0917

BOX:
451
FOLDER:
4157
DESCRIPTION:
White, Cumberland Y.

DATE:
09/23/91

Witnesses:

Emily DeSilver

Counsel,

Filed, 23rd day of Oct 1891

Pleads,

THE PEOPLE

vs.

Cumberland Y. White

LARCENY, from the person.
(MISAPPROPRIATION.)
(Sections 528 and 530 of the Penal Code.)

DE LANCEY NICOLL,

District Attorney.

A TRUE BILL.

Foreman.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Rumbelland Ry. White

The Grand Jury of the City and County of New York, by this indictment, accuse Rumbelland Ry. White of the CRIME OF Grand LARCENY, in the first degree, committed as follows:

The said Rumbelland Ry. White,

late of the City of New York, in the County of New York aforesaid, on the first day of June, in the year of our Lord one thousand eight hundred and ninety-, at the City and County aforesaid, being then and there the Bailee of one Emily DeBevoise,

and as such Bailee then and there having in his possession, custody and control certain goods, chattels and personal property of the said Emily DeBevoise,

the true owner thereof, to wit: two written instruments and evidences of debt, that is to say: two certain bonds and written obligations of the Kind known as Chicago, Burlington and Quincy Railroad bonds, of the denomination and value of one thousand dollars each (a more particular description of which said bonds and written obligations is to the Grand Jury aforesaid unknown)

the said Rumbelland Ry. White afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, did feloniously appropriate the said bonds and written obligations

to his own use, with intent to deprive and defraud the said Emily DeBevoise

of the same, and of the use and benefit thereof; and the same goods, chattels and personal property of the said Emily DeBevoise,

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

DE LANCEY NICOLL,
District Attorney.

0920

BOX:
451
FOLDER:
4157
DESCRIPTION:
Williams, James
DATE:
09/17/91

136

Witnesses;

James Earl

I recommend the acceptance of plea of Petit Larceny - Sept 21/91

Vernon M. Davis Asst.

Counsel,

Filed 17 day of Sept. 1891

Pleads, Nolo Guilty 1891

THE PEOPLE

vs.

James Williams

34 Walker 178½ Chrystie St

Grand Larceny, Second Degree. (From the Person.) [Sections 528, 531, Penal Code].

DE LANCEY NICOLL,
~~JOHN R. FELLOWS,~~

District Attorney.

A True Bill.

W. J. A. Berry

Part 2 - Sept. 21/91 *Foreman*

Reads Petit Larceny

Ten Months

Sec. 198—200.

1 District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

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

Question. What is your name?

Answer. James Williams

Question. How old are you?

Answer. 34 years

Question. Where were you born?

Answer. Newyork

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

Answer. 148½ Christie Street 1 year

Question. What is your business or profession?

Answer. Waiter

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

Answer. I am not guilty

James Williams

Taken before me this 10 *day of* August 188 9

Police Justice.

0923

POOR QUALITY ORIGINAL

Police Court--- 1 District. 1052

THE PEOPLE, &c.,
ON THE COMPLAINT OF

James Earl
House of Detention

1 James Williams
2
3
4

Offence Grand Larceny 2 Degree

Dated August 10 1891

O'Reilly Magistrate.

Price Officer.

6 Precinct.

Witnesses Garrett J Higginson
No. New Milford N.J. Street.
House of Detention

No. Street.

No. Street.

$ 1000 to answer G.S.

COMMITTED.

G.J. & Person

Witness Earl by
Geo Lunnemann
201 Chambers
Witness Higginson by
Robert W Cook
508 W. 145 St. N.Y.
Notify these people early. Out of town witnesses

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

Notify
J.W. Voorhis
18 Warren St

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Defendant *guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of* Ten *Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.*

Dated August 10th *18*91 D J O'Reilly *Police Justice.*

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

Dated 18 Police Justice.

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

Dated 18 Police Justice.

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

James Williams

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

of the CRIME OF GRAND LARCENY in the second degree, committed as follows:

The said James Williams

late of the City of New York, in the County of New York aforesaid, on the tenth day of August in the year of our Lord one thousand eight hundred and ~~eighty~~ ninety one, in the day time of the said day, at the City and County aforesaid, with force and arms,

one promissory note for the payment of money, of the kind commonly called United States Treasury Notes, of the denomination and value of one dollar; one promissory note for the payment of money of the kind commonly called Bank Notes, of the denomination and value of one dollar; one United States Gold Certificate, of the denomination and value of one dollar; one United States Silver Certificate, of the denomination and value of one dollar;

of the goods, chattels and personal property of one James Earl on the person of the said James Earl then and there being found, from the person of the said James Earl 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.

DeLancey Nicoll,
District Attorney

0925

BOX:
451
FOLDER:
4157
DESCRIPTION:
Williams, James
DATE:
09/09/91

POOR QUALITY ORIGINAL

0926

28

Witnesses;
George Gahu
~~Off Brady~~
Off Bready

Counsel,
Filed 9 day of Sept. 1891
Pleads,

THE PEOPLE

vs.

P

James Williams

H.D.

Robbery, first degree.
[Sections 224 and 228, Penal Code].

DeLancey Nicoll
~~JOHN R. FELLOWS,~~

District Attorney.

A True Bill.

W. J. C. Berry

Foreman.

Part 3 Sept 9/91 Pleads Guilty Larceny 2 deg
El. Ref. Sept 11/91 SP 1

0927

CITY AND COUNTY OF NEW YORK, } ss.

~~POLICE COURT,~~ 1 DISTRICT.

