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**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

Van Brunt, Thomas C.

**DATE:**

09/12/93



4870

0036

~~containing~~ upon the grounds set  
~~forth in the 2<sup>nd</sup> ground~~ contained in  
~~defendants brief~~ - It is my opinion that the  
~~false pretense~~ alleged is not in law suf-  
ficiently negative -  
R.B.M.

R.W. Coffey  
Sept 12/93

Counsel,  
Filed 17<sup>th</sup> day of Sept 1893  
Plsds Not guilty, P.B.  
with, ~~which~~ withdrawn by 20

THE PEOPLE  
vs.  
THOMAS C. VAN BRUNT.  
Grand Larceny, 1st Degree  
(False Pretenses.)  
(Section 528 and 530, Penal Code.)  
DE LANCEY NICOLL,  
District Attorney.

A TRUE BILL.  
S.W. Bloomingdale  
Foreman  
OK 128

Witness:  
Jan W. Mouldy.  
John H. Hagen.

Charles Lepore of 934  
Mrs. Madeline Gausen  
20 W 73rd St

0037

N. Y. GENERAL SESSIONS

-----x

THE PEOPLE OF THE STATE OF NEW YORK

Against

Thomas C. VanBrunt

-----x

MEMORANDUM FOR THE COURT

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This is a demurrer to the indictment herein, on two grounds:

F I R S T: That the indictment does not conform substantially to the requirements of sections two hundred and seventy five and two hundred and seventy six of the Code of Criminal Procedure;

S E C O N D: That the facts stated in the indictment do not constitute a crime.

The indictment charges the defendant with Grand Larceny in the second degree in that the said defendant represented to one William Moulds that a certain lot of land in New York City, No. 227 West 136th Street was free and clear from all incumbrances except a certain mortgage held by the Equitable Life Assurance Society for \$10750. and that the said William Moulds believing and relying upon the said representations agreed to purchase the said lot of land in the name of Elizabeth A. Moulds and as her agent for \$16,500, to be paid as follows:

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\$1,000. on the signing and delivery of the contract for the purchase of the said premises, \$10750. by assuming the said mortgage upon the said premises of the Equitable Assurance Society and \$4,750 by causing the said Elizabeth A. Moulds to make and deliver to the said Thomas C. Van Brunt a mortgage for \$4,750 and did sign and deliver in the name of the said Elizabeth A. Moulds and as her agent a certain contract for the purchase of said premises and "in accordance with such agreement and upon the signing and delivery of the said contract in the sum of one thousand dollars in money &c of the proper money, goods, chattels and personal property of the said William Moulds" x x x x x "Whereas, in truth and in fact the said premises were not then free and clear from all incumbrances except the said mortgage so held by the said Equitable Life Assurance Society but were otherwise encumbered, to wit: by divers mortgages, and whereas in truth and in fact the pretenses and representations so made as aforesaid by the said Thomas C. Van Brunt to the said William Moulds was and were then and there in all ~~things~~ respects utterly false and untrue as he the said ~~William Moulds~~ Thomas C. Van Brunt at the time of making the same then and there well knew"

The defendant relies upon eight points to sustain his demurrer:



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I.

The defendant claims that the ownership of the property claimed to have been stolen is improperly alleged; that on the face of the indictment there is a material variance in that in one part William Moulds is alleged to be the owner of the \$1,000 while in another he is described and alleged to be the agent of Elizabeth A. Moulds, in whose name and for whom he was acting"

It is submitted that there is no force in this contention of the defendant. The indictment clearly and distinctly alleges that the defendant " with the intent to deprive and defraud William Moulds of the proper moneys &c thereafter mentioned" did make certain false representations and that the said William Moulds relying upon said representations did deliver to the defendant \$1,000 of the money of the said William Moulds. It is distinctly stated that the intent of the defendant was to deprive and defraud William Moulds and that the money so stolen was the money of William Moulds. The indictment therefore alleges an intent to deprive and defraud the true owner and meets the requirements of the statute.

If it appear on the trial that the true owner was not William Moulds but Elizabeth A. Moulds, then the contention of the defendant could properly be presented to the Court but the question whether William Moulds was the true owner is a matter of proof and cannot be decided on a demurrer.

## II.

The defendant claims as a second ground for the demurrer there is no allegation that Elizabeth A. Moulds has been injured.

It is difficult to understand the force of this contention.

The indictment charges the defendant with larceny from William A. Moulds, not Elizabeth A. Moulds.

No further comment seems necessary.

Further, it is submitted that the two foregoing contentions are conclusively answered by section 281 of the Criminal Code, which expressly provides:

"When an offense involves the commission of an attempt to commit a private injury and is described with a sufficient certainty in other respects to identify the act, an erroneous allegation as to the person injured or intended to be injured is not material"

## III.

The third ground for demurrer set up by the defendant consists ~~xxxxxxxx~~ in the claim ~~xxx~~ that the indictment shows that the defendant did not induce William Moulds by false representations to part with the \$1,000 but induced him by such representations to sign the contract of sale.

This also is a matter of proof. The indictment distinctly charges that William Moulds parted with the \$1,000, relying upon the said false representations. There is an additional allegation in the indictment to the ~~effect~~ effect that William Moulds signed the contract of sale upon the strength of the said false representations, but this allegation is merely a part of the history of the

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transaction and while necessary to give an intelligent idea of the whole matter, may be treated as surplusage from a strict legal standpoint. The indictment states that William Moulds signed the contract and parted with the money relying on the false representations and the latter portion of the sentence answers all the requirements of the statute.

IV.

The fourth contention of the defendant, to wit: That the money was parted with not on the false pretenses but on the strength of the signing of the contract is trivial. The indictment sets out without ambiguity that the money was parted with on the strength of the false pretenses. The evidence on the trial may disclose a different state of facts, but on the face of the indictment there is no ground for this contention.

V.

The same considerations apply to the fifth ground of demurrer, i.e. that the contract of sale should have been pleaded. In point of fact, the contract is sufficiently pleaded. The contract is only mentioned in the indictment as indicated above for the purpose of giving a clear statement of all the facts constituting the transaction in question. The crime would have been sufficiently pleaded

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ff the indictment had only averred that William Moulds paid \$1,000, being part of the purchase money of said premises, relying on the said false pretenses without mentioning the contract at all. To say that the indictment is demurrable because the contract is not pleaded in haec verba is little short of absurd.

VI.

The defendant states as his sixth ground of demurrer, that there is an ambiguity in the allegation of the indictment to the effect that the said contract of sale purported to convey the said premises to Elizabeth A. Moulds. The form of a contract of sale is familiar. The party of the first part agrees to sell the premises affected and the party of the second part agrees to buy said premises. Such a contract may be fairly said "to purport to convey"

At any rate the alleged error is ridiculously technical and immaterial. All the allegations as to the form of the contract may be treated as surplusage; and the alleged error may be disregarded.

VII.

The seventh ground of demurrer is that the false pretenses were not sufficiently negotiated.

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The allegations of the indictment on this point are as follows:

"Whereas, in truth and in fact the said premises were not then free and clear from all incumbrances except the said mortgage so held by the said Equitable Life Assurance ~~Company~~ Society, but were otherwise encumbered, to wit: by divers other mortgages.

And whereas, in truth and in fact the pretenses and representations so made as aforesaid by the said Thomas C. Van Brunt to the said William Moulds was and were in all respects utterly false and untrue as he the said Thomas C. Van Brunt at the time of making the same then and there well knew"

It is respectfully submitted that under the provisions of the Code of Criminal Procedure the indictment sufficiently negatives the false pretenses.

The indictment ~~xxxxxxxxxxxx~~ alleges that the representations were false and that the defendant knew they were false. It is incumbent upon the People to prove both elements of this charge and we submit that if the indictment had only stated in the usual primal manner that the premises were not then free from all incumbrances, except the mortgage of the Equitable Life Assurance Society and that the said representations were false as the defendant at the time of making them then and there well knew, the allegations would have been sufficient to support a conviction for larceny by false pretenses.

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The familiar requirements of the Code of Criminal Procedure in regard to indictments are as follows:

"Section 275--INDICTMENT, WHAT TO CONTAIN--The indictment must contain:

1. The title of the action, specifying the name of the Court to which the indictment is presented, and the names of the parties;

2. A Plain and concise statement of the act, constituting the crime, without unnecessary repetition"

"SECTION 284--INDICTMENT, WHEN SUFFICIENT--The indictment is sufficient if it can be understood therefrom:

1. That it is entitled in a court having authority to receive it though the name of the court be not accurately stated;

2. That it was found by a Grand Jury of the County, or if in a city court, of the city in which the court was held;

3. That the defendant is named, or if his name cannot be discovered, that he is described by a fictitious name with the statement that it has been impossible to discover his real name;

4. That the crime was committed at some place within the jurisdiction of the court; except where, as provided by sections one hundred and thirty-five to one hundred and thirty-eight, both inclusive, the act, though done without the local jurisdiction of the county, is

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triable therein;

5. That the crime was committed at some time prior to the finding of the indictment;

6. That the act or omission, charged as the crime is plainly set forth;

7. That the act or omission, charged as the crime is stated with such a degree of certainty as to enable the court to pronounce judgment, upon a conviction, according to the right of the case"

"Section 285--INDICTMENT NOT INSUFFICIENT FOR DEFECT OF FORM, NOT TENDING TO PREJUDICE DEFENDANT.--No indictment is insufficient nor can the trial, judgment, or other proceedings thereon be affected, by reason of an imperfection in matter of form, which does not tend to prejudice the substantial rights of the defendant, upon the merits.

"Section 684. ERRORS, ETC., WHEN NOT MATERIAL.--Neither a departure from the form or mode prescribed by this Code in respect to any pleadings or proceedings, nor an error or mistake therein, renders it invalid, unless it have actually prejudiced the defendant, or tend to his prejudice in respect to a substantial right."

It is submitted that the indictment in the case at bar fully meets the requirements of these sections. The essential elements of an indictment for the crime of larceny by false pretenses consist in allegations.



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(1) That certain representations were made, stating what those representations were.

(2) That these representations were made with intent to defraud.

(3) That these representations were false.

(4) That these representations were known to the maker at the time of making, to be false.

(5) That relying upon these false representations the injured party parted with his property.

Peo. v Baker, 96 N.Y. 340

Peo. v Blanchard, 90 N.Y. 319

Peo. v Oyer and Terminer, 83 N.Y. 449.

All these allegations are contained in the indictment in the case at bar. The defendant is fully apprised of the facts constituting the crime with which he is charged and the crime ~~xxx~~ is charged with sufficient certainty to enable the court to pronounce judgment upon a conviction according to the right of the case.

The alleged defect in the indictment is purely technical and it is the well established policy of the law under the Code of Criminal Procedure to disregard all technicalities which do not go to the merits of the case.

"The tendency of modern thought" says Peckham J. "as exhibited in criminal legislation is to force the practice from mere technicalities and to bring to the trial of the indictment the very merits of the issue between the People and the defendant and in the plainest and least formal style"

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People v Bliven, 112 N.Y. 79, 92.

People v Dimick, 107 N.Y. 13, 35.

People v Peck, 2 N.Y. Crim. Rep. 317.

People v Sullivan, 4 N.Y. Crim. Rep. 194.

The BARBER case, cited by the defendant was decided before the enactment of the Criminal Code and in its decision the wise provisions of that Code tending to cure formal defects were not considered.

But even under the rigorous common law procedure, when the courts resorted to technicalities in order to obviate the effects of cruel and oppressive penal statutes, such an indictment as the one under discussion was supported.

In R. v Meakim 11 Cox C.C. 270 the indictment charged that a certain W.M. unlawfully designedly and knowingly did falsely pretend unto one T.M.W. that the goods of him the said W.M. were unincumbered and that a certain pretended bill of goods was good and valid by means of which false pretenses the said W.M. obtained from the said T.M.W. 8 175 6d. "Whereas in truth and in fact the said goods of him the said W.M. were not unincumbered nor was the said pretended bill of sale a good and valid bill of sale &c" The indictment was sustained although it did not specify what the incumberances were.

A fortiori under our liberal modern doctrine should

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such an indictment be appealed. In *People v Ostrander*, 64 Hun. 345, the defendant was charged with perjury for swearing that the liability of a bank was a certain amount whereas "it was a much larger sum" The indictment was appealed on the principles indicated above.

See also  
People vs *Bowe*, 3 N.Y.Crim.Rep. 156, a similar case.

VIII.

The indictment conforms to the requirements of the statute and the demurrer should be overruled.

Respectfully submitted

Geo. Gordon Battle

Deputy Assistant &c.

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*Court of General Sessions*

THE PEOPLE OF THE STATE OF NEW  
YORK.

*against*

*Thomas C. Van Brunt*

*Memorandum  
for the Court*

*John R. Fellows*  
DE LANCEY NICOLL,

DISTRICT ATTORNEY,

No. 32 CHAMBERS ST.,

NEW YORK CITY.

*Recd. Feb 5/94*

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COURT OF GENERAL SESSIONS.

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The People of the State of New York,

-- against --

THOMAS C. VAN BRUNT.

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Defendant's brief on demurrer  
to indictment.

The indictment contains but one count and charges the crime of Grand Larceny by means of false pretenses. The essential features of the indictment are as follows:

The pretenses were that the defendant represented to William Moulds that a certain premises which he offered to sell were free and clear of incumbrances, except a certain mortgage held by the Equitable Life Assurance Society.

The inducement was that Moulds believed the false pretenses, was deceived thereby and was induced by means thereof to agree to purchase the said premises in the name of Elizabeth A. Moulds and as her agent for a certain sum to be paid as follows: one thousand dollars on the signing on a contract; ten thousand seven hundred and fifty dollars by assuming the said mentioned Equitable mortgage, and four thousand seven hundred and fifty dollars by said Elizabeth A. Moulds making a mortgage to said Thomas C. Van Brunt, the defendant, payable in certain installments.

The thing done was that said William Moulds in the name of and as agent for Elizabeth A. Moulds, signed a contract for such purchase "purporting to convey said premises to said Elizabeth A. Moulds," and on the signing and delivery of the said contract gave to the defendant one thousand dollars his, Moulds', money and personal property.

The falsity of the pretenses consisted in the defendant's knowledge of its falsity and the fact that the said premises were not free and clear of all incumbrances (except said Equitable mortgage), but were otherwise encumbered, to wit: by divers other mortgages.

The indictment is fatally defective for the following reasons:

I.

*overruled  
R.B.M.* The ownership of the property claimed to have been stolen is improperly alleged. On the face of the indictment there is a material variance, in that in one part William Moulds is alleged to be the owner of the \$1,000.00 while in another he is described and alleged to be the agent of Elizabeth A. Moulds in whose name and for whom he was acting.

II.

*overruled  
R.B.M.* There is no allegation that Elizabeth A. Moulds, the party with whom - through her agent - the defendant made the agreement and who obligated herself by a written contract, has been in any way damaged or injured in her property by the acts of the defendant.

