

0311

BOX:

387

FOLDER:

3607

DESCRIPTION:

Waas, Otto

DATE:

02/21/90



3607

0312

BOX:

387

FOLDER:

3607

DESCRIPTION:

Heubel, August

DATE:

02/21/90



3607

Witnesses;

Mary O'Sullivan

194

Counsel,

Filed

21

day of

Feb 18 90

Pleas

THE PEOPLE

vs. *P*

Otto Waas,

and

August Henkel

*Bringing in the Third degree.
Grand Jurors
Second degree*

[Section 498,

JOHN R. FELLOWS,

District Attorney.

A True Bill.

James McKeever

Feb 24/90 Foreman.

*Robert
Hendrickson
Bothamway Ref
R.M.*

0313

03 14

Police Court— 4 District.

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

Henry A. Doll
of No. 342 Second Ave Street, aged 28 years,
occupation Butcher being duly sworn
deposes and says, that the premises No. 342 Second Ave Street, 18 Ward
in the City and County aforesaid the said being a Butcher Shop

and which was occupied by deponent as a Butcher Shop
and in which there was at the time a human being, by name

Fredrick Schey
were BURGLARIOUSLY entered by means of forcibly breaking a
metal fastening on the fan light over
store door leading into said premises

on the 10 day of February 1890 in the night time, and the
following property feloniously taken, stolen, and carried away, viz:

One Ham. five Eggs one bottle Catsup
of the value of Two dollars the property
of deponent of a pocket book containing
good and lawful money of the
United States of the amount and
value of Twenty two dollars the
property of Fredrick Schey

the property of

and deponent further says, that he has great cause to believe, and does believe, that the aforesaid
BURGLARY was committed and the aforesaid property taken, stolen and carried away by

Otto Wross and August Erbe (now here)

for the reasons following, to wit: that deponent is informed
by Roger S. Mc Coy of the 18th
Precinct Police that he found
said defendants in East 19th
Street in said City with said
property in their possession

Sworn to before me

This 10 day of Feb'y 1890

Henry A. Doll
Police Justice

03 15

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 23 years, occupation Police officer of No.

18th Precinct Street, being duly sworn deposes and

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

Sworn to before me, this 10

day of February 1893

Roger S. McCoy

So Verbruggen
Police Justice.

0316

Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

August Eble 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.

August Eble

Question. How old are you?

Answer.

20 years

Question. Where were you born?

Answer.

Germany

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

Answer.

137 W. 28th St. 8 days

Question. What is your business or profession?

Answer.

None

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

Answer.

*I am guilty of the charge
August 24th 1902.*

Taken before me this

day of

1902

Police Justice.

0317

Sec. 198-200.

4 District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

Otto Woss

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. Otto Woss

Question. How old are you?

Answer. 18 years

Question. Where were you born?

Answer. Germany

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

Answer. 342 Second ave 1 week

Question. What is your business or profession?

Answer. Enameling

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

Answer.

I am guilty of the charge
Otto Woss.

Taken before me this

day of

February

1896,

Police Justice.

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

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 Each and be committed to the Warden and Keeper of the City Prison of the City of New York, until he give such bail.

Dated Feb 10 1889 D. J. C. [Signature] Police Justice.

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

Dated 188..... Police Justice.

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

Dated 188..... Police Justice.

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BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court

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248
District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Henry a. Roll
347 2nd av

1. Otto Noss

2. August Erble

3. _____

4. _____

Office
Burglar

Dated Feb 10 1890

S. O. Reilly Magistrate

Regen S. McBay Officer.

18 Precinct.

Witnesses Regen S. McBay

18 Precinct Street.

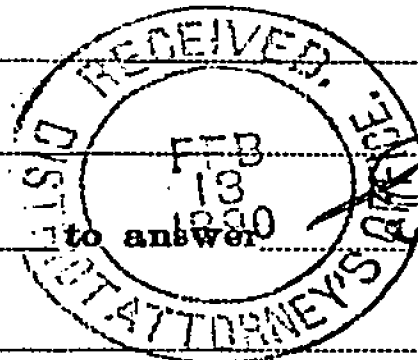
Fred Schoy

No. 347 Second av Street.

No. _____ Street.

\$ 15.00 to answer

Committee



Pay
P. K.

0320

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

*Otto Waas and
August Heubel*

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

Otto Waas and August Heubel

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

The said *Otto Waas and August Heubel, both*

late of the *Eighteenth* Ward of the City of New York, in the County of
New York, aforesaid, on the *tenth* day of *February* in the year of
our Lord one thousand eight hundred and *ninety*, with force and arms, at the
Ward, City and County aforesaid, a certain building there situate, to wit: the *shop* of one

Frederick Schey

feloniously and burglariously did break into and enter, with intent to commit some crime therein,
to wit: with intent, the goods, chattels and personal property of the said

Frederick Schey

in the said *shop* then and there being, then and there feloniously and burglariously
to steal, take and carry away, against the form of the statute in such case made and provided, and
against the peace of the People of the State of New York and their dignity.

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SECOND COUNT—

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

Otto Waas and August Heubel
of the CRIME OF *Grand LARCENY in the second degree*, committed as follows:

The said

Otto Waas and August Heubel, both

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

*the sum of twenty-five dollars, in
money, lawful money of the United
States and of the value of twenty-five
dollars, one ham of the value
of one dollar, five eggs of the value
of five cents each, one bottle of catsup
of the value of fifty cents, and one
pocketbook of the value of fifty
cents*

of the goods, chattels and personal property of one

Frederick Schey
in the *shop* of the said *Frederick Schey*—

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

John R. Fellows,
District Attorney

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BOX:

387

FOLDER:

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DESCRIPTION:

Wallack, Charles E.

DATE:

02/20/90



3607

0323

BOX:

387

FOLDER:

3607

DESCRIPTION:

Simmons, James A.

DATE:

02/20/90



3607

0324

BOX:

387

FOLDER:

3607

DESCRIPTION:

Pell, George H.

DATE:

02/20/90



3607

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Bail fixed at \$1000

Witnesses:

Sept 17. 1890

The evidence upon the trial of George H. Bell in which the defendant was acquitted is a matter of common knowledge.

It is noted that there was no card against Bell. The people cannot know the result of the jury's verdict.

Geo. L. G. - County Clerk

213 West 4th St

2 - by Bernard Cohen

166 West 6th St

Charles E. Bell

241 East 5th St

Thodore A. O'Connell

1 Broadway

125 CIRCUIT COURT
JAN 8 1891
DEETS EXHIBIT

186 East 20th St

904

3 Judge Connelley

Counsel

Filed

all

Pleas

Sept 17. 1890

THE PEOPLE

vs
Charles E. Wallack
James A. Sumner
George M. Bell

On motion of Bell

the court ordered that

the writ of habeas corpus

be granted to the defendant

and he be discharged

from custody

of the State

of New York

at New York

Sept 17. 1890

John J. Connelley

Sept 17. 1890

186 East 20th St

In my opinion the evidence in this case is insufficient to warrant a conviction. I recommend the dismissal of this indictment as

summons & warrant.

May 12/92

V. M. Dant

Ans

V. M. Davis

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COURT OF GENERAL SESSIONS, PART III.

-----X
The People of the State of New York : Before
against : Hon. Frederick Smyth
George H. Pell, impleaded with Char- : and a Juror.
les E. Wallack and James A. Simmons. :
-----X

Indictment filed 1890.

Indicted for grand larceny in the
first degree.

New York, May 6th, 1890.

A P P E A R A N C E S.

For the People Asst. District Attorney Vernon M.
Davis.

For the defendant Daniel G. Rollins and Richard S.
Newcombe, Esq.

The jurors were called, examined and sworn.

Certified copy of the Articles of Association
of the Lenox Hill Bank offered in evidence.

CHARLES DeBARRILL, a witness called for the People, sworn,
testified:

I reside at 130 East 34th Street in this City.
I am the cashier of the Lenox Hill Bank. I produce the
minute book of the Lenox Hill Bank from June, 1887, down to
date. I also produce the book of certified checks, the
stock and bond book, the general ledger and the depositor's
book of the Lenox Hill Bank. I also produce 37 certifi-
cates of stock signed by Charles A. Troup and Edward J.

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Connell, President and Cashier. Those certificates were cancelled at the time of the sale of the bank and transferred to the account of Mr. James A. Simmons and those who bought the bank in connection with him. The 37 certificates which I produce were surrendered by their holders and new certificates issued. The new certificates were issued to James A. Simmons, Charles E. Wallack, William M. Kilduff and J. K. Watson. The defendant, George H. Pell, did not become a stockholder of the Lenox Hill Bank at the time these certificates were transferred to Mr. Simmons. I also produce the individual ledger of the Lenox Hill Bank containing the accounts of James A. Simmons, William M. Kilduff and Charles E. Wallack. I also produce 9 checks, one signed by James A. Simmons for \$25,000, which was deposited to the credit of Pell, Wallack & Company in the Lenox Hill Bank; a second check drawn by Meyer Lighter Company for \$14,000; also another check drawn by James A. Simmons under date of January 29th for \$40,000; also another check drawn by George H. Pell, agent, for \$18,000; also another check drawn by James A. Simmons, January 29th, 1890, for \$60,000; also another check drawn by Meyer Lighter Company for \$30,000. I produce another bundle of 7 checks, one drawn by James A. Simmons for \$10,000, another by William M. Kilduff for \$10,000, December 19th, 1889, another drawn by James A. Simmons December 19th, 1889, \$5,700, another drawn by Pell, Wallack & Company December 19th, 1889, \$10,000, another drawn by James A. Simmons December 19th, 1889, \$10,000. I also produce another check

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drawn by William M. Kilduff January 29th, 1889, for \$50,000. I also produce the deposit slips referring to the checks in question and used at the time the checks referred to were deposited in our bank. I also produce a check drawn by John Satterlee & Company on January 29th, 1890, for \$7,500. On the 19th day of December, 1889, the Lenox Hill Bank owned, in its own right bonds, as follows, but Mr. Connell, the cashier, could tell you better as to them.

EDWARD J. CONNELL, a witness for the People, sworn, testified:

I live at Bedford Park, New York City. I was on the 19th day of December, 1889, the cashier of the Lenox Hill Bank in this City. That bank on the 19th day of December, 1889, owned the following bonds which were in my custody as the cashier of the bank: Eight bonds of the Chicago, Rock Island and Pacific Railroad Co. \$1,000 each; one United States Government bond of the value of \$1,000, which was deposited with the banking department in Albany; 15 New York, Chicago and St. Louis Railroad Company \$1,000 each; 5 New York, Susquehanna and Western Railroad Company each worth \$1,000; 2 St. Louis, Arkansas and Texas first mortgage six per cent. \$1,000 each; 15 Union Pacific, Lincoln and Colorado each for \$1,000; 12 Northern Pacific and Montana Railroad Company each for \$1,000; 2 Louisville and Nashville Railroad Company \$1,000 each; 5 Louisville, New Albany & Chicago Consolidated each \$1,000; 3 Helena & Red Mountain Railroad Company 1st mortgage sinking fund 6 per cent. \$1,000 each; 6 West Point & Richmond Terminal \$1,000;

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2 Mobile and Birmingham R. R. Co. \$1,000 each; one Duluth, South Shore and Michigan 1st mortgage 5 per cent. \$1,000; 5 Rio Grande and Western R. R. Co. \$1,000 each; that makes 82 bonds in all. One of those bonds on the 19th of December was at Albany; fifty were at the Western National Bank in this City, and thirty-one were in the safe of the Lenox Hill Bank in my custody as I have stated. From an experience of 15 years I can state the value of the bonds that were in the safe. The 15 Union Pacific, Lincoln & Colorado were worth \$15,225; the 12 Northern Pacific and Montana Railroad Company were worth \$12,540; the 5 Louisville, New Orleans and Chicago were worth \$5,112.50; the 3 Albany & Red Mountain were worth \$3,000; the 6 Richmond & West Point Terminal were worth \$6,000; the 2 Mobile & Birmingham were worth \$1,880; the one Duluth, South Shore & Atlanta was worth \$935; the 5 Rio Grande & Western were worth \$3,712.50. That embraces all the bonds that were in the safe of the Lenox Hill Bank on the 19th of December, 1889.

HARRY B. FONDA, a witness for the People, sworn, testifies:

I live at No. 47 East 11th Street. I am the transfer clerk at the Western National Bank. I produce a bond book from the Western National Bank. By reference to that book I state that the Western National Bank sold on January 6th, 1890, for the benefit of the Lenox Hill Bank the following bonds: New York, Chicago & St. Louis \$15,000; Chicago, Rock Island & Pacific \$8,000; 5 Northern Pacific & Montana \$5,000; 3 Richmond & West Point Terminal \$3,000;

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10 Union Pacific, Lincoln & Colorado, sold at 101; 5 Northern Pacific & Montana sold at $106\frac{1}{8}$; the Northern Pacific brought \$10,100 and the Union Pacific brought \$5,306.25; 2 Louisville, New Albany & Chicago \$2,090. I do not know by whose direction those bonds were sold.

CHARLES DeBARRILL, a witness for the People, re-called:

The bank changed hands on the 19th of December, 1889. On that day I saw in the bank Mr. Charles E. Wal-lack, Mr. Pell and Mr. Philip Meyer. I also saw Mr. Char-les Troup, Mr. Lezynsky and Mr. Connell in the bank between 9 and 11 o'clock on that morning. I heard Mr. VanZandt, the paying teller, ask Mr. Pell whether the clerks would have a Christmas present this year and Mr. Pell said that the present owners of the bank would do better for the clerks than had been done for them the year before.

CROSS-EXAMINATION:

I have here the account of James A. Simmons. By reference to it I find that on the 29th of January a de-posit of \$80,000 was made making the balance in favor of Mr. Simmons \$81,000.

Q Suppose that on the morning of the 30th, when the check of \$22,000 made by Mr. Simmons was presented or charged to his account, it had been presented to you by a person known, was Mr. Simmons' account then in such a condition as to en-title the party presenting it to the payment of this check in cash as it appears upon the books of the bank? A. Yes, sir.