Frank Price

of No. 68 Precinct Police Street, aged 29 years,

occupation Police Officer being duly sworn deposes and says,

that on the 7th day of August 1891

at the City of New York, in the County of New York, ~~defendant~~ arrested

James Williams (in custody) and

charge of Larceny from the person

on the Complaint of James Earl

Deponent has good and sufficient

reasons to believe that said James

Earl the Complainant in the case and

Garrett Hagan in a material and

necessary witness, will not appear

at the Court of General Sessions against

said Williams and the defense asks that

he be committed to the House of detention

Frank S Price

Sworn to before me, this 10th day of August 1891

Police Justice.

0928

CITY AND COUNTY OF NEW YORK, } ss.

Garrett J Higinson

aged 32 years, occupation Carpenter of No.

New Milford N J Street, being duly sworn, deposes and

says, that he has heard read the foregoing affidavit of James Earl

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

Sworn to before me, this 10th *day of* August 1890,

Garret J Higinson

Police Justice.

(3699)

POOR QUALITY ORIGINAL

0929

CITY AND COUNTY OF NEW YORK, } ss.

POLICE COURT, 3 DISTRICT.

Adam Raedig

of No. Thy 11th Precinct Police Street, aged 26 years,

occupation Police Officer being duly sworn deposes and says

that on the 30 day of August 1889

at the City of New York, in the County of New York George Johns (Elsewhere) who is a Material witness in a case of Robbery against James Williams deponent is satisfied that said witness will not appear at the next Court of General Sessions in and for the City and County of New York wherefore deponent prays said defendant may be ordered to enter into recognizance for his appearance as such witness at said Court

Adam Raedig

Sworn to before me, this 30 day of Aug 1889

Police Justice.

0930

Sec. 198—200.

3 District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

James Williams 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. James Williams

Question. How old are you?

Answer. 23 years

Question. Where were you born?

Answer. England

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

Answer. No 9 Duane St 3 days

Question. What is your business or profession?

Answer. Labora

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

Answer. I am not guilty

James Williams

Taken before me this 26 day of July 188

[illegible] Police Justice.

Police Court— 3rd District.

CITY AND COUNTY OF NEW YORK, } ss

of No. 95 Bowery George Johnson Complainant

Occupation Seaman Master being duly sworn, deposes and says, that on the 29 day of August 1881, at the 10 Ward of the City of New York, in the County of New York, was feloniously taken, stolen, and carried away, from the person of deponent by force and violence, without his consent and against his will, the following property, viz:

Good and Lawful Money of the United States of the Amount and

of the value of Two Dollars 00 DOLLARS,

the property of Deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen, and carried away, by force and violence as aforesaid by James Williams (now here) and two other men now now arrested from the fact that at about the hour of Ten o'clock and forty minutes P.M. on said date while deponent was walking along the Bowery the defendant Williams struck deponent by the arms while one of said men not arrested struck deponent on the head with his fist and one of said other men not arrested took the left hand side pocket of deponents pantaloons from deponents person and ran away and the

Sworn to before me this 29 day of August 1881

Police Justice.

Police Court, _____ District.

THE PEOPLE, &c.,
on the complaint of

vs.

1. _____
2. _____
3. _____
4. _____

Offence—ROBBERY.

Dated _____ 188

_____ Magistrate.

_____ Officer.

_____ Clerk.

Witnesses,

No. _____ Street,

No. _____ Street,

No. _____ Street,

$ _____ to answer General Sessions.

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

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

Dated _____ 188 . _____ *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 h to be discharged.*

Dated _____ 188 . _____ *Police Justice.*

0933

Police Court ---- 3 ---- District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

1. [illegible]
2. [illegible]
3. [illegible]
4. [illegible]

Offence [illegible]

Dated [illegible] 18[illegible]

[illegible] Magistrate.

[illegible] Officer.

[illegible] Precinct.

Witnesses [illegible]

[illegible] Street.

[illegible] Street.

[illegible] Street.

[illegible] Street.

BAILED,

No. 1, by [illegible]

Residence [illegible] Street.

No. 2, by [illegible]

Residence [illegible] Street.

No. 3, by [illegible]

Residence [illegible] Street.

No. 4, by [illegible]

Residence [illegible] Street.

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

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

Dated [illegible] *18* [illegible] *Police Justice.*

I have admitted the above-named [illegible]

to bail to answer by the undertaking hereto annexed.

Dated [illegible] *18* [illegible] *Police Justice.*

There being no sufficient cause to believe the within named [illegible]

[illegible] *guilty of the offence within mentioned. I order h to be discharged.*

Dated [illegible] *18* [illegible] *Police Justice.*

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,
against
James Williams

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

of the CRIME OF ROBBERY in the first degree, committed as follows:

The said James Williams,

late of the City of New York, in the County of New York aforesaid, on the twenty-ninth day of August, in the year of our Lord one thousand eight hundred and ninety-one, in the night time of the said day, at the City and County aforesaid, with force and arms, in and upon one George Bown, — in the peace of the said People, then and there being, feloniously did make an assault, and

$2.50

the sum of two dollars and fifty cents in money, lawful money of the United States of America and of the value of two dollars and fifty cents, —

of the goods, chattels and personal property of the said George Bown, — from the person of the said George Bown, against the will, and by violence to the person of the said George Bown, — then and there violently and feloniously did rob, steal, take and carry away, the said James Williams being then and there aided by an accomplice actually present, whose name is to the Grand Jury aforesaid as yet unknown;

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

DeLancey Nicoll,
District Attorney.

0935

BOX:
451
FOLDER:
4157
DESCRIPTION:
Williams, John
DATE:
09/15/91

4157

#1 109

Witnesses:

John Lind

Counsel,

Filed 15 day of Sept 189/

Pleads,

THE PEOPLE

vs.