## III.

*Green*  
The Grand Jury accuse the defendant of larceny - the facts alleged constitute a different crime. William Moulds, either as agent or principal, was not induced to part with the money by the false pretenses, but was, as is alleged, induced to sign a contract for the purchase of land. This is not larceny but a distinct and substantial crime.

## IV.

The money was parted with, not on the false pretense, but on the strength of, and on the signing and delivery of the contract. The contract was the inducing cause and there is no allegation that the defendant falsely represented anything contained therein.

## V.

The contract was in writing. It is presumed in law to have contained and expressed the representations and intent of the parties. It is not pleaded either in substance or form. Without it the Court is unable to pass judgment.

## VI.

There is a material inconsistency and ambiguity in the allegations that the contract for the purchase purported to convey the premises to Elizabeth A. Moulds.

## VII.

The false pretense alleged in not in law sufficiently negatived.



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An examination of these reasons in the light of the statutes, of principle and authority, will show (1) that the indictment does not specify the names of the parties; (2) that it does not contain a plain and concise statement of the act constituting the crime charged, Criminal Code Section 275, (3) that the act charged as the crime is not plainly and consisely set forth, id. Sec. 284; and (4) that the facts stated do not constitute a crime.

I.

The ownership of the property claimed to have been stolen is improperly alleged. On the face of the indictment there is a material variance, in that in one part William Moulds is alleged to be the owner of the \$1,000.00, while in another he is described and alleged to be the agent of Elizabeth A. Moulds in whose name and for whom he <sup>was</sup> ~~is~~ acting.

a. What is the law:

Penal Code, Sec. 528, defines larceny "A person who with the intent to defraud the true owner of his property, etc."

"Takes from the possession of the true owner, or of any other person or obtains from such possession by false pretenses, &c." steals, etc.

The gist of th is section as applicable to this indictment is (1) there must be a true owner of the property, (2) there must be an intent to defraud the true

owner and possession must be obtained from the true owner or of any other person.

The pleader has evidently confounded ownership with possession. The language is that the property may be taken from the possession of the true owner or of any other person, but taking from the possession does not relieve from the necessity of showing who the true owner is. It does not say "to defraud the person in possession, but to defraud the true owner by taking from the possession of some person.

Mark the emphasis given to the words "true owner." Not satisfied with saying the owner, but ~~the~~ true, the real, the undisputable owner is required by the statute to be named - not the true possessor, but the true owner.

b. What the authorities hold:

The indictment must contain the name of any one whose property has been injured. The name must be absolutely correct.

Mays Cr. Law p. 811

The indictment must show a legal injury to the owner of the property and the owner must be described with accuracy.

Peo. v. Thomas, 3 Hill 169.  
Whart. Cr. Law, Secs. 2137 - 2145.

If the owner be unknown then it must be stated, but if known then the ownership must be properly laid otherwise the indictment is bad.

2 East P. C. 561 - 781,  
Whart. Cr. L. 257,  
2 Hales P. C. Note 1.

The property stolen must be averred to be in the right owner and if it appear that the owner is another and different person then the variance will be fatal.

Lawrence v. State, 4 Yerg. 145,  
Whart. Cr. Law, Sec. 1820,

It is an essential that the owner of the property obtained should be accurately described.

Barbour's Cr. L. 132,  
Archbold's Cr. Pl. 275,  
Peo. v. Higbie, 26 Barb. 134,

c. What are the facts:

The indictment alleges that William Moulds "agreed to purchase in the name of Elizabeth A. Moulds and as her agent" certain premises for a certain sum "to be paid as follows: one thousand dollars on the signing of the contract" and that "he did sign and deliver a contract in the name of Elizabeth A. Moulds and as her agent" and that he "did in accordance with said agreement and the signing of the contract deliver to the defendant one thousand dollars."

There could not be a clearer declaration of agency than this.

Who was bound by the contract? In whose name was the property to be vested? Who alone could sue for its breach? Who alone could recover the money paid on the contract? Elizabeth A. Moulds, and none else.

Did William Moulds assume any liability or obtain any benefit by the contract? He could not.

How, therefore, can he have title to property in a criminal Court when the law in a civil Court would not recognize it.

It is not a question of limited or special ownership such as a bailee or warehouse keeper, a livery keeper or any person having some inferior title or lien, but it is the ownership of the principal of the thing in the hands of the agent. The agent may have possession, but the ownership remains in the principal.

The property may have been taken from the possession of Moulds, but the title was in Elizabeth A. Moulds, for he was acting in her name and as her agent and all things and property rights in that transaction in the eye of the law belonged to Elizabeth A. Moulds.

It is a legal presumption that property in the hands of an agent for a special purpose belongs to the principal.

The indictment alleges that Elizabeth A. Moulds signed the contract (by her agent) by which she bound herself to pay the purchase price, to wit: one thousand dollars, etc., and that she, through her agent, paid the thousand dollars. How then can the Grand Jury say that that thousand dollars belonged to the agent?

The general rule of law is paid down by Mr. Bishop that what one does through another's agency is to be regarded as done by him.

1 Bish. Cr. L. 656, 673, 682.

This rule is quoted and followed by the Court of Appeals in the Bliven Case, 112 N.Y. 86.

Money paid by an agent is rightfully laid as paid by the principal,  
Whart. Cr. L. Sec. 2146.

An agent has simply a naked charge of his principal's property.  
Whart. Cr. L. 183.

In Peo. v. Higbie, 66 Barb. 134, the false pretenses were made to a cashier of a bank and on their reliance the money was obtained from his possession. But the ownership <sup>of</sup> in the money was properly laid in the bank.

Moulds held precisely the same relation to Elizabeth A. Moulds as the cashier did to the bank.

d. The statute requires that the property must be taken with an intent to defraud the true owner.

The indictment alleges that the defendant obtained the property with the intent to defraud William Moulds.

Intent can only be inferred from the act.

The act alleged is that the defendant contracted in writing with Elizabeth A. Moulds and received from her on that contract by the hands of her agent, a thousand dollars.

How could the defendant intend to defraud any other person but the person with whom he had the transaction. He knew that Moulds was acting as an agent simply; he bound himself in writing to convey his property to Elizabeth A. Moulds and for that he received from her the money.

Therefore it was a legal impossibility for the defendant to intend to defraud a man from whom he received no property.

The intent was to defraud Elizabeth A. Moulds, and the indictment is bad for alleging an intent to defraud some one else not the true owner.

P. Code Sec. 528,  
Peo. v. Moore, 3 N.Y. Cr. R. 469.

## II.

There is no allegation that Elizabeth A. Moulds, the party with whom - through her agent - the defendant made the agreement and who obligated herself by a written contract, has been in any way damaged or injured in her property by the acts of the defendant.

a. Elizabeth A. Moulds, the principal, has not been injured.

There is no allegation that she has. On the contrary it would appear that she received from the defendant all that he agreed to give.

The indictment says that the contract purported to convey the premises to her.

It is a legal presumption that all persons perform their contracts until the contrary appears, and on this presumption Elizabeth A. Moulds may have received title and possession of the premises from the defendant according to the written contract.

### III.

The Grand Jury accuse the defendant of larceny - the facts alleged constitute a different crime. William Moulds, either as agent or principal, was not induced to part with the money by the false pretenses, but was, as is alleged, induced to sign a contract for the purchase of land. This is not larceny but a distinct and substantial crime.

a. The written contract was the inducing cause.

The indictment says that William Moulds believing the false pretenses and being deceived thereby, was induced by means thereof to agree to purchase (as agent) the premises for a certain sum to be paid, &c., one thousand dollars upon the signing of the contract and that he did pay the money upon the signing of the contract.

The inducement here was to make the contract. It is clearly stated that the money was not to be paid until the contract was made, therefore the contract was a necessary



precedent. The defendant knew he could not get the money until the contract was signed, therefore he induced Moulds to sign the contract.

b. This is not the crime of larceny charged in the indictment, but the crime of obtaining signature by false pretenses.

See Criminal Code Sec. 566,  
Brown v. Peo. 16 Hun 535,  
Therasson v. Peo. 83 N.Y. 238.

c. The acts set forth constitute a different crime from the one charged.

d. This is a material variance and repugnance and comes squarely under the condemnation of Peo. v. Dumar 106 N.Y. 507.

e. Under the acts alleged it would not be necessary to prove that any property was stolen, but would not be necessary to prove value or amount of money, the written signature would be the controlling proof and the punishment would be different.

f. It would be charging one thing and proving another.

The indictment must not only charge the crime but state the act constituting it.

Peo. v. Dun 25 St. Rep. 41.

g. The allegations are repugnant and inconsistent.

The common law doctrine as to repugnant allegations still obtains under the Code. If there are in-

consistent allegations or incongruous allegations in an indictment the crime cannot be said to be stated plainly at all

Peo. v. Wise. 3 N.Y. Cr. R. 305,  
 Peo. v. Gregg. 35 St. Rep. 758,  
 Peo. v. Dumar, supra.  
 Peo. v. Blanchard, 90 N.Y. 314,  
 See opinion of Savage, J., in Peo. v. Gates, 13 Wend. 317

#### IV.

The money was parted with, not on the false pretense, but on the strength of, and on the signing and delivery of the contract. The contract was the inducing cause and there is no allegation that the defendant falsely represented anything contained therein.

a. The money was not paid and it is a legal intendment that it would not have been paid until the signing of the contract, therefore the contract was the controlling cause and not the representations which preceded.

b. The Grand Jury says that Moulds was induced to sign the contract by the representation and that in pursuance of the contract the money was paid.

c. There is no averment that Moulds relied upon or believed or was induced by the representations to pay the money.

The false pretense must be the controlling and decisive cause.

Peo. v. Haynes, 11 Wend. 566,  
 Peo. v. Baker, 2 N.Y. Cr. R. 229.

## V.

The contract was in writing. It is presumed in law to have contained and expressed the representations and intent of the parties. It is not pleaded either in substance or form. Without it the Court is unable to pass judgment.

a. It is a elementary law that the verbal statements of parties preceding a written contract are merged in and expressed in the written instrument.

b. Once an agreement is committed to writing the writing is the best evidence and oral testimony of preceding conversations is not admissible.

c. It is the law of this State - the statute of frauds - that contracts for the sale or purchase of land must be in writing.

d. The law presumes that the contract in question contained all the agreements of the parties.

e. It is therefore essential to be pleaded that the Court may be informed by the best evidence how to pronounce judgment.

f. It is not pleaded in substance or form and therefore the facts are not plainly and consisely stated.

"All the particulars requisite to show the exact characer and nature of the offense must be stated.

Peo. v. Stark, 59 Hun 55.

"When it is material in course of an indict-

"ment to alleged the making or the existence of a contract  
 "or of any written instrument, the writing or contract must  
 "be set forth exactly, otherwise the indictment is repugnant  
 "and fatally defective."

Com. v. Lawless, 101 Mass. 32,  
 Com. v. Tarbox, 1 Cush. 66,  
 Whart. Cr. Pl. 4 ed. 264,  
 R. v. Colson, 1 Eng. R. 552.

In Rex v. Codrington, Vol 1. Carrington and  
 P's Reps. p. 661, the indictment charged with obtaining  
 money by falsely pretending that he had a reversionary  
 interest in property. The defendant executed the deed and  
 received the money. The falsity was shown to be that  
 defendant had no reversionary interest because he had  
 already disposed of it by a prior deed. Held that he  
 could not be convicted on the ground that the purchaser  
 relied on the covenants in the deed since they were the  
 controlling cause and he was compelled to rely on his action  
 for breach of covenant.

## VI.

There is a material consistency and ambiguity  
 in the allegations that the contract for the purchase pur-  
 ported to convey the premises to Elizabeth A. Moulds.

a. Either Elizabeth A. Moulds did or did not get the  
 property. If she did not, she may have been injured. If  
 she did she got all that she agreed to purchase and was not  
 injured.

b. If it was a contract it could not purport to convey. If it purported to convey, it was a deed. One of these allegations must be wrong. Which was it? a contract or a conveyance.

c. It is a material ambiguity and inconsistency. The defendant has the right to be apprised of what he is called upon to meet.

"Where there are no means of knowing which one of two inconsistent allegations in an indictment the prosecution means to rely upon and plainly be cannot rely upon both, the indictment will be insufficient.

Bish. Cr. Pl. Sec. 489 - 491.

## VII.

The false pretense alleged is not in law sufficiently negatived.

a. It is as necessary to negative as it is to plead the false pretense.

b. The negation must be as specific as the pretense.

c. Alleging merely the pretense without stating specifically in what it consisted, would be bad; so alleging the falsity of the pretense without specifically stating how it was false is also bad.

d. The representation by defendant that his property was free from incumbrance can only be negatived by showing

what incumbrance there was upon the property.

e. If the Grand Jury had legal evidence of the existence of incumbrances, it could only be obtained from the public records and it should have been alleged. If there was no such evidence then the allegation was inserted in the indictment without evidence to sustain it.

The case of Barb. v. Peo. 17 Hun 366 is decisive on this question. The defendant was indicted for false pretenses. The false pretense alleged was "that he was out of debt and that he had no debts against him." This was negatived by the allegation that "where in truth and fact he was not out of debt but was in debt and owed large sums of money to divers persons."

At the trial proof was given of the specific debts which defendant owed and he was convicted.

The General Term reversed the conviction, the Court saying "The testimony was inadmissible, the existence of those particular debts not having been charged in the indictment, the prosecution was not entitled to prove them and the defendant was not required to be prepared to meet them. Citing as controlling, Peo. v. Miller 2 Park Cr. Cases 197.

In the last named case the defendant for falsely pretending "that this last year's debts had been settled and paid" This pretense was generally negatived.

The General Term reversed the conviction and held that such representations could not be shown to be false by proving a specific indebtedness unless the existence

of such specific indebtedness had been alleged in the indictment. The Court saying "It would be contrary to well established principles to allow evidence to be given upon a material issue tending to fasten fraud and falsehood upon the party without averment or notice in the indictment of the fact sought to be proved."

"There must be substantiation absolute negations of the facts which were represented."

Congers Case, 4 City Hall Rec.

"The indictment must contain facts which are incompatible with the innocence of the accused.

2 Hawk P. C. 25 Sec. 55,  
Com. v. Grey, 2 Grey (Mass.) 501.

The pretenses which are to be proven false must be negated by express and specific averments sufficient to give defendant notice of what he is to prepare to answer.

Reg. v. Stone, 9 Wend. 182.  
Dord v. Peo. 9 Barb. 671.

An indictment for false pretenses the same as an indictment for perjury, must distinctly negative the particular matters to be falsified.

R. v. Moody, C. C. 276.

The negative averment in this indictment is that the premises were not free from incumbrances, but were otherwise incumbered by divers other mortgages.