Q Tell me the balance to the credit of Mr. Simmons on the

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of January? A. \$31,207; on the 25th it was \$31,357.09; on the 24th \$31,565.41; on the 22nd \$6,557.97; on the 21st \$8,567.97; on the 20th \$19,567.97; on the 18th \$13,567.97.

Q And when the Lenox Hill Bank paid the several checks of Pell, Wallack & Company, James A. Simmons, William M. Kilduff and P. L. Meyer there was money in the Lenox Hill Bank for the purpose of paying them? A. At the close of business the accounts all appeared to be balanced. I find by reference to the ledger under date of January 29th that three checks for Pell, Wallack & Company, for James A. Simmons and for John Satterlee & Company were certified, they were for \$50,000 each.

RE-DIRECT EXAMINATION:

Q Of the \$80,000 deposited by James A. Simmons on the 29th of January, 1890, \$50,000 of it was made up by a check of William M. Kilduff, and the other \$30,000 was a check of the Meyer Lighter Company dated Jan. 29th, 1890, endorsed James A. Simmons? A Yes, sir.

Q And \$30,000 of that \$80,000 came back to the bank not paid? A. Yes, sir. Mr. Simmons was properly credited with the \$30,000 check of the Meyer Light Company and was entitled to draw upon it. Mr. Simmons' account was made perfectly good before the close of business on that day.

SAMUEL H. LESZYNSKY, a witness for the People, sworn, testifies:

I am a broker and live at No. 60 East 81st Street. I was Vice-President of the Lenox Hill Bank from its organization down to the 19th of December, 1889. On

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that day I sold out my interest in the bank. I was first approached on the subject by Mr. P. L. Meyer; I had a conversation with him on Broadway, but we did not agree to any price to be paid on the stock. I had another conversation with him in which he said he would introduce me to a party who wished to buy a controlling interest in the bank. He did not yet mention the name of the party who wished to buy the bank. I saw him again on the 16th of December and he said that the party in whose interest he was acting would pay \$210 a share for a controlling interest in the stock. He called on the 17th and introduced his party, Mr. E. R. Wiggins. Mr. Wiggins then made an examination of the books of the bank, its assets, its bonds, the bills receivable and the bills payable. Mr. Wiggins requested me to give him a list of the bonds of the bank. I had such a list prepared and on the following day met Mr. Wiggins at the office of Pell, Wallack & Company. At the interview which we then had Mr. Pell was present. Mr. Wiggins examined the list of the bonds and said that he would have to close the transactions the next day as he desired to return to Boston. On the following day all the parties met at the bank. Before Mr. Wiggins left for Boston he said that Mr. Pell would represent him in case he was called away. I left the list of the bonds with Mr. Pell and Mr. Wiggins. I told Mr. Pell at that time that the bonds were in the Safe Deposit Vault at the bank. On the 19th of December at the Lenox Hill Bank a transfer of the stock was made according to the By-laws. On the 18th in the afternoon I

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met Mr. P. L. Meyer in a restaurant in Pine Street. I went with him to the office of Mr. Pell and I asked Pell whether the transaction would be closed to-morrow and Mr. Pell said positively. Mr. Pell said that he expected that all the assets of the bank should be in the possession of the bank at the time it changed hands. Mr. Troup and I went to the safe deposit vault and took out all the securities, brought them to the Lenox Hill Bank and placed them in our own safe. Among the bonds which we took out of the safe deposit vault were the following: 1 Duluth, South Shore & Michigan; 3 Richmond & West Point Terminal; 5 Union Pacific, Lincoln & Colorado; 3 Louisville, New Albany & Chicago; 3 Helena & Red Mountain; 5 Rio Grande & Western; 2 Mobile & Birmingham. Mr. Connell, the cashier, acted as Secretary at the time the bank changed hands. Mr. Pell arrived at the bank with the money or the certified checks and when the certified checks were paid over Mr. Wiggins received the certificate of 505 shares. He ordered them put in the names of the different parties who were going into the new board. Mr. Pell was present all the time that this was being done. It was Mr. Pell who brought the checks to the bank and handed them over to Mr. Troup. The checks thus paid over were: 1 certified check on the Third National Bank for \$55,000, drawn by Pell, Wallack & Company to the order of E. R. Wiggins and endorsed Pell, Wallack & Co.; there were also \$50,000 of certified checks on the St. Nicholas National Bank signed by George H. Pell, agent. The checks which you hand me are the checks which Mr. Pell on that date turned over to Mr. Troup.

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The price paid for the stock was \$105,500. As I have stated Mr. Pell, the defendant, was present in the room at the time all this took place and he personally handed over the checks to Mr. Troup. Mr. Wallack then assumed the Presidency of the bank and I have no further recollection of what transpired.

CROSS-EXAMINATION:

Q The checks of \$10,000 and \$20,000 signed by George H. Pell were both certified on the morning when Mr. Pell came to the Lenox Hill Bank? A. Yes, sir.

Q And the other checks amounting to \$75,000 were also certified? A. Yes, sir.

Q They were brought to the Lenox Hill Bank certified? A. Yes, sir.

Q When Mr. Meyer made you an offer for the stock of 175 or 180 did you believe it to be worth more than that? A. We considered the bank in a very flourishing condition with extraordinary prospects ahead of it.

Q Did you consider the stock of the bank was worth more than the offer made by Mr. Meyer? A. Yes, sir.

Q Did you believe it was worth 210? A. Yes, sir.

RE-DIRECT EXAMINATION:

Q What time was it that you received first the proposition to purchase a controlling interest in the stock at 210? A. It was just a couple of days before the transaction closed.

Q How long did it take then to consider the proposition of buying the bank at 210? A. It only took a day or so.

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In the meantime I had purchased the majority of the stock of the bank at 110 and within 2 days I sold it for 210, making a profit of exactly 100.

EDWARD J. CONNELL, a witness for the People, re-called:

I kept the minutes of the proceedings of the meeting of Dec. 19th, 1889. I produce the minute book and can state by reference to that exactly what happened. Mr. Julius Sands resigned and Mr. Charles E. Wallack was elected in his stead. Mr. J. A. Radway resigned and Mr. Charles A. Page was elected in his place; Mr. E. M. Knox resigned and Mr. William M. Kilduff was elected in his place; Mr. Robert McCafferty resigned and Mr. J. K. Watson was elected in his place; Mr. Morris Goodhart resigned and Mr. P. L. Meyer was elected in his place; Mr. Charles A. Troup then resigned as President and Director and Mr. Charles E. Wallack was elected in his place; Mr. Samuel H. Leszynsky resigned as Vice-President and Director and there was no one elected in his place. I remember that Mr. Pell was in the room during all the proceedings. Just after the meeting adjourned Mr. Wallack asked me for the 31 bonds which were in the safe. I went to the safe and got the bonds, handed them to him and asked him for a receipt; he gave me a receipt on this paper which I produce. He said he wanted to take the bonds away, he counted them and said that they were all right, and that they were all there. I could not say whether Mr. Pell and Mr. Wallack left the bank together or not. On that day in the Director's room after I had

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delivered the 31 bonds to Mr. Wallack. Mr. Pell told me to place 10 shares of stock in the names of Charles E. Wallack, William M. Kilduff, J. K. Watson, Charles A. Page, E. R. Wiggins, P. L. Meyer and E. J. Connell. It was Mr. Pell that gave me this direction and I made out the certificates in the names I have given. At the meeting Mr. Wallack was elected President of the bank, Mr. Pell was not elected either an officer or a director. I delivered the 31 bonds to Mr. Wallack as the President of the bank. Those bonds were never returned to the bank or paid for down to the day of my resignation, the 23rd of December, 1889. I had a conversation with Mr. Wallack on the 19th of December in the evening in reference to the bonds. I saw Mr. Pell on the Saturday morning following at the bank; he was in company with Mr. Wallack. I asked Mr. Wallack for the return of the 31 bonds or their equivalent, and Mr. Wallack said that he had not the returns nor he had not the bonds just then. Mr. Pell offered me stock of the Lenox Hill Bank as a security for them, and I told him I would not take them that it was no good. Mr. Simmons, who was there, asked me if I would take as security the St. Louis & Ocean Canal Bonds, and he offered to bring me a letter from the cashier of the Third National Bank stating that they were valuable securities. Later in the day such a letter was produced and I took 80 of those bonds and placed them in the safe. Mr. Pell at the same time offered me 450 shares of the Equitable Bank stock as security. I took them both and placed them in the safe. I then told Mr. Pell and the others that no more certifications must

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take place in the bank unless the accounts were good for it and Mr. Pell said "Well, those checks have all been paid." I told him I could not tell until the afternoon and I said "I am going to instruct the paying teller to stop certifying any more checks." I afterwards gave instructions to the paying teller to certify no more checks. I resigned on the 23rd of December and was handed by Mr. Pell a check for \$2,500, my salary for the following year, as a present.

CHARLES A. DeBARRILL, re-called:

Q (By Mr. Newcombe) On the 30th of January how much was there to the credit of Mr. Simmons in the Lenox Hill Bank?

A. \$81,207.07; out of that on that day there was deducted 2 checks amounting to \$72,000; that left a balance of \$9,207.07.

Q Was the account of Mr. Simmons credited with any money on the 8th of February? A. It was credited with \$10,000, \$50,000, \$20,000 and \$50,000.

Q Now out of the credits belonging to Mr. Simmons the \$22,000 checks given on account of those bonds was fully paid, was it not? A. Yes, sir.

Q Then it is true that Mr. Simmons after making all the payments for everything which he was liable for to the bank had a credit to his account of \$9,203.32? A. Yes, sir.

Q On the 30th of Jan. there was to the credit of John Satterlee & Company \$8,200? A. Yes, sir.

Q And on that account you received a check of \$7,500 on the

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morning of the 30th to make up the \$29,500 for the bonds?

A. Yes, sir.

Q (By Mr. Davis): I call your attention to an item of \$50,000 under date of Feb. 8th, James A. Simmons' account, what was that credit represented by? A. By a certified check; that was the check certified by our paying teller on Jan. 29th.

Q According to the books there was no certification for James A. Simmons on Jan. 29th except those 2 checks for \$10,000 and \$20,000? A. No, sir; on Jan. 30th a check for \$50,000 was certified for Mr. Simmons. I find that there is a correction made here showing that by mistake a check was certified to John Satterlee when it should have been certified to James A. Simmons. The mistake was corrected on the following day. I now find taking into consideration this correction that at the time the \$22,000 check was given to the bank Mr. Simmons had a debit balance of \$18,792.93.

Q (By Mr. Newcombe): Referring to the credits of \$50,000, \$20,000 and \$10,000 you stated in answer to a question by the District Attorney that they were credits, not of money but of checks? A. Yes, sir.

Q But had not those same checks immediately before been debited to the account of Mr. Simmons? A. Yes, sir.

Q And as they had been debited when they were returned unused they were credited back? A. Yes, sir.

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EDWARD J. CONNELL, re-called for cross-examination:

I heard of the proposed sale of the bank two days before it took place. Within an hour after the adjournment of the meeting on the 19th a list of the new directors was given to me. I had the new certificates made out and delivered with all convenient speed. I do not know of anything that was done in the transfer of this stock that was not customary. Mr. Goodhart, the attorney of the bank, was present and superintended the transfer. I have never known of an instance where a cashier received one year's salary for no service. I felt myself responsible for the bonds which I turned over to Mr. Wallack and it was for that reason that I asked him to return them. When I handed the bonds to Mr. Wallack I believed he was going to sell them and would make a return to me on the following day. When I asked Mr. Wallack to return me the bonds he went to the telephone and summoned Mr. Pell and Mr. Meyer to the bank; when they came they offered me the other securities which I have named. The securities which I accepted were in my judgment at that time satisfactory and the bank was fully protected. I have known National Banks to over certify to the extent of million of dollars.

RE-DIRECT EXAMINATION:

My recollection was that it was immediately upon the adjournment of the meeting that Mr. Wallack asked me for the bonds. I was impressed with the notion that there was something singular in the transfer of the bank when checks to the amount of \$65,000 were certified in one

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day. On the 20th the certifications amounted to \$110,800. I asked Mr. Wallack to return the bonds on the 19th and also on the 20th of December. When I spoke to Mr. Pell about the 31 bonds he said that he could not return them on Saturday as it was a short day. I know as a fact that it is a crime under the National Banking Act to over-certify.

