with him after that, I had him arrested and made the complaint in Essex Market Court, I saw him after he was arrested, I did not get my clock back and have never seen it since I gave it to him to pawn. I had the silk dress made, I bought sixteen yards and paid twelve marks a yard for it, whic is about three dollars, the trimming was included in the making of the dress, the dress-maker furnished the trimming, the buying of the goods, the making of the dress and the trimming were paid in one bill, two hundred marks which would be about fifty dollars. I bought the cloak ready made and paid twenty dollars for it, I had it ~~in~~ a few months and wore it about seven or eight times.

Cross Examined. I am not known by any other name than Schwartz, I am not called Mother Barbara, I live at 243 East 10th Street. The advertisement now shown me refers to a lady who comes to my house, I paid for the putting of that advertisement in the paper; this lady is to be seen at my house under this name, Mother Barbara, she is a mother with six children, she does not live with me. The other advertisement shown me about feet is my advertisement. The defendant always attended to

getting drugs from the drug store and did odds and ends of work around the house. Did you at any time tell any fortunes to any people that called at your house?

Objected to. Objection sustained.

I did not get my dress from the pawn broker when I gave him the ticket, I did not know that the clock was pawned.

I paid twenty dollars for the clock in Hamburg. I got the dress upon the ticket that I took to the pawn broker and that was the ticket which the Defendant gave me, I paid the pawn broker five dollars and \$1.32 interest.

Joseph Anderson sworn and examined.

Where is your pawn office? 186 Avenue B. Were you a pawn broker on the 24th of April, 1889? Yes sir. And did this Defendant come into your pawn office on that day, the 24th of April? He did, sir. Did he pawn anything there? He pawned a dress on that day. What kind of a dress? I think it was a black silk dress. How much did you give him on it? Five dollars, and a ticket. Did he pawn anything else? That is all he pawned on that day. Did he have any other property with him at that time? Yes, he had a clock with him on that day which I refused to take. Was it a cloak lined with some kind of fur? It was a cloth cloak lined with some kind of fur and he took it away with him. Did you see the Complainant Mrs. Schwartz sometime afterwards? I saw her later on, December 31. Did she come to your store? She came to my store and laid down a ticket. I told her how much it came to and sent the boy for the goods. Is that the same ticket you delivered to this Defendant for the dress? (Ticket shown.) Yes, the same

ticket.

Cross Examined. He offered to pawn with you the cloak that you heard described by the last witness, didn't he? He did. And you refused to accept it? I did. And that is the reason it was not pawned in your place? That is all I know about that, I refused to take it. Give us the reason why you refused to accept that? The reason was that this cloak had fur on it and I did not take any cloaks with fur on because the moths generally eat the fur off in the summer time and in order to avoid trouble with the people when they call for them in the Fall of the year, I refuse to take that kind of goods. After that day did you see the prisoner in your place with any goods which he wished to pawn? I do not think to the best of my knowledge and belief that I saw him after that time. But you had seen him repeatedly before that? Yes, before that I did. I never saw this woman, the Complainant before in my life until she came there for her dress and redeemed the article. You delivered to her the dress? Yes. And that was the dress that he left with you? Yes. You gave him only five dollars? Yes, that is all I gave him.

The Case for the Defence.

Counsel: I move to dismiss this case against the Defendant upon the ground that there is no evidence here that the prisoner did not pawn the cloak in question and on the further ground that there has been no case made out on the part of the prosecution.

The motion was denied and exception taken.

Counsel opened the case for the Defendant.

Moses Southheimer sworn and examined in his own behalf:

Where do you live? No. 173 First Avenue. You heard the testimony of the first witness; she says that she gave you a dress and a cloak to pawn, did you pawn it? I did not understand her. Ask him if he got a dress and a cloak from Mrs. Schwartz to pawn? I did. When, what day? I do not know. She gave them to you to do what with them? To take them to a pawn shop. And did you pawn them? I did.

Cross Examined. Did she tell you to get any money on them? She told me to bring her money and she gave me the article. How much money? Fifteen dollars.

Did you get fifteen dollars? I did not, I received five dollars and returned one article. To whom did you return the one article? Immediately after leaving the pawn shop I went back to her house. And to whom did you give the article? I brought the cloak back and gave it to Mrs. Schwartz the witness who was on the stand, this lady that sat on this chair. When did you bring it back to her? Immediately after leaving the pawn shop, as quick as I could. The same day was it? Yes sir. Where was she when you gave it to her? At her house. What number is the house? No. 243 East 10th Street. Did you give it into her hands personally? I gave it into her own hands. And gave her the five dollars and the ticket at the same time? Yes, at the same time.

By Counsel: Were you ever arrested before in your life? No, I am fifty-nine years old and never was arrested before in my life.

Solomon Rosebthal sworn and examined by Counsel.

Your business, Mr. Rosebthal? At present I am in no business. You are retired from business? Yes, for the present. Do you know the prisoner at the bar? Yes sir, I know this prisoner. What do you know as to his character and how long have you known him? He is in this country about between eight and ten years, I cannot exactly say which.

By the Court: You know him that length of time? Yes sir. What is his general character? He is an honest man, he is a poor man but he is honest, he was my house-keeper. You trusted him with more than twenty-six dollars?

The Court: That would make no difference, you have got all you can get from this witness.

By Mr. Davis. Q. Are you engaged in any business at all at present Not at present. What was your business? Shoe business. How long ago? I am in the shoe business for the last twenty-five years and retired about a year ago.

Abraham Wortheimer sworn and examined.

Where do you live? I live No. 601 Eleventh Street. Did you ever have any conversation with Mrs. Schwartz with respect to this cloak in question? I did. Will you please state if in that conversation anything was spoken of the value of it?

Objected to. Objection sustained.

What was the conversation? I keep a store in First Avenue.

Did you have a talk with Mrs. Schwartz about that cloak?