John Williams

Grand Larceny Second Degree.

[Sections 528, 53/ —— Penal Code.]

DE LANCEY NICOLL,

District Attorney.

A True Bill.

W. J. O'Berry

Foreman.

6 mos

CITY AND COUNTY OF NEW YORK, } ss.

James Mc Ivor

aged 39 years, occupation Merchant Tailor of No. 4 West 28. Street, being duly sworn, deposes and says, that he has heard read the foregoing affidavit of John Smith and that the facts stated therein on information of deponent are true of deponent's own knowledge.

Sworn to before me, this 26 *day of* August 1890

James Mc Ivor

Police Justice.

(3602)

0938

Police Court 2 District.

Affidavit—Larceny.

City and County of New York, } ss:

John Smith

of No. 31 West 27th Street, aged 53 years,

occupation Merchant tailor being duly sworn,

deposes and says, that on the 26 day of August 189/ at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the day time, the following property, viz:

a quantity of cassimere cloth of the value of about twenty eight dollars

$ 28

the property of deponent

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

the said property was in deponents store and was stolen therefrom on said date, and deponent is informed by James Lee (now here) that he saw the defendant in 6th avenue with the said stolen property in his possession, and deponent caused defendants arrest.

John Smith

Sworn to before me, this 26 day of August 189/

Police Justice.

Sec. 198—200.

District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

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

Question. What is your name?

Answer. John Williams

Question. How old are you?

Answer. 21 years

Question. Where were you born?

Answer. U. S.

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

Answer. 913 Fulton St Brooklyn 2 years

Question. What is your business or profession?

Answer. Waiter

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

Answer. I am ~~not~~ guilty

guilty. John Williams

Taken before me this 11 *day of* August 189 1

Police Justice.

0940

Police Court— 2 —District.

1119

THE PEOPLE, &c.,

ON THE COMPLAINT OF

John Quid
33 W 27th St

John Williams

2.....

3.....

4.....

Offence Larceny felony

Dated August 26 1891

Hogan Magistrate.

Wm J. Carley Officer.

19 Precinct.

Witnesses.....

No.....Street.

No.....Street.

No.....Street.

No.....Street.

RECEIVED
AUG
1891
ATTORNEY'S OFFICE

BAILED,

No. 1, by.....

Residence.....Street.

No. 2, by.....

Residence.....Street.

No. 3, by.....

Residence.....Street.

No. 4, by.....

Residence.....Street

$ 100 to answer Cad

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

Dated Aug 26 18 91 Police Justice.

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

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

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

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

0941

(1365)

Police Court— 1 District.

Affidavit—Larceny.

City and County of New York, } ss.

James Earl

of No. Cradell New Jersey Street, aged 41 years,

occupation Carpenter being duly sworn,

deposes and says, that on the 10 day of August 189 1 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession and person of deponent, in the day time, the following property, viz:

Good & lawful money of the United States consisting of a Currency note or bill of the value of One Dollar

the property of Deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen and carried away by James Williams (now here) for the reasons following, to wit: That on said day deponent was in Canal Street and had the said property together with other money in the drawer right hand rear pocket of the vest he then had on and defendant put his hand in deponents vest pocket & got the vest he had on and took the said property & ran away with the same, when deponent pursued him he dropped said property and deponent caused him to be arrested. Deponent further says that he is informed by Garrett Jessup

Police Justice.

189

of New Milford Bergen Co New Jersey
that he was with the Department that the
said time and place he saw said defendant
place his hands in the [illegible] right
hand rear pocket of deponents rear
and take something therefrom and
run away with the same and while
he was running he and defendant
drop something. Deponent fully identifies
said defendant as the person who
placed his hand in his rear pocket
and took the aforesaid property and
charges him with the crime of [illegible] the person
the property aforesaid

Sworn to before me } James Carl
this 10th day of August 1911 }

Police Justice

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

THE PEOPLE OF THE STATE OF NEW YORK,

against

John Williams

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK, by this indictment, accuse John Williams

of the CRIME OF GRAND LARCENY in the second degree committed as follows:

The said John Williams

late of the City of New York, in the County of New York aforesaid, on the 26th day of August in the year of our Lord one thousand eight hundred and ninety-one, at the City and County aforesaid, with force and arms,

seven yards of cloth of the value of four dollars each yard

of the goods, chattels and personal property of one John Lind

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

SECOND COUNT—

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

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

seven yards of cloth of the value of four dollars each yard

of the goods, chattels and personal property of one John Lund

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

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

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

DELANCEY NICOLL,

District Attorney.

0945

BOX:
451
FOLDER:
4157
DESCRIPTION:
Wilson, Frank

DATE:
09/14/91

\# 521

Witnesses;
Gabrielle Alisse

Counsel,
Filed 14 day of Sept 1891
Pleads,

THE PEOPLE
vs.
Frank Wilson

Grand Larceny, Second Degree.
(From the Person.)
[Sections 528, 531 —— Penal Code].

DE LANCEY NICOLL,
~~JOHN R. FELLOWS~~,
District Attorney.

A True Bill.

W. J. O'Berry
Foreman
Sept 15/91
Pleads Guilty
2 yrs S.P.

POOR QUALITY ORIGINAL

0947

Police Court--- 1 District. 1058

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Offence Larceny

Dated Aug 17 1891

Magistrate.

Officer.

Precinct.

Witnesses

No. Street.

No. Street.

$ 500 to answer

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

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

Defendant

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

Dated Aug 17 *18*91 *Police Justice.*

I have admitted the above-named

to bail to answer by the undertaking hereto annexed.

Dated *18* *Police Justice.*

There being no sufficient cause to believe the within named

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

Dated *18* *Police Justice.*

POOR QUALITY ORIGINAL

0948

Sec. 198—200.