CHARLES E. WALLACK, a witness for the People, sworn, testified:

At present I reside at Long Branch, New Jersey. I am an insurance broker. I am a member of the firm of Pell, Wallack & Company, doing business at No. 35 Liberty Street. The defendant, George H. Pell, was at one time a member of that firm. On the 19th of December, 1889, I was present at the meeting of the directors of the Lenox Hill Bank and was elected President of it. I continued to be the President of that bank from that date down to the 29th of January. After the meeting adjourned I had a conversation with Mr. Pell in which he told me to ask Mr. Connell for the bonds, that it would come better from me as President of the bank; he told me to say to Mr. Connell that those bonds were to be sold for the benefit of the bank. I went back to my seat and asked Mr. Connell for the bonds, that I wished to sell them for the benefit of the bank. Mr. Connell handed me the bonds and I gave him a receipt for them. The bonds corresponded with the list which you show me and which was testified to by the different witnesses. After I had procured the bonds from Mr. Connell I handed them to Mr. Pell; he put them into his pocket or took them in his hand and left the banking office. On the

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21st Mr. Connell asked me about the bonds and I told him I didn't know where they were, that Mr. Pell had them. I then saw Mr. Pell and he told me that he had placed the bonds in the hands of a broker for sale, but he did not mention who the broker was. A day or two afterwards I went to the bank and Mr. Connell again asked me for the bonds. I immediately telephoned for Mr. Pell and Mr. Simmons. When Mr. Pell came Mr. Connell accused Mr. Pell of buying the bank on wind, and Mr. Pell then produced the stock of the Lenox Hill Bank. Mr. Pell said "You see we have not used this stock to borrow on it, here it is". I heard no further conversation on that occasion. On the evening of the 29th of Jan., 1890, I met Mr. Pell at the St. Nicholas Club. It was about 9 o'clock in the evening. I was there only a short time when Mr. Pell asked me for a couple of blank checks, and I told him that I had a couple of checks on the North River Bank, and he said they would do; he altered them to the Lenox Hill Bank and made one out for \$22,000 and the other for \$7,500; he gave them to Mr. Simmons and Mr. Simmons signed them. Mr. Pell said to me "I want to give you the money for those bonds". He told me that the bank was owed that money for those bonds and he gave me those two checks to pay it; he told me on the following morning to take them to the Lenox Hill Bank. On the next morning I took the checks to the bank, arriving there about 9.30 o'clock. I handed the checks over to Mr. VanZandt, the cashier. When I left the bank I went down to the office of Pell, Wallack & Company. I met Mr. Pell on the steps of the Western National Bank and had a short

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conversation with him in reference to some checks which he wished to have certified. It was Mr. Pell who first spoke to me about becoming President of the Lenox Hill Bank. He asked me if I would like to be President, and I told him I didn't think I knew enough about it. He said it was a small uptown bank, that the cashier understood the business thoroughly, and in a very short time I would be able to pick it up. I accepted it. Mr. Pell told me that Mr. Simmons was going to buy the bank, and I always understood that Mr. Pell was acting for Mr. Simmons. I recognize the checks which you hand me: One is made by Mr. Kilduff, another by James A. Simmons, another by William M. Kilduff and a fourth by William M. Kilduff. All those checks are written by George H. Pell. The firm of Pell, Wallack & Company have an account with the Lenox Hill Bank. Mr. Wm. M. Kilduff was a member of the firm of Pell, Wallack & Company and drew checks for the firm. While I was President of the bank several checks of our firm were certified by the Lenox Hill Bank. I told Mr. Connell that I was merely a figure head and had nothing to do with the bank. In the administration of the affairs of the bank while I was President I acted under Mr. Pell's direction. Mr. Pell would send up checks to me to be certified; I would have the certifications made and return the checks to Mr. Pell. It was Mr. Pell suggested that Mr. Connell should resign as he was too fresh.

CROSS-EXAMINATION:

I am 38 years of age and have been an insurance broker for about 15 years. I acted under Mr. Pell's

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direction as to certifying checks. I would only certify such checks as he would send up to me. It is a fact that all the checks so certified were made good during the day. I know Mr. John Satterlee as a contractor here in the City. I made no effort to procure the resignation of Mr. Connell. I received \$29,500 as the proceeds of the sale of the 31 bonds on the 29th of January and on the following morning handed over those checks to the cashier of the Lenox Hill Bank. My object in obtaining possession of the 31 bonds was to sell them for the benefit of the bank. It was not until after I was elected President of the bank that I asked Mr. Connell for the bonds. It was my belief that as President I had a perfect right to obtain the bonds from Mr. Connell and to dispose of them for the benefit of the bank.

Q Is it not a fact that on the 21st of December no objection was made by Mr. Connell to the omission to send him any account for those 31 bonds, but that his only complaint was that he objected to the checks of Pell, Wallack & Co., and those other gentlemen being certified without funds then on hand to meet the certification? A. He made no mention of the bonds but he did make mention of the certification of the checks.

Q What else did he object to? A. That the bank was being bought on wind.

Q The stock of the bank was bought on the 19th of December by delivering over certified checks of solvent institutions to the extent of \$105,500? A. It was.

Q And that was the manner in which the stock purchased was

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paid for? A. It was.

Q And when Mr. Connell made this objection Mr. Simmons or Mr. Pell offered to deposit as security for those certificates, this very stock which Simmons had bought two or three days before and for which he had paid \$105,500?

A. Yes, sir; the stock of the Lenox Hill Bank.

Q Did Mr. Pell at any time from the 19th of December down to the 29th of January in any way seek to dispute his liability to turn over to you the proceeds of those 31 bonds?

A. He did not.

Q And on the 29th of January he voluntarily, without request by you, handed you \$29,501 for those bonds at the St. Nicholas Club? A. He did.

Q And you immediately upon the opening of the bank the following morning handed that money to the cashier of the bank in payment for those 31 bonds? A. Yes, sir.

Q Is it not a fact that your firm of Pell, Wallack & Co. had a daily balance to their credit at the Lenox Hill Bank from the 19th of December to the 28th of January? A. They had a balance, yes, sir.

RE-DIRECT EXAMINATION:

Q When you went to the Lenox Hill Bank on the 19th of Dec. did you own any of the stock of the bank? A. I did not.

Q Was there any of it in your name? A. No, sir.

Q At what time were there any of the certificates of stock of that bank placed in your name? A. During that day, I believe.

Q Before or after you became President of the Bank? A. Af-

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terwards.

Q Then when you were elected President of the bank and made a director in its board you owned no stock? A. I owned no stock.

Q Was it before or after any of the stock of that bank was placed in your name that you gave directions to Mr. Connell, the cashier, to deliver up the bonds of the bank to Pell? A. It was before.

Q Did you know of any reason that required the sale of those bonds for the benefit of the bank on the 19th of December? A. Only what Mr. Pell told me.

Q Did you receive such information as you did obtain on that day with regard to the necessity for selling the securities of the bank for the benefit of the bank from a person who was not connected with it? A. I received them from Mr. Pell.

Q Was Mr. Pell connected in any way with the bank? A. Not directly.

Q Did he own any stock? A. He did not.

Q He was not in the Board of Direction? A. He was not.

Q He was not a depositor? A. No, sir.

Q And you took his word, and upon his word delivered up to him the securities of that bank to sell for the benefit of the institution of which you had just become President? A. I did.

Q Now on the 22nd or 23rd of that month you asked Mr. Pell to return those securities, in consequence of some conversation between Mr. Connell and yourself? A. I did. Mr. Pell

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told me that they had not been accounted for, had not been sold.

Q Did Mr. Pell tell you that on the very day, the 19th, he received an advance of \$28,000 upon those securities?

A. He did not.

Q Did he tell you that upon that very day he had deposited the proceeds of those securities to his own credit in the St. Nicholas Bank to meet his checks? A. He did not.

Q Did you know that upon that day a firm of brokers in this City had given their check for \$28,500 for those bonds?

A. I did not.

Q Mr. Pell told you nothing of that kind when you asked him for those bonds? A. No, sir; he told me that the bonds had not been disposed of.

Q At the time Mr. Pell gave you those two checks at the St. Nicholas Club your bank was in some trouble? A. Yes, sir.

Q Do you remember any instance when you received and obeyed Mr. Pell's directions in regard to the management of the bank? A. I remember receiving those two checks, the \$22,000 and the \$7,500; he told me what I should do with those checks. I also obeyed Mr. Pell's directions in getting possession of the 31 bonds and handing them over to him. There never was any resolution of the Board of Directors authorizing me to deliver to Mr. Pell those 31 bonds for the purpose of being sold or otherwise disposed of.

Q You are aware, that when Mr. Pell came to the bank upon your telephoning him, bringing with him the stock of the bank, that there was no security for the bonds which had

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been taken out? A. Yes, sir.

Q You furnished the blank checks at the St. Nicholas Club to Mr. Pell which he filled up? A. Yes, sir.

Q And you gave them to the cashier to deposit as assets of the bank and to pay for those bonds? A. Yes, sir.

Q Didn't you know at that time that those checks were not good? A. I did not.

Q Did you state to the cashier that they were not good? A. I said I was afraid they were not good.

Q Did you know at that time that there were checks certified against the account of Mr. Simmons which, with these checks which were turned in, overdrew his account and made a balance against him? A. I ascertained that fact days afterwards.

RE-CROSS EXAMINATION:

Q Was there any purpose on your part, or on the part of any body else, that the issuance of the certificates of stock to the persons who were elected as directors happened a few minutes after and not before the organization? A. There was none that I know of. Mr. Goodhart, the attorney, was present all through the meeting.

Q Do you remember of any provision of Statutory Law, Constitutional Law, or any provision of any law, any provision of the By-laws of that Corporation, which made it necessary for you, as President of the Bank, before giving directions for the sale of the bonds to procure or to have procured the passage of a resolution by the Board of Directors of the bank? A. I did not.

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PHILIP L. MEYER, a witness for the People, sworn, testified:

I reside at No. 8 East 57th Street in this City. I am in the Steamboat business and I speculate in real estate. I have known the defendant, George H. Pell, intimately about 3 years. I have known him as agent for James A. Simmons. I have loaned him money at different times. He would ask me for \$10,000 or \$15,000 or even more and I would give it to him. On the following day he would hand me his check in settlement. Mr. Pell first spoke to me concerning the purchase of the Lenox Hill Bank in the early part of December. I saw Mr. Leszynsky, the President of the bank, and after seeing him I again saw Mr. Pell. Mr. Pell told me to make an offer of 150 or 160 a share, which I did. Mr. Leszynsky refused to accept that offer. I again saw Mr. Pell and after a consultation between Mr. Pell, Mr. Simmons and myself we agreed to let the matter rest for the present. I again went to see Mr. Leszynsky and he told me that Mr. Troup and himself were making a good living out of the bank and if they sold would want a good price; he told me they would be satisfied to take 200 a share for the stock. I communicated that to Mr. Pell, and he said it was a large price but if it was worth it they would be satisfied to pay it. Mr. Pell agreed to offer 175 for the stock but Mr. Leszynsky refused to accept it. After further consultation it was agreed that I should close the deal at 200. I did so on the 14th of December. I presented to Mr. Pell a statement showing the amount of bonds owned by the bank. Mr. Pell, Mr. Simmons and Mr.

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Wiggins agreed to buy the bank at 200. I made an appointment for the gentlemen to meet and they did on the following day at Proctor's, in Pine St. On the 19th of Dec. I attended the meeting of directors at the bank. Mr. Wiggins, Mr. Wallack, Mr. Page, Mr. Connell, Mr. Leszynsky, Mr. Troup, Mr. Goodhart, Mr. James A. Simmons, Mr. William M. Kilduff, Mr. J. K. Watson, Mr. Pell and myself were present at the meeting. Mr. Wallack was elected President. The transfer of stock was done by resolution. I am under the impression that 200 a share was paid for the stock. On the 19th of Dec. Mr. Pell owed me a certain amount of money from the day before. After the meeting of the directors had finished he said to me "Come into the office about 1.30 or 2 o'clock, I will be there and I will fix it with you." At that hour I went to his office on Liberty Street. Mr. Pell handed me 31 bonds to sell. I recollect that there was one \$1,000 bonds of the South Shore & Duluth Railroad; there were also some of the Mobile & Birmingham. I cannot recollect the names of the others. I took those bonds to William C. Sheldon & Company and obtained a loan of \$28,000 upon them. I returned to Mr. Pell's office and said to him "I had better take this check of \$28,000, deposit it, deduct what you owe me from the day before and give you a check for the difference. He was satisfied with this arrangement and I gave him a check for the balance. The amount he owed me was between \$12,000 and \$13,000. On that day I had received two checks from I. F. Mead & Co., one for \$8,400 and one for \$7,000. I endorsed these checks and handed them over to Mr. Pell.

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CROSS EXAMINATION:

I first communicated with Mr. Pell in reference to this matter early in November. The first price suggested was 150, then 160, then 175, and next 200. I was under the impression that the stock was sold at 200. I do not personally know of any investigation being made by Mr. Pell into the affairs of the Lenox Hill Bank. I understood that Mr. Pell was acting for Mr. Simmons in this matter. On the morning of the 19th of December I was asked to become one of the directors in the bank and I consented. It was between 1.30 and 2 o'clock on the 19th of December that Mr. Pell handed me the bonds. I had the transaction with my regular brokers, Sheldon & Company, and received their check of \$28,000 as an advance on the bonds. I showed that check to Mr. Pell and we agreed then to settle the difference between us. I believe that the last of the bonds were sold by Sheldon & Company on the 28th or 29th of January. From the 19th of Dec. to the 29th of Jan. I never rendered any statement to Mr. Pell as to what bonds, if any, had been sold. Mr. Pell called upon me for such a statement at least two or three times. I recollect that he called upon me for a statement on the 27th or 28th of January.

RE-DIRECT EXAMINATION:

On the 27th or 28th of January there was some difficulty surrounding the Lenox Hill Bank. The bank examiner had already gone into the Sixth National Bank and was about to make an investigation into the affairs of the Lenox Hill. I did not know that the banks were in trouble on the 27th.

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RANDOLPH RODMAN, a witness for the People, sworn, testified:

I am cashier for William C. Sheldon & Co. On the 19th of December I received 31 bonds from P. L. Meyer to sell. The bonds corresponded with the list which you show me. They are the same bonds in numbers and amount as have been testified to by the various witnesses.

WILLIAM J. GARDNER, a witness for the People, sworn, testified:

I am cashier of the St. Nicholas Bank. In November or December, 1887, George H. Pell opened an account under the name of George H. Pell, agent. Mr. Pell asked me if he might keep an account with us; I stated that on account of the failure of Grosvesteen & Pell there might be some objection. I told Mr. Pell I would allow the account to be opened, but that he must have sufficient money on hand at all times before we would pay or certify checks, either in certified checks or cash. That understanding was carried out.

CROSS-EXAMINATION:

The two checks shown me were certified by our bank on the morning of the 19th of December. Mr. Pell never procured any certification from our bank without having a balance to his credit sufficient to cover the checks certified.

JONATHAN P. GLASBY, a witness for the People, sworn, testified:

I am assistant receiving teller for the St. Nicholas Bank. I know the defendant. I identify the 7 deposit slips handed me. On one of them under date of Dec.

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19th appears the entry of two checks, one for \$8,400 and another for \$7,000. Our bank is not a clearing house bank.

WILLIAM J. GARDNER, re-called:

Mr. Pell when he opened the account stated that he did so in the interest of Mr. Simmons and several other capitalists. I have had considerable experience as a banker and I know that banks over-certify to the extent of million of dollars a day. I know it is a crime under the National Banking Act for national banks to do this.

ELIAS B. VANDEVEER, a witness for the People, sworn, testified:

I am paying teller of the St. Nicholas Bank. During last December I certified checks for George H. Pell. On the 19th of December I certified ^{three} checks for \$10,000 each and one of \$20,000. I could not tell whether Mr. Pell presented those checks in person or not.