Yes. What did she say to you and what did you say to her?

She came down to me, corner of 10th Street and First Avenue

and said to me, "now you see I lost my cloak and Mr. Southheimer did not fetch me the ticket and I paid in Germany sixty marks for it. What else did she say? She said, "if I can't get my cloak I will get him arrested"; I said, "you can do what you like." How much is sixty marks in American money? I guess it is about fourteen or fifteen dollars, it is not over fifteen dollars.

Janette Schwartz recalled by Mr. Davis.

This Defendant said that on the same day that you gave him these articles to pawn he brought back the cloak to you and handed it to you in your own house with the ticket and also five dollars, is that so? It is not.

The two advertisements alluded to by the witness were given to a juror to translate.

A Juror: She advertises here that she has manufactured a pad for the feet; she wants everybody not to get anything else but her pad because it is very injurious to use anything else. She further advertises that she has got an elegant salve for prickly heat and different things for the face and skin, she asks two dollars for the box. The other advertisement is that Mother Barbara advertises that she can tell fortunes and that she can be consulted at Mrs. Schwartz house.

The Jury rendered a verdict of guilty of petty larceny and the prisoner was remanded for sentence.

0274

Testimony in the
case of
Moses Luthmeier

filed Jan 1890.

1940
 filed Jan 1940
 with home

0275

Police Court—

3rd District.

Affidavit—Larceny.

City and County }
of New York, } ss.

of No. 243 E 11th Street, aged 24 years,

occupation. Northbrook Mill being duly sworn

deposes and says, that on the 24 day of February 1897 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 fur trimmed coat
valued at twenty six
dollars

the property of

Complamant

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

Thosco Landheim

(nowhere) for the reasons following
to wit: on the said date de-
ponent gave to defendant a
dress and cloak to pawn and
bring her the money she would
require. The defendant left
with said property and returned
and told deponent that all he
received from the pawnbroker
for said dress and cloak was five
dollars. Deponent went to said
pawnbroker and found that
the defendant had only pawned the
dress and did not pawn the
said cloak to this day.

Janette Schwartz

Sworn to before me this

day

of February 1897

Charles W. McNamee Police Justice.

0276

Sec. 198-200.

3 District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

Moses Southheimer 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.

Moses Southheimer

Question. How old are you?

Answer.

59 years of age

Question. Where were you born?

Answer.

Germany

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

Answer.

173 First Avenue 1 year

Question. What is your business or profession?

Answer.

Home Keeper

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
Moses Southheimer.

Taken before me this

12

day of

March

1890

Charles W. Starnitz

Police Justice.

0277

CITY AND COUNTY
OF NEW YORK, } ss.

POLICE COURT, 3 DISTRICT.

of No. 243 E 15th Street, aged 24 years,
occupation... Rectress... being duly sworn deposes and says
that on the 10 day of January 1889
at the City of New York, in the County of New York... she caused

the arrest of Moses Southern
on a charge of Larceny and
she prays that the defendant
be held to enable her to
swear the necessary evidence
Fannie Schwartz

Sworn to before me, this

day

of

1889

Charles W. Stewart

Police Justice.

0278

218-
Police Court-- District

THE PEOPLE, &c.,
ON THE COMPLAINT OF

vs.

Dated

1890

Magistrate.

Officer.

Witness,

Disposition,

RECEIVED
JUN 12 1890
9 A.M. C.M.T.

0279

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.....

Leopold
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 June 12 1888 Charles W. Smith Police Justice.

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

Dated 188 Police Justice.

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

Dated 188 Police Justice.

0280

Police Court

3 68 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Hammett Schwartz
243 East 10th

1 *Mrs. Southerland*
2
3
4

Offence *Carrying*

Dated

January 17 1890

Saintor Magistrate

Quinn Officer.

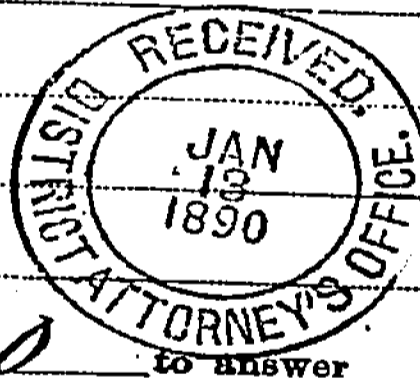
Joseph Angstrom Precinct.
Witnesses *The Pawnbroker*

No. *185 Ave B* Street.

No. _____ Street.

No. _____ Street.

\$ *5.00* to answer



Corn 98 1/2

BAILED.

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

0281

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Moses Southeimer

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

Moses Southeimer

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

The said

Moses Southeimer

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

*one cloak of the value of
twenty-six dollars*

of the goods, chattels and personal property of one

Jeanette Schwarz

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.*

0282

BOX:

383

FOLDER:

3571

DESCRIPTION:

Spelzhaus, Henry F.

DATE:

01/29/90



3571

Witness:

Officer Duhan
27 February

Bailed Dec 14/91 by
Const. Beatus
306 E 50 St

xxxx

Counsel, *29* day of *January*, 189*0*
Filed
Pleads, *Indigently. clerk 1/29/90*

THE PEOPLE

vs.

B
Henry J. Spychals

F

VIOLETION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1883, Sec. 21 and
page 1880, Sec. 5.]

Chas. R. Fellows,

Attorney at Law
District Attorney.

A True Bill.