1 District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

Francis Wilson 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. Francis Wilson

Question. How old are you?

Answer. 32 Years.

Question. Where were you born?

Answer. New York

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

Answer. No home

Question. What is your business or profession?

Answer. Painter

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

Answer. I am not guilty

Frank Wilson

Taken before me this [illegible] day of [illegible] 1885

[illegible] Police Justice.

0949

(1365)

Police Court— 1 District.

Affidavit—Larceny.

City and County of New York, } ss.

Gabriel Allissi

of No. 302 – E – 106 Street, aged 18 years,

occupation Barber being duly sworn,

deposes and says, that on the 17 day of August 189 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession and person of deponent, in the day time, the following property, viz:

Good and lawfull money of the United States of the amount and value of four dollars

the property of Deponent

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen and carried away by Frank Wilson (Wilson) and for the reasons follow-ing to wit: deponent saw the defendant take, steal and carry away the aforesaid money from the pocket of the Exter which he deponent then wore Gabriely Alessi

Sworn to before me, this day of 189

Police Justice.

GRAND JURY OF THE

Court of General Sessions.

THE PEOPLE
vs.
Frank Nelson

For COMPLAINT.

dont Leave Ther

To Peter Andvale
214 14 First Avenue

You are bound for the appearance of one Gabriel Alessi as a witness against the above-named defendant. This is to notify you that the complaint against said defendant will be placed before the Grand Jury of the Court of GENERAL SESSIONS of the Peace, at the Sessions Building, adjoining the New Court House, in the Park of the said City, on Wednesday the 9th day of September instant, at eleven o'clock in the forenoon.

If the witness is not produced at that time your bond will be forfeited.

Patrick Farrell
~~JOHN R. FELLOWS,~~
District Attorney.

Not found

12-14-82

Sent

POOR QUALITY ORIGINAL

0952

Sworn to before me, this
day
of Aug 17 1885
P. J. [illegible]
Police Justice.

CITY AND COUNTY OF NEW YORK, } ss.

POLICE COURT, 1 DISTRICT.

James Mallon
of No. 7th Precinct Street, aged 45 years,
occupation Police Officer being duly sworn deposes and says,
that on the 17 day of August 1885
at the City of New York, in the County of New York,

Gabriel Alessi [illegible] is a material witness for the People against Frank [illegible] and deponent believing that the said Alessi will not appear when needed prays he give surety for his appearance

James Mallon

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
against
Frank Wilson

The Grand Jury of the City and County of New York, by this indictment accuse Frank Wilson of the CRIME OF GRAND LARCENY in the second degree, committed as follows:

The said Frank Wilson late of the City of New York, in the County of New York aforesaid, on the seventeenth day of August in the year of our Lord one thousand eight hundred and ~~eighty~~ ninety-one, in the day — time of the said day, at the City and County aforesaid, with force and arms,

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

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

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

of the goods, chattels and personal property of one Gabriel Alessi on the person of the said Gabriel Alessi then and there being found, from the person of the said Gabriel Alessi 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.

De Lancey Nicoll
District Attorney

0954

BOX:
451
FOLDER:
4157
DESCRIPTION:
Wilson, Maggie
DATE:
09/21/91

Witnesses:

George W Robbins

Part II

Oct 30 1891. On the within withdrawal and on the statements of Officer Waters that he could not, in any particular vital to the case, corroborate the statements of the complt I recommend that the defdt be discharged on her own recognizance

H D Macdona
Deputy

Counsel,

Filed 21 day of Oct 189 1

Pleads, Not Guilty

THE PEOPLE

vs.

P

Maggie Wilson

Grand Larceny, Grant Degree.
(From the Person.)
[Sections 528, 549, Penal Code.]

DE LANCEY NICOLL,
District Attorney.

A TRUE BILL.

W. J. C. Berry
Foreman.

Part 2 – Oct. 30, 1891
On motion of District Attorney defendant discharged on her own recognizance.

POOR QUALITY ORIGINAL

0956

Police Court 2 District.

Affidavit—Larceny.

City and County of New York, } ss:

George W. Robbins

of No. Albert Hotel Street, aged 28 years,

occupation Butcher being duly sworn,

deposes and says, that on the 16 day of September 189(at the City of New York, and Huron

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

the night time, the following property, viz:

one diamond stud

of the value of seven hundred dollars

$ 700

the property of deponent,

and that this deponent

has a probable cause to suspect, and does suspect that the said property was feloniously taken, stolen and

carried away by Maggie Wilson (now here) under

the following circumstance: Deponent had

the said stud in his vest pocket wrapped

in a piece of paper. Deponent met the

defendant in 26th street near University

Place and was talking with her then

about three minutes at about 11 O'clock

P.M. While so talking the defendant

was fooling about deponents clothing

Sworn to before me this 16th day of September 1890

Police Justice

and she placed her hand near the said vest pocket. Then suddenly the defendant said "Just excuse me a minute. I want to put something in my stocking," and defendant turned and went a few steps away, and then she stooped down and put something in her stocking, and deponent then saw a piece of white paper in her hand. Deponent walked away from defendant and had gone about half a block when deponent missed the said stone and immediately suspected the defendant, this was only about two minutes after defendant left deponent. Then deponent followed the defendant and she ran away, but was followed by deponent and Policeman Francis J. Waters of the 15th Precinct and she was arrested within five minutes of the time. Deponent during that time noticed the defendant making certain movements to and from her mouth with her hand, and now charges that she stole the said diamond stud from his person

SWORN TO BEFORE ME THIS 7 DAY OF September 1891 G. W. Robbins

[illegible] JUSTICE.