LOUIS A. HILL, a witness for the People, sworn, testified:

I am receiving teller of the St. Nicholas Bank. I produce the deposit slips of George H. Pell on the 18th of December.

LUTHER S. FOUNTAIN, a witness for the People, sworn, testified:

I am a bookkeeper in the St. Nicholas Bank. I produce the transcript of the individual account of George H. Pell from the ledger of the bank. It was carefully made by me and compared.

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WILLIAM M. KILDUFF, a witness for the People, sworn, testified:

I reside at New Dork, Staten Island. I am a member of the firm of Pell, Wallack & Company. I was a member of the firm while Mr. Pell was one of the members. At the time Mr. Pell was a member of the firm he had authority to sign checks. I recollect testifying in the United States Court in regard to a loan made to the Sixth National Bank on January 2nd, 1890, for which Pell, Wallack & Company gave its note for \$60,000. That note was signed by Mr. Pell. I gave him authority to sign it. Mr. Pell had absolute authority to sign the name of Pell, Wallack & Company without consulting me. I don't remember that he ever signed any checks of Pell, Wallack & Company. I kept the various check books of the firm all the time. Pell, Wallack & Company had accounts in the Tjird National, The Equitable, The Lenox Hill and the Bank of Staten Island. We had four different accounts in the Lenox Hill Bank. I had two signatures, Pell, Wallack & Company and William M. Kilduff. At times I drew checks on James A. Simmons' account in the Equitable and deposited them to Simmons' account in the Lenox Hill. I do not know what check kiting means. I have been in business in Wall Street for 15 years and I positively state that I do not know what check kiting is in relation to these banks. I remember drawing a check for \$50,000 about the 19th of December. I drew that check in my own name. About that date I had three checks of \$50,000 each certified at the Lenox Hill Bank by request of Mr. Pell. Those checks were never used as Mr. Pell told me he did not need them. I remember the day on which

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the Lenox Hill Bank changed hands. I do not know who paid for a controlling interest in the stock. After Mr. Wallack had been President of the bank a short time I heard Mr. Pell say that it would be a good idea to have Mr. VanZandt elected in his place.

CROSS-EXAMINATION:

The three checks of \$50,000 each were certified on the afternoon of the 29th of January. The checks were properly made out and properly signed by their makers. I acted under the advice of counsel in all these matters. I was interested with Mr. Simmons in some very large contracts and it was necessary for us to use certified checks at times.

ERNEST VANZANDT, a witness for the People, sworn, testified:

I live at No. 2205 Fifth Avenue. I am cashier of the Lenox Hill Bank. I took charge of that department on the 24th of December; when I took charge the securities of the bank were turned over to me by Mr. Connell. I did not examine the various securities as he produced them from the safe. I placed the securities back in the safe after Mr. Connell had handed them to me. I saw Mr. Pell at the bank on the evening of the 27th of January. He spoke to me about a package belonging to him that was in the safe and said he would like to have it. I went and got the package from the safe and handed it to Mr. Pell. It was one of the packages which Mr. Connell had handed over to me as containing securities of the bank. Mr. Pell opened the package and he counted the securities over, re-

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marking that there were 180 shares of Equitable Bank stock in the package. I had a short conversation with him about the daily balances and the condition of affairs in the bank and he left taking the package I have referred to with him. I remember the 29th day of January. On that day I received three checks of \$50,000 each and I took them to 47 Liberty Street and handed them to Mr. Kilduff. Those three checks were certified by me as the cashier of the Lenox Hill Bank.

CROSS-EXAMINATION:

Those three checks were properly entered in the certification book. So far as I know those checks were never paid by the bank.

Q The understanding had by you was, that there were to be 3 checks certified, one by John Satterlee & Company, one by James A. Simmons individually and the other by Pell, Wallack & Company? A. Yes, sir.

Q And when you left the bank those 3 checks were charged to those respective accounts? A. They could not be charged until they were signed.

Q But there was a memorandum made, was there not? A. There was a memorandum made to that effect, yes, sir.

Q For the purpose of being posted in the certification book? A. Yes, sir.

Q The understanding was that the checks were not to be used? A. Yes, sir, that they were not to be used.

Q And so far as you know they were never paid by the bank? A. I believe not.

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ALONZO B. HEPBORN, a witness for the People, sworn, testified:

I am the National Bank examiner of this City. On January 29th I saw Mr. Pell in connection with the affairs of the Sixth National Bank. I was introduced to Mr. Pell by General Claassen. I said to Mr. Pell that the bonds taken from the bank should be returned. Mr. Pell said "I can't return the bonds, because a very large part of them have been sold". I said "Haven't you got them in your possession"; and he replied "No, they have been placed with brokers to be sold." I told him I would go with him and get the bonds and he said "You can't go with me, Mr. Kilduff has the list of the bonds and he will go and get them himself". I told him I would expect to get the bonds on the following morning at the Safe Deposit Company. On the following morning I was offered checks in payment for the bonds and these were accepted by me.

ALVIN CHADWICK, a witness for the People, sworn, testified:

I was paying teller of the Lenox Hill Bank from the first of April, 1888, to the 24th of May, 1890. I recollect on the 29th of January, 1890, certifying the three checks which are shown me at the request of Mr. VanZandt. When the three checks were certified by me there was no signature to them. This certification was done in the ordinary course of business and was properly entered in the certification book. The amount of each check was \$50,000.

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ALBERT I. VOORHEES, a witness for the People, sworn, testified:

I am employed at the St. Nicholas Bank as a clerk. I personally prepared the copy of the account of George H. Pell in the St. Nicholas Bank from December to January, 1890. I carefully compared the figures and they are correct.

DEFENCE.

MORRIS GOODHART, a witness for the defendant, sworn, testified:

I am an attorney and counsellor-at-law and have been practising in this City for 27 years. I was counsel for the Lenox Hill Bank down to the 19th of December. I was present at the meeting of the directors on the 19th of December. I gave my careful personal attention to everything that was done at that meeting. Everything was done in accordance with the Statutes of the State, and the By-laws of the Bank.

Q And whatever was done, was done under your advice?

A. It was done under my advice and suggestion as the way it should be done.

Q From your knowledge you believed that to be the regular and ordinary way to transact that business? A. Yes, sir; it has been done since at another bank where I was present.

CROSS-EXAMINATION:

I have not examined the minutes of the Board meeting on that day. My impression is that there was a resolution passed calling upon the cashier to dispose of

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some securities that were in the safe. I sold my stock at 110; the same stock was afterwards sold by Mr. Leszynsky for 210. At the time Mr. Wallack was made President of the bank the bank was in a prosperous condition.

EDWARD H. MEYERS, a witness for the defendant, sworn, testified:

I am a member of the firm of Theodore W. Meyers & Co. On December 26th I received several bonds from Mr. Philip L. Meyer to be sold. The last of these bonds were sold by our firm on the 28th of January. On that date I paid Mr. Philip L. Meyer the sum of \$4,800 for the bonds which our firm sold.

CHARLES DeBARRILL, re-called, for the defendant:

The report of the banking department shows that there was a deficiency in the affairs of the Lenox Hill Bank of \$181,000. I find that there is charged as a liability \$31,500 to the account of P. L. Meyer; also there is charged to the account of Pell, Wallack & Co., \$75,000, James A. Simmons \$80,000, William M. Kilduff \$40,000 and S. T. Meyer & Son \$14,000. This amounts altogether to \$310,000.

Q All those checks, amounting to \$310,000, were subsequently returned to the Lenox Hill Bank, were they not? A. Yes, sir.

Q They were cancelled and credited up to the different accounts? A. Yes, sir.

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Q Supposing the deficiency, charging those liabilities, was \$181,000, crediting back the \$310,000, left a balance of \$129,000, did it not? A. Yes, sir; so it appears.

PHILIP L. MEYER, re-called.

Mr. Pell gave me as a reason why he was anxious to have an account of the bonds sold by me, that he would like to have the matter settled. He told me that he had plenty of money on hand, and as the bonds were for Mr. Simmons' account he wanted to pay for them and settle up the matter entirely. He asked me for a statement two or three times between the 19th of December and the 29th of January.

The jury returned a verdict of guilty of grand larceny in the first degree.

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Indictment filed

COURT OF GENERAL SESSIONS

Part III.

06/19/90
The jury returned a verdict of guilty of these
times between the 1st of December and the 31st of January.
He asked me for a statement two or three
times, according to the testimony of New York City
of a woman on the 1st of December as the bonds were for Mr. Stin-
like to have a meeting. He told me that he had
to pay an account of bonds sold by me, that he would
be paid as a reason why he was anxious

\$130,000, did it not? A. Yes, sir; so it appears.
\$131,000, crediting back the \$210,000, left a balance of
supposing the deficiency, covering those liabilities, was

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The People }
vs } On conviction by verdict
Geo. H. Bell } of G. D. 1dg -

On/mo of Counsel for deft, and
Consent of the D.A. - Ord by the Ct that
the judgt on the said count be postponed
Consented to until the next term of the Court
by P. H. H. Embury
of Counsel for defendant
28th May 1890

Wm. J. M.

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CITY AND COUNTY OF NEW YORK, SS.

In the name of the People of the State of New York, To any Peace Officer in this State:

An indictment having been found on the 25th day of February

1890, in the Court of General Sessions of the Peace of the City and County of

New York, charging Charles W. ...

with the crime of ...

You are therefore Commanded forthwith to arrest the above named ...

E. W. ... and bring him before that Court to answer the indictment, or

if the Court have adjourned for the term, that you deliver him into the custody of the Keeper of the

City Prison of the City of New York.

City of New York, the 25th day of February 1890

By order of the Court,

John G. ...
District Attorney.
Clerk.

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CITY AND COUNTY OF NEW YORK, SS.

In the name of the People of the State of New York, To any Peace Officer in this State:

An indictment having been found on the 25th day of February
1890, in the Court of General Sessions of the Peace of the City and County of
New York, charging Charles E. Wallace

with the crime of Perjury —

You are therefore **Commanded** forthwith to arrest the above named Charles
E. Wallace and bring him before that Court to answer the indictment; or
if the Court have adjourned for the term, that you deliver him into the custody of the Keeper of the
City Prison of the City of New York.

City of New York, the 25th day of February 1890

By order of the Court,

John Parker
District Attorney.
Clerk.

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N. Y. General Sessions of the Peace.


THE PEOPLE
OF THE STATE OF NEW YORK,
against

Charles E. Wallack

BENCH WARRANT FOR FELONY.

John R. Fellows,
District Attorney.

Issued February 25, 1890

 The officer executing this process will make his
return to the Court forthwith.

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*District Attorney's Office,
City and County of New York*

August

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To the Governor of the State of New York,
Albany, N.Y.

Sir :

I have the honor to acknowledge the receipt of
a communication under date of July 13, 1892, informing me
that application for Executive clemency has been made on
behalf of

-GEORGE H. PELL-

who was convicted upon trial in the Court of General
Sessions of this county of the crime of Grand Larceny in
the first degree, and sentenced May 9th 1890, to imprison-
ment in the Sing Sing Prison for the term of seven years
and six months.

This prisoner was indicted by the Grand Jury of this
county on the 20th day of February 1890, for the crime of
grand larceny in the first degree, and his trial thereon
was had on May 23d 1890, before Hon. Frederick Smyth,
Recorder, and a jury. The indictment against this prison-
er was based upon the larceny of certain specific se-
curities in such indictment named, which, at the time of
their misappropriation, were the property of the Lenox
Hill Bank; and the testimony given upon the trial was
necessarily limited to the proof thereof by such facts

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as had direct relation thereto and such others as were within the law of evidence relevant to the issue raised by his plea of not guilty. To arrive at a just, if not a strictly legal, understanding of this prisoner's crime, it is necessary, however, that one should be informed of a series of transactions wherein this prisoner was a principal, which transpired both before and after the particular offense whereof he was convicted.

The Lenox Hill Bank was a banking corporation, organized in the month of June 1887 under the laws of this State, and from that time carrying on business at the south-east corner of 72nd Street and Third Avenue, in this city. The bank was organized with a capital of \$100,000, and with the privilege of increasing the same to \$500,000. In the month of June 1889, Mr. Charles A. Troupe was President, Mr. Samuel H. Lesczinski was Vice-President, and Edward J. Connel was Cashier. At that time one James A. Simmons was a contractor doing work, as it was stated, for the Federal Government, and also for corporations engaged in building public works, for whom he conducted varied and extensive operations. The prisoner for some years prior to that time had been engaged in the stock broking business with a partner under the firm name of Grovesteen & Fell. In the year 1887, this firm failed for a very large amount, leaving the prisoner penniless, as he claimed, and on account of which a number of judgments were recovered against him. Within a short

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period after the failure of this firm, the prisoner organized another firm for the purpose of conducting an insurance brokerage business, the members whereof were himself, one Charles E. Wallack and William M. Kilduff, who associated under the firm name of Pell, Wallack & Co. The prisoner had no authority to sign checks for this firm. He, however, had an individual account with the St. Nicholas Bank of this city, standing in the name of George H. Pell, Agent. About the time when the prisoner opened this account, he became connected with Simmons in the latter's business transactions. Simmons' contracts required the expenditure of large amounts of moneys to properly execute the same in advance of the payments to be made to him therefor by the parties on whose account he was performing the work; he required large loans and accommodations from banks and financial institutions, and after the prisoner was with him for a short time he was placed in charge of these financial matters. Associated with Simmons in his multifarious matters, amongst others were one Peter J. Claassen, Philip N. Meyer, and others unnecessary to mention. Meyer had known Pell as Simmons' Agent for a period of three years, during which time the prisoner had acted for Simmons, and had at various times loaned him money. The prisoner would ask Meyer for ten thousand or fifteen thousand dollars, or even more and would get it--by Meyer's check; on the following day he would hand Meyer his check in settlement.