Gestern Foreman.
F. J. Jan 31/90

0284

Court of General Sessions of the Peace,

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

Henry F. Spelzhaus

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

Henry F. Spelzhaus
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE, ON SUNDAY, committed as follows:

The said

Henry F. Spelzhaus

fifteenth day of *April* in the year of our Lord one thousand eight hundred and *Eighty-eight*, at the City and County aforesaid, the same being the first day of the week, commonly called and known as Sunday, with force and arms, certain intoxicating liquors and certain wines, to wit: One gill of wine, one gill of brandy, one gill of rum, one gill of gin, one gill of whiskey, one gill of cordial, one gill of bitters, one gill of ale, one gill of porter, one gill of beer, one gill of lager beer, and one gill of a certain intoxicating liquor to the Grand Jury aforesaid unknown, unlawfully did sell as a beverage to one

Daniel Dugan

and to certain other persons whose names are to the Grand Jury aforesaid unknown, 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

Henry F. Spelzhaus

of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

Henry F. Spelzhaus

late of the City and County aforesaid, afterwards, to wit: on the day and in the year aforesaid, the same being the first day of the week, commonly called and known as Sunday, being then and there in charge of and having the control of a certain place there situate, which was then duly licensed as a place for the sale of strong and spirituous liquors, wines, ale and beer, with force and arms, at the City and County aforesaid, the said place so licensed as aforesaid unlawfully did not close and keep closed, and on the said day the said place so licensed as aforesaid unlawfully did then and there open, and cause and procure and suffer and permit, to be open, and to remain open, 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.

0285

BOX:

383

FOLDER:

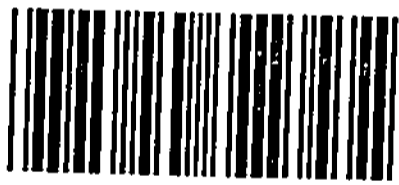
3571

DESCRIPTION:

Spinella, Michael

DATE:

01/10/90



3571

0287

March. 7th 1890

Dear Sir.

i received the subpoena to
appear as a witness to attend
the trial of Michael Spinella
but i am no witness all
i can say is what i heard
from my parents and my
little sister Agnes Hoerner
she is the principle witness
and a lady but i will
be there on Tuesday morning

0288

at 11 O'clock my friend
have moved from 109 St.
to 106 St. ~~At~~ 307
they know the address of
the lady witness. please
let them know that the
trial is going on, if you
did not let them know
so i will not be disappointed
please Oblige.

Mrs. M. Hubert.
301 Verona Ave
Woodside
N.J.

0289

District Attorney's Office,
City & County of
New York.

March 3rd 1890

Richard Connor Esq.
Captain of the 2nd Precinct
Dear Sir:

The case of Michael
Spinella charged with assaulting
Emma Spinella on Aug. 4/89
at 337 East 109th St. has been
set for trial on March 11/90.

It will be necessary to have all
the witnesses present on that day and
as a list of witnesses ~~are~~ not with
the papers I am instructed by
the Judge to request you to have
the Officer that had charge of
this case furnish us with a list
of the witnesses and where they can
be found.

(over)

Yours Respy
Thomas Cochrane
Chief Clerk per 2649

0290

March 4 1890

The prisoner Michael Spinnella was
 not arrested in this station. he
 surrendered himself at Tombs Court on
 or about December 14 1889.
 the assault occurred at No 345 E 109th
 W. 109th St.

Frank Billo	345 East 109 St	✓
Angello Cusano	" " " "	✓
Margolla Spinnella	" " " "	✓
Anthony Spero	" " " "	✓
M ^{rs} Anthony Donohue	" " " "	✓
D ^r D Brown	234 East 112 St	✓
Henry D Ambrosio	72 North	

0291

City and County New York ss.

People, Ex. D

we 4-11/90

The following statement contains all that I know in reference to the case of Mrs. Spinnella deceased.

On August 8th I was called to the house 345 E. 109th Street to visit Mrs. Spinnella, whom I found suffering from a high fever. Temperature 103.5. From the examination I made, and from the history given me, I formed the conclusion that she was suffering from either one of the continued fevers, such as Malarial or Typhoid fever or from a fever incident to Child birth. My second and last visit was made on the 12th inst. when I found much the same condition. On neither visit did I receive any intimation (as far as my memory serves me) of any injury nor did I discover any marks of violence on the patient.

Sworn to before me this }
27th day of August 1889 }

Frederick W. O'Brien M.D.

J. Murray

Notary Public (1905)
N.Y. Co. N.Y.

0292

Dr O'Brien 235 E. 112

Coroner's Office.

TESTIMONY.

Agnes Kerner being sworn says:
 I live at 337 East 109th Street.
 Emma Spinnella deceased was
 my sister. Michael Spinnella
 was her husband. On August 4th
 I was minding the baby for my sister.
 My sister & her husband were so old
 not each other. She came up stairs
 to get some clothes when she got
 to the hallway of the 3rd floor, Michael
 Spinnella punched my sister
 in the side, stomach & back &
 knocked her down. He told her
 that if she had him arrested
 he would have her life when
 he got out of prison.
 Spinnella then grabbed my sister
 by the back of her hair & drag-
 ged her into his room.
 My sister they lay on the lounge
 & her husband then kicked her
 in the stomach & punched her
 again. Spinnella's brother in law
 then came up & pulled him away.
 My sister died ~~yesterday~~ ^{the} day before
 yesterday at 17 minutes after noon.

Aggie Kerner

Taken before me

this 24 day of Aug 1889

Daniel H. O'Brien CORONER.

Aggie Kerner was sworn
 29 & day of August 1889
 Daniel H. O'Brien
 Coroner

0293

Coroner's Office.

TESTIMONY.

Jennette Sparrier being sworn says:
 Living at 345 East 109th Street. New York
 City.

I knew Emma Spinnella about
 3 weeks, she lived in the same house
 with me.

Two weeks ago last Sunday I had
 a heavy fall in the afternoon.

The ~~source~~ of the fall came from
 the ~~room~~ hallway below
~~the room of deceased.~~

When I saw my door I saw deceased
 lying in the hallway. She was
 unconscious & was scolding. De-

ceased was ordered to get up by
 her husband. She refused & the
 husband took deceased by the

hair & pulled her in his room.
 Deceased then ran to the front
 window. Then the next thing I saw

was deceased lying on a lounge.
 Then I saw the husband of
 deceased. He had deceased in the

stomach. I asked deceased's
 husband to stop. He told me to
 go upstairs & mind my own
 house which I did.