It is difficult to comprehend what is meant



by "otherwise" and "divers other"

The phrase is ambiguous and obscure.

If there are other divers mortgages they are matters of record and should be specified.

If they are not of record they are not incumbrances against Moulds.

And mortgages may be of record and yet not be incumbrances.

For instance: A mortgage may be paid and not satisfied of record.

A mortgage may be outlawed by the statute of limitations.

A mortgage may have been obtained and recorded by fraud and device.

A mortgage may have been given as an indemnity against a contingency which has never happened.

A mortgage may have been given to secure future advances on which no money has been paid.

None of these mortgage would be an incumbrance, and yet under the indictment as framed defendant would be put to the expense and peril of a trial where no legal conviction could be had.

A mortgage is simply a security for the payment of money and is not a subsisting lien or incumbrance unless it is alleged and proven that it had not been paid.

The cases cited above hold that "divers debts" must be specifically described and alleged otherwise no proof can be given of any debt.

A mortgage is in fact a "debt" and unquestionably it must be specified under the authorities which declare the law in this State.

The indictment does not allege necessary fact and it is therefore insufficient.

On all reasons set forth it is submitted that the indictment is insufficient and the demurrer should be allowed.

Respectfully

*John W. Coff*  
of Counsel for defendant.

County of Seneca, New York  
County of New York

The People &c

vs

Thomas C. Van Brunt

Defendants' Brief in  
Removal to Federal Court

John W. Goff  
Counsel for defendant.  
41 Park Row  
New York

0070

Court of General Sessions,  
City and County of New York.

-----  
The People, vs.,

vs.

Thomas C. Van Dunt.  
-----

me defendant Thomas C. Van Dunt,  
does hereby return to the indictment presented by the  
Grand Jury on the 12th day of September, 1922, charging  
me with the crime of Grand Larceny, on the following  
grounds:

First: That the indictment does not conform  
substantially to the requirements of sections two hundred  
and seventy-five and two hundred and seventy-six of the  
Code of Criminal Procedure.

Second: That the facts stated in said indictment  
do not constitute a crime.

Therefore I, defendant, take judgment of the  
Court that he be discharged and discharged from the said  
prison specified in the said indictment.

Date, October 20th 1922.

*Wolfe & Pallock*

Attorneys for Defendant,  
11 Park Row,  
New York City.

Cont of General Sessions  
New York County

The People vs

vs

Thomas C. Van Buren

Copy  
Document to Indictment

Exhibit  
1/11/18  
4/1/18  
1/1/18

See at  
Dennison  
Oct 18/18

0072

District Attorney's Office.

PEOPLE

25.

Thos C. Van Buren

in cell.

I am in his care

should go before  
the Grand Jury  
for an indictment  
found.  
John D. ...

0073

LAW OFFICE OF  
WILLIAM F. MOORE,  
No. 39 WALL ST.,

BOX 600.

NEW YORK, Sept. 7th 189

The People vs Van Brunt.

Dear Sir;

I send you herewith affidavits made by John E. Hodges, John White, Frank Dovale and William Moulds, complainant in the above entitled matter. I have caused these affidavits to be prepared in order that you might read the facts connectedly which the complainant insists constitute the necessary elements upon which an indictment should be found against the defendant, Thomas C. Van Brunt.

It seems to me, and I submit to you, that the grossest sort of fraud has been perpetrated by Van Brunt upon Mr Moulds. A warrant was issued based upon these facts and an examination was had at the Tombs Police Court before Justice Meade, and so far as I can learn the complaint was dismissed upon the ground, which I submit to you is untenable, that the complaint could not be sustained because it was made by Moulds, while the title to the property was to be taken in the name of his wife. I have therefore stated in the affidavit that the money which made the first payment upon the purchase of the house No 220 West 136th street, as well as the money which made the fourteen payments by way of instalments amounting to \$2100, was paid by Mr Moulds' own check drawn upon his individual bank account, and that the funds therein were his. I take it under such circumstances that within the mean-

0074

LAW OFFICE OF  
WILLIAM F. MOORE,  
No. 39 WALL ST.,

BOX 600.

NEW YORK, ..... 189

*Penal Code*  
ing of Subdivision 1, Section 528, the money was taken from Mr  
Moulds as the true owner, by the false representations and preten-  
ces of the defendant and appropriated to his own use, and not from  
Mrs Moulds, and that therefore Mr Moulds is the proper person to  
make the complaint. The Justice seemed to think differently, as ap-  
pears from the transcript of the testimony, but I must submit to  
you that he is in error.

I will at any time you may designate, as the counsel for Mr  
Moulds produce before the Grand Jury these witnesses, together with  
such documents as I have and which you may desire.

Hoping to hear from you and that an early presentation of the  
case before the Grand Jury will be convenient, I am,

Yours very truly

*William F. Moore*

*P.S. Mr. Hodge is absent from town and I was  
unable to ~~have~~ him verify his affidavit which he  
will do upon his return*



0075

Sec. 151.

Police Court \_\_\_\_\_ District.

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

Whereas, Complaint in writing, and upon oath, has been made before the undersigned, one of the Police  
Justices for the City of New York, by *William Mavels*

of No. *48 University Street* that on the *61<sup>st</sup>* day of *March*  
189*3* at the City of New York, in the County of New York, the following article to wit:

*Good and lawful money of the*  
*United States*

of the value of *Five hundred Dollars* Dollars,  
the property of *Complainant*

w *as* taken, stolen and carried away, and as the said complainant has cause to suspect, and does suspect and  
believe, by *Thomas C. Paul Smith*

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 every of you, to apprehend the bod *y* of the said Defendant  
and forthwith bring *him* 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 *7<sup>th</sup>* day of *March* 189*3*  
*Thomas C. Paul Smith* POLICE JUSTICE.

0076

Police Court ..... District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

vs.

Warrant-Larceny.

Dated June 27 1893

Martin Magistrate

Coroner Officer.

The Defendant: J. H. C. Van Brunt

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

Edman Coroner Officer.

Dated June 30 1893

This Warrant may be executed on Sunday or at  
night.

Police Justice.

Dated 188

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

44  
W  
Mr.  
Bulder  
M  
Y  
\$21 7/136'50

The within named

Police Justice.

0077

Sec. 198—200.

District Police Court

City and County of New York, ss:

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

Question. What is your name?

Answer.

*Thomas C. Van Bunt*

Question. How old are you?

Answer.

*44 years*

Question. Where were you born?

Answer.

*MS*

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

Answer.

*221 W. 138th St.*

Question. What is your business or profession?

Answer.

*Real Estate*

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*  
*Thomas Van Bunt*

Taken before me this

day of June 189

Police Justice.

0078

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, ..... 189

Police Justice.

I have admitted the above-named.....

to bail to answer by the undertaking hereto annexed.

Dated, ..... 189

Police Justice.

There being no sufficient cause to believe the within named.....

guilty of the offense within mentioned, I order h to be discharged.

Dated, July 13 1893

Police Justice.

0079

BAILED.

No. 1, by

Residence

Street.

No. 2, by

Residence

Street.

No. 3, by

Residence

Street.

No. 4, by

Residence

Street.

Police Court---

District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

William Moulds.

vs.  
Thos. C. Van Buren

2.

3.

4.

Dated,

189

Magistrate.

Officer.

Precinct.

Witnesses

No.

Street.

No.

Street.

No.

Street.

to answer

125011 13 Haver  
10. Haver  
7. Haver  
125011 13 Haver  
125011 13 Haver

Filed 24 July 1903

0080

THE PEOPLE, &c.,  
ON COMPLAINT OF

District Police Court,

*Murray Manned*

vs.

Examination of Surety.

*Thompson Van Buren*

*Edwin A. Stutz*  
*Thompson Van Buren*

being duly sworn as to his sufficiency as bail for  
in the above entitled proceedings, says in answer to the

following questions, as follows:

Question. What is your name?

Answer.

Question. Where do you reside?

Answer.

Question. What is your business?

Answer.

Question. Do you own any Real Estate,—if so, where situated, and of what does it consist?

Answer.

Question. When did you purchase, of whom, and what did you pay?

Answer.

Question. Are there any mortgages upon the same—and if so, to what amount?

Answer.

Question. When are they due?

Answer.

Question. Is the property in your own name alone?

Answer.

Question. Is the Deed or Deeds on record?

Answer.

Question. Are you surety for anyone else,—and if so, to what amount, and for what?

Answer.

Question. Do you owe any money,—and if so, how much?

Answer.

Question. Are there any judgments against you?

Answer.

Question. Are there any proceedings in foreclosure now pending against you?

Answer.

*Edwin A. Stutz*

Sworn to before me, this

day of

1893

Police Justice.



0081

POLICE COURT

DISTRICT.

Affidavit - Larceny.

CITY AND COUNTY OF NEW YORK : SS -

WILLIAM MOULDS, of No. 78 University Place, aged 44 years, occupation, Merchant being duly sworn deposes and says, That on or about the 21st day of March, 1892, 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 thousand dollars, lawful money of the United States, the property of deponent, and that this deponent has probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen, and carried away by Thomas C. Van Brunt, from the fact that in a conversation on or about the 16th day of March, 1892, said Thomas C. Van Brunt by means of a false and fraudulent representation made to this deponent, said Thomas C. Van Brunt assured this deponent that the house and lot situate at No. 220 West 136th Street in the City of New York was free of all encumbrance and of all liens of whatsoever kind and nature, except a mortgage of \$10,750., held by the Equitable Life Assurance Society of the City of New York; that deponent fully relying upon such assurance and representations thus specifically made by said Thomas C. Van Brunt, this deponent was induced to enter into a contract for the purchase of said house and lot and did enter into such contract on the 21st day of March 1892, wherein said Thomas C. Van Brunt under his written signature, among other things, was

to convey and assure to this deponent the fee simple of the said premises aforementioned, No. 220 West 136th Street in the City of New York, free from all encumbrance; that said statements thus made by said Thomas C. Van Brunt to this deponent were false, fraudulent and untrue, and that at the time of making such statements the said Thomas C. Van Brunt knew them to be false, fraudulent and untrue, and feloniously made them for the purpose of taking, stealing and carrying away the property of this deponent as aforesaid; that in truth and fact as this deponent is informed said property, to wit, 220 West 136th Street in the City of New York, was mortgaged by said Thomas C. Van Brunt and his wife to the firm of Benedict, McElroy & Fowler, then merchants in the City of New York, by an indenture of mortgage dated November 1st, 1890, acknowledged November 15th, 1890, and recorded December 18th, 1890, in Liber 2604 of Mortgages, page 285 and subsequently by them assigned to William McElroy, under date of February 1st, 1892, and recorded in Section 7, Liber 11 of Mortgages, page 120, which mortgage was subsequently assigned by said William McElroy to Martin J. Kane, under date of November 12th, 1892, recorded November 15th 1892, in Section 7, Liber 19, page 274; that the same property, to wit, 220 West 136th Street in the City of New York, was mortgaged to A. C. Cheney, Trustee, together with other property adjoining the same, for the sum of \$30,000 by an indenture of mortgage given by said Thomas C. Van Brunt and his wife, dated December 15th, 1890, acknowledged December 16th, 1890, and recorded December 27th, 1890, in the Register's



office of the City and County of New York; that said Thomas C. Van Brunt knew of these facts at the time of the statements aforementioned made by him to this deponent.

Therefore this deponent charges the said Thomas C. Van Brunt, with having wilfully, falsely, fraudulently and feloniously made these statements with the intent to cheat, and defraud this deponent and did cheat and defraud this deponent as aforesaid by aid of the false and fraudulent representations aforementioned.

WHEREFORE this deponent prays that the said Thomas C. Van Brunt may be arrested and dealt with as the law directs

Sworn to before me this : *William Moulds*  
2<sup>nd</sup> day of *June* 1893 :

*Edward Martin*  
*Police Justice*

CITY AND COUNTY OF NEW YORK : SS -

JOHN WHITE, of No. 111 West 134th Street, aged 43 years, occupation, Superintendent, being duly sworn deposes and says, that he has read the foregoing affidavit made by William Moulds, the complainant; that on the 21st day of March 1892 he saw Thomas C. Van Brunt write out in his own hand writing, the contract referred to by the complainant in his complaint, and place his signature to the same; that subsequently this deponent witnessed said signature of Thomas C. Van Brunt to said paper; that subsequently and on the same date as aforesaid under the direction and at the request of said Thomas C. Van Brunt he delivered said contract above referred to to the complainant and received from him a certain check numbered 6548 dated New York, March 21, 1892.

Bank of the Metropolis.

Pay to order of Thomas C. Van Brunt,

One Thousand                      Dollars,

signed by the complainant William Moulds and by him delivered to this deponent; that subsequently and on the same date this deponent at the request of said Thomas C. Van Brunt took said check to the Bank of the Metropolis in the City of New York and had the same certified; that after the certification of said check this deponent delivered said certified check to

said Thomas C. Van Brunt.  
Sworn to before me this :

24<sup>th</sup> day of June 1893 :

*John White.*

*German Martin*  
*Deponent*

0085

Sec. 192.

District Police Court.

Undertaking to appear during the Examination.

CITY AND COUNTY }  
OF NEW YORK, } ss.

An information having been laid before Benjamin F. McGuire a Police Justice  
of the City of New York, charging Thomas C. Van Buren Defendant with  
the offence of Grand Larceny.

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

We, Thomas C. Van Buren Defendant of No.

221 W 13 Street; by occupation a Real Estate

and Edwin A. Hahry of No. 291 West End Ave

Street, by occupation a Real Estate Surety, hereby jointly and severally undertake

that the above named Thomas C. Van Buren Defendant

shall personally appear before the said Justice, at the 1 District Police Court in the City of New York,

during the said examination, or that we will pay to the People of the State of New York the sum of Twenty five

Hundred Dollars

Taken and acknowledged before me, this 30 day of January 18 93

Benjamin F. McGuire POLICE JUSTICE.

Thomas C. Van Buren

Edwin A. Hahry

0086

CITY AND COUNTY }  
OF NEW YORK, } ss.

the within named Bail and Surety being duly sworn, says, that he is a resident and holder within the said County and State, and is worth Twenty Hundred Dollars, exclusive of property exempt from execution, and over and above the amount of all his debts and liabilities, and that his property consists of House and lots

224 and 234 West 138th  
St. and lots in Kings Co.  
17th St. near 18th Ave.  
altogether of the value of over  
Five thousand dollars

Edwin A. Harty

District Police Court.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

vs.

Undertaking to appear  
during the Examination

Taken the ..... day of ..... 18

Justice.

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

THE PEOPLE OF THE STATE OF NEW YORK ON  
THE COMPLAINT OF WILLIAM MOULDS  
against  
THOMAS C. VAN BRUNT.