In the early part of December 1889, the prisoner

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spoke to Meyer about the outright purchase of the Lenox Hill Bank, it being understood that Meyer was personally acquainted with the directorate of that institution. Meyer, as a result of this suggestion, opened negotiations with Lesczinski, the Vice-President and the owner of a substantial block of the bank's stock; among the incidents of these negotiations were an offer made by Meyer by direction of Pell of one hundred and fifty or one hundred and sixty dollars a share, which Lesczinski refused to accept. Then followed a conference between Pell, Simmons and Meyer. Meyer again saw Lesczinski and the latter offered to sell for two hundred dollars a share. After some bickering and by-play, part of which was an alleged examination of the bank's books, assets etc., by one Wiggins, who was introduced to Lesczinski as the intending purchaser, the latter finally agreed to pay two hundred and ten dollars a share for the controlling interest, and a time and place was fixed for the next day at the office of Pell, Wallack & Co., when the transaction was to be closed. Accordingly the next day at the place agreed, the parties met and the details of the transfer, short of the actual payment and actual delivery of the stock, were consummated. Wiggins in the meantime had excused himself from further personal negotiation in the matter by reason of engagements which required his presence in Boston, and had introduced Pell as his representative. Pursuant to the arrangements already mentioned, on the

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19th of December 1890, at the Lenox Hill Bank, a transfer of the stock was made according to the by-laws, when a certificate for five hundred and five shares of the bank stock was given to Pell for Wiggins, Pell paying therefor by one certified check on the Third National Bank for \$55,000, drawn by Pell, Wallack & Co., to the order of D.R. Wiggins, and endorsed Pell, Wallack & Co., and also by \$50,000 of certified checks on the St. Nicholas National Bank, signed by George H. Pell, Agent, the price of the stock being \$105,500. Pell was present in the room at the bank where this affair was gone through, and personally handed over the checks to Mr. Troupe who, for that purpose, represented the syndicate of stockholders who were parting with their interest in the bank. At that time the bank was in a flourishing condition, with excellent prospects before it.

Upon the trial the bank transfer books were produced showing that the certificates of the sellers were surrendered by their holders and new certificates issued to James A. Simmons, Charles E. Wallack, William M. Kilduff and J. K. Watson. It will be here noted, that no stock was issued to the prisoner, and it may be further added, that at no time did he have any official relation or connection with this bank---whether because he was insolvent, and it would be unsafe to have assets standing in his name which might be seized upon by his creditors, does not appear. All this was done on the 19th of December 1889. At that time the bank owned the particular securities

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before mentioned, aggregating in value \$30,000, which securities were in the safe of the bank, in the Cashier's custody. The Cashier, Mr. Connel, kept the minutes of the proceedings of the meeting of December 19, 1889, which recited the resignation of the various members of the old board and the election of the representative of the new regime in their place, the latter being Charles E. Wallack, Charles A. Page, William M. Kilduff, J. K. Watson and Mr. P. L. Meyer. Mr. Troupe then resigned as President and Charles E. Wallack was elected in his place; Mr. Leszczynski also resigned as Vice-President and director, but the vacancy thus created was not filled.; Connel continued as Cashier of the bank.

Just after the meeting which vested these gentlemen with the control of the bank, the newly elected President, Mr. Wallack, asked the Cashier for the thirty-one bonds which were in the safe. The latter proceeded to the safe, got the bonds, and after taking a proper receipt therefor from the President, handed him the bonds. This receipt the Cashier produced upon the trial. At the same time when he received the bonds, the President stated he wanted to take them away and count them. After these bonds were delivered to the President, Mr. Poll took a hand in the administration of the bank's affairs, and while he could exercise no legal control in the premises, yet Connel perceived that his was the master mind in these transactions, and feeling that the latter practically spoke with the

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authority of both the President and the board of directors combined, Connel executed his directions in the premises. The first thing the prisoner told the Cashier to do was to place ten shares of stock each in the name of the newly elected directors. In the evening of that day Connel, the Cashier, had a conversation with Mr. Wallack, the President, with reference to the bonds. On the following morning, Saturday, Mr. Pell came to the bank accompanied by the President, Mr. Wallack. The Cashier saw him and asked the President for the return of the thirty-one bonds or their equivalent, but the President said he had not the bonds just then. Pell then joined in the conversation, and offered the Cashier stock of the Lenox Hill Bank as security for the bonds he had given the President, which the Cashier refused to do, saying it was no good. It appears that Simmons was also present at this conversation, and he asked the Cashier if he would take as security certain bonds, at the same time offering to bring him a letter from the Cashier of the Third National Bank stating that they were valuable securities, and such a letter later in the day being delivered to the Cashier, Connel, he took those bonds and placed them in the safe, at the same time Pell offered the Cashier four hundred and fifty shares of the Equitable Bank stock as security, which the Cashier also took and placed in the safe. The Cashier also then told Pell and the others that no more certifications must take place in the bank unless the banks were good for it.

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and the prisoner said "those checks have all been paid." To this the Cashier properly responded, he could not tell until the afternoon, and further said that he was going to instruct the paying-teller to stop certifying any more checks, and this he did.

When the Cashier handed the bonds to Wallack, the President, he believed he was going to sell them and would make a return to him on the following day. A few days thereafter, viz: on the 23rd day of December, Connel, the Cashier, resigned and was handed by the prisoner a check for \$2,500, the amount of his salary for one year, and that ended Connel's connection with the affair.

The history of the disposition of these securities is to be traced from three different sources, namely: from Wallack, to whom they were delivered by the Cashier; from Pell, to whom they were delivered by Wallack; and from P. L. Meyer, to whom they were delivered by Pell, and their stories are as follows:

Wallack, who was jointly indicted with this prisoner, was accepted as the People's witness, testified on their behalf that, after the meeting adjourned whereat he was elected President, he had a conversation with Pell, the prisoner, in which he told him to ask the Cashier for the bonds, and that such request would come better from Wallack as President of the bank, the prisoner telling Wallack to say to the Cashier that the bonds were to be sold for the benefit of the bank, and after Wallack had received the bonds from Connel, he gave them to Pell, the prisoner. Wallack corroborated the statement of Connel,

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the Cashier, as before recited, concerning his apprehension as to the whereabouts and proper disposition and return of the bonds--the conversations which the Cashier had with him about them and the latter's request for the return thereof--Wallack further says, as a result of Connel's solicitations he telephoned for Pell and Simmons. When Pell arrived the Cashier accused him of buying the bank on wind. The prisoner produced the stock of the Lenox Hill Bank and said: "You see we have not used this stock to borrow on it; here it is."

It is manifest that Wallack's concern for the bonds was the consequence of the Cashier's solicitude only; for it appears all anxiety for the bonds was dissipated with the disappearance of Connel from the bank; and it is questionable whether he ever would have given a moment's thought to the matter had not other momentous matters intervened.

In the meanwhile under circumstances which have since lead to their arrest by the Federal authorities, and their subsequent indictment and conviction, which was affirmed on appeal by the United States Supreme Court, Simmons and Claassen, in connivance with this prisoner and others, whose caution kept them within the pale of the law, became possessed of the controlling interest in a National Bank which had a capital of five hundred thousand dollars, two millions of dollars of deposits and a large surplus, the whole of which was invested in first class securities. Besides this, they had also acquired the controlling in-

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terest in another comparatively small State bank, the acquisition of the latter, however, preceded the ownership of the National Bank. In fact, it was by reason of their control of the Lenox Hill and the other State bank that the parties managed to possess themselves of the larger National Bank, by a series of operations which are commonly known in financial circles as "kiting." Ordinarily this kiting process is a simple transaction. It consists in the exchange of bank drafts which are more or less worthless. It must be admitted that hundreds of such transactions take place in this city every day, probably aggregating in value a million or more of dollars. The occasion for such financing, the method thereof and the consequences of such, have been well described in one of our public prints, as follows:

Generally speaking the purpose of a man who "kites" checks is to gain time rather than money. A, for example, owes B \$5,000. The day comes when he must pay or take ruinous consequences. He has a small balance in bank--say \$896.73. After banking hours on the day when payment must be made A gives B a check for the \$5,000. B deposits it in his bank the next day and it arrives at A's bank the day after. Meanwhile A scurries about among his friends to borrow money enough to meet the check. He appeals to C, who has no such sum as \$5,000 at all. But on A's assurance that "it will be all right," he accepts \$87.34 in money and A's check "to be used to to-morrow," for \$4,443.82. This A deposits and his credit is thereby increased to \$5,340.55, so that when the check he gave to B comes in there is a fictitious but unsuspected sufficiency to meet it.

Before the check A gave to C has reached A's bank two or three more days have passed, and thus by securing the kind offices of other friends he can keep his and their worthless checks in motion almost indefinitely. If finally he scrapes together the actual cash which he should originally have paid, his account becomes really good, and what might have been a loss to any of a dozen of banks is averted. If a reasonable degree of care is taken the fact that he has been "kiting" checks may not be

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suspected at his bank.. His motive in making a small money payment to C, which practice he continues with each person of whom he borrows, is in order that the check he gives may always be written in different figures from those he receives. This is usually an effective blind, for unless the bank officials have some outside cause to suspect the integrity of a depositor, they will not be likely to investigate each deposit and each draft--the only course by which the relation existing between drafts and deposits can be detected.

It is only necessary to multiply the transaction we have described by the probable number of impecunious and unprincipled depositors in New York to perceive where the banks would be if at a given moment cash were demanded for all the paper held by each.

These were the methods practically employed by the prisoner and his associates. The prisoner himself seems to have excelled in this questionable art; for during one of the examinations growing out of his transactions, the Cashier of the St. Nicholas Bank produced a transcript of Pell's account for the short period comprised between January 2nd to February 8th 1890; that account was opened January 2nd, and at the close of the day Pell's cash balance was \$45.82; on February 8th the actual cash to Pell's credit was \$43.57. With this working capital of about \$45, Pell's total transactions with the St. Nicholas Bank alone for the period named amounted to \$3,072,857.42. Much of this amount was made up by checks certified by the Lenox Hill and Equitable Banks for a sum largely in excess of actual deposits in these banks made by the makers of such checks.

It is unnecessary to cite all of the particulars which attended these stupendous interests, suffice to say that through advantageous means the attention of the Clearing House authorities, the Comptroller of the United

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States Treasury and the State Banking Department was attracted to the actions of these parties, and an immediate investigation made into the whole matter. Then, of course, arose an absolute necessity on the part of these persons to realize on their assets, liquidate their liabilities so far as practicable, and generally to adjust all their various accounts.

Then it was that Wallack's conscience was quickened, and his interest was revived in the bonds which belonged to the Lenox Hill Bank whereof he was President, and which he had turned over to Pell. This was on the evening of January 29th 1890, more than a month after Connel, the old Cashier of the Lenox Hill Bank, had resigned. On that night Wallack met Pell at the St. Nicholas Club, at about nine o'clock, and the prisoner accounted for these bonds by taking some blank checks upon another bank, altering them to the Lenox Hill Bank, and making one up for \$22,000 and the other for \$7,500, gave them to Simmons, who was also present, and who signed them. These checks the prisoner gave to Wallack saying: "I want to give you the money for those bonds," telling Wallack further "that the bank was owed that money for those bonds," and these checks Wallack, the President of the bank, turned over to its new Cashier on the next morning, and thus it was that Wallack made return thereof. The question then naturally arises whether these checks which were supposed to cover the value of the bonds were good; they were as good as the

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following statement of Simmons' account with the Lenox Hill Bank made them :- Nominally, there was a large credit in Simmons' favor; for on the 29th of January he made a deposit of \$80,000, but that deposit was made up of one check of Kilduff's for \$50,000 and the other part was made up by a check for \$30,000 of the Meyer Lightering Co., a corporation controlled by the same Myer who was the agent for the sale of the bank stock. It was testified to by the Teller of the bank "that Mr. Simmons's account was made perfectly good before the close of business on that day."

It will be observed that it does not thus far appear what actually became of the bonds. The proofs on that point are supplied by P.L. Meyer. He testified upon the trial as to his acquaintance with the prisoner, as recited in the earlier part of this communication, and further as to the purchase by Pell's associates, through Meyer's instrumentality, of the Lenox Hill Bank. Meyer's testimony is as follows:

"On the 19th of December Mr. Pell owed me a certain amount of money from the day before. After the meeting of the directors had finished he said to me "Come into the office about 1:30 or 2 o'clock, I will be there and I will fix it with you." At that hour I went to his office on Liberty Street. Mr. Pell handed me 31 bonds to sell. I recollect that there was one \$1,000 bonds of the South Shore and Duluth Railroad; there was also some of the Mobile & Birmingham. I cannot recollect the names of the others. I took those bonds to William C. Sheldon & Co. and obtained a loan of \$28,000 upon them. I returned to Mr. Pell's office and said to him "I had better take this check of \$28,000, deposit it, deduct what you owe me from the day before and give you a check for the difference. He was satisfied with this arrangement and I gave him a check for the balance. The amount he owed me was between \$12,000 and \$13,000. On that day I had received two

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checks from I.F.Mead & Co., one for \$8,400 and one for \$7,000. I endorsed these checks and handed them over to Mr.Pell.

"Mr.Pell gave me as a reason why he was anxious to have an account of the bonds sold by me, that he would like to have the matter settled. He told me that he had plenty of money on hand, and as the bonds were for Mr. Simmons' account he wanted to pay for them and settle up the matter entirely. He asked me for a statement two or three times between the 19th of December and the 29th day of January."

While, as before stated, all of the facts herein recited did not appear upon the trial of this action, yet I do not know that even now any question is raised as to their accuracy.

The prisoner did not take the stand on his behalf, and the only evidence adduced on behalf of the defense was that of Morris Goodhart, one of the Directors of and the attorney for the bank at the time it changed hands, who stated that everything that was done at that time was done in accordance with the statutes of the State and the by-laws of the bank, and also under his advice and suggestion as to the way it should be done, and that he believed it to be the regular and ordinary way of transacting such business. It also appeared on behalf of the defense that the report of the Banking Department showed that, on what can only be properly termed as the final "round up," there was a deficiency in the affairs of the Lenox Hill Bank of \$181,000. This deficiency was made up by charging as a liability certifications issued to the accounts of P.L.Meyer, Pell, Wallack & Co., James A. Simmons, William M. Kilduff and S.T. Meyer & Son, aggregat-

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ing \$310,000, all of which checks, however, were subsequently returned to the bank and being cancelled and credited up to the different accounts, left the bank with a balance of \$129,000.