Deceased's child had been born some days
 before the occurrence. Janet Sparrier

Taken before me.

this 26 day of August - 1889.

Daniel Henry CORONER.

Examined & signed the 30th
 day of August 1889

Janet Sparrier
 Mrs. Daniel Sparrier
 Peter Sparrier

0294

District Attorney's Office,
City & County of
New York.

Aug 28th 1882

My dear Judge

Mrs Hukin

has just told me
certain facts as regards
Michael Spindler beating
her sister - sister since
dead - kindly hear
her story & if proper please
issue a warrant &
investigate -

Very truly yours

Judge
Gerrit T. Bell

0295

District Attorney's Office,
City & County of
New York.

Aug 28th 1882

My dear Judge

Mrs Hukin

has just told me
certain facts as regards
Michael Spinda beating
her sister - sister since
dead - kindly hear
her story & if proper please
issue a warrant &
investigate -

Most truly yours

Judge
Daniel O'Reilly

Gerritt N. H.

0296



MEMORANDUM.

Coroner's Office,
67 Park Row,
New York, Aug 29 1889

Dear Judge

I am detained here
on homicide Inquest and
can not possibly call at the
Lomb at 10 o'clock to day as
you requested. Any other
day that would be convenient
for ^{you} I shall be pleased to call.
I herewith forward the
testimony we have so far taken
in the Spurr case.

Yours Truly
Daniel Hanley

0297

Jan. 11th 1890
Not by the letter but by
mail when the card is in
the calendar - See

Dear Sir,
Please inform me a brother
the name of Mrs. Emma
Spencala that was a board
by her husband Michael
Spencala the 4th of August 1889
and died the 21st of August 1889
in the morning and her child
in the afternoon her husband
left her two hours before
she died and had not showed

up until latter but i
 heard that he is out on bail
 of one thousand dollars
 and he goes out every morning
 with his wagon and horse
 peddling rags he stops at
 345 East 109 St. when his
 wife died we think that
 she died from his abuse and
 not of Pennsylv. fever as
 the two Doctors said
 I am the sister of Mrs.
 Shenola and would like
 to know how the case is

Standing whether the
 case is going to be purchased
 faster or is going to stay
 the way it is and he
 should walk around the
 city a free man i have
 moved from 17th St. N.Y.
 to Woodside N.J.

Please write and let
 me know as to the case
 as my present friend like
 to know O. B. Lipp
 Mrs. M. H. Lipp
 301 Verona ave. Woodside N.J.

0299

i. wrote to the Health
Department to Dr. Nagle
and he wrote to me to write
to you about the case
that you could inform
me.

0300

Agnes Kerner being duly sworn
deposes ^{and says}. I reside at
347 East 109th Street, and
am 11 years of age. On the
4th day of August 1889 at 11
o'clock A.M. I saw Michael
Spinella with his wife (who is
my sister) on her side in the
hallway of the 1st floor of the house
345 East 109th Street, and when
my sister (deceased) came up
stairs to her room, he grabbed of
her hair and punched her and pushed
her down on the floor, and then he
took hold of her hair and pulled
her in his room and threw her down
on the lounge and kicked her in
the stomach again, and when my
father came up to help her he
struck my father in the face with
his fist, and my father went after
the police

Sworn to before me (1889) Aggie Kerner
this 24th day of August
J. J. Kelly, Commissioner

Agnes Kerner being duly sworn
 deposes ^{and says}. I reside at
 344 East 109th Street, and
 am 11 years of age. On the
 4th day of August 1889 at 11
 o'clock A.M. I saw Michael
 Spirella kick his wife (who is
 my sister) on her side in the
 hallway of the 1st floor of the house
 345 East 109th Street, and when
 my sister (deceased) came up
 stairs to her room, he grabbed of
 her hair and punched her and pushed
 her down on the floor, and then he
 took hold of her hair and pulled
 her in his room and threw her down
 on the lounge and kicked her in
 the stomach again, and when my
 father came up to help her he
 struck my father in the face with
 his fist, and my father went after
 the police
 I was before me 1889
 this 24th day of August
 I declare
 Agnes Kerner
 Subscribed and sworn to
 before me

0302

Henry Kerner being away
from depose and say

I reside at 34 1/2 East 109th Street
On Sunday August 4th the
deceased (who is my daughter)
came to my house crying and said to
me Michael Spirella (her husband)
almost killed her and I told her to
remain here and she remained
half an hour when she said she
would go up stairs to her own
rooms to get her clothes and left me
Shortly after my youngest daughter
Agnes Kerner came to me and
said deceased was hurt by her
husband, I went up stairs to
her rooms and Spirella was
at the hydrant washing his face
I saw her lying on the floor and
when I said what is the matter to
her, he said to me what do you
want, and he slapped me in the
face and then his brother-in-law
put him down stairs, and I went

0303

for the police and he kept the house
all the morning of the 21st of August
He died

From before me

this 29th day of August 1877 Henry ^{his} ^{Kern}
man

John C. Kelly
Deputy Justice

0304

Coroner's Office.

TESTIMONY.

People by 2)

we
21st/90

Henry D Ambrosio M.D. being
sworn says I was called in
to attend Mrs Emma Spinella of
345 East 109th St on Aug 15th.
I at once made an examination
of her and did not find any
bruises or injuries on her person.
She complained of pain in the
head, the abdomen was swollen
and the temperature of the body
was 104 $\frac{1}{2}$ °. On pressure of the abdomen
she said she did not feel any
pain. This was her condition on
my first visit. She made no
mention of any injuries.
I made ~~my~~ second visit
on the 20th day of Aug. when
I found her unconscious, the
temperature 104 $\frac{1}{2}$ °. She was in
a dying condition. I diagnosed
the case as one of typhoid
fever.