0958

Police Court---- 1231 ---- District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Eagle Fire Ins. Co. of N.Y.

Maggie Wilson

Offence Larceny from the person

1. Maggie Wilson
2.
3.
4.

BAILED,

No. 1, by .....

Residence ..... Street.

No. 2, by .....

Residence ..... Street.

No. 3, by .....

Residence ..... Street.

No. 4, by .....

Residence ..... Street

Dated Sept 17 1891

Hogan Magistrate.

Wales Officer.

15 Precinct.

Witnesses Capt. H. Ahrens

No. ..... Street.

No. ..... Street.

No. ..... Street.

$ 1000 to answer

Larceny from person

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

Maggie Wilson

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

Dated Sept 17 *18* 91 *Police Justice.*

I have admitted the above-named

to bail to answer by the undertaking hereto annexed.

Dated *18* *Police Justice.*

There being no sufficient cause to believe the within named

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

Dated *18* *Police Justice.*

Sec. 198—200.

2

District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

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

Question. What is your name?

Answer. Maggie Nelson

Question. How old are you?

Answer. 27 years -

Question. Where were you born?

Answer. New York

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

Answer. 316 west 36 Street - 4 months

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 not guilty - I was searched by the Complainant - who placed his hands in the stockings on my person in the presence of the Officers - and he found nothing in the said stockings. I would say further - that I was searched within a few minutes, after the Complainant stated he missed the said property -

Maggie Nelson

Taken before me this 17 day of September 1894

Police Justice.

New York General Sessions.

PEOPLE ON MY COMPLAINT,
VERSUS

Maggie Ehlers

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

I desire the above named defendant discharged in the above case

Gallagher

Halls of Justice.

RECOGNIZANCE TO TESTIFY.

CITY AND COUNTY OF NEW YORK, } ss.

BE IT REMEMBERED, That on the 17th day of September in the year of our Lord 1861

George W Robbins of No. Chicago Ill. Street, in the city of New York,

and Christopher Langbein of No. 128 Liberty Street, in the said City,

personally came before the undersigned, one of the Police Justices in and for the City of New York, and acknowledged themselves to owe to the PEOPLE of the STATE OF NEW YORK, that is to say: the said

the sum of One George W Robbins ***Hundred Dollars,***

and the said Christopher Langbein

the sum of One ***Hundred Dollars,***

separately, of good and lawful money of the State of New York, to be levied and made of their respective goods and chattels, lands and tenements, to the use of said People, if default shall be made in the condition following, viz.:

The Condition of this Recognizance is such, That if the person, first above recognized, shall personally appear, at the next COURT OF General SESSIONS of the Peace, to be holden in and for the City and County of New York, and then and there *Testify* and give such evidence, in behalf of the people of the State of New York, as he may know, concerning an Offence or Misdemeanor, said to have been lately committed in the City of New York, aforesaid by

Maggie Wilson charged with Larceny from the person

And do not Depart thence, without leave of the Court, then this Recognizance to be void, otherwise to remain in full force and virtue.

Taken and acknowledged before me, the day and year first above written.

G. W. Robbins

Christopher Langbein

Police Justice.

0962

CITY AND COUNTY OF NEW YORK. } ss.

Christopher Langbein

the within-named Bail, being duly sworn, says, that he is a Hotel holder in said City, and is worth Two Hundred Dollars, over and above the amount of all his debts and liabilities; and that his property consists of Stock of liquors and bar fixtures in house 178 Liberty Street in this City and valued at Six Hundred Dollars Clear

Christopher Langbein

Sworn before me, this 1st day of April 1874

Police Justice.

RECOGNIZANCE TO TESTIFY.

Sessions.

New York

THE PEOPLE, &c.,

vs.

Magistrate.

186

Filed day of

Police Court 2 District.

City and County of New York. } ss.

Francis T. Waters

of No. 15 A Precinct Street, aged 26 years,

occupation Police Officer being duly sworn, deposes and says,

that on the 17 day of September 1891 at the City of New York, in the County of New York, George W. Robbins now

here is a material witness in the matter of a complaint against Maggie Wilson for larceny from the person. The said George W. Robbins is a non resident and deponent has reason to believe that defendant will not appear to prosecute the said complaint Deponent asks that defendant be required to find surety for his appearance as such witness.

Sworn to before me this 17 day of September 1891

[signature] POLICE JUSTICE.

Francis T. Waters

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
against
Maggie Wilson

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

— Maggie Wilson —

of the CRIME OF GRAND LARCENY in the first degree, committed as follows:

The said Maggie Wilson,

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

one stud of the value of seven hundred dollars,

of the goods, chattels and personal property of one George W. Robbins, — on the person of the said George W. Robbins, — then and there being found, from the person of the said George W. Robbins 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.

De Lancey Nicoll,
District Attorney

0965

BOX:
451
FOLDER:
4157
DESCRIPTION:
Wilson, Sylvester F.

DATE:
09/10/91

Witnesses;

E. J. Gerry

Libbie A. Rutherland

Dec 24/94 -

Wrote Gov. advising apt. clemency

B.M.

Ind'k 29 1361

Counsel,

Filed 10 day of Sept 1894

Pleads, Not guilty 11

THE PEOPLE

vs.

Sylvester F. Wilson

ABDUCTION.

[Section 282, Sub. 1, Penal Code.]

P

Petition to remit fine denied by Judge Fitzgerald. Sept. 2, 1894.

Edmund Nicoll

~~JOHN R. FELLOWS,~~

District Attorney.

A True Bill.

Foreman.

Court of General Sessions
Clerk's Office.

PEOPLE

vs.