CITY AND COUNTY OF NEW YORK: SS:

WILLIAM MOULDS being duly sworn deposes and states  
as follows;

I am the complainant in the above entitled action;  
I am engaged in the liquor business at No 78 University  
Place and at No Broadway in the city of New York,  
and I reside at No 220 West 136th street in said city. I  
know the defendant, Thomas C. Van Brunt. I first met him  
on the 20th day of March 1892 at No 234 West 136th street  
New York City under the following circumstances. I had read  
an advertisement in one of the daily papers offering for  
sale a certain block of houses in West 136th street, of  
which No 220 was one. On Sunday, March 13th, 1892 I went to  
look at such houses, taking my little son with me. I found  
there a gentleman whom I have since learned was John E.  
Hodges, whose affidavit accompanies this. I spoke to him  
about the houses and learned that he was authorized to act  
as agent in the sale of them. I inquired of him the prices  
at which the houses were offered and looked through several  
of them. I inquired specifically with reference to the

0000

plumbing, heating and the class of finish in the buildings, and examined among others the one known as No 220. I also inquired who the owner was and was told that the defendant Thomas C. Van Brunt, who lived at 234 West 136th street was such owner. After having made such examination I left without deciding whether I would offer to purchase any or either of them. Upon the next Sunday, March 20th, I again went to the houses and again met Mr Hodges. I had some considerable conversation with him again about the premises and at that time he told me that the asking price was \$16,750; I finally told him that if everything about them was satisfactory and I could make satisfactory terms as to payments I would give \$16,500 for No 220. He then suggested that we should go and see Mr Van Brunt at his residence, which we did. We went into the rear room on the parlor floor and Mr van Brunt shortly afterwards came in. After some preliminary conversation Mr Van Brunt was told that I had offered \$16,500, and he agreed to sell me the house No 220 West 136th street for that sum. I remember distinctly asking him what mortgages, incumbrances or liens there were upon the property and he told me that there were no mortgages, liens or incumbrances upon the premises No 220 West 136th street except one mortgage for \$10,750, held by the Equitable Life Assurance Society of the City of New York, and he stated unqualifiedly that there were no other liens or incumbrances of any kind whatsoever upon said premises. We then talked over the mode in which the payments would be made. It was finally agreed between us that I should sign a contract of sale

0089

and that I should make a payment of \$10.00~~X~~ upon the execution of said contract and that I should give a mortgage for the balance, that is, the sum of \$4,750, and should have the privilege of paying \$150 per month in instalments upon the first day of each month until the whole amount of said mortgage of \$4,750 should be paid. It was also agreed between us that I should on the next day, March 21st, 1892, execute a contract of sale which Mr van Brunt was to draw or have prepared. I then left the house with Mr Hodges and went back to No 220 West 136th street and looked over it again. From there we went to Mr Van Brunts' office where I suggested to Mr Hodges that I should take the title in the name of my wife, and that if he had such a contract at my place of business No 78 University Place the next morning I would then make the payment of \$1000 required by Mr Van Brunt.

The next morning in pursuance of such arrangement Mr Hodges and Mr White called at my place of business with the contract, a copy of which is hereto annexed, and I signed the same and gave Mr White my check for \$1000, a copy of which check is also hereto annexed.

I never received any deed for said premises nor did my wife, although I am informed that a deed was executed and that my wife executed a bond and mortgage for the same and that the same was placed upon record in December following. I continued thereafter with regularity and upon the 28th<sup>or 29<sup>th</sup></sup> day of each month, commencing on April 28th, 1892 and ending May 29th, 1893 to pay the sum of \$150, until I had paid in addition to the sum of \$1000 which was



paid down upon the execution of the contract the sum of \$2100, or \$3100 in all. During all this time I had no knowledge nor did I have any reason to suspect that there were any other liens upon said property than the mortgage for \$10,750, which was stated to me by said Van Brunt to be the only incumbrance upon said property and to be held by the Equitable Life Assurance Society, and the said second mortgage for \$4750 which my wife had given to him, and which had been reduced by my payments of \$2100. I further state that the said \$1000 and the said \$2100 so paid in monthly instalments as aforesaid were paid by my checks drawn upon my individual bank account.

I further state that I was induced to pay the \$1000 upon the execution of said contract by reason of the statements made to me by said Van Brunt at the time, and which I believed to be true, that there were no other liens or incumbrances upon said property except the mortgage held by the Equitable Life Assurance Society for \$10.750, and that had I known that there were any other incumbrances upon said property I would not have paid said \$1000 nor any of the monthly instalments of \$150. I first learned that there were other incumbrances upon said property when an action was commenced to foreclose *certain other mortgages, which were incumbrances on said premises.*

Thereafter I discontinued paying these monthly instalments as I had theretofore done.

Sworn to before me this  
7<sup>th</sup> day of September 1893.

*William Moulds*  
*William F. Moore*  
*Notary Public N.Y.C.*



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

THE PEOPLE OF THE STATE OF NEW YORK ON  
THE COMPLAINT OF WILLIAM MOULDS

AGAINST

THOMAS C. VAN BRUNT,  
Defendant.

26

CITY AND COUNTY OF NEW YORK SS:

JOHN E. HODGES, being duly sworn deposes and says as  
follows;

I am a real estate agent and have done business as  
such in the city of New York for the past twenty years;  
I reside at No 272 West 115th street in said city. I  
know the defendant above named; I have known the com-  
plainant, William Moulds, from about the 13th of March  
1892. The defendant having built certain houses in West  
136th street placed the same in my hands as agent for  
the purpose of finding a customer for the same. Upon the  
13th day of March, 1892, the buildings having shortly  
theretofore been completed, I was at the premises above  
named. A gentleman came along whom I afterwards knew as  
Mr Moulds, the complainant, and told me that he had seen  
an advertisement in the papers to the effect that the  
buildings known as 202 to 268 West 136th street were  
for sale. I told him among other things that I was the  
agent having authority to make terms with customers. Mr

Moulds asked me the prices and upon that occasion looked through several of the buildings. I explained to him with reference to the plumbing and the heating and the general finish of the buildings, and he expressed a preference at that time for No 220. During our conversation I told him that the defendant, Mr Van Brunt, was the owner of the premises and that he lived at 234 West 136th street. Mr Moulds after having spent sometime in the examination of the premises left and said that he would consider the matter. Upon the following Sunday, March 20th, 1892, I was again upon the premises, expecting that there might be some customers there on account of the advertisements which had been placed in the newspapers, intending of course to see any such who would appear. About 2 P M on that Sunday MrMoulds, the complainant, again called and we had a conversation. I told him that the asking price was \$16,750. At that time he asked me if that was the lowest price at which the purchase could be made. I told him that that was the lowest price which I had any authority to offer, but suggested to him that we go to see Mr Van Brunt at his residence. We thereupon went to 236 West 116th street and rang the bell, which was answered by a servant. We asked for MrVan Brunt and were ushered into the rear parlor where Mr Van Brunt shortly afterwards came to us. I told Mr Van Brunt that Mr Moulds was considering the propriety of purchasing No 220 West 136th street, and MrMoulds thereupon asked Mr Van Brunt what was the lowest price he would take for that property. I had previously told Mr Moulds that I thought the property

could be purchased for \$16,500, and I thereupon told Mr Van Brunt what I had stated to Mt Moulds. Mr Van Brunt then agreed to sell No 220 West 136th street for \$16,500. Mr Moulds then asked him what condition the premises were in as to mortgages and incumbrances. I remember distinctly that Mr <sup>Van Brunt</sup> ~~Moulds~~ stated to him that there were no liens, mortgages or incumbrances upon the property except one mortgage of \$10,750 held by the Equitable Life Assurance Society, and he unqualifiedly stated that there were no other liens or incumbrances of any kind whatever upon the premises. Some general conversation then followed with reference to the character of the building and the kind of work which had been done upon it. Mr Van Brunt that he would sell the premises for \$16,500; that he would accept a payment of \$1000 and would take a second mortgage for \$ and that Mr Moulds could have the privilege of making payments of \$150 per month upon said second mortgage until the same was cancelled. Mr Moulds and myself then left the house and went to the building again. Mr Moulds then made a further examination of the premises <sup>He found No 220.</sup> and finally said to me that he would take ~~them~~. We thereupon went to Mr Van Brunt's office in the basement of No 232 West 136th street, where he told me he would take the title in the name of his wife. I told him that I would have a contract drawn and have it at his place of business No 78 University Place next morning and he said that he would then make the payment of \$1000 required by Mr Van Brunt upon signing the contract. I took a memorandum of the sale and of the fact that the title was to be in the name of Elizabeth Moulds and some other data as to the

terms of sale and conditions of payment, and took the same to Mr Van Brunt at his residence. I told him that the contracts would be ready to be signed the next morning, March 21st, at 10 A M, and he said he would see Mr White and have them prepared. I met Mr White next morning and he had the contract ready for execution, and he and I went to Mr Moulds' place of business where the contract was executed by Mr Moulds, it having been signed by Mr Van Brunt before. Mr Moulds then gave Mr White his check for \$1000, it being the same check which was offered in evidence before the Police Magistrate.

I further state that until I met Mr Moulds as above set forth I had never seen him as far as I can now remember, and that I certainly had no acquaintance with him; that I have no desire to favor him in this proceeding and have no ill feeling or any desire to injure the defendant, Thomas C. Van Brunt, and I make this affidavit because it contains the facts governing the transaction which took place in my presence.

Sworn to before me this  
day of August 1893.

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

THE PEOPLE OF THE STATE OF NEW YORK ON  
THE COMPLAINT OF WILLIAM MOULDS,  
AGAINST  
THOMAS C. VAN BRUNT,  
Defendant.

CITY AND COUNTY OF NEW YORK: SS:

JOHN WHITE, being duly sworn deposes and says as follows;

I am the superintendent of the newly erected buildings on the north side of 136th street, between 7th and 8th Avenues; I reside at 111 West 134th street in the city of New York. From the month of December 1887 until the month of February 1893 I was in the employ of the defendant, Thomas C. Van Brunt as clerk. I remember very well the occasion of the signing of the contract of sale by Mr Moulds for the purchase of the premises No 220 West 136th street. On the morning of March 21, 1892 Mr John E. Hodges came to me and told me that the day before it had been agreed by Mr Moulds, the complainant, to purchase No 220 West 136th street, and that Mr Van Brunt was to have the contract ready for execution that morning. This was at the office No 232 West 136th street, at about 8,30 A M. I thereupon went to Mr van Brunt's house and told him that I had seen Mr Hodges; Mr Van Brunt was in his bed room writing at the table. He told me he was then preparing the contract which Mr Hodges wanted for Mr Moulds to sign and

0096

after he had completed it he handed it to me and asked me to make a copy of it and bring them both back to him and he would execute them and then told me to go with Mr Hodges to Mr Mould's office and have the contract executed by Mr Moulds. I went to the office and made a copy of the contract and then took them both back to Mr Van Brunt as directed and gave them to him; he executed them both and gave them back to me and I went back to the office and met Mr Hodges and went with him to Mr Mould's office at 78 University Place where Mr Moulds signed the contract and gave me a check for \$1000 Before leaving Mr Van Brunt however I asked him what I should do provided Mr Moulds gave me a check; he told me to have it certified and bring it back to him, which I did. Subsequently for some period I received from Mr Van Brunt payments made by Mr Moulds of \$150 per month and deposited the same in either the Garfield or Western National Banks as directed.

Sworn to before me this  
24<sup>th</sup> day of August 1893.

*William J. Moore*  
Attorney Public  
D.C.

*John White*

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

The People of the State of New York on  
the complaint of William Moulds,  
against  
THOMAS C. VAN BRUNT,  
Defendant.

CITY AND COUNTY OF NEW YORK: SS.

*Frank Sovale* being duly sworn deposes and says as follows;

I am a real estate manager and agent in the City of New York, *and reside at 163 West 133<sup>rd</sup> St* and I know the defendant Thomas C. Van Brunt. I entered his employ as agent for the sale of certain houses in West 136th street immediately after John E. Hodges, whose affidavit accompanies this, left his employment as such agent, I taking the place of said Hodges. I remember that in the latter part of November 1892 the defendant Thomas C. Van Brunt, prepared a deed of the premises No 220 West 136th street conveying the same to Elizabeth Moulds in accordance with a purchase that had been made thereof by William Moulds, the complainant herein; he also prepared a bond and mortgage to be executed by Mrs Moulds. He, the defendant, and his wife signed the deed and he gave the same, with the bond and mortgage to me to have the latter executed by Mrs Moulds. He at that time directed me specially and particularly that after having the bond and mortgage executed I should return the same



together with the deed to him, the said Van Brunt. Thereafter and about December 1st, 1892 as near as I can recollect I went to Mrs Moulds' house, No 220 West 136th street with a notary public and had her execute the bond and mortgage and I then returned the same, together with the deed to said Thomas C. Van Brunt. Subsequently I understood that said deed was recorded together with said mortgage, and it was stated to me by ~~said Van Brunt~~ that the deed was afterwards lost and never was given to Mrs Moulds.

Sworn to before me this  
29 day of August, 1893.

Frank Dorale.

V. S. Lillie  
Notary Public,  
King's Co.  
Ct. filed in N.Y. Co.

**Agreement**, made the 21<sup>st</sup> day of March  
in the year one thousand eight hundred and ninety two **Between**  
Thomas C. VanTrent of New York City

party of the first part, and

Elizabeth A. Mould of the same place

party of the second part, in manner following: The said party of the first  
part, in consideration of the sum of

Sixteen thousand five hundred (16,500) Dollars,  
to be fully paid as hereinafter mentioned, hereby agree to sell unto the said party  
of the second part, **All** that certain lot piece or parcel  
of land with the improvements thereon  
erected situate lying, & being in the Twelfth  
Ward of the City of New York bounded  
and described as follows: Beginning at a  
point on the Southernly side of 136<sup>th</sup> Street  
distant (251 feet and 8 inches) Westerly from  
the Southernly corner of 7<sup>th</sup> Avenue and  
136<sup>th</sup> Street running thence Southernly part  
of the distant through a party wall & parallel  
to 7<sup>th</sup> Avenue 11 inches, then Westerly parallel  
with 136<sup>th</sup> Street 16 feet 8 inches, thence  
Northerly again parallel with 7<sup>th</sup> Avenue  
and part of the distant through another  
party wall 99 feet 11 inches to the  
Southernly side of 136<sup>th</sup> Street and thence  
Easterly along Southernly side of 136<sup>th</sup>  
Street 16 feet 8 inches to the point or  
place of beginning being the premises  
known as Number 270 West 136<sup>th</sup> Street

And the said party of the second part hereby agree to purchase said premises at the said consideration of Sixteen thousand five hundred (16,500,) Dollars, and to pay the same as follows:

- \$1000 One thousand dollars upon the signing & delivery of this contract.
- \$10,750 Ten thousand, seven hundred & fifty dollars by assuming a mortgage now on said premises for said amount bearing interest at 5% and held by the Equitable Life Assurance Society.
- \$4,750 Four thousand seven hundred & fifty dollars by making & delivering to said party of the 1<sup>st</sup> part a mortgage conditioned for the ~~making~~ <sup>payment</sup> of said \$4750 bearing interest at 5% and payable in installments of \$150 each upon the first day of each & every month until the whole of said amount shall have been fully paid, together with interest, a sufficient amount of amount, however of each installment shall be applied to the payment of interest upon first mortgage, taxes, water rates, by the party of the first part and the surplus to the payment & reduction of the above named "mortgage" it being the intent of the parties hereto that the said payment of \$150 monthly shall first be used in the payment of the fixed charges upon said house & the surplus only applied to the payment of second mortgage.
- \$16,500 And the said party of the first part, on receiving such payment

at the time and in the manner above mentioned, shall, at his own proper costs and expenses, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered to the said party of the second part, or to his assigns, a proper deed containing a general warranty and the usual full covenants for the

conveying and assuring to him them the fee simple of the said premises, free from all encumbrance *except as before mentioned*

which Deed shall conform to the requirements of Chapter 475, Law of 1890 of the State of New York, relating to Deeds, as far as the same is applicable thereto, which Deed shall be delivered on the 30<sup>th</sup> day of April 1892 at 12 o'clock M., at the office of J. B. Van Buren 232 West 136<sup>th</sup> St. N.Y. City

And it is Understood that the stipulations aforesaid are to apply to and bind the heirs, executors, administrators and assigns of the respective parties.