Dr. Henry D. Ambrosio

Taken before me

this 21st day of Aug. 1889Daniel Shanley
CORONER.

0305

Chasly
Emma Spinnella

0306

Sec. 151.

Police Court..... 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 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 *James Henry*

of No. *337 East 109th* Street, that on the *27th* day of *August*

188*9* at the City of New York, in the County of New York,

*Michael Spunella did unlawfully
and feloniously cause the death of
James Spunella his wife by kicking
her about the body and stomach*

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 *him*
forthwith before me, at the *104* 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 *29* day of *August*, 188*9*

Do I certify POLICE JUSTICE.

0307

POLICE COURT 1 DISTRICT.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Agnes Kerner
vs.

Michael Spinella

Warrant-General.

Dated Aug 29 1889

O'Reilly Magistrate.

English Officer.

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.

Do. J. C. Smith Police Justice.

Dated

188

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.

The within named

Police Justice.

TORN PAGE

0308

Sec. 199-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK } ss.

Michael Shinnella 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 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
that he is at liberty to waive making a statement, and that h no waiver cannot be used
against h m on the trial.

Question. What is your name?

Answer. *Michael Shinnella*

Question. How old are you?

Answer. *20 Years*

Question. Where were you born?

Answer. *Italy*

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

Answer. *345 E 109 St 4 mo*

Question. What is your business or profession?

Answer. *Shoemaker*

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
waive my right of examination*

*Michael Shinnella
mark*

Taken before me this
day of
Dec 13 1888
at
New York
Justice.

0309

POOR QUALITY
ORIGINAL

committed, and that there is sufficient cause to believe the within named

Michael Shineela

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 13 1889 Solon B. Smith Police Justice.

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

Michael Spmiller

Dated Dec. 16 1889 E. H. Jones 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 1889

Police Justice.

0310

Police Court---

1833 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Agnes Kerner
90 Precinct vs. 3378-109
100623
Michael Spunella

2
3
4

Offence
Homicide

BAILED,

No. 1, by Peter Augellone

Residence 305 E. 111 Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Dated Dec 13 1889

Smith Magistrate.

Coughlin Officer.

W.D. PC Precinct.

Maumette Sharrier

No. 345 East 109 Street.

Henry Kerner

No. 347 East 109 Street.

No. Street.

1000 answer



Bailed

0311

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 Spinnella

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

Indictment accuse

Michael Spinnella

of the crime of

Assault in the second degree,

committed as follows:

The said

Michael Spinnella,

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

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

with force and arms, in and upon the
body of one Emma Spinnella, then and
there feloniously did wilfully
and wrongfully make an assault,
and then the said Emma Spinnella, with
both the hands and feet of him the
said Michael Spinnella, in and upon
the head, neck, breast, belly, back and
sides of her the said Emma Spinnella,
then and there feloniously did wilfully
and wrongfully strike, beat, kick,
bruise and wound, and thereby then

0312

and there feloniously did unlawfully and
unlawfully and against the peace of
the State of New York, and their dignity
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 P. Kellum,

Attorney

0313

BOX:

383

FOLDER:

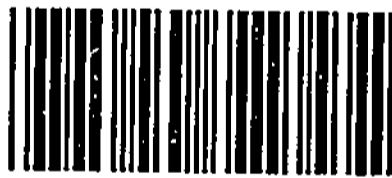
3571

DESCRIPTION:

Squish, Stanisvals

DATE:

01/29/90



3571

0314

Witnesses:

Ignaty Markosky
Special Agent
20 Precinct

438

Counsel, *Colgan*
Filed *29 Jan 1890*
Pleads, *Mcquilly*

THE PEOPLE

vs.

I

Stanislaw Squish

H. D.

Robbery in the
(MONEY)
[Sections 224 and 228, Penal Code].

JOHN R. FELLOWS,

District Attorney.

Post 3, Feb 1990
mid viny disagree
!! for wire

A True Bill.

Colgan

Foreman.

29 Jan 1890
Directed of
by J. P. P.
J. P. P. 4 1/2 mo
P. B. M.

0315

22/90
The People
vs.
Stanisvals Squish.

{ Court of General Sessions, Part I.
Before Judge Martine.

} Wednesday, February 19, 1890.

Indictment for robbery in the first degree.

Ignatz Dorkofsky sworn and examined.

Before I came to the House of Detention I was at Goldstein's laboring office, it is in Washington or Grenwich Street, I don't know which, I saw the Defendant on the 21st of January in the street, it was the next street to Goldstein's labor office in the neighborhood of Castle Garden, I had a conversation with him, I did not know him before, he said good-day, we were standing before a money changer's window and were looking at the money exhibited there, then he asked me where I worked and I told him in Nanticook/ Pa. in a coal mine; he asked me how long I worked there and I told him five months, then he said, "you must have saved about a hundred dollars"; I said, "I did not make a hundred dollars but I made a little money"; then we went into a saloon near the place where we stood and had two glasses of beer and in the saloon he saw that I had money when I took it out and paid for the drinks, I had it in a red colored pocketbook, I had one twenty dollar bill and two one dollar bills; this conversation took place perhaps about one o'clock, I remained in the saloon about half an hour with the Defendant; then he said, "let us go and take a walk through the street and we will go to a place where they sell very cheap drinks; then he took me to a place where they sold a glass of beer for three cents and we had each of us three glasses of beer, we took each of us two boiled eggs; then he said, "let us take a walk,