Sylvester Wilson

Bundle of papers

in drawer

IN THE

New York Supreme Court,

GENERAL TERM—FIRST DEPARTMENT.

THE PEOPLE OF THE STATE OF NEW YORK,
Respondents,

vs.

SYLVESTER F. WILSON,
Appellant.

Appellant's Points.

Statement.

The defendant, Sylvester F. Wilson, was, in October, 1891, in the Court of General Sessions of the City and County of New York, convicted of the crime of abduction under subdivision I., section 282 of the Penal Code, and sentenced to five years' imprisonment and to pay a fine of one thousand dollars, the maximum punishment for the offense.

From such conviction and judgment, and the order of the Court denying motion to set aside the verdict of the jury and for a new trial, upon the statutory grounds, the defendant duly appealed to this Court.

The indictment against defendant contained two counts, one for abduction, supra, and the other for rape under subdivision I., section 278 of the Penal Code. (Case, folios 1226 and 1227)

Upon the trial the People withdrew the count charging rape, and elected to proceed under that charging abduction (fol. 482).

The statue upon which the Abduction count in the indictment was predicated, provides as follows: "A person who takes, receives, employs, harbors or uses, or causes or procures to be taken, received, employed, harbored or used, a female under the age of sixteen years, for the purpose of prostitution; or not being her husband, for the purpose of sexual intercourse; or without the consent of her father, mother, guardian or other person having legal charge of her person, for the purpose of marriage, is guilty of Abduction, etc. (Sub. I., sec. 282, Penal Code).

And the Rape count as follows: "Rape is an act of sexual intercourse with a female not the wife of the perpetrator, committed against her will or without her consent. A person perpetrating such an act, or an act of sexual intercourse with a female not his wife,

1st. When the female is under the age of sixteen years, etc., is punishable, etc. (Sec. 278, Penal Code)

In framing the abduction count in this indictment, the People eliminated therefrom all of the provisions of the statute recited, supra, save the following clause, viz: "The said Sylvester F. Wilson late of the City of New York in the County of New York, aforesaid, did, feloniously take, receive, harbor, employ and use one Libbie Agnes Sunderland, who was then and there a female under the age of sixteen years, to wit: of the age of fifteen years, for the purpose of sexual intercourse, he the said Sylvester F. Wilson not being then and there the husband of the said Libbie Agnes Sunderland." (Case, fol. 1226)

It will therefore be seen by a careful reading of the statute, that by subdivision 1, sec. 282 of the Penal Code, *supra*, the Legislature has divided the persons who may be guilty of abduction under this subdivision, into three distinct classes, viz.:

1st. "A person (any person) who takes, etc., a female under the age of sixteen years for the purpose of prostitution" (generally, indiscriminate).

2d. "A person not being her husband for the purpose of sexual intercourse" (individually, evidently).

3d. "A person who takes, etc., for the purpose of marriage," etc.

The elements constituting the offense under the several clauses of this subdivision, differ radically, and under this indictment as framed, proof against the defendant must be limited to that legally admissible to bring him within the purview of the second clause of said subdivision.

Was the defendant, then properly convicted of "having, on the 25th day of December, 1890, at the City and County of New York, taken, received, harbored, employed and used one Libbie Agnes Sunderland, a female under the age of sixteen years, to wit, of the age of fifteen years, for the purpose of sexual intercourse, he not being then and there her husband," as indicted?

Facts.

The defendant was, at the time of his trial and conviction in this action, 39 years old. He had recently been in the baseball and theatrical business, conducting a troupe known as the "Little Countess," and organizing and managing ladies' baseball clubs. He had in earlier years been a publisher in journalism in various cities (Case, fols. 816 and 817).

About August, 1890, the defendant first met Libbie Agnes Sunderland, the female alleged to have been abducted, in Binghamton, N. Y., where his ladies' baseball club had been playing. She was pointed out to defendant as Annie Winters, a girl for whom he was looking. He introduced himself to her, and in the conversation that ensued he told her that he was manager of a ladies' baseball club and was stopping at the Arlington (hotel). She then talked about wanting to go away with a circus that had been playing there a week before. He

asked her if she would not like to go on the stage, and she said she would. He said to her that he was then busy, but if she would come around to the hotel in the afternoon he would talk with her, and she said she would do so. She met defendant accordingly in the hotel parlor, and there defendant interrogated her as to her parentage and age (among other things). She said she was over sixteen years old, that her father was living, but that her mother was dead and that she had a stepmother with whom she did not live happily; that she wanted to leave Binghamton and was going away with some circus. Deponent became interested in her and said he would take her to New York, clothe her and send her to school; that he thought she could take part in the "Little Countess." She said she did not think her father would like to have her go, but suggested that defendant write her Uncle in Utica, and that if he would send for her that through him she might get permission to go. Defendant says he then told her to wait until she heard from him and not go to Utica until he sent for her (Case, fols. 818 to 824).

The girl says defendant told her he would write a letter to the Uncle in Utica; that he did so and she read the same at the third meeting when defendant took her and a girl named Mognahan to ride in a carriage (folios 24 and 25). She says that her father received a letter from the Utica Uncle, and the day after she parted with defendant she started for Utica (fols. 29 and 30).

Defendant says he had nothing to do with her going to Utica at that time (fol. 825). She says she remained in Utica with her Uncle three or four weeks and then returned home to Binghamton and wrote defendant at his Cincinnati address, not having yet received any letter from him (folios 42 and 43). The Cincinnati address was on some paper she had (fol. 827). The letter she wrote defendant there was forwarded to him at New York. The letter asked him to send for her and urged him to do so. He says he answered this letter and received another

from her; that it was in this second letter, as he believed, she said her father had been put in jail and she had no place to stay; the general tenor of the letter being that she was unhappy and discontented and wanted to get away from Binghamton; that defendant therefore became very much interested in her and was anxious to get the charge of her before she did go away from there and fall into somebody's hands that would not be interested in her; that in one of the last letters to defendant she made reference to going to Chicago (folios 827 to 830).