In Witness whereof the parties to these presents have herunto set their hands and seals the day and year first above written.

Sealed and delivered in the presence of

J. B. White

Thomas B. Van Buren  
Elizabeth A. Monroes  
Per  
William Monroes

State of \_\_\_\_\_  
of \_\_\_\_\_ } SS.  
County of \_\_\_\_\_

On the \_\_\_\_\_ day of \_\_\_\_\_ in the year  
one thousand eight hundred and \_\_\_\_\_ before me personally came

to me known, and known to me to be the individual described in, and who  
executed the foregoing instrument, and \_\_\_\_\_ acknowledged  
that he executed the same.

0102

1725

Folio

TO THE CHIEF CLERK.

Please send me the Papers in the Case of  
PEOPLE

VS.

Mrs C. Van Buren  
Mr. Nelson,

A few  
days ago, I sent  
down the in-  
dictment  
against Van Buren,  
in which a  
demurrer had  
been sustained  
Please put

<sup>District Attorney.</sup>  
This paper with  
the indictment  
New York, 189  
Gordon Riddle



Folio - 1

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

.....

THE PEOPLE &C., on the complaint  
of WILLIAM MOULDS

-versus-

THOMAS C. VAN BRUNT

.....

STATEMENT OF FACTS.

Upon statement made on the 20th of March 1892, by  
Thos. C. Van Brunt, that the premises No. 220 West 136th St.  
N. Y., was free from all lien and encumbrance except a mort-  
gage held by the "Equitable Life Assurance Society" on said  
property to the amount of \$10,750, William Moulds entered  
into a contract on the 20th day of March 1892 for the pur-  
chase of said property and paid as earnest money the sum of  
\$1,000 to Thomas C. Van Brunt. The Contract recited the  
statement previously made by Van Brunt to Moulds.

At the time the statement thus made by Van Brunt to  
Moulds, it appears of record in Register's Office in the  
City and County of New York, that the premises No. 220 West  
136th Street, New York, was encumbered by Mortgages as fol-  
lows:-

\$10,750-Mortgage held by Equitable Life Assurance Society of  
the City of New York, dated Novr. 10th, 1890 - Re-  
corded Novr. 20, 1890 - in Liber 2620 of Mortgages -  
page 229.

" 3



*John*

\$ 6,118.92 Mortgage to Benedict, McElroy & Fowler - recorded Dec. 8th 1890 - in Liber 2604 of Mortgages, page 285 - covering 220 & 222 West 136th Street. On the 1st of May 1891 - 222 West 136th Street was released as recorded in *Sec.* 7 - Liber 3 of Mortgages page 109 - by Benedict, McElroy & Fowler - retaining their lien still on 220 West 136th Street - who assigned their mortgage on the 18th of February 1892 - as recorded in Sec. 7 - Liber 11 of Mortgages - page 120 to William McElroy who in turn assigned said mortgage on 220 West 136th Street to Martin J. Kane, dated Novr. 12th 1892 and recorded in Section 7 - Liber 19 of Mortgages page 274 - covenanting that \$4000 is still due on the premises, 220 West 136th Street, with interest from Novr. 1st 1890.

" 4

2500.00 or thereabouts due on Mortgage held by A. C. Cheney as Trustee of \$30,000 dated Decr. 15th 1890. Recorded Dec. 27th 1890 in Liber 2592 of Mortgages page 372 - which covers with other property the premises no. 220 West 136th St. The estimated lien on 220 West 136th St. is certainly not less than \$2500. so that the property 220 West 136th Street sold by Van Brunt to Moulds for the sum of \$16,500, had liens and encumbrances against it of \$10,750 - \$4000 with interest from Novr. 1st 1890 at

" J

*John's B*

6% and \$2500 making a total lien indebtedness, without interest of \$17,250. Add to this the \$1000 paid by Moulds to Van Brunt at the signing of the contract and the subsequent payments of \$2150 made by Moulds to Van Brunt makes the account stand thus to date.

\$17,250 & 1,000 & 2,150 equals 20,400 & interest.

Van Brunt had at the time of making the contract with Moulds to purchase the house 220 WEST 136th St. - no equity whatever - and he knew that he had no equity whatever

Deed of Conveyance by Van Brunt and wife to Elizabeth A. Moulds, dated May 2nd 1892; acknowledged October 22d 1892; recorded December 22d 1892 in Section 7; Liber 11; page 481 of Conveyances.

Purchase Money Mortgage made May 2d 1892 acknowledged Decr. 5th 1892; recorded in Section 7 Liber 20 of Mortgages; page 477.

The Deed was never seen by Mr. Moulds - Van Brunt promised to record it for him. It has never been delivered though demand has been made for the same.

COURT OF GENERAL SESSIONS

FOR THE CITY & COUNTY OF NEW YORK

#####

The People, &c., on the  
complaint of

WILLIAM MOULDS

versus

THOMAS C. VAN BRUNT

#####

STATEMENT OF FACTS.

#####

*W.F. Moore 39 Wall St.*

0107

COURT OF GENERAL SESSIONS  
OF THE PEACE.

THE PEOPLE OF THE STATE OF NEW  
YORK ON THE COMPLAINT OF WILLIAM  
MOULDS

-against-

THOMAS C. VAN BRUNT.

AFFIDAVITS

Wm. Madsen,  
78 Vineyard Place,  
John E. Sadler,  
272 West 115th St  
John White  
111 West 134th St  
Frank Borda  
163 West 133rd St

0108

COURT OF GENERAL SESSIONS OF THE PEACE,

Of the City and County of New York.

\*\*\*\*\*

The People of the State of New York,

--against--

THOMAS C. VAN BRUNT.

\*\*\*\*\*

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

by this Indictment,    A c c u s e    THOMAS C. VAN BRUNT

of the Crime of GRAND LARCENY IN THE FIRST DEGREE, commit-  
ted as follows:

The said Thomas C. Van Brunt, late of the City of New York, in the County of New York aforesaid, on the twenty-first day of March, in the year of our Lord one thousand eight hundred and ninety-two, at the City and County aforesaid, with force and arms, with intent to deprive and defraud one WILLIAM MOULDS, of the proper moneys, goods, chattels and personal property hereinafter mentioned, and of the use and benefit thereof, and to appropriate the same to his own use, did then and there feloniously, fraudulently and falsely pretend and represent to the said William Moulds, that a certain lot, piece or parcel of land, with the improvements thereon erected, situate, lying and being in the Twelfth Ward of the said City, and being the premises known as number two hundred and twenty

(2)

West one hundred and thirty-sixth street, which he, the said Thomas C. Van Brunt, then and there offered to sell at and for the consideration of the sum of sixteen thousand and five hundred dollars, was then free and clear from all encumbrances except a mortgage then on the said premises for the sum of ten thousand, seven hundred and fifty dollars, bearing interest at five per cent., and held by the Equitable Life Assurance Society.

AND the said William Moulds, then and there believing the said false and fraudulent pretenses and representations, so made as aforesaid, by the said Thomas C. Van Brunt, and being deceived thereby, was induced by means thereof, then and there to and did agree to purchase the said premises in the name of Elizabeth A. Moulds, his wife, and as her agent, of and from the said Thomas C. Van Brunt, at the said consideration of sixteen thousand and five hundred dollars, to be paid as follows: one thousand dollars upon the signing and delivery of a contract for such purchase, ten thousand, seven hundred and fifty dollars, by assuming the said mortgage upon the said premises held by the said Equitable Life Assurance Society, and four thousand, seven hundred and fifty dollars by causing the said Elizabeth A. Moulds to make and deliver to the said Thomas C. Van Brunt a mortgage conditioned for the payment of said last-mentioned sum bearing interest at five per cent. and payable in certain installments, and to and did then and there enter into, sign and deliver in the name of

0111

(3)

the said Elizabeth A. Moulds, and as her agent, a certain contract for such purchase purporting to convey the said premises to the said Elizabeth A. Moulds, and then and there to, and did, give and deliver to the said Thomas C. Van Brunt, in accordance with such agreement, and upon the signing and delivery of the said contract, the sum of one thousand dollars in money, lawful money of the United States of America and of the value of one thousand dollars, of the proper moneys, goods, chattels and personal property of the said William Moulds. And the said Thomas C. Van Brunt did then and there feloniously and fraudulently obtain from the possession of the said William Moulds, the said sum of money of the proper moneys, goods, chattels and personal property of the said William Moulds, by color and by aid of the false and fraudulent pretenses and representations aforesaid, with intent to deprive and defraud the said William Moulds of the same, and of the use and benefit thereof, and to appropriate the same to his own use.

WHEREAS, in truth and in fact, the said premises were not then free and clear from all encumbrances except the said mortgage so held by the said Equitable Life Assurance Society; but were otherwise encumbered, to wit: by divers other mortgages.

AND WHEREAS, in truth and in fact, the pretenses and representations so made as aforesaid by the



(4)

said Thomas C. Van Brunt to the said William Moulds was and were then and there in all respects utterly false and untrue, as he the said Thomas C. Van Brunt at the time of making the same then and there well knew;

AND SO THE GRAND JURY AFORESAID, do say that the said Thomas C. Van Brunt, in the manner and form aforesaid and by the means aforesaid, the said proper moneys, goods, chattels and personal property of the said William Moulds then and there feloniously did STEAL, a g a i n s t the form of the statute in such case made and provided, and against the peace and dignity of the said people.

DE LANCEY NICOLL,

District Attorney.

~~It is my opinion that the~~ ~~grounds set~~ ~~forth in the~~ ~~7th~~ ~~ground~~ ~~of~~ ~~contained in~~ ~~defendant's brief.~~ It is my opinion that the ~~false pretense~~ alleged is not in law ~~sub-~~stantially ~~negative~~ ~~negative~~.  
R.B.M.

J.W. Coffey Sept 12/1903

Counsel,  
Filed 17<sup>th</sup> day of Sept 1893  
Pleaded Not guilty 13.  
with plea of not guilty & 20

THE PEOPLE  
vs.  
THOMAS C. VAN BRUNT.  
Grand Larceny, 1st Degree  
(False Pretenses.)  
(Section 528 and 530, Penal Code.)  
District Attorney.

Remanded to the  
R.B.M.

A TRUE BILL.

E.W. Bloomingtondale

Foreman.

OK 128

Witnesses:

John W. Moody.  
John H. Hays.

Charles L. Loper of 934

Wm. Madeline Hansen

20 W 131 St

0114

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

Vivirito, Loreto

**DATE:**

09/26/93



4870

0115

Witnesses:

*M. E. Lyman*

Counsel,

Filed,

Pleads,

day of

1893

THE PEOPLE

vs.

*Exoto Divito*

Assault in the Second Degree.  
(Section 218, Penal Code.)

*Oct 3/93*  
DE LANCEY NICOLL,

District Attorney.

*Cond. of Grand Jury.*

*Cath. Protest*

A TRUE BILL.

*Geo. Dunningdale*

*Ch 301*

Foreman.

0116

Police Court—3 District.

1931

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

Philip McGlynn  
of No. 213 ave "a" Street, aged 17 years,  
occupation School Boy being duly sworn,  
deposes and says, that on the 17 day of Sept 1893 at the City of New  
York, in the County of New York,

he was violently and feloniously ASSAULTED and BEATEN by

Soroto  
Vivoreto (name here) who

stabbed deponent in  
the arm with a  
knife

with the felonious intent to ~~take the life of deponent~~, or to do him grievous bodily harm; and without  
any justification on the part of the said assailant.

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer  
for the above assault, etc., and be dealt with according to law.

Sworn to before me, this 18 day

of Sept 1893,

Philip McGlynn  
his  
Police Justice.

0117

Sec. 198—200.

1882  
District Police Court.

City and County of New York, ss:

*Loreto Vivarito* 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.

*Loreto Vivarito*

Question. How old are you?

Answer.

*14 yrs.*

Question. Where were you born?

Answer.

*Italy*

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

Answer.

*148 E 14 St - 3 mrs.*

Question. What is your business or profession?

Answer.

*Work at a fruit stand*

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*

*Loreto Vivarito*

Taken before me this

day of

189

Police Justice.

0118

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  
Five Hundred Dollars, and it appearing that he is under the age of sixteen years, that he be committed to the custody of the New York Society for the Prevention of Cruelty to Children, until he give such bail.

Dated, Sept. 78<sup>th</sup> 189

John Ryan Police Justice.

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

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.

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

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.



0119

Police Court---

3

1001 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Philip M. Ryan*  
*218 Ave. A*  
*Loretta Viviano*

*Del. A. S. S. S.*

BAILED.

No. 1. by.....

Residence.....Street.

No. 2. by.....

Residence.....Street.

No. 3. by.....

Residence.....Street.

No. 4. by.....

Residence.....Street.

2.....  
3.....  
4.....

Date *Sept 18* 189*9*

*Ryan* Magistrate.

*Katz* Officer.

*14* Precinct.

Witnesses *Louis A. Steen*

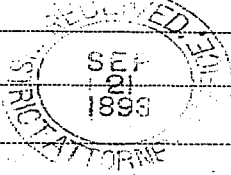
No. *297. 4 Ave* Street.

No. .... Street.

No. *500* to answer *G. S. S.* Street.

Com. to S. P. C. C.