03 16

I know a better place than this", and he took me out again, I did not have a watch with me and I cannot tell the time when we left the second saloon, it was in the evening and it commenced to be dark, then we went around town again and while we were walking in the street I said, "I will go home to Mr. Jacob Goldstein's where I live;" he said, "no, you will stay with me, you don't need to go there"; I told him I must go now because later on when it is dark I could not find the place; he said, "no, you don't need to, you can stay with me"; then we went to a third saloon and had hot whiskey; then he said again, "let us go and take a walk through the streets; we went again in the street and then he brought me back to the same saloon where we were before and had each of us a hot whiskey again; while we were in that saloon the Defendant beckoned to a man in there and he said to me, "this is a good man", and this man came over to us. I said again I will go home, then we, the defendant and the other man, went out and came to a fourth saloon, I have not seen the stranger since I lost my money. When we went out from the fourth saloon my money was taken, we had drinks of hot whiskey in the fourth saloon, I was not inclined to drink but they insisted and we had a hot whiskey. When we got outside of the saloon the defendant took me by one arm and the other man by the other arm and walked that way for some time, then the defendant took my money out, he put his hand in my pocket and he saw where I had the money, there was no violence used to me, I could not stop the Defendant from taking the money because they held me tight by the arm; we went leisurely through the streets and then they held me

tighter by the arm, I did not struggle because both held me, I did not try to prevent the defendant from taking my money, I was already drunk at that time and as they held my hand he quickly took the money out, he took twenty-two dollars and left me sixty cents, then when the money was taken the third man hit me on the nose and I fell to the ground, I asked the people passing by which way I should go to Castle Garden and I went then to Goldstein's place; the defendant and the other man ran away when they took my money and I found my way back to Goldstein's.

Cross Examined.

I was for one week in the office when I came here first, I have been in America about eight months, I don't know the name of the man with whom I stopped, it was a laboring office. I did not tell the defendant how much money I had, he said he would pay for the second drink, I could walk straight when I left the fourth saloon although I was drunk. I do not remember swearing on the other trial that I could not drink over three drinks without getting drunk. I was not so drunk at this time that I did not know what was going on.

The other man whom we met was not drunk, I was in the middle between the two men, the defendant did not stagger, I don't know where they took me, the third party did not ask me to go and see a girl, I did not call for police when the defendant put his hand in my pocket to take the money, I did not make any effort to kick them, my coat was open and the money was in the inside pocket of the overcoat, the defendant put his hand in and took the money out quickly, I had twenty-three dollars when I went into the first saloon; I had change in my pantaloons pocket.

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In Nanticook they give us a duplicate and with that duplicate we go and get the money and I showed him the duplicate; when I opened the pocketbook to show him that duplicate then he saw the money in the pocketbook, so that when I opened the pocketbook both could be seen. While the defendant was pulling the money out of the pocketbook the other man hit me in the nose and I fell. I told Goldstein about it and he went the next morning and made a complaint to the police.

Jacob Till sworn and examined.

I live at No. 5 Washington Street, it is an employment office and lodging house too, Goldstein used to keep it before I took it; the complainant was in that house on the 25th of January, he came the night before to the place and the next day I saw him looking in a broker's window in Washington Street about half past one, the defendant was with him at the time and I told him to go home; he and the defendant said they would take a walk, the next time I saw him was about half past ten o'clock in the evening, he came alone and told me something and in consequence of that I went to the corner of Washington Street and talked with Officer Reidy, I afterwards saw the defendant when the officer arrested him, the complainant identified him as the man who robbed him.

Cross Examined.

I am a friend of

the defendant, I never had any trouble with him about something he said in reference to my boarding house, I went along to the Station House with the defendant and had a conversation with him, he said to me, "don't make any

trouble; I was willing to give the money back but the other one did not want to give it back; he said it was not my fault; he said to me in the Tombs, "you know that I am a very decent man and that I do not interfere in such things"; I said, "if you are a decent man nothing will be done to you"; the defendant was arrested in a saloon on the corner of Washington Street three days after I made the complaint; he did not tell me who the other man was who didn't want to give the money back.

Micheal J. Reidy sworn and examined.

I am an officer attached to the second precinct and arrested the Defendant on the 24th of January in a liquor saloon corner of Battery Place and Washington Street, I was on post at the time and the witness Till asked me to arrest the Defendant and pointed him out to me in this saloon among a group of three or four men, he charged him with the crime and the defendant said, "I don't know the man and never saw him before", he shook his head when I told him, "ypu robbed this man". Till acted as interpreter in the Station House, the defendant said it was the other man robbed him and he asked him to give the other man (the complainant) back the money but he would not do it. Going from there to the Tombs in the morning the defendant told me he saw two women rob this man, this complainant was full and he went into the house with the women and the two women hit him and knocked him down; the defendant laughed and said, "he wants to blame it on me" but the two women did it. The defendant is an emigrant runner; I saw him around that neighborhood.

0320

Stanisvals Squish sworn and examined in his own behalf. testified:

I live in Haverstraw and work in a brick yard, last summer I was not in New York but worked in Haverstraw, I came to New York on a Monday and was arrested the following Friday; there was no work in Haverstraw and I came here to get work. I met the Complainant at the window looking at bank notes and he spoke first to me; he asked me if I was a Polish and I said that I am, I told him I worked in Haverstraw and he told me he worked in Nantitook and then invited me to take a drink, we went into a saloon, he ordered beer and we had something to eat and then I treated back; then we went out and walked in the street and went into another saloon and had beer, we were about two or three hours there and it commenced to be dark, we went out and went to the third saloon and had more beer and something to eat, I felt a little intoxicated; in the third saloon the complainant asked me if I did not know any other people from Russia, Poland; I said, yes, there was another one there, there is a man who worked also in Haverstraw and he told me he was going to work in Tremont. I did not call up that other man but the complainant went over to him and invited him over to have a drink with him, then the other man came up and said, "the hot whiskey is no good in this place but I know another place where we will get good hot whiskey and we will go there" ; they entered into conversation, the complainant and the other man, he said, "you are a countryman of mine, I came also from Russia, Poland", and they had some talk about the country; then after a while we left the saloon and we all went out together;