Defendant then sent one Phillips to Binghamton to see the girl's father and if possible get his consent and the stepmother's to the defendant's taking the girl for the purpose of educating her and putting her on the stage (fol. 832). With Phillips he sent an agreement to be signed embodying the conditions under, and purpose for which the girl was to come. Phillips returned without the girl because, while the girl and the stepmother were ready to accompany Phillips to New York the father's actions did not indicate a willingness on his part. That after Phillips's return the girl wrote defendant that she was greatly disappointed; that she and her mother were all ready to go to New York and Phillips was gone. Defendant then sent one Stover after the girl, but he got to drinking, spent the money provided him and returned without the girl (folios 840 and 841). Finally defendant sent one Charles B. Etting to Binghamton after the girl, with instructions to get the father's and mother's consent to her coming, but the mother's anyhow, that defendant might take her, send her to school and educate her to go upon the stage (fol. 842). Etting went to the girl's home in Binghamton and with her mother's consent, brought the girl to New York and placed her in the defendant's charge, where she remained (fol. 844).

The defense was allowed to show, and did show, that the intention and purpose of the defendant in assuming charge of the girl was of the most honor-

able nature, viz., to educate her and put her upon the stage; that he had no intention of putting her in a baseball club, or of having any sexual intercourse with her; that he supposed her to be upwards of sixteen years old; that after the girl had been with him six or eight weeks he became so attached to her that he expected to make her his wife when she became seventeen years old. (Case, folios 846 to 853.)

The girl was so placed in the defendant's charge in September, 1890. (Fol. 53.) He first took her to the boarding house of Mrs. Doubleday in Jersey City. (Fol. 63.) He represented her as his niece Flossie Wilson, and left her there until he could get a boarding place nearer school. (Fol. 66.) Two or three days after, defendant took her to board in a furnished flat on 59th street in New York. (Fol. 69.) After about two weeks he took the girl to a Mrs. Brown's on 17th street to board. (Fol. 75.) Defendant was then called away from the city for two or three weeks on business. (Fol. 79.) The girl remained with Mrs. Brown on 17th street until about December 1st (1890), and attended the 18th street school. (Fol. 86.) The girl next went to board with Mrs. Maskell at 2,189 7th avenue (Fols. 95 and 96), and remained there until about New Years, 1891 (Fol. 99), then she went to Mrs. Deekman's at 2,249 3d avenue to board (Fol. 123), and remained there until the Society took her. (Fol. 124.) While with Mrs. Deekman the girl attended school until the same was out in the Spring. (Fol. 843.)

On the girl's 16th birthday defendant gave her a diamond engagement ring and they became engaged to be married. (Fol. 850.)

The patience of the Court may be unduly taxed by the foregoing liberal references to the proof in the case, but its indulgence is assumed, since a series of independent facts are thereby established leading up to the main question to be considered, and must therefore necessarily, have an important bearing thereon.

The case is certainly in some respects *sui generis*.

The People entered upon the trial of this indictment with a purpose to prove a case of *Rape* by showing that the defendant on the 25th day of December, 1890, perpetrated an act of sexual intercourse with a female under the age of sixteen years, not his wife, while the indictment contained another count for abduction predicated upon the *same act* of sexual intercourse, and no other.

Upon the trial the People withdrew the Rape count.

Mr. McIntyre, for the People, says, at fol. 482 of case: "I did propose that this case be submitted upon the second or Rape count, but in view of the testimony that has been adduced here, I shall elect to proceed upon the count for abduction."

The Court then ruled as follows (same folio): "The second count will be withdrawn from the consideration of the jury."

Thus it will be conceded that the People had failed to adduce proof of the act of sexual intercourse charged in the indictment, as the basis of the Rape presentment, and yet claimed a conviction under the abduction count, predicated upon the *same act* of sexual intercourse. This proposition cannot be reconciled in reason or in law, and under the language of the indictment is clearly untenable.

A conviction for the crime of abduction cannot be upheld when the abduction is alleged to have had its inception in an act of sexual intercourse which the People say in effect, they did not prove.

At fol. 38 of case, defendant's attorney objected to proof of transactions occurring anterior to December 25th, 1890, the time laid in the indictment.

The Court thereupon suggested to the District Attorney the only view in which the evidence would be admissible, in this language:

The Court: "I understand the District Attorney to claim that the inception of *the taking* of the girl *on the charge of abduction*, was at that time."

To this view the District Attorney dissented, by

saying: "Mr. McIntyre, this all leads up to the time *when the rape was committed.*"

The defendant was arrested August 13th, 1891 (fol. 1817), upon the complaint of one Finn, an officer of the Society for the Prevention of Cruelty to Children (but understood to have since served time in prison for some crime), supplemented by an affidavit of the girl in question (fol. 141).

Defendant was arraigned in the Police Court August 14th. The girl was asked by defendant's attorney whether in her deposition so made she said anything about the defendant having had sexual intercourse with her, and she answered that she did not (folio 141). Then the case was postponed from the 14th to the 17th day of August, and on that day Mr. Jenkins of the Society moved a dismissal of the complaint. The motion was granted by the Court, and a new complaint was entertained.

Up to that time the girl says she had said nothing about the 25th day of December occurrence, but that on the 17th she made another affidavit prepared by Finn, in which she stated that defendant had to do with her at that time (folios 142 and 143), that she signed the second paper in Finn's office (folio 145).