*Com. A. S. S. S.*



General Session Court

the People

Caro Vivuto

CASE NO. 45.513

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

No. 297 FOURTH AVENUE,  
(Corner East 23d Street,)

New York, Jan. 17. 1893

OFFICER *Louis A. Steen*

CASE NO. 45.513

DATE OF ARREST Sept. 18

CHARGE

*Trinius Asparit*

AGE OF CHILD

14 years

RELIGION

Catholic

FATHER

isius me

MOTHER

Antonietta (in Italy)

RESIDENCE

442 E. 14 St.

AN INVESTIGATION BY THE SOCIETY SHOWS THAT boy lives with his father at said address where he keeps a fruit-stand and that the father gives him a good reputation and neighbors know nothing about him. S. P. C. C. has no previous record of boy.

All which is respectfully submitted,

respectfully submitted,  
 F. J. Lowell

Go Dist Atty

Ward 2

## General Sessions

The Pope

22

2 - Victoria  
Xmeto

§, PENAL CODE,

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

**ELBRIDGE T. GERRY,**

*President, &c.,*

No. 297 Fourth Avenue,

Corner East 23d Street,

NEW YORK CITY.

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

*Santa Vivinta*

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

*Santa Vivinta*

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

The said *Santa Vivinta*,

late of the City and County of New York, on the *seventeen* day of *September*, in the year of our Lord one thousand eight hundred and ninety-*three*, at the City and County aforesaid, in and upon one

*Philip McGlynn*,

in the peace of the said People then and there being, feloniously did wilfully and wrongfully did make an assault ; and the said *Santa Vivinta*,

with a certain *knife* which *he* the said *Santa Vivinta*

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

*De Lancey Howell*

*District Attorney*

0123

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

Vone, Peter

**DATE:**

09/20/93



4870

Witnesses:

*M. Kearney*

Counsel,

Filed *20th* day of *Sept* 189*3*

Pleads *Guilty*

THE PEOPLE

vs.

*P*

*Peter Bone.*

*H.D.*

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

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

*E. B. Cunningham*

Foreman.

*Henry Francis Eden*  
*Ch. W.*

*67th St. N. Y.*  
*Sept 20/93*

0124

0125

AFFIDAVIT FOR COMMITMENT OF WITNESS.

4771

POLICE COURT 3 DISTRICT.

CITY AND COUNTY }  
OF NEW YORK, } ss.

of the 14 Precinct Police, being duly sworn, deposes  
and says that Michael Harney  
(now here) is a material witness for the people against  
Petro Wase charged  
with Felony Assault. As deponent has  
cause to fear that the said Michael Harney  
will not appear in court to testify when wanted, deponent prays  
that the said Michael Harney be  
committed to the House of Detention in default of bail for his  
appearance.

John Hock

Sworn to before me, this  
day of Sept 1893

John Hock  
Police Justice.



0126

Police Court—3 District.

1931

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

*Michael Kearney*  
 of *302 Bowery* Street, aged \_\_\_\_\_ years,  
 occupation *newsboy* being duly sworn,  
 deposes and says, that on the *13* day of *September* 189*3* at the City of New  
 York, in the County of New York,  
 he was violently and feloniously ASSAULTED and BEATEN by *Peter Leone*

*who cut and stabbed*  
*deponent in the arm with*  
*the blade of a knife*  
*which he then held*  
*in his hand and said*  
*assault was committed*

with the felonious intent to take the life of deponent, or to do him grievous bodily harm; and without any justification on the part of the said assailant.

Wherefore this deponent prays that the said assailant may be apprehended and bound to answer for the above assault, etc., and be dealt with according to law.

Sworn to before me, this *15* day  
 of *September* 189*3*

*Michael Kearney*  
*John Ryan* Police Justice.

0127

1852

CITY AND COUNTY }  
OF NEW YORK, } ss.

POLICE COURT, 3 DISTRICT.

of No. 14<sup>th</sup> Place Street, aged \_\_\_\_\_ years,  
occupation Detective being duly sworn, deposes and says  
that on the 15 day of September 1893  
at the City of New York, in the County of New York,

he arrested Peter Vone for  
cutting and stabbing one Michael  
Kearney and inflicting such injuries  
to said Kearney as prevents his  
appearance in Court. Wherefore  
deponent prays that the said  
defendant be held to answer the  
result of said injuries

John Hock

Sworn to before me, this

of

1893

day

Police Justice.

0128

17  
Police Court, ..... District.

THE PEOPLE, Etc.,

ON THE COMPLAINT OF

AFFIDAVIT.

US.

*Peter Vone*

*189m 252-15-2-30*

Dated

189

*P. Vone* Magistrate.

Officer.

Witness, .....

Disposition, .....

*505 Expt 15-2-30*

0129

Sec. 198—200.

1882  
District Police Court.

City and County of New York, ss:

*Peter Bone*

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.

*Peter Bone*

Question. How old are you?

Answer.

*18 years*

Question. Where were you born?

Answer.

*Italy*

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

Answer.

*252 Elizabeth St. 3 years*

Question. What is your business or profession?

Answer.

*Bar-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.*

*Peter Bone,*

Taken before me this

day of *June* 189*3*

Police Justice.

0130

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

Refund  
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, Sept 13 189 3, Sam Ryan Police Justice.

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

Dated, \_\_\_\_\_ 189 \_\_\_\_\_ Police Justice.

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

Dated, \_\_\_\_\_ 189 \_\_\_\_\_ Police Justice.

0131

Police Court---

972 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Michael Kearney*  
*Peter Bone*

BAILED,

No. 1, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 2, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 3, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

No. 4, by \_\_\_\_\_

Residence \_\_\_\_\_ Street.

2  
HOUSE OF DETENTION  
3  
4

Dated,

*Sept 10 1893* 1893

*Ryan* Magistrate.

*Green* Officer.

*14* Precinct.

Witnesses *Complamant com-*

No. *mitted to House of* Street.

*Detention in default of*

No. *\$100 Bail* Street.

*Ch 216*

No. \_\_\_\_\_ Street.

\$ *500* to answer *G.S.*

*A* *SE* *anah*

0132

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

THE PEOPLE OF THE STATE OF NEW YORK

against

*Peter Bone*

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

*Peter Bone*

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

The said

*Peter Bone*

late of the City of New York, in the County of New York aforesaid, on the — 13<sup>th</sup> —  
day of *September* in the year of our Lord one thousand eight hundred and  
ninety — *three* —, with force and arms, at the City and County aforesaid, in and upon  
the body of one — *Michael Kearney* — in the peace of the said People  
then and there being, feloniously did make an assault, and *him* the said  
*Michael Kearney* with a certain *knife*

which the said

in *his*

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

with intent

*him*

the said

*Michael Kearney*

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

SECOND COUNT—

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

*Peter Bone*

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

The said

*Peter Bone*

late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,  
at the City and County aforesaid, with force and arms, in and upon the body of the said  
*Michael Kearney* in the peace of the said  
People then and there being, feloniously did wilfully and wrongfully make another assault,  
and *him* the said *Michael Kearney*

with a certain

*knife*

which the said

in *his*

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



## THIRD COUNT—

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

*Peter Vore*

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

The said

*Peter Vore*

late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon the said *Michael Kearney* in the peace of the said People then and there being, feloniously did wilfully and wrongfully make another assault, and *him* the said

with a certain *knife*

*Michael Kearney*

which

*he*

the said

*Peter Vore*

in

*his*

right hand then and there had and held in and upon the

*arm*

of

*him*

the said

*Michael Kearney*

then and there feloniously did wilfully and wrongfully strike, beat, stab, cut, ~~bruise~~ and wound, and did then and there and by the means aforesaid, feloniously, wilfully and wrongfully inflict grievous bodily harm upon the said

*Michael Kearney*

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

DE LANCEY NICOLL,

*District Attorney.*

0134

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

VonVelsen, Katie

**DATE:**

09/14/93



4870

0135

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

Nathan, Henrietta

**DATE:**

09/14/93



4870

0136

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

Nathan, Robert

**DATE:**

09/14/93



4870

0137

**BOX:**

535

**FOLDER:**

4870

**DESCRIPTION:**

VonVelsen, Charles

**DATE:**

09/14/93



4870

0138

Witnesses:

In Rikoff

Counsel,

Filed

14 day of

1893

Pleads

THE PEOPLE

vs.

Katie Von Velsen,

Henrietta Nathan

Robert Nathan

Charles Von Velsen

N.D.

DE LANCEY NICOLL,

District Attorney.

Part 2 - Oct. 28, 1893

All find

nos. 3 & 4 convicted G.D.P. Deg

nos. 1 & 2 acquitted

A TRUE BILL.

W. Bloomington

nos 3 & 4

Foreman.

5 yrs each & P

Chr 100

B. Oct 27/93  
Oct 27/93

Sworn Degree.  
Robbery, (Sections 224 and 22 of Penal Code.)

Subpoena conf  
+ officers for  
2 yrs each

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

The People

vs.

Robert Nathan.

To the Hon. James Fitzgerald, Judge of the Court of General  
Sessions and of the Peace in and for the City and County of  
New York.

We, the undersigned, respectfully petition your  
Honor for the exercise of leniency and mercy in pronouncing  
sentence upon the above named defendant, Robert Nathan, for  
the reason that we have information that he has been previous  
to his conviction, an honest, upright and hard-working young  
man.

Dated October 26th, 1893.

*David R. Page*

443 E. 12th St. New York City

*Philip J. Thomas*

Dumigan E. H. Wade Post  
520 E. 4th St.

*Patrick Gallo*  
131 Allen St.

*Henry Kappelgoen* 421 Fifth St.

*Harry Spermann* 315 Broome St.

*James Fitzgerald* 533 E. 15th St.

*Anthony L. May* 533 E. 15th St.

*John Manning* 129 Allen St.

*Benj. Goldsmith* 1389 2 ave cor 72

*John McConack* 15 Spring St.

(over)



M Snyder 415 E Houston St  
 Joseph May 533 E 15th St  
 John Lytle 92 Allen St  
 Charles G. G. 244 Chas St  
 Henry H. 114 - E 4 St  
 James C. 40 Henry St  
 Louis C. Carr 322 E 34 St  
 George H. 175 Allen St  
 Henry H. 488 Delaware St  
 The Hon. James Fitzpatrick, Judge of the Court of General Sessions in and for the City and County of New York.

the reason that he has information that he has been breaking  
 sentence upon the above named defendant, Robert Nathan, for  
 having for the exercise of judgment and power in promoting  
 the interests of the people of the City and County of New York.  
 the undersigned, Judge of the Court of General Sessions in and for the City and County of New York, do hereby certify that the above named defendant, Robert Nathan, is a person of good character and is a resident of the City and County of New York.

ROBERT NATHAN.  
 AS:  
 The People

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

State of New York, ) ss:-  
City and County of New York.;

David L. Prager being duly sworn says that he resides and has resided in the City of New York for the past thirty years and has been an insurance broker in the City of New York for the past twenty years, now carrying on business for himself at No. 143 Bowery, New York City.

Deponent further says that he is well acquainted with Robert Nathan who has been convicted of grand larceny in the first degree and has known him for the past thirteen years, during which time, <sup>and prior to his conviction</sup> I have always found him to be an upright, honest and steady young man.

Deponent further says that the character of the said Robert Nathan during all of the aforesaid time has always been very good.

Sworn to before me this  
26th day of October 1893.

*David L. Prager*

*Joseph Bro. Engel*  
*Notary Public*  
*N.Y. C.*

0142

City of \_\_\_\_\_ }  
County of \_\_\_\_\_ } ss :

being duly sworn, says that he is \_\_\_\_\_ years of age; that on the \_\_\_\_\_ day  
of \_\_\_\_\_ 18\_\_\_\_, at No. \_\_\_\_\_ in  
the \_\_\_\_\_, deponent served the within \_\_\_\_\_  
upon \_\_\_\_\_  
\_\_\_\_\_ by delivering to and leaving with \_\_\_\_\_  
of the same \_\_\_\_\_ true cop

Sworn to before me, this \_\_\_\_\_ day }  
of \_\_\_\_\_ 18\_\_\_\_ }

Court of General Sessions

The People v

against

Robert Nathan

Affidavit & Petition

LEOPOLD MOSCHCOWITZ,  
Attorney for Robert Nathan

122 NASSAU STREET,  
280 Broadway NEW YORK CITY.

To

Attorney for

Due Service of a Copy of the  
within

is hereby admitted.

Dated, New York, \_\_\_\_\_ 188

Attorney for

0143

VI.

STATE OF NEW YORK.  
Executive Chamber,  
ALBANY.

September 29, 1894

Sir:

Application for Executive clemency having been made on behalf of  
*Robert Nathan* who was convicted of *gr. larceny 1st*  
in the county of *New York* and sentenced *October 27, 1893*  
to imprisonment in the *State Prison* for the term of  
*five years*

I am directed by the Governor  
respectfully to request that, in pursuance of Section 695 of the  
Code of Criminal Procedure, you will forward to him a concise state-  
ment of the facts of the case, together with your opinion of the  
merits of the application.

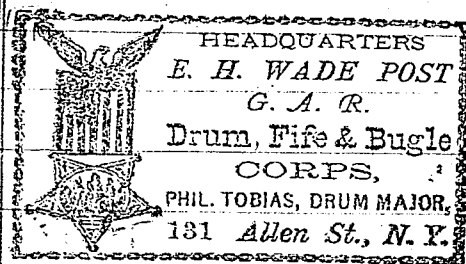
It is particularly requested that each letter of inquiry from  
the Executive Chamber should be separately answered.

Very respectfully yours,

*J. S. Williams*

Private Secretary.

*Hon. John R. Fellows*  
*District Attorney*  
*New York*



New York Oct 22/93  
 Hon Judge Fitzgerald  
 Robert Mathew having  
 been convicted in your  
 Court for Grand Larceny  
 has been a member of my  
 Drum Corps for 6 years prior  
 to his arrest and I have  
 always found him to be  
 an honest hard working  
 boy. he comes from very  
 respectable parents.  
 I was unable to go  
 to Court to testify for him  
 as I was very busy with  
 music work and I know  
 that bad company alone  
 was the cause of this downfall.  
 While a member of my  
 Drum Corps I could trust him  
 with all in my power.  
 For the sake of his poor  
 parents I hope your Honor  
 will be lenient with him  
 I remain

0145

Young master  
Philip Tobias  
Drum Major 6th Regt. Trade Post  
52d U.S. A. R. Drum & Pipe Corps



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

\*\*\*\*\*

The People,

vs.

KATIE VON VELSEN;  
HENRIETTA NATHAN,  
ROBERT NATHAN, and  
CHARLES VON VELSEN.

"  
"  
"  
"  
"  
"  
"  
"  
"

Before,

HON. JAMES FITZGERALD,  
and a Jury.

\*\*\*\*\*

Tried, OCTOBER 23RD, 1893.

Indicted for ROBBERY in the FIRST DEGREE.

Indictment filed SEPTEMBER 14TH, 1893.

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APPEARANCES:

ASSISTANT DISTRICT ATTORNEY THOMAS J. BRADLEY,

For THE PEOPLE.