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when we left the third saloon it commenced to be dark and it was evening when we reached the fourth saloon; when we entered the fourth saloon the Complainant immediately ordered three glasses of hot whiskey and we sat down and drank it, the other man and the complainant got acquainted and they found out that they came from villages very near each other, I was not interfering in their conversation, I was sitting there only and when the first whiskey was finished then he ordered another round of whiskies; when the second whiskey was served I was already drunk and held myself against the bar with my hand; then the complainant said, I should treat and I treated also, then after I treated he ordered whiskey again, I think he treated six times and I was already under the influence of liquor, I can remember everything that happened before I went to sleep and even when I am drunk I remember everything that happens; the bar-tender remarked to those two that they should take me home to sleep because I am drunk already, the bar-tender gave me a piece of lemon to eat and each one of them took me by the arm and went out of the saloon. While we were in the street the complainant said to me, "hold on fast, if you fall the policeman will have you arrested, will take you in for being drunk, hold on fast and walk straight." Then we went for some distance and the complainant said, "I have a mind to go to see the girls;" then they let go of my arm and I immediately fell down on the steps and remained sitting on the steps, I held on to the wall and they were talking something among themselves; I heard the complainant say to the other one, "take my money and hide it," but I did not see if the other one took

it or not; then they took me and sat me down on the stoop there and they left me and said that they will go to see the girls; I told him I will not go to the girls because I am married and have a wife and I fell asleep there on the stoop and I do not know what happened afterwards; in the morning English speaking persons picked me up there and put my hat on my head.

Cross Examined.

I remember being

examined before in this case and I said the same thing that I am saying now. I do not recollect that I testified on the last trial that these men carried me to that stoop in front of a house of prostitution; I do not recollect if I said it then, I recollect that I did not go to a house of prostitution, they told me to come along but I did not go. I ask him if he remembers at the other trial giving as a reason why he did not go into that house of prostitution this, that he was so drunk he fell on the stoop?

Interpreter: He says that is so, he was drunk and besides he was married and that is the reason he did not go to the girls.

Ask him why he told the officer on the way from the Station House to the Court that he saw two women take this money from the complainant?

Interpreter: He says, I could not understand well what the policeman said but I meant to tell him that he must have lost his money either with the girls or that the other man took the money, that is what he wanted to convey to the policeman.

Witness: I had a conversation with Mr. Till, I said to him, "it is very probable that the other man took the money because I heard the complainant say to the other, "take my money

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and hide it, I did not say to Till that I wanted the other man to give the complainant his money but he would not because I was not sure that the other man took it, I could not have said that and I did not say so, all I said was that it was probable the other man took it, I could not understand the policeman very well. If Till and the officer swore so they did not tell what was the truth; the officer does not tell the truth when he says that I told him that two women robbed this man, I said they went to the girls but he probably misunderstood me, I do not know the name of the street where I was on the stoop, it was late in the night, I was vomiting there and a man woke me up and put my hat on my head and later on I came to my senses.

Adolph Kigler sworn and examined.

I have resided at Haverstraw about fifteen years and it will be two years in April since I have known the Defendant, he lives in Haverstraw, I have had business dealings with him and trusted him with money at different times sometimes with quite large sums amounting to twenty-five or thirty dollars and I have always found him honest and trustworthy; he lived in my house for two months before he came to New York; he is a married man and I have every confidence in his honesty, his general character is first rate, he lived there all the summer and the summer before that he worked in the brick yard, he may have left for a day to come to New York for work.

Cross Examined.

The brick yards shut down in October, I want the jury to understand that from

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October the defendant was in Haverstraw and Tompkins Cove which is about four miles from there, he worked maybe six weeks in a lime kiln after October and did not go to New York I am sure, I am not positive when he came to New York it must have been about a week or a few days before he was arrested, he may have taken a day off on a spree and maybe went to New York, I do not know as matter of fact how many times he did leave during the summer to come to New York; he was in New York to work before he went to the lime kiln and came back again, he went to New York after October and stayed only a short time, maybe two or three days, he came back to Haverstraw and I gave him a letter to anforeman in Rockland Lake, I could not tell what time in January he went to New York, I sent him to Rockland Lake shortly after New Years but I do not know how long he stayed --- yes, I do, he went to Rockland Lake in the morning and came back in the evening and stopped with me a few days. I was not examined on the former trial.

Stansivals Squish recalled.

I did not come to New York last summer while I was at work in the brick yards at Haverstraw. About two or three weeks before I met the Complainant, I was in New York and went to Goldstein's place and asked him if he had any work for me but I did not stay.

Jacob Till recalled.

I saw the defendant every day between October and the 21st of January; he came into my office and was standing also in the street.

The Jury rendered a verdict of guilty of grand larceny in the second degree with a recommendation to mercy.

0325

10

below.

Thereafter in the second degree with a recommendation to
the jury rendered a verdict of guilty of second

degree in the second.

State of Illinois: He came into my office and was arrested,
I saw the defendant clearly and between October and the

second day of October.

For me and I did not see.

When he got out of the office and went with me to New York and

weeks before I was the defendant and I was in New York and

work in the State of Illinois. I was not in New York and

I did not see him in New York and I was not in New York

between the first and second.

examined on the first day.

In the evening and again on the second day. I was not

do, he went to Rockford and to the hospital and came back

and to the hospital and to the hospital and to the hospital.

When he was in New York, I went with him to Rockford and to the hospital and to the hospital.

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When he was in New York, I went with him to Rockford and to the hospital and to the hospital.

Testimony in the
case of
Stanislaw Syzish

Filed
Jan. 1898

0326

Police Court, District.

City and County } ss.
of New York,

of No. 2nd Precinct Street, aged Michael J. Reidy years,
occupation Police officer being duly sworn, deposes and says,
that on the 100 day of 100, at the City of New

York, in the County of New York, Ignatz Dorkofsky
(now here) is a necessary and material
witness for the People against
Stanislaw Squish charged with
Robbery. Said witness is destitute
and has consented to be com-
mitted to the House of Detention
for witnesses until the termination
of this case.