The case having been given to the jury they returned a verdict of guilty, and the prisoner was sentenced as before stated.

This case at the time, by reason of the magnitude of the interests involved and the standing of the parties, excited wide public interest particularly in financial and business circles, and, in my judgment, the condition of affairs at that time demanded the infliction of a penalty of such a character which would make this prisoner's punishment an exemplary one; it was, undoubtedly, with a knowledge of the facts additional to those proven upon the trial and hereinbefore recited, together with the necessity that some example should be held up to those who were, and still undoubtedly are, engaged in enterprises based upon transactions similar to those for which this prisoner was convicted, that the sentence, which it is now sought to have commuted, was pronounced. At that time also there had not been any final adjustment of the accounts and affairs of all these different parties, either amongst themselves or with the Lenex Hill Bank, as to make it appear absolutely certain that the bank was really restored to such good standing as nominally appeared by the statement of the Bank Department, and which

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constituted part of the defendant's proofs. I have been advised, however, from authentic sources, that the fact is that by reason of the action of this prisoner and his associates in returning to the bank its certified checks for over three hundred thousand dollars, it was left practically in as good condition as when these parties first acquired control over it. If these parties had been so far criminally disposed they could have negotiated the checks for this large sum of money, certified as they were, by a bank of presumably good standing, and enrich themselves with the proceeds; but instead thereof they made restitution to the proper authorities of all paper which they held against the bank, and, which, in the hands of a third party, would have been a legal liability against it. What lends weight to this view of the case is the fact that these checks possessed an added value because they were guaranteed in effect, by the Sixth National Bank, the then Clearing House agent for the Lenox Hill Bank.

By reason of the repeated hypothecation and re - hypothecation of securities, exchange of checks, and such like matters, in the absence of strong corroborative proof, the fact, as was testified to on the trial, that Simmons' account was perfectly good on the day he gave his checks in payment of the bonds in question, might nevertheless well be doubted. The circumstances also under which these checks were given at a social club in the night time, and the form of the checks being those

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printed for use upon another bank, would not in anywise tend to remove these doubts, and it may be that the jury, in returning their verdict, and the Recorder, in passing sentence, were influenced thereby.

It now appears, however, that these checks to which suspicion might have centered, were, however, good, and in fact did restore to the bank the full value of the bonds for the larceny of which this prisoner was convicted. While Wallack, as President of the bank, was a person who in law and good morals should be properly chargeable with any loss to the bank, yet it appears that it was exclusively through Pell's instrumentality and efforts that the money to make good for these bonds was realized and properly deposited to the credit of the bank.

The testimony of Meyer, who has since died, would leave the impression that the prisoner was the direct beneficiary of the moneys realized upon the sale of these bonds. In the prisoner's behalf it may be observed that he was merely acting as the agent of Simmons, and, even if it were true, that he did receive such moneys, he did not receive them on his individual account. An analysis of Meyer's testimony, however, will disclose the fact that the check which he received in payment of these particular bonds was applied by him to his own personal account, and that whatever moneys he may have turned over to the prisoner were moneys represented by checks which he received from entirely different sources, and unquestion-

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ably for entirely different assets.

This prisoner's conviction was practically had upon the testimony of Wallack and Meyer. Wallack was jointly indicted with the prisoner, and Meyer might have been. If the fact be, as this prisoner claims, that Meyer who then was a director of the Lenox Hill Bank, was present when the securities of that bank were transferred by the President to Pell to affect a sale thereof, and the further fact that Pell turned them over to Meyer being admitted on all hands, there could be no question as to Meyer's equal criminal responsibility for the bonds, and of his legal obligation to make due return thereof. It clearly appears by the testimony of Mr. Connel, the Cashier, who was the People's witness to whom most credence should be given, that whatever may have been the fact with regard to Meyer's knowledge of Pell's interest in the bonds on the day that Pell received them, Meyer was actually informed of that fact the next day, and before he had disposed of the same; having testified as follows:

"When I asked Mr. Wallack to return me the bonds, he went to the telephone and summoned Mr. Pell and Mr. Meyer to the bank; when they came they offered me the other securities which I have named."

These considerations must, to some extent, throw discredit on Meyer's assertion that he turned over to Pell part of the money he received upon the sale of the bonds, for to do so would be to incriminate himself.

The practical effect of this prisoner's conviction and punishment should be to serve as an admonition to

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like evil doers, and if that end has been accomplished then much of the advantage that could result to this community from this prisoner's conviction has already been gained. To a man of his previous associations, family connections and social standing, the stigma cast upon the prisoner by his imprisonment carries with it greater punishment than his actual incarceration for any particular period of time; and in proportion to the sentences meted out to ordinary criminals, that imposed upon this prisoner falls with greater force than the period thereof may seem to imply.

This prisoner has already served more than two years of the sentence pronounced against him, and during which time I am informed that his conduct in prison has been exemplary. I am credibly informed that this application for Executive clemency is joined in by representatives of the leading banks, corporate interests, and financial institutions, as well as by men prominent in public and political life, eminent clergymen of all denominations and citizens representing every interest which could at all have been affected by this prisoner's offense. So that in the minds of those who are well qualified to judge of the results, the good which might naturally be expected to flow from this prisoner's punishment has already been accomplished. In this view of the case, this application is one which appeals purely to the Executive discretion

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and I am of the opinion that any disposition your Excellency may see fit to make of this application will answer all the requirements of law and justice.

I remain with great respect,

Your obedient servant,

District Attorney.

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To:- The Governor of the State of New York

The application for the pardon of
GEORGE H. PELL is herewith presented,
and the following papers submitted in
support thereof

- I. A Certified copy of the Record of
Conviction
- II. A Statement signed by George H.
Pell setting forth the grounds of the
application for pardon.
- III. A Petition for Executive clemency
signed by eleven of the twelve jury-
men that rendered the verdict.
Mem. (The other juror is dead.)
- IV. A Petition signed by :-

James Duffy

Sheriff, Westchester Co.

W. Popham Platt

Dist. Atty. Westchester Co

John M. Digney

Co. Clerk, Westchester Co

John Hoag.

Treasurer, Westchester Co

Horace Russell

Ex. Judge, Superior Court

D. Parker Morgan

Rector "The Heavenly
Rest" New York City

Cornelius Roosevelt Duffie.	Rector of Church of St. John Baptist. N.Y. City
Brockholst Morgan	Superintendent. New York City. Mission Society.
John W. Brown	Rector of St. Thomas Church. N.Y. City
Samuel J. Foley	Assemblyman. Sixth District N.Y.
John H. V. Arnold	President. Common Council New York City
James W. Alexander	Secretary. Equitable Life Assn. Society. N.Y.
Daniel G. Rollins	Ex. Surrogate. N.Y. Co.
W. R. Huntington	Ex. Rector. Grace Church N.Y.
Charles Higbie	Rector. Christ Church Pelham New York
A. M. Dodge	of A. M. Dodge & Co.
H. B. Hyde	President. Equitable Life Assn. Society. N.Y.
D. H. King Jr.	Banker & Broker N.Y.
J. B. Newcombe & Co	Bankers & Brokers
Louis Fitzgerald	President Mercantile Trust Company
Eugene Kelly	Banker & Broker N.Y.
Charles M. Fry	Pres. Bank of New York
H. M. Alexander	Attorney. of Alexander and Green.
C. A. Dana	Editor. New York "Sun"

Edward G. Taylor Banker and Broker

Col. John A. Cockerill Editor "Advertiser."
and others

V. A Petition signed by :-

G. Morisini of N. C. Connor & Co
Bankers and Brokers
J. V. White Banker and Broker

George H. Brower Banker and Broker

Hon. C. L. Hedden Ex. Collector of the Port
of New York
J. Leaver Page of J. W. Devoe & Co.
Paints and Oils

Hon. Geo. M. Van Hoosen Ex. Judge, Court of
Common Pleas.

Edward J. Berwind President White Coal
Mining Co. Berwind, White & Co

John Berwind Banker

Lewis C. Barker Broker

Robert C. Black of Black

Walter Stanton of Coffin and Stanton
Bankers

C. 4th Street Banker

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Wm. J. Gardner	Cashier St. Nicholas Bank
Wm. C. Strong & George Wood }	of Wood, Strong & Co Bankers.
J. A. Bronson	Broker
Gouv. W. Morris	Lawyer.
J. B. Houston ^{and} George Scott }	of J. W. Pearsall & Co Bankers & Brokers
Ballard Smith	Editor N. Y. World.
C. P. Huntington	President, Chesapeake & Ohio R. R.
Joseph Walker	Broker
Samuel D. Babcock	President, Chamber of Commerce.
H. C. Fahnestock	President
L. L. Benedict	Broker
C. Mc. Depew	President, N. Y. Central R. R. Co.
Walter C. Stokes	Broker
Russell Sage	Banker
H. Durand	Broker.

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George K. Sheldon	of Sheldon and Co Bankers
F. P. Olcott	President, Central Trust Company
F. R. Lawrence	Grand Master, Free Masons, State of New York.
W. E. D. Stokes	
Marcellus Hartley	Director Western Nat. Bank.
F. K. Sturgis	President New York Stock Exchange
Charles Lanier	of Winslow, Lanier & Co.
Arthur B. Graves	Pres't St. Nicholas Bank
John J. Kiernan	Ex. State Senator
D. C. Hays	Pres't Bank of Man- hattan Co.
O. W. Harding	Broker
R. H. Thomas	
Geo. L. Cox	Pres't Am. Exchange National Bank
Dumont Clark	Vice Pres't Am. Exchange National Bank
James D. Smith	Ex Pres't N. Y. Stock Exchange

0391

John H. Watson

Director Manhattan
Life Ins. Co.

W. W. Sherman

President Bank of
Commerce

~~and others~~

0392

VI. Letters from the following named gentlemen:—

Hon. John C. Kenna

Hon. D. C. Lickles

Rev. Chas. Higbee

G. Morisini

Frederick W. Dunton

Walter C. Stokes

Hon. John A. McCall

Hon. Theodore W. Meyers

Richard Croker

James W. Alexander

Hon. Daniel G. Rollins

Bishop Potter

Andrew Miller.

James W. Kirkley

0393

Hon. Chas. A. McClelland

John H. Watson

Joseph J. O'Donohue

Correspondence may be had concerning
the Pardon with

Abram J. Rose
120 Broadway
New York.

0394

STATE OF NEW YORK :

COUNTY OF NEW YORK. :

ss:

ABRAM J. ROSE being duly sworn says that he is an Attorney at Law and is thoroughly familiar with all the facts in relation to the trial and conviction of George H. Pell for the larceny of thirty three bonds, the property of the Lenox Hill Bank; that shortly after the arrest of Mr. Pell and on many subsequent occasions deponent had conversations with Charles E. DeBarill who was the Cashier of the said Lenox Hill Bank, and that in such conversation said DeBarill stated that the full value of the said thirty three bonds had been put in the Bank before the arrest of Pell and that the Bank did not lose one dollar by this alleged larceny. Said DeBarill made this statement after an examination of the books of the Bank made at the request of deponent. The reason deponent makes this affidavit instead of said DeBarill is that the said DeBarill left said Bank and deponent has been unable to ascertain his whereabouts.

Deponent further says that at the time of the alleged larceny of the bonds, Mr. Conrad N. Jordan, Ex Treasurer of the United States was President of the Western National Bank which Bank was the clearing house agent of the Lenox Hill Bank. Shortly after this time Mr. Jordan became Vice President of the Lenox Hill Bank and was and is entirely familiar with the affairs of said Bank.

0395

Mr. Jordan has frequently told deponent that "the Lenox Hill Bank did not lose one dollar by the transaction of the bonds by Mr. Pell". that the full value of the bonds had been paid to the Bank through Mr. Pell.

Deponent requested Mr. Jordan to make a written statement to that effect but he said he would not as he never put anything in writing, but would if an application for pardon was made go to the Governor and tell him what he stated to deponent.

Sworn to before me this :
12th, day of July, 1892. :

Abraham Rose
Dallas Flannagan
Notary Public
New York County

0396

In the Matter

— of —

the Application for

the Pardon of

George W. Bell

Affidavit

0397

Copy

August 31, 1892.

To His Excellency,
Roswell P. Flower,
Governor of the State of New York,
Albany, New York.

Sir:

The only facts of which I have any personal knowledge bearing upon the question of granting or withholding Executive clemency in the case of George A. Pell are contained in the stenographic report of the trial before me, and upon the facts established by the evidence I am clearly of the opinion that the verdict of the jury was right and that it could not have been successfully impeached on appeal to an appellate court. In this opinion I am fortified by the fact that the defendant had the benefit of learned and able counsel, the late Richard C. Newcombe and the Honorable Daniel G. Rollins, and that no appeal from my rulings during the trial or upon the facts was taken by the defendant.

The evidence taken before me clearly established the fact that the defendant was an active participant in the numerous fraudulent transactions which culminated in the commission of the larceny of which he was convicted, and that he being an educated and an intelligent man, knew at the time he was engaged in these felonious transactions that he was doing a wrong for which he rendered himself justly amenable to punishment.

An appeal was made to me by his counsel, based upon the

0398

2

fact of his being a husband and father; that it was the first time that he had been convicted of a criminal offense, and that he had not added to the crime of which he was convicted the more atrocious one of perjury.

To this appeal I gave such consideration and weight as a proper sense of my duty required and passed upon the defendant the mitigated sentence of imprisonment for seven years and six months, the statute permitting me to exercise my discretion between the minimum term of five years and the maximum term of ten years imprisonment.

I have carefully read and considered the letter of the District Attorney addressed to your Excellency, and I agree with him in so much of his letter in which he states the facts elicited upon the trial.

The punishment for the commission of crime is principally intended to deter persons whose instincts lead them in that direction, and, when the sentence is not excessive, in my judgment the safety of the community requires, unless there are good and sufficient reasons presented to the Executive clearly establishing a case for his interference, that the sentence pronounced should not be disturbed.