MESSRS. CANTON, KEANE & MOSCHOWITZ,

For THE DEFENSE.



0147

2

JOSEPH REIKOFF, THE COMPLAINANT, being duly sworn, testified that he was a cook. He was not employed at the time of the trial, but expected to go to work in the Mail & Express building. He was not employed on the 7th of September. On that day he had only been in this city two days. He lived at 39 Third avenue. Before coming to New York he had been chef in a club at Altoona, Pennsylvania. On the night of the 7th of September, 1893, he had been at Mr. Fritz Jauss's place, 419 Sixth avenue. It was after 12 o'clock when he left Mr. Jauss's. He walked down Sixth avenue, and he met Katie Von Velsen and Henrietta Nathan at the corner of 14th street and Sixth avenue. Katie Von Velsen said, "The Spanish gentleman will escort us home." At first he refused, but, finally, he did so. Each of the women took his arm, and he took them to their home, which was in Varick place. The two women asked him to go up stairs three or four times, but he finally went up stairs. The women asked him to rest himself and have some conversation. He went up two flights of stairs in

the house. He found that there was only one room, and he found the bed disordered and the table full of supper. He then wanted to excuse himself to go home. The women then said to him, "You talked with us, and you are a gentleman, and we were out on business, and we didn't make a single dollar to-day; and, now, won't you have a little enjoyment and give us some money?" He said, "Well, I will call and see you some other time; it is too late now; I will come, probably, to-morrow, if I don't get a position." The women said, "That don't do us any good. We have no money at all." He said, "I can't help that," and they said, "Well, give us a couple of dollars now, and, when you come to-morrow, we will make it all right with you." He said, "No, I will not give you nothing." Then Mrs. Von Velsen said, "We will show you that we are going to get some money, anyway," and she called, "Charlie." There was a closet, in which two persons could easily stay, in the room. Then the two male defendants came out of the closet, and began to shout loudly and tried to frighten him.

Then Von Velsensaid, "You are inour room, and you came here to do something with our wife, and the best thing you can do is to give each of us \$5.00." He wouldn't give them any money, and the defemant Nathan commenced to struggle with him. His scarf pin fell out. The scarf pin was worth a couple of dollars. The two male defendants picked up the pinand looked at it, and thy said, "That isn't a diamond." Then they said, "Let me see your watch," and he showed them his watch. He then put his watch back in his pocket, and Nathan tried to take the watch away from him. He pushed nathan away. Nathan called him very bad names, and said, "Now, you are going to give that. I have served three years in State Prison, and I don't care to serve ten years more, but you don't get alive out of this house if you don't give us money." The defendants kept him there nearly an hour and a half, trying to get his money or his watch. The defed ants then said, "Well, we will come with you and make it hot for you before you get through with us." He then went

out, and the two men went out with him. He walked along with the two men until he saw two police officers on the corner, and he asked them to keep the defendants away from him, as he was afraid they might do him some harm in a dark street. The officers asked him what was the matter. He explained to the officers everything that had happened. He did not get his pin back again.

In cross-examination the complainant testified that he was not a married man. He had been in New York before, and was pretty well acquainted with the city. Before going to Altoona, he had been at Cranston's Hotel, at West Point. He did not ask the two women whether or not they were married, nor did he ask them what they did for a living. The only purpose he had in going to the room with the women was to sit down and rest. He did not take off any of his clothing while he was in that room. He did not have sexual intercourse with either of the women. The women wanted him to, but he would not do it. It was not a fact that he first had con-

0151

6

nection with Katie Von Velsen, and, when she requested him to give her the money, refused to give it to her until he had connection with Henrietta Nathan. As soon as they made the proposition to him, he wanted to leave the house. There was a window in the room. He wanted to raise the window and call for the police. He did raise the window and shout, "Police!" The defendants told him he might shout for the police until the next morning, but that they were safe. His watch was worth \$75.00; it was a gold one. The defendants did not have his watch in their hands; he just showed them the watch and then put it back in his pocket. He did not promise the two men a bond for \$5.00 each if they would walk over to the place where he boarded with him. He did not promise them anything whatever. Von Velsen said, when he spoke to the officers, "Here is the pin that he has given to the girls for what he has promised to give them," and Von Velsen took his, the complainant's, pin out of his pocket and showed it to the officers. He did not sit down.

during the hour and a half that he was in the room.

In re-direct examination the complainant testified that he had a cane in his possession at the time he was in the room. When the defendants approached him, he shoved them off with one hand and held the cane in the other.

In re-cross examination the complainant testified that the window in the room in which he was opened on to the yard.

OFFICER FRANCIS CADDELL, being duly sworn, testified that he was an Officer of the Municipal Police force, attached to the 15th precinct. On the morning of the 7th of September, 1893, he was standing at the corner of Bleecker and Sullivan street. That was about three-quarters of a block from No. 6 Varick Place. The complainant told him that the two men had followed him out of a house down the street, to "do" him. He said to the complainant, "Did you have any trouble with them?" The complainant said, "Yes, and they have got my pin now." He, the witness, asked Von

0153

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Velsen if he had anything he longed to the complainant, and Von Velsen said, "Yes, I have got a pin that Nathan gave me." He put his hand into Von Velsen's pocket and took the pin out. Nathan said that he had followed the complainant to get square with him for insulting his wife. The roundsman was with him when the complainant spoke to him. He, the witness, took Von Velsen and the Roundsman took Nathan and the complainant led the way to No. 6 Varick Place. They went up stairs and found Katie Von Velsen joking and laughing, and Henrietta Nathan was crying. In front of the desk, in the station house, Von Velsen said that Nathan had taken the complainant's pin and then, when he found out it was a "fake," had tried to get the complainant's watch. Nathan denied this, and said that he had not taken the man's pin, nor had he attempted to get his watch; all that he (Nathan) wanted was a little satisfaction, because the complainant had insulted his wife. . He spoke to each of the defendant separately, and Katie Von Velsen told him that they



had met the complainant at 14th street and had asked him to accompany them to 6 Varick Place, with the "intention of going with them," and when they got up there the complainant claimed that he had no money, and she wanted a little satisfaction for the loss of time, and she called her friend, and Henrietta Nathan called her friend; but what occurred after that Katie von Velsen did not tell him.

In cross-examination the witness testified that he had examined the rooms of the defendants. The room which was described by the complainant as a closet was, really, another room, but it looked like a closet; it had a curtain in front of it, and there was a bed in it. He did not hear any cry of "Police!" during the night.

FOR THE DEFENCE, CHASE VON VELSEN, ONE OF THE DEFENDANTS, being duly sworn, testified that he was twenty-one years of age. He was a painter. He was married three weeks before his arrest. He had worked up to within five weeks of his arrest. After his marriage he

0155

10

went to live with his wife at 6 Varick Place, where they had two rooms on the first floor, rear. Robert Nathan and Miss Nathan occupied one of the rooms, and he and his wife occupied the other. On the night in question he was at home. He was asleep in his room when they entered. The first thing he heard was a cry. He went into the other room and he saw the complainant and his wife and Miss Nathan there. He asked his wife what the complainant was doing there, and his wife told him that they had met the complainant in 14th street and he "insisted upon going home, for immoral purposes." He, the defendant, asked the complainant what he was doing there, and the complainant told the two women that he would "pay them \$5.00 apiece for immoral purposes, and he would get the four of us to go along to Third avenue, to get the money." When he, the defendant, entered the room he was introduced to the complainant. The complainant asked them all to go with him, but it was too late and the girls would not go. Robert Nathan would not go until he was sure of

getting the money. Nathan asked the complainant to let him have the watch, as security. The complainant refused to do that, saying that the watch was worth \$75.00. The complainant, however, offered to give Nathan his scarf pin. Nathan asked him, the defendant, what he thought of the pin, and he said it was not worth much. He, the defendant, said, "Come along and we will get the money." Nathan put on his hat and coat and went with him, the witness, and the complainant. They walked down to the corner with the complainant, and then they met the roundsmen and the officer. The complainant said to the officer, "I want these men arrested, for stealing my pin." He, the defendant, said, "I haven't stole no pin; here is the pin," and he took out the pin and gave it to him. He did not take the pin out of the complainant's neck-tie. He did not use any violence on the complainant. He had never been arrested for any offence before, and had never been convicted of crime.

In cross-examination the defendant testified

0 157

12

that he and his wife generally occupied the room in which the crime was alleged to have been committed, and Nathan and his wife occupied the small room in which he and Nathan were asleep on the night in question. He and Nathan did not generally sleep in that room; but that night the two women wanted to go to the museum and he and Nathan did not want to be disturbed by them when they returned. He had been out of work two weeks before his arrest. During those two weeks he had been living in some money which he had saved up and deposited in the Bedford Bank, Brooklyn. He had \$80.00 in that bank. He had intended to go to work on the day after his arrest. He had not received any money from his wife during the time that they had been married. He did not know that his wife was going around as a prostitute on the streets; nor had he learned of that since his arrest. He never knew his wife to take men into their rooms. When he was awakened by his wife's screams on the night in question, she told him that the complainant had had intercourse with her. He

did not say anything to his wife then, but he "was pretty mad." He would have made the difference in the morning. He did not say anything to the complainant; Nathan was speaking to the complainant at that time. The complainant did not offer him, the defendant, anything, nor did he give him anything. He got the pin from Nathan. He was going to keep the pin until Nathan received the money which the complainant promised him. He did not know, previous to that night, that Nathan's wife was a prostitute. Nathan did not attempt to take the complainant's watch; Nathan asked the complainant for his watch, but the complainant refused to give it up.

KATIE VON VELSEN, ONE OF THE DEFENDANTS, being duly sworn, testified that the preceding witness was her husband. After her marriage to Von Velsen she went to live at No. 6 Varick Place. She had been living there two weeks before her arrest. Before her marriage she had always lived with her mother. She had worked in a confectionery for four years and a half.

0159

14

She was eighteen years of age. She had only known Henrietta Nathan since her marriage. On the night of the 7th of September, she and Henrietta Nathan went to Huber's museum. She saw the complainant that night. The complainant followed them two blocks when they were on their way home, and at last he went up to them and said, "Hello," and started to talk to them. The complainant afterwards told them that if they went with him he would give them \$5.00 each, that he was a coffee merchant. The complainant then went home with them, and went up to their rooms. When the defendant got into the room he took off his hat, coat and tie and collar. The complainant had intercourse with her, and then he had intercourse with Henrietta Nathan. When she, the defendant, asked the complainant for the money, he tried to strike her with his cane. She shouted and Nathan and her husband came out and asked what was the matter. The complainant did not want to give any money, because he had no money, but he said to her and Henrietta Nathan to dress themselves and



go with him. The complainant gave Robert Nathan his scarf pin, and Nathan handed the pin to her husband. Her husband and Nathan went out with the complainant. She had always been a good girl up to this time.

In cross-examination the defendant testified that she began to be "kind of bad" after she met Von Velsen. This was not her first experience in going with strange men. She had been with strange men three times, in a furnished room house in 13th street. She had told Officer Caddell that Nathan had told her to go out and bring in men, and not to take them to any place but her own house, and if she could not take care of them he could. Nathan used to attend the door. She had only known the Nathan woman since her marriage. Nathan claimed to be a tin-smith. She had known him to work, before her marriage, but not after. The complainant was all dressed when Nathan and Von Velsen came out of the room.

ROBERT NATHAN, ONE OF THE DEFENDANTS, being duly sworn, testified



0161

16

that he knew the other defendants, and had been residing with them prior to his arrest at 6 Varick Place. He remembered the night in question. Prior to mid-night, he was asleep, with Von Velsen in the bed-room. Katie Von Velsen screamed and that woke him, the defendant, and Von Velsen. Von Velsen said, "Come on; there is something the matter," and he got up and found the complainant in the other room. He said, "What is the matter?" Katie Von Velsen said, "Well, there is a man who came up with us, and he had some intercourse with us, and he promised us \$5.00 each, and after he was there with us he said, 'I haven't any money; I can't pay you.'" Katie Von Velsen then said, "Let us have a deposit, then; leave your pin or your watch, if you haven't any money." He, the defendant, said, "Yes, if you haven't any money, the easiest way is the best; leave a deposit; I have no interest in this, it is none of my business." The complainant then took off his pin and handed it to him, and he handed it to Von Velsen and said, "Charlie, is this pin any

good?" Von Velsen said, "It will pass," and he kept it. The complainant then said, "If you want to get the money, you two, or all four of you, can come with me, and I will give you the money and take the pin back." He and Von Velsen went down as far as Bleeker street with the complainant. He understood before leaving the house, that the complainant had had intercourse with the girls. When the complainant met the officers he said, "This gentleman has stolen my pin," pointing to Mr. Von Velsen. The roundsman and the officer went back to the house and arrested the girls. He was a pressman in a tin factory. He worked for Ginner & Co., 53 and 55 Greenwich street. He had been working up until four weeks before his arrest; he was laid off on account of the dullness of trade. He had never been convicted of any crime. He had been arrested for "driving a horse that was too small for a truck," and fined \$5.00. That was the only time he had ever been arrested.

In cross-examination the defendant testi-

fied that it was after he had been out of work that he went to live with the woman who called herself Henrietta Nathan. He had not been married to her, but he had lived with her. He had never lived with any other woman. Before living at 6 Varick Place, he had lived with his mother, at 61 Cannon street. He did not know that the woman was a prostitute until after he was living with her. He never gave the woman instructions to go out and bring men to the house, and not to take them to any other house, and if she could not settle them, he could; he never said anything of the kind. He had always been friendly with Mrs. Van Velsen, and he did not know of any reason why she should say that he gave her such instructions. He never knew that his so-called wife went around the streets soliciting. He did not say anything to his wife when he found out, for the first time, that she had had intercourse with another man. He did not ask the complainant for his watch. He didn't know of any reason why Von Velsen should have sworn that he asked the complainant for

his watch. He never struck his wife because she did not bring in enough money to him at night.

FREDERICK WEBER, being duly sworn, testified that he was the foreman in Rockwood & Co's chocolate works, at 468;70 Cherry street. He knew the defendant Katie Von Velsen. She had worked in the establishment of which he was foreman for about four years. As far as knew, her character was good.

SARAH BURKE, being duly sworn, testified that she was the mother of the defendant Katie Von Velsen. Katie had lived with her until she (Katie) was married. Katie had worked and had always given her, the witness, her wages. Katie was never out after 10 o'clock in her life, until after she was married.

VALENTINE NATHAN, being duly sworn, testified, through the Official Interpreter, that he was the father of the defendant Robert Nathan. He lived at 61 Cannon street. Prior to the 7th of September, his son resided with him. His son had always worked in the tin factory, and

he always gave his money to him. He had always been a good son.