Sworn to before me }
this 25th January, 1890 }
}

John J. Herman
Police Justice

Michael J. Reidy

0327

Police Court— / District.

CITY AND COUNTY }
OF NEW YORK, } ss

Ignatz Dorkofsky
 of No. *5 Washington House of Detention* Street, Aged *20* Years
 Occupation *Laborer* being duly sworn, deposes and says, that on the

21st day of *January* 1890, at the _____ Ward of the City of New York,
 in the County of New York, was feloniously taken, stolen, and carried away, from the person of de-
 ponent by force and violence, without his consent and against his will, the following property, viz:

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

of the value of

DOLLARS,

the property of *deponent*

and that this deponent has a probable cause to suspect, and does suspect, that the said property was
 feloniously taken, stolen, and carried away, by force and violence as aforesaid by *Stanis-*

vals Squish (now here) and a man
 not arrested who were in company
 with each other and acting in concert
 for the reason that the defendant
 promised to procure work for the
 deponent and deponent accompanied
 the defendant to various beer saloons.
 Deponent is a stranger in this City and
 cannot tell where the said saloons are
 situated. In one of said saloons deponent
 met said unknown man and deponent
 defendant and said unknown man
 left the saloon together. Deponent had
 said money in a purse which he carried

Day of

Sworn to before me, this

188

Police Justice.

0328

in the inside pocket of the coat then worn
on his person and while on the street the
defendant ~~seized~~ ^{grasped} ~~the~~ ^{the} ~~hand~~ ^{hand} and
seized hold of deponent's hand and
said unknown man held deponent and
the defendant forcibly and against
deponent's will and consent inserted
his hand ^{into said pocket} and took said purse and money
and knocked deponent down and they
both ran away.

Sworn to before me 3 Ignatz X Dorkofsky
this 25 January, 1890 3

John Thomas

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
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 1888
I have admitted the above named
to bail to answer by the undertaking hereto annexed.
Dated 1888
There being no sufficient cause to believe the within named
guilty of the offence mentioned, I order he to be discharged.
Dated 1888
Police Justice.

Police Court, District,

THE PEOPLE, vs.,
on the complaint of

Offence—ROBBERY.

1
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4

Date

1888

Magistrate.

Officer.

Clerk.

Witnesses,

No.

Street,

No.

Street,

No.

Street,

to answer General Sessions.

0329

Sec. 198-200.

CITY AND COUNTY } ss.
OF NEW YORK,

District Police Court.

Stanisval Squish 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. *Stanisval Squish*

Question. How old are you?

Answer. *30 years*

Question. Where were you born?

Answer. *Austria*

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

Answer. *Harvestown Is NY*

Question. What is your business or profession?

Answer. *Brickmaker*

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*

Stanisval X Squish
mark

Taken before me this

25th

day of *January* 1890

John J. Corran

Police Justice.

0330

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 *Fifteen* 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 25* 18*90* *John J. Hannon* 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.

0331

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No. 2, by 2-4-8-2-2-2-2-2-2-

Residence 2-4-8-2-2-2-2-2-2- Street.

No. 3, by 2-4-8-2-2-2-2-2-2-

Residence 2-4-8-2-2-2-2-2-2- Street.

No. 4, by 2-4-8-2-2-2-2-2-2-

Residence 2-4-8-2-2-2-2-2-2- Street.

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Police Court--- / 163 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Ignat Dorkofsky
House of Detention
Stanislaw Igush

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Office *Rapley*

Dated *January 25* 1890

Gorman Magistrate.

Reidy Officer.

Committed to House of Precinct.

Detention in default of Street.

101 Bail

No. *Jacob Gell* Street.

5 Washington St

No. *1500* Street.

\$ *1500* to answer *G.S.*

Chen

0332

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Stanislaus Savinich

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

Stanislaus Savinich

of the crime of ROBBERY IN THE *first* DEGREE, committed as follows:

The said *Stanislaus Savinich*,

late of the City of New York, in the County of New York aforesaid, on the *twentieth* day of *January*, in the year of our Lord one thousand eight hundred and *eighty* in the time of the said day, at the City and County aforesaid, with force and arms, in and upon one *Augusta Dotschky* in the peace of the said People then and there being, feloniously did make an assault, and *one* promissory note for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of twenty dollars, and of the value of twenty dollars *—*; *two* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of ten dollars, and of the value of ten dollars *each*; *four* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of five dollars, and of the value of five dollars *each*; *ten* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of two dollars, and of the value of two dollars *each*; *ten* promissory notes for the payment of money, being then and there due and unsatisfied (and of the kind known as United States Treasury Notes), of the denomination of one dollar, and of the value of one dollar *each*; *one* promissory note for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of twenty dollars *—*; *two* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of ten dollars *each*; *four* promissory notes for the payment of money (and of the kind known as bank notes), being then and there due and unsatisfied, of the value of five dollars *each*; *one* United States Silver Certificate of the denomination and value of twenty dollars *—*; *two* United States Silver Certificates of the denomination and value of ten dollars *each*; *four* United States Silver Certificates of the denomination and value of five dollars *each*; *ten* United States Silver Certificates of the denomination and value of two dollars *each*; *ten* United States Silver Certificates of the denomination and value of one dollar *each*;

0333

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

of the goods, chattels and personal property of the said *Squatty Dorado*
from the person of the said *Squatty Dorado*, against the will,
and by violence to the person of the said *Squatty Dorado*.
then and there violently and feloniously did rob, steal, take and carry away, *(the said*
Skinner & Squatty Dorado then and there
aided by an accomplice actually
present, whose name is to the Grand
Jury aforesaid as yet unknown)
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.