In this case it is said that the defendant's acts did not result in permanently depriving the bank of its property, and that any loss it sustained by reason of the felonious acts of the defend-

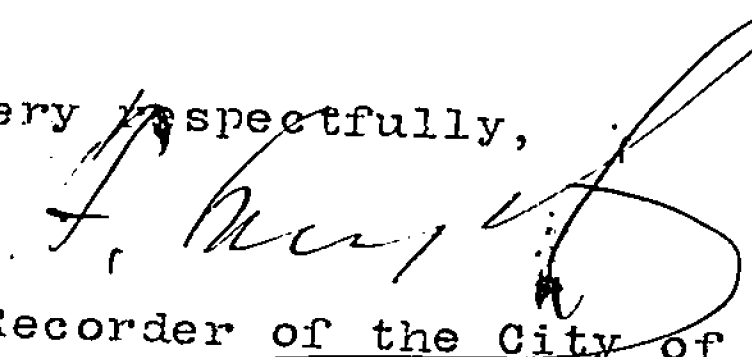
0399

3

ant has been made good. Of this fact, if it be a fact, I have no knowledge whatever. If it is true that the bank has been made whole, I think it is a proper matter to be considered as having a bearing upon the question of granting Executive clemency, and I would respectfully suggest that the sentence imposed on the defendant might be mitigated by reducing the imprisonment to a term of five years from the time it was originally pronounced. If the fact be otherwise, I am constrained to say that, in my opinion, the application should be denied.

Sincerely sympathizing with the wife and children of the petitioner in the unfortunate position in which they have been placed by his criminal acts, for which they are in no way responsible, I have given careful consideration to the case with the hope that I would be able (having due regard to the obligation that I owe to the position I occupy and to the impartial administration of the criminal laws which it is my sworn duty to enforce) to arrive at a more favorable conclusion as to the disposition which should be made of the petitioner's application now pending before you, I have the honor to remain

Yours very respectfully,


Recorder of the City of
New York.

0400

New York, May

1892.

To His Excellency,

R O S W E L L P. F L O W E R,

Governor of the State of New York.

My Dear Sir:-

I beg leave to submit to you with the Petition
for my pardon the following statement.

I was arrested and indicted on a charge of Grand Larceny.

My trial began on the 9th of May 1890, and resulted in a
verdict of guilty on the day of May, 1890, and I was sentenced
by the Honorable Recorder of the City of New York to imprisonment
in States Prison at Sing Sing, N. Y., for the term of seven years
and six months, and I was at once taken to such prison and have
been there ever since.

In the year 1887, the firm of Grovesteen & Pell, of which
I was a member failed in Business. The firm was a firm of Bankers
& Brokers and had stood well and its failure was through no fault,
fraud or crime of the firm but because we could not borrow on the
securities of the roads we were building.

This failure stripped me of all my property and left me
at the age of thirty-four with a wife and two children without any
property or means of support except such as I could earn and owing

0401

-2-

very large sums of money.

I at once made arrangements to do some insurance soliciting for a firm which I had formerly been a partner of and also tried to get something else to do.

I was introduced to James A. Simmons, and began to work for Him.

I understood that he was a man of wealth and was a contractor and after I became acquainted with him had large contracts with the United States and with corporations engaged in building public works.

These contracts required large amounts of money and as his capital was tied up and the money received from his works was slow in coming in he required large loans and accommodation from banks and financial institutions, and after being with him for a short time I was put in charge of his financial matters that is, was to see that new loans were made as the old ones came due and the old ones taken care of.

This I did for sometime and I was brought in contact with Philip Meyer who was a friend of Mr. Simmons and who frequently exchanged checks with him.

In December 1889, Mr. Simmons said in substance Meyer had told him there was a bank uptown called the Lenox Hill Bank that was

0402

-3-

doing a very nice business and that the control of the stock could be had at a figure that would be a big paying investment and had urged him to buy it and he thought it would be a good thing as it would not only be a safe and paying investment but would put him in a position to command larger credits and get loan easier if he needed them in his work.

After some negotiations the stock of this bank was purchased by Simmons and a new Board of Directors and officers chosen.

I did not have own or hold any of the stock either directly or indirectly.

Philip L. Meyer was made one the directors and Charles H. Wallack who had been my partner in the Insurance business was made director and President.

The change of officers and directors was made on December 19th 1889 the same day the control of the majority of the stock was purchased and turned over to Simmons.

At that time the Western National Bank was the Clearing House agent for the Lenox Hill, and I learned that the account of the Lenox Hill was overdrawn every day to the amount of Thirty thousand or dollars over which was made good the next day.

0403

-4-

The Lenox Hill in the meantime paying interest for such overdraft.

Philip L. Meyer told me this overdraft was caused by the payment of his checks and that he thought it would be better to sell some of the bonds owned by the Lenox Hill and loan him the money, this would stop the overdrafts and be for the interest of the Lenox Hill as he would secure the Lenox Hill and it would be receiving interest from him instead of paying interest to the Western National.

He asked me to get the bonds from the President and he would sell them and account at once for the proceeds and then the loan to him could be made.

He did not want to ask to have the bonds sold himself as he was a director.

On December 19th 1889 after the organization of the new board with the knowledge of Simmons and in the presence of Meyer I asked Wallack for the bonds set out in the indictment and told him they were to be sold and the money put in the bank to have more money for the accommodation of its customers and to stop the overdrafts on the Western National Bank, Philip L. Meyer was present at that time; Wallack gave me the bonds I took them to the office and I handed them to Meyer. Meyer took the bonds to his broker, Geo. E. Sheldon & Co. and the same day came to my office with a check for

0404

-5-

\$28,000. being an advance on the bonds for that amount. He said the bond would not be sold and accounted for in some days and as he was overdrawn at his bank he would like to use this money for a few days and that this was agreeable to Mr. Simmons.

As Mr. Simmons owned the majority of the stock of the bank and consented to this and as I was only his agent I made no objection.

Almost every day after that I asked Meyer for an accounting for these bonds and his reply always was they had not yet been sold and I am informed that they were not in fact all sold until about January 29th.

In January 1890 Mr. Wallack asked me about these bonds and I told him they had not been sold; that being the information I had from Meyer.

Mr. Wallack began to get anxious about them and as the overdrafts of Meyer on the Lenox Hill instead of diminishing and ceasing altogether as he had promised were getting larger.

I spoke to Meyer's and Mr. Simmons about the bonds, Meyer said they had not yet been sold and could not be accounted for.

I asked how much they would bring, he told me \$29,000.

I said are you sure \$29,500. will cover it, and he said yes.

I then asked Mr. Simmons to fix it up in this way Simmons had a large balance in the Lenox Hill and if he would give the bank a check for the bonds the bank could use the money and when the bonds

0405

-6-

were sold and accounted for the difference between his check to the bank and the proceeds of the bonds could be adjusted. He agreed to this and I wrote a check and he Simmons signed it for \$29,500. which check was afterwards paid.

This is a true statement of my connection with the bonds for the larceny of which I am now suffering imprisonment.

I was arrested February 1890, and indicted jointly with Charles E. Wallack and James A. Simmons for a larceny of these bonds.

I retained as Counsel Richard E. Newcombe and a separate trial was demanded and had.

I did not know at that time that Mr. Newcombe was also Counsel for Simmons and Meyer. On the trial Wallack was used by the prosecution as a witness against me and shortly after my conviction the indictment against Simmons was dismissed and no new indictment was found against him.

I am aware that the evidence of Philip L. Meyer on the trial is not in accord with my statements in this letter.

He testified that he was not present when I asked Wallack for the bonds and I did not give them to him in the bank and that he brought the check received from Sheldon to me and with my consent kept it and paid himself out of it for an indebtedness owing him

0406

-7-

by Simmons and gave me check for the difference.

This was absolutely false known to be so by him and although I informed my Counsel at the time that it was false yet he made no effort to break it down by cross-examination or to contradict it in anyway.

When I asked Meyer after this why he so testified he said "I had to." If I had sworn I was present when you asked for the bonds and you gave them to me and I used the money they would have indicted and convicted me for I was a Director."

I respectfully submit however that although there may be a wide difference between the testimony of Meyer and my statement there are some facts conceded and about which there is no doubt or difference.

These are:-

- 1st:- That Meyer's account was overdrawn at the time I asked for the bonds.
- 2nd:- That I gave the bonds to Meyer to sell and he took them to Sheldon.
- 3rd:- That Sheldon's check was given to Meyer and was deposited in Meyer's bank to his credit.
- 4th:- That I never had one dollar of the money the proceeds of these bonds.
- 5th:- That by my efforts the owner of a majority of the stock of the bank paid the bank for the

0407

-8-

b bonds before they were sold, their full value,
so that the Bank never lost one cent by my
alleged larceny of the bonds.

There are some other things that appear very strange to me
and viewed in the light of subsequent events make me believe that
I was sacrificed by my Counsel and made a scapegoat for the parties
really to blame.

I was poor and Meyer and Simmons were both supposed to be rich
Although I informed my Counsel that the testimony of Meyer
was false and begged to go on the stand not only to contradict it
but to tell the jury my story, my Counsel would not permit it, and
I was not called as a witness in my own defense.

No effort was made to contradict the testimony of Meyer by
other evidence.

After my conviction no motion was made for a new trial nor
was any appeal taken.

The indictment against Simmons was dismissed.

By my conviction my mouth was closed as a witness against
Simmons in a criminal case pending against him in the United States
Court; on the trial of which although I was willing to testify I
was prevented by Simmons's Counsel (Mr. Newcombe), who was the same
one that defended me.

0408

-9-

I beg your excellency to consider my petition. I had no intention of stealing the bonds or the proceeds, I did not by any act of mine get one dollar or receive any benefit and when I learned that the one who did get the money had not paid it over I used my best efforts to right any wrong that had been done and succeeded so that the bank whose bonds I was charged with stealing did not lose one cent.

I have been in prison nearly two years had a good record while there and I earnestly submit to your merciful consideration whether I have not been sufficiently punished.

I pray you to restore me to my loving family while I am yet young and there is still a chance to earn for them a living and for myself a name and place in the confidence and esteem of my fellowmen.

With great respect,

0409

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

THE PEOPLE OF THE STATE OF NEW YORK,

against

Charles R. Wallada
James O. Simmons
and George M. Bell

The Grand Jury of the City and County of New York, by this
Indictment accuse ^{James O. Simmons} Charles R. Wallada, and George
M. Bell

of the crime of Grand Larceny in the first degree, —

committed as follows:

The said Charles R. Wallada, —

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

being an officer, to wit: the president, of a
certain corporation known as the Seneca Hill
Bank, and as such officer then and there
having in his possession, custody and control
certain goods, chattels and personal property
of the said corporation, the true owner
whereof, that is to say: two bonds and
written obligations of the St. Louis, Arkansas
and Texas Railroad Company, of the kind
called first mortgage bonds, of the denomi-
nation and value of one thousand dollars
each, five bonds and written obligations of

0410

The Union Pacific, Lincoln and Colorado Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, seven bonds and written obligations of the Northern Pacific and Montana Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, three bonds and written obligations of the Louisville, New Albany and Colorado Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, three bonds and written obligations of the Helena and Red Mountain Railroad Company of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, three bonds and written obligations of the Richmond and West Point Terminal Railroad Company, of the kind called gold trust bonds, of the denomination and value of one thousand dollars each, two bonds and written obligations of the Mobile and Birmingham Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, two bonds and written obligations of the

0411

2.

Delaware, South Shore and Atlantic Railroad
Company, of the kind called first mortgage
bonds, of the denomination and value of
one thousand dollars each, and nine
bonds and written obligations of the
Rockford and Western Railroad Company
of the kind called first mortgage bonds,
of the denomination and value of one
thousand dollars each, the said Charles
R. Wallace, of New York, on the day
and in the year aforesaid, at the City and
County aforesaid, with force and arms,
did feloniously appropriate the said goods,
effects and personal property to his own
use, and to the use of the said George H. Bell
James A. Simmons
and divers other persons to the said firm
aforesaid as yet unknown, (who were not then
and there the true owners, or persons entitled to
the benefit thereof,) with intent to deprive
and defraud the said corporation of the
same, and of the use and benefit thereof,
and the same goods, effects and personal
property of the said corporation did then
and there and thereby feloniously steal.

And the said George H. Bell, James A. Simmons, and
the City and County aforesaid, on the day
and in the year aforesaid, at the City and
County aforesaid, was feloniously concerned
in the commission of the said crime and

0412

against ^{Charles F. Wallack} ~~James H. Wallack~~ by the said ~~James H. Wallack~~,
in manner and form aforesaid, and was
then and there feloniously present aiding
and abetting the said Charles F. Wallack
in the commission of the same in manner
and form aforesaid; 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, try
this Indictment further, accuse the said
^{James H. Simmons}
Charles F. Wallack, and George H. Bell of
the same crime of Grand Larceny in the first
degree, committed as follows:

The said Charles F. Wallack, late
of the City and County aforesaid, afterwards
to wit: on the day and in the year
aforesaid, at the City and County aforesaid,
being such officer, to wit: the president
of the said corporation known as the
Seneca Hill Banta, and as such officer,
then and there having in his possession,
custody and control the goods, chattels
and personal property described in the first
count of this indictment, belonging to the
said corporation, the true owner thereof, with
force and arms, did feloniously appropriate

0413

3.

the said goods, chattels and personal property
 to his own use, and to the use of the said
^{James A. Simmons}
 George H. Bell, and divers other persons
 to the fraud and injury of persons unknown,
 (who were not then and there the true
 owners, or persons entitled to the benefit
 thereof,) with intent to deprive and defraud
 the said corporation of the same, and of
 the use and benefit thereof, and the same
 goods, chattels and personal property of
 the said corporation did then and there
 and thereby feloniously steal,
 and James A. Simmons, with
 And the said George H. Bell, late
 of the City and County aforesaid, on the
 day and in the year aforesaid, at the City
 and County aforesaid, was feloniously
 concerned in the commission of the said
 crime and grand larceny by the said Charles
 K. Wallada, in manner and form aforesaid,
 and then and there did feloniously directly
 counsel, command, induce and procure the
 said Charles K. Wallada so to commit
 the same, in manner and form aforesaid;
 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

0414

4.