In cross-examination the witness testified that the defendant had left home about four weeks before his arrest. The defendant was laid off a couple of weeks before he left home. He did not know what wages his son received per week. The defendant had always given his wages to his mother. He, the witness, had never known the woman who called herself Mrs. Nathan before the defendant went to live with her. The defendant was twenty-one years of age.

HENRIETTA KATZHELMER, being duly sworn, testified that she was the mother of the defendant Henriette Nathan. Henrietta Nathan was twenty-two years of age. During the time that her daughter had been living with her, her daughter had always been a good girl and worked for a living. Her daughter had worked six years in one place. The defendant had been away from home two weeks when she was arrested. Up to the time

that the defendant left home, she was always a dutiful girl.

In cross-examination the witness testified that she did not know where her daughter had been living during the two weeks that she was away from home. Nathan went to her, the witness, and told her he wanted to marry her daughter, and, as her daughter was out of work at the time, she consented. The defendant did not tell her, the witness, where she was going to live.



0167

AFFIDAVIT FOR COMMITMENT OF WITNESS.

4771

POLICE COURT.....DISTRICT.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Frank Caddell*

of the *15* Precinct Police, being duly sworn, deposes

and says that *Joseph Ruskoff*

(now here) is a material witness for the people against

*Katie Von Felsen Henrietta Nathan* charged

*Robert Nathan - Charles Von Felsen*

with *Robbery*. As deponent has

cause to fear that the said *Joseph Ruskoff*

will not appear in court to testify when wanted, deponent prays

that the said *Joseph Ruskoff* be

committed to the House of Detention in default of bail for his

appearance.

*Francis C. Caddell*

Sworn to before me, this  
day of *Sept* 189*5*

*Police Justice.*



0168

Police Court— 2 District.CITY AND COUNTY }  
OF NEW YORK, } ssJoseph Rikoff  
of No 39 Third Avenue Street, Aged 35 Years  
Occupation Cookbeing duly sworn, deposes and says, that on the  
9th day of September 1887, at the 15 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:one scarf pin of the value of  
one dollar. \$1—of the value of \_\_\_\_\_ DOLLARS.  
the property of deponentand 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 byKatie Von Velsen, Henrietta Nathan  
Robert Nathan, Charles Van Velsen,  
Deponent met the defendants Katie  
Von Velsen and Henrietta Nathan  
in Sixth Avenue and went with them  
at their solicitation to No 6 Varick  
Place, and while there the said  
women proposed that deponent should  
have sexual intercourse with them  
then and when deponent refused  
they endeavored to frighten deponent  
by threats, in order to compel deponent  
to pay them money. Then the  
defendants called the defendantsday of September 1888  
Subscribed before me, this  
Police Justice.

Robert Nathan and Charles Van Velsen from an adjoining room and the said men took hold of defendant by force and violence and the said Nathan attempted to take out defendant's watch and the said scarf pin was taken out of defendant's scarf by the said Van Velsen. Defendant defended himself with his cane and finally escaped to the street and secured police protection, and the four defendant were immediately arrested and the said scarf pin was found in the possession of the said Charles Van Velsen in the said house.

Josef Reinkoff

Known to before me this  
7th day of September  
1899  
Joseph Reinkoff  
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.

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

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

Police Court,	District,
THE PEOPLE, &c., on the complaint of	
1.	
2.	
3.	
4.	
Dated	189
Magistrate.	
Officer.	
Clerk.	
Witness,	
No.	Street,
No.	Street,
No.	Street,
\$	to answer General Sessions.

0170

Sec. 198-200.

District Police Court.

CITY AND COUNTY  
OF NEW YORK, } ss.

*Katie Van Velsen* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if 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. *Katie Van Velsen*

Question. How old are you?

Answer. *19 years*

Question. Where were you born?

Answer. *N.Y.*

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

Answer. *6 Vanhook Place 3 weeks*

Question. What is your business or profession?

Answer. *Confectionery*

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**Katie Van Velsen*

Taken before me this  
day of *Nov* 1907

*[Signature]*  
Police Justice.

0171

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

*Kate Van Velsen*  
*Henriette Nathan, Robert Nathan, Charles Van Velsen*

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, *Sept 7* 189*9*

*[Signature]* Police Justice.

I have admitted the above-named

to bail to answer by the undertaking hereto annexed.

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.

There being no sufficient cause to believe the within named

guilty of the offense within mentioned, I order h to be discharged.

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.

0172

Police Court---

951 District.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

Joseph Rikoff  
39 3rd St  
HOUSE OF DETENTION CASE  
Henrietta Nathan  
Robert Nathan  
Charles Van Velsen

Robbery  
Offense

BAILED,

No. 1, by

Residence

Street.

No. 2, by

Residence

Street.

No. 3, by

Residence

Street.

No. 4, by

Residence

Street.

Dated,

Sept 7  
Koch

189 9

Magistrate.

Caddell

Officer.

15 Precinct.

Witnesses

Complainant sent to the  
House of Detention for  
default of \$100 Bail

No.

Street.

Off. Mulholland

No.

Street.

\$

1500

RECEIVED  
SEP 11 1893  
C. D. SEF  
11

No 150.

0173

Sec. 198—200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Charles Von Vilsen*

being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if 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.

*Charles Vilsen*

Question. How old are you?

Answer.

*21 years*

Question. Where were you born?

Answer.

*U. S.*

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

Answer.

*6 Varuh Place — 3 weeks*

Question. What is your business or profession?

Answer.

*Seaman*

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

Answer.

*I am not guilty*

*Chas. Von Vilsen*

Taken before me this  
day of

*1895*  
*Wm. H. [Signature]*

Police Justice.



0174

Sec. 198—200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Robert Nathan* 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. *Robert Nathan*

Question. How old are you?

Answer. *21 years*

Question. Where were you born?

Answer. *Prussia*

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

Answer. *6 Varck Place* *3 weeks*

Question. What is your business or profession?

Answer. *Insmith*

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*  
*Robert Nathan*

Taken before me this  
day of *Dec* 189*7*

*[Signature]*  
Police Justice.



0175

Sec. 198-200.

District Police Court.

CITY AND COUNTY } ss.  
OF NEW YORK,

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

Question. What is your name?

Answer.

*Hennette Nathan*

Question. How old are you?

Answer.

*22 years*

Question. Where were you born?

Answer.

*N.S.*

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

Answer.

*6 Varick Place 3 weeks*

Question. What is your business or profession?

Answer.

*Show cards*

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*

*Hennette Nathan*

Taken before me this

day of

1897

*John A. [Signature]*

**Court of General Sessions of the Peace**

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against  
Katie Von Velsen, Henrietta  
Nathan, Robert Nathan  
and Charles Von Velsen

The Grand Jury of the City and County of New York, by this indictment, accuse  
Katie Von Velsen, Henrietta Nathan  
Robert Nathan and Charles Von Velsen  
of the CRIME OF ROBBERY in the first degree, committed as follows:

The said Katie Von Velsen, Henrietta Nathan,  
Robert Nathan and Charles Von Velsen, all  
late of the City of New York, in the County of New York aforesaid, on the seventh  
day of September in the year of our Lord one thousand eight hundred and  
ninety-three, in the right time of the said day, at the City and County aforesaid,  
with force and arms, in and upon one Joseph Reckoff  
in the peace of the said People then and there being, feloniously did make an assault; and

one scarf-pin of the value  
of one dollar

of the goods, chattels and personal property of the said Joseph Reckoff  
from the person of the said Joseph Reckoff against the will  
and by violence to the person of the said Joseph Reckoff —  
then, and there violently and feloniously did rob, steal, take and carry away,

the said Katie Von Velsen, Henrietta Nathan,  
Robert Nathan and Charles Von Velsen, and  
Each of them being then and there aided by  
an accomplice actually present, to wit: each by the other;

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

De Laurey Nicoll,  
District Attorney

0177

**BOX:**

535

**FOLDER:**

4871

**DESCRIPTION:**

Wah, Chung

**DATE:**

09/18/93



4871

0178

Witnesses:

*Off Schuster*

Counsel,

Filed

*18*

day of

*Sept*

1893

Pleads

THE PEOPLE

vs.

*P*

*Chung Wah*

RAPE (1st and 2d Degree)  
and ABDUCTION.  
(Sections 278, 218 and 282, Penal Code.)

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL

*E. Bloomer*  
Foreman.

*Ch 203.*

*Part 3. Oct. 11/93*

*In and Acquitted*

0179

Police Court, 4 District.STATE OF NEW YORK.  
CITY AND COUNTY OF NEW YORK, } ss:

of No. 297 - 4<sup>th</sup> Avenue Street, in said City, being duly sworn,  
deposes and says, that a certain female child called Rosie Topunovsk  
[now present], under the age of sixteen years, to wit, of the age of seven years, is a  
necessary and material witness on behalf of the People of the State of New York in a certain  
criminal case now pending in the Court of General Sessions of, in and for the City and  
County of New York, entitled, The People against Shirley

Bob, wherein the said Shirley  
Van is charged with the crime of Rape, under  
section 278 of the Penal Code of said State, in that he, the said defendants

did willfully and feloniously perpetrate  
an act of sexual intercourse with  
a person female child called Rosie  
Topunovsk, aged seven years, with  
being his wife

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

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

Sworn to before me this

day of September 1893

8

Hugo Schultz  
Police Justice.

0180

POLICE COURT 4 DISTRICT.

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Hugo*  
*Rosie*  
*7. U. S. 338 & 54 m.*



AFFIDAVIT.  
WITNESS.

Dated *September 8* 189 *3*  
*Frank* Magistrate.  
*Schuyler* Officer.  
*Doar*

Disposition *Com: New York*  
*Society for the Prevention*  
*of Cruelty to children.*

0181

1921

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Rosie Lipucovsky*  
aged *Seven* years, occupation *schoolgirl* of No.  
*330 East 54<sup>th</sup>* Street, being duly sworn, deposes and  
says, that she has heard read the foregoing affidavit of *Hugo Schultz*  
and that the facts stated therein on information of deponent are true of deponent's own  
knowledge.

Sworn to before me, this *8<sup>th</sup>* day  
of *September* 189*3* *Rosie Lipucovsky*

*Wm. H. Brady* Police Justice.



0182

H District Police Court.

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

Hugo Schuttis  
 of Number 294 - 4<sup>th</sup> Avenue being duly sworn,  
 he has just reason to believe and does believe, that  
 deposes and says, that on the day of August 1893, at the  
 City of New York, in the County of New York, At the premises.

known as Number 327 East 54<sup>th</sup> Street  
 in said City of New York, the Chung  
 Wah, now here, did willfully and  
 feloniously perpetrate an act of sex-  
 ual intercourse with a certain fe-  
 male child, called Rosie Ypusovsky, now  
 here, said female being then and there  
 actually and apparently under the  
 age of sixteen years to wit of  
 the age of seven years; not being  
 his wife - in violation of the  
 statute in such case made and pro-  
 vided and especially of Section  
 278 of the Penal Code of the  
 State of New York.

Therefore the complainant prays that the said

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

Sworn to before me, this 8  
 day of September 1893

Hugo Schuttis  
 W. H. Brady  
 Police Justice.

0183

Sec. 193-200.

District Police Court.

CITY AND COUNTY }  
OF NEW YORK, } ss.

*Chung Wah* being duly examined before the under-  
signed according to law, on the annexed charge; and being informed that it is h right to  
make a statement in relation to the charge against h; that the statement is designed to  
enable h if 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. *Chung Wah*

Question. How old are you?

Answer. *38 Years*

Question. Where were you born?

Answer. *China*

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

Answer. *327 East 54th Street*

Question. What is your business or profession?

Answer. *Laundry*

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. *我 am not guilty*  
*同*  
*Chung Wah*

Taken before me this

day of

189

Police Justice.

0 184

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

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

Dated September 8 189 3

W. H. Brady Police Justice.

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

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.

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

Dated, \_\_\_\_\_ 189

\_\_\_\_\_  
Police Justice.

0185

Police Court--- District. 971

THE PEOPLE, &c.,  
ON THE COMPLAINT OF

*Hugo Schuchert*  
vs.  
*Chung Kw*

1  
2  
3  
4

Offense *Pepe*

BAILED,

No. 1, by  
Residence Street.

No. 2, by  
Residence Street.

No. 3, by  
Residence Street.

No. 4, by  
Residence Street.

Dated *September 8* 189 *3*

*Mr. F. Chad* Magistrate.  
*Schuchert* Officer.  
*J. P. & B.* Precinct.

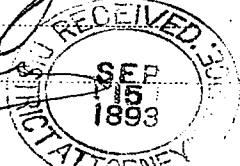
Witnesses  
No. *330 E. 54* Street.

*Mr. Eckhard*  
No. *330 E. 54* Street.

*Mr. Pinner*  
No. *330 E. 54* Street.

\$ *5000* to answer *B.S.*

*Ch 203*



## 2042

*against*

Henry Wain

indictment, accuse George W. W. W.

The said James Walsh, —

accuse the said Henry W. Allen —

The said Young Wale, —

## THIRD COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further  
accuse the said Henry Wald —  
of the CRIME OF RAPE IN THE SECOND DEGREE, committed  
as follows:

The said Henry Wald, —  
late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,  
at the City and County aforesaid, in and upon a certain female not his wife, to wit: her the said  
Rose Tappan, feloniously did make an assault, she  
the said Rose Tappan, being then and there a female  
under the age of sixteen years, to wit: of the age of seven years; and  
the said Henry Wald, then and there (under circumstances  
not amounting to Rape in the first degree) feloniously did perpetrate an act of sexual inter-  
course with her the said Rose Tappan, 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.

## FOURTH COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further  
accuse the said Henry Wald —  
of the CRIME OF ASSAULT IN THE SECOND DEGREE, com-  
mitted as follows:

The said Henry Wald, —  
late of the City and County aforesaid, afterwards, to wit: On the day and in the year aforesaid,  
at the City and County aforesaid, in and upon a certain female not his wife, to wit: her the  
said Rose Tappan feloniously did make an assault,  
she the said Rose Tappan (being then and there a  
female under the age of sixteen years, to wit: of the age of seven years;  
with intent then and there (under circumstances not amounting to Rape in the first degree),  
feloniously to perpetrate an act of sexual intercourse with her the said Rose  
Tappan, 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.

## FIFTH COUNT—

AND THE GRAND JURY AFORESAID, by this indictment, further  
accuse the said *Henry Wald* —  
of the CRIME OF ABDUCTION, committed as follows:

The said *Henry Wald*, —  
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 feloniously take, receive, harbor, employ and use her, the said  
*Rose Tapscott*, so being then and there a female under  
the age of sixteen years, to wit: of the age of *seven* — years, as aforesaid,  
for the purpose of sexual intercourse, he, the said *Henry Wald* —  
not being then and there the husband of the said *Rose Tapscott*,  
against the form of the statute in such case made and provided, and against the peace of the People  
of the State of New York and their dignity.

DE LANCEY NICOLL,

*District Attorney.*