Third Point:

And the Grand Jury aforesaid, by this indictment further accuse the said ^{James A. Simmons} Charles R. Wallack and George W. Bell of the same crime of Grand Larceny in the first degree, committed as follows:

The said ^{James A. Simmons} Charles R. Wallack, and George W. Bell, both late of the City and County aforesaid, at forward to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, two bonds and written obligations of the St. Louis, Union and Northern Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, five bonds and written obligations of the Union Pacific, Lincoln and Colorado Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, seven bonds and written obligations of the Northern Pacific and Montana Railroad Company of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, three bonds and written obligations of the Louisville New Albany and Colorado Railroad Company, of the kind called first mortgage bonds,

0415

of the denomination and value of one thousand dollars each, three bonds and written obligations of the Helena and Red Mountain Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, three bonds and written obligations of the Richmond and West Point Terminal Railroad Company, of the kind called gold trust bonds, of the denomination and value of one thousand dollars each, two bonds and written obligations of the Mobile and Birmingham Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, two bonds and written obligations of the Delta, South Shore and Atlantic Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, and five bonds and written obligations of the Rio Grande Western Railroad Company, of the kind called first mortgage bonds, of the denomination and value of one thousand dollars each, of the goods, chattels and personal property of a certain corporation known as the Seneca Hill Bank, then

04 16

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

John R. Fellows,

District Attorney.

0417

BOX:

387

FOLDER:

3607

DESCRIPTION:

Wallack, Charles E.

DATE:

02/25/90



3607

0418

Witnesses:

Bailed

by Mary Lee Wallack

247 West 174th St

The defendant herein testified
for the People in case of Rev. vs.

Pell.

I recommend the dismissal
of this indictment.

May 12/92

V. M. Davis

Ans -

Counsel,

Filed

day of

1890

Pleads,

Charles E. Wallack

Leaves testimony by 25.

THE PEOPLE

vs.

B

Charles E. Wallack

JOHN R. FELLOWS,

District Attorney.

A TRUE BILL.

Specimen of Keener

Part 3. May 12/92

Rev. on M. & P. 174th St

1 Bail dech. 10

May 12/92 J. D.

B. M. Davis 20/90

2307

L. B. Smith

9x6x10

0419

Locohom in. may concern:

John F. Harrington is at
Chambers St. Hospital with lacerated
wounds of face & punctured wounds
of skull & conjunction

Sunday Jan 26th 1890 Carter & Co., M.D.
of 4th St. N. 1st St. 9th Kensington -

0420

Gary Smith

0421

Belleair Hosp Feb 6-1898

This is to certify that John F.
Harrington is in good con-
dition and will be discharged
on Saturday or Monday
in all likelihood

W. N. MacArthur
House Surgeon

0423

The Society of the New York Hospital,

HOUSE of RELIEF, 160 Chambers St.,

New York, Jan 28th 1890

To whom it may concern:

John F

Harrington has progressed so
far favorably. He is still under
treatment at Chambers St.

Hospital

Carter J. Cole, M.D.
Acting House Surgeon

Bellevue Hosp. Jan 29-1890

To Whom it may concern

I hereby certify that John
F. Harrington, under treatment in
this Hospital, is in good general
condition and doing very well, though
his wound is necessarily a serious one

W. N. MacArthur
House Surgeon

0424

COURT OF GENERAL SESSIONS OF THE PEACE

Of the City and County of New York.

.....
The People of the State of New York,)
--against--)
CHARLES E. WALLACK.)
.....

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK,
by this Indictment, accuse CHARLES E. WALLACK, of the Crime
of P E R J U R Y, committed as follows:

Heretofore, to wit, on the Fourteenth day of January, in the year of our Lord one thousand eight hundred and ninety, and for more than two years prior thereto, there was existing a certain incorporated bank, doing business in the said City and County of New York, and known and designated as the Lenox Hill Bank; and on the day and in the year aforesaid, and since the Nineteenth day of December, in the year of our Lord one thousand, eight hundred and eighty-nine, the said Charles E. Wallack, late of the City of New York, in the County of New York aforesaid, was, and had been, the President of the said Lenox Hill Bank; and on the said Fourteenth day of January, in the year of our Lord one thousand, eight hundred and ninety, and since the twenty-third day of December, in the year of our Lord one thousand, eight hundred and eighty-nine, one, Ernest Van Zandt was and had been, the Cashier of the said Lenox Hill Bank.

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-2-

And on the Sixth day of January, in the year of our Lord one thousand eight hundred and ninety, the Superintendent of the Banking Department of the State of New York, duly served, and caused to be served, upon the said Lenox Hill Bank, a notice, in due form of law, requiring the said Bank to make and transmit to him a quarterly report of the condition of the said Lenox Hill Bank, on the morning of Saturday, the Eleventh day of January, in the year of our Lord one thousand, eight hundred and ninety.

And thereupon it became, and was, the duty of the said Lenox Hill Bank, on or before the first day of February, in the year last aforesaid, to make and transmit to the said Superintendent a quarterly report, to be made on the oath of the said Charles E. Wallack, President of the said Lenox Hill Bank; and the said Ernest Van Zandt, Cashier of the said Bank, as aforesaid; and which report should contain a true statement of the condition of the said Lenox Hill Bank, before the transaction of any business on the morning of the said Eleventh day of January, in the year aforesaid, next preceding the date of the said report, in respect, amongst other things, of its resources before the transaction of any business on the morning of the said last-mentioned day, and particularly of the stocks and bonds belonging to the said Lenox Hill Bank, and in its possession at the said last-mentioned time.

And afterwards, to wit, on the said Fourteenth day of January, in the year last aforesaid, the said Charles E. Wallack, in his own proper person, as such President of the

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said Lenox Hill Bank, did go and appear before one, A. Lansing Baird, Esq., who was then and there a Notary Public in and for the said City and County of New York, and did then and there produce and exhibit to the said A. Lansing Baird, Esq., such Notary Public, as aforesaid, a certain paper writing, purporting to be the quarterly report of the said Lenox Hill Bank, as aforesaid, and to be and to contain a true statement of the condition of the said Lenox Hill Bank, before the transaction of any business on the morning of the said Eleventh day of January, in the year last aforesaid; and particularly in respect, amongst other things, of the stocks and bonds belonging to the said Lenox Hill Bank, and in its possession at the said last-mentioned time, said report then and there containing a certain item and entry, under a certain heading, entitled, "Resources," in the words and figures following, to wit, "9 Stocks and Bonds, as per Schedule, \$30,645," which said item and entry purported to set forth and indicate, and did in substance and effect indicate and declare, that before the transaction of any business on the Eleventh day of January, in the year aforesaid, the said Lenox Hill Bank was owner of, and had in its possession, stocks and bonds described in the Schedule hereinafter mentioned, to the amount of the value of Thirty thousand, six hundred and forty-five dollars, together with a certain paper writing accompanying the said report, and annexed thereto, purporting to be a Schedule of items particularly describing the matters set forth in the said report, and purporting to particularly describe the stocks and bonds

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of the said Lenox Hill Bank, as set forth in the said report; and which said Schedule then and there contained, amongst other things, the items and entries following, to wit:

9 Stocks and Bonds.

Name of Stock.	Year of Maturity.	Rate of In't.	Cost.	Par Value.	Market Value.
U.S.Gov. 4 1/2,		4 1/2%	109	1000	106 3/4
St.L.A. & S., 1st mtgs.	1936	6%	92	2000	89 7/8
U.P.L. & C. " "	1918	5%	101	5000	101
Nth Pac. and Mont.	1938	6%	103 1/2	27000	106 1/8
L. & New Alb. Chic. Consols.	1916	6%	99 2/3	3000	104 1/2
Helena and R Mts " "	1937	6%	104	3000	105
R. and W.P. Terminal Trusts.	1897	5%	102 1/2	3000	105
M. and Birmingham 1st mtge.	1937	5%	98	2000	96
Duluth & S.S. & A. " "	1937	5%	95	1000	92 3/4
R.G. and W. " "	1939	4%	78 1/2	5000	76

and which said items and entries above set forth purported to set forth and signify, and did in substance and effect indicate and declare, that before the transaction of any business on the said Eleventh day of January, in the year aforesaid, the said Lenox Hill Bank was the owner, and had in its possession, United States Government bonds bearing interest at the rate of four and one-half per cent., per annum, which had cost the said Bank One hundred and nine per cent., of the par value of One thousand dollars, and of the market value of one hundred and six and three-fourths per cent.; first mortgage bonds of the St. Louis, Atchison & Topeka Railroad

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Company, maturing in the year Nineteen hundred and thirty-six, bearing interest at the rate of six per cent., per annum, which had cost the said Bank ninety-two per cent., of the par value of Two thousand dollars, and of the market value of eighty-nine and seven-eighths per cent.; First mortgage bonds of the Union Pacific Lincoln & Colorado Railroad Company, maturing in the year nineteen hundred and eighteen, bearing interest at the rate of five per cent., per annum, which had cost the said Bank One hundred and one per cent., of the par value of Five thousand dollars, and of the market value of One hundred and one per cent.; Bonds of the Union Pacific and Montana Railroad Company, maturing in the year nineteen hundred and thirty-eight, bearing interest at the rate of six per cent., per annum, which had cost the said Bank One hundred and three and one-half per cent.; of the par value of Seven thousand dollars, and of the market value of One hundred and six and one-eighth per cent.; Bonds of the Louisville, New Albany and Colorado Railroad Company, maturing in the year one thousand, nine hundred and sixteen, bearing interest at the rate of six per cent., per annum, which had cost the said Bank ninety-nine and two-thirds per cent., of the par value of three thousand dollars, and of the market value of One hundred and four and one-half per cent.; Bonds of the Helena & Red Mountain Railroad Company, maturing in the year one thousand nine hundred and thirty-seven, bearing interest at the rate of six per cent., per annum, which had cost the said Bank One hundred and four per cent., of the par value of Three thousand dollars,

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and of the market value of One hundred and five per cent.; Trust bonds of the Richmond & West Point Terminal Railroad Company, maturing in the year one thousand eight hundred and ninety-seven, bearing interest at the rate of five per cent., per annum, which had cost the said Bank One hundred and two and one-half per cent., of the par value of three thousand dollars, and of the market value of One hundred and five per cent.; First mortgage bonds of the Mobile & Birmingham Railroad Company, maturing in the year one thousand nine hundred and thirty-seven, bearing interest at the rate of five per cent., per annum, which had cost the said Bank ninety-eight per cent., of the par value of Two thousand dollars, and of the market value of ninety-six per cent.; First mortgage bonds of the Duluth & South Shore & Atlantic Railroad Company, maturing in the year one thousand nine hundred and thirty-seven, bearing interest at the rate of five per cent., per annum, which had cost the said Bank Ninety-five per cent., of the par value of one thousand dollars, and of the market value of ninety-two and three-quarters per cent.; First mortgage bonds of the Rio Grande & Western Railroad Company, maturing in the year one thousand nine hundred and thirty-seven, and bearing interest at the rate of four per cent., per annum, which had cost said Bank seventy-eight and one-half per cent., of the par value of five thousand dollars, and of the market value of seventy-six per cent; and also a certain affidavit in writing then and there signed and subscribed by the said Charles E. Wallack, in his own proper hand writing, to wit, in and by the name of Charles E. Wallack, President, and then and there

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containing certain allegations and statements of and concerning the truth of the matters contained in the said report and Schedule accompanying the same.

And the said Charles E. Wallack was then and there to wit, on the said Fourteenth day of January, in the year of our Lord one thousand, eight hundred and ninety, at the City and County aforesaid, in due form of law, sworn and did take his corporal oath by and before the said A. Lansing Baird, Esq., such Notary Public as aforesaid, touching and concerning the truth of the matters contained in his said affidavit in writing; he, the said A. Lansing Baird, Esq., as such Notary Public as aforesaid, then and there having full and competent power and authority to administer the said oath to the said Charles E. Wallack in that behalf.

And the said Charles E. Wallack being so sworn, as aforesaid, upon his oath aforesaid, before the said A. Lansing Baird, Esq., such Notary Public as aforesaid, in and by his said affidavit in writing, feloniously, wilfully, knowingly and corruptly did falsely swear, depose and say, amongst other things, in substance and to the effect following, that is to say:

That the said report with the said schedule accompanying the same, was then and there, in all respects, a true statement of the condition of the said Lenox Hill Bank, before the transaction of any business on the said Eleventh day of January, in the year last aforesaid, to the best of his knowledge and belief.

Whereas in truth and in fact the said report, with

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the schedule accompanying the same, was not then and there in all respects a true statement of the condition of the said Bank before the transaction of any business on the said Eleventh day of January in the year aforesaid, to the best of his knowledge and belief, as he, the said Charles E. Wallack, then and there well knew, amongst other things in this, to wit, that on the said Eleventh day of January, in the year aforesaid, and before the transaction of any business on the said day, the said Lenox Hill Bank did not own, and did not have in its possession stocks and bonds as set forth and described in the said schedule to the amount of the value of Thirty-thousand, six hundred and forty-five dollars, and at the said last-mentioned time the said Lenox Hill Bank did not own, and did not have in its possession any of the bonds hereinbefore particularly described except the said United States Government bonds, as he, the said Charles E. Wallack, then and there well knew.

And afterwards, to wit: on the day and in the year aforesaid, the said Charles E. Wallack and Ernest Van Zandt caused the said report, schedule and affidavit to be transmitted to the said Superintendent of the Banking Department aforesaid, as and for a true and accurate quarterly report of the condition of the said Lenox Hill Bank, made in compliance with the said notice of the said Superintendent.

And so the Grand Jury aforesaid do say that the said Charles E. Wallack, in manner and form aforesaid, feloniously, wilfully, knowingly, corruptly and falsely did commit wilfull and corrupt perjury against the form of the statute in such case made and provided, and against the

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peace of the people of the State of New York and their dignity.

JOHN R. FELLOWS,

District Attorney.