Thus, this accusation against defendant had its inception. Upon the charge of sexual intercourse, so made, it was sought to convict the defendant of Rape, the Abduction count being merely a secondary matter, and that the attempt was abandoned by the people is unavoidably suggestive of the District Attorney's lack of confidence in its truthfulness.

That with all the offered opportunities to carry out his purpose in assuming charge of this girl, if that purpose was sexual intercourse, the defendant did not take advantage thereof, as conceded by the People and ruled by the Court, for a period of three months or longer, and then to select a situation and posture to begin, such as was attempted to be shown by the prosecution, is conclusive as showing, not only that such was not the purpose of the

defendant in taking the girl, but that he did not perpetrate such act of sexual intercourse.

The Court at folio 94 of Case ruled that there was no accusation made of sexual intercourse before Christmas, 1890. The Court said: "There is no "accusation made of that. I do not understand "from the testimony that the jury would have any "right to infer that there was any improper act "done as yet; we have nothing to show any act of "impropriety" (folio 94).

Why, then, was the accusation of sexual intercourse omitted in the first affidavit made by the girl?

Why was the accusation made three days afterwards in an affidavit prepared by Flinn, *supra*? And why was Christmas Day selected as the time?

Of all the days in the year that this young girl, or any other, would best remember, was *Christmas*.

Was that the reason for selecting the 25th day of December? The Court will not fail to note this suggestive procedure.

There was some evidence that the girl "slept with" defendant sometime in November 1890, but what part of the month she could not say. (There was no Christmas in that month) (folio 92). The subsquent ruling of the Court however (folio 94) eliminates this proof as not admissible under the indictment.

The Court having ruled, *supra*, that transactions *ante-dating* the 25th of December could not be proved under the indictment, at folio 128 of Case ruled that transactions *after* that date could not be proved.

Mr. Howe, defendant's then attorney, objected to proof of transactions occurring in January, 1891, as incompetent under the indictment, which charges specifically the 25th of December. The Court (to the District Attorney) "Haven't you gone far enough?"

Mr. McIntyre: "I now ask permission of the Court to prove subsequent offenses. However if there are any objections, I will withdraw it."

The Court: "The only question is as to competency."

Mr. McIntyre: "Probably your Honor is right, I will not press it."

The Court: "Gentlemen, I say to you, we are confined to this specific charge, the 25th of December, Christmas Day, and any suggestion that there may have been something occurring subsequently, you need not consider in this case. The question for you to determine is, whether an act such as is charged against the defendant as committed by him against this complainant on that day, to wit, the 25th day of December, was perpetrated." (Case, folios 127 and 128).

Now, the case is limited to a single transaction and a single date, and properly so. Had these rulings been adhered to, this Court would not now be compelled to review the great mass of what the defense respectfully submits is seemingly irrelevant and incompetent testimony that makes up this case, to determine whether the defendant was properly convicted under the indictment.

At folio 25 of Case the Court again ruled as follows:

"I think we had better keep ourselves down to the 25th."

At folios 228 to 234 The People sought to prove that the defendant had been seen in bed with the girl some other time than the 25th of December.

Mr. Howe objected in these words: "Objected to as incompetent and done to prejudice the jury, knowing that no Judge would permit such an answer. I ask your Honor to reject it."

The Court: "I reject it and say to the jury that they are not to be governed or at all guided by such remarks of the District Attorney, but I can see that the District Attorney had a right to make the suggestion to the Court. The Court now admonishes you that this is not evidence and you are not to allow that to govern you in the consideration of this case.

"Mr. District Attorney, in my present view I think you are confined to the issue, to wit: on a certain day a certain thing happened; it comes down to a certain time. Of course, if you go to prove what you have already suggested, then the proof would be proof of rape and not of abduction."

Mr. McIntyre: "There are two separate and distinct counts in the indictment, the one charging abduction in that the defendant harbored and enticed away the girl for immoral purposes, and the other, the technical charge of rape, or, in other words, charging him with the act of sexual intercourse perpetrated upon a girl under the age of sixteen years."

Mr. Howe: "Your Honor, the District Attorney is in this dilemma now, there are two counts in that indictment and it is very unfortunate for him that they are so jumbled. In the Plath case, with which your Honor is perfectly familiar, tried before the Recorder, in which there was a conviction and reversal by the Court of Appeals, the Court holding that the fact of their seeing that girl in a den of infamy which unquestionably was in the Bowery, was not evidence to corroborate either the original taking or the sexual intercourse which she claims she had with men upstairs. The Court said the corroboration must be as to the first purpose of the "*taking*." You remember the detective went there and proved against our objection that they saw the girl in the bar-room drinking and going upstairs with men. The Court of Appeals said that that was no corroboration as to the *taking*. The first count of this indictment charges abduction; there is no mistake about that. The testimony which might be admissible as to the first count would be clearly objectionable as to the second count. I will satisfy your Honor's legal mind of this in one second. Strike out from the indictment for the purpose of my argument the first count of the indictment and leave it for rape. I know your Honor too well to believe that you would hold for a second that if a

rape was committed on the 25th of December and that this man ravished the girl on the 29th afterward or on the 24th, that it would be proper to introduce that evidence. You can't prove other offenses because each one is a distinct and substantial offense."

The Court: "Objection sustained."

Mr. Howe: "Your Honor has just told the District Attorney that he had no right to ask the witness as to whether he had seen this defendant in bed with that girl at that time. The District Attorney persists in saying that he wanted to prove by that witness that they had been in bed. Will your Honor tell the jury to disregard the last remark of the District Attorney?"

The Court: "I do charge the jury to disregard it until such time as it may be admissible, if that time should ever come. I will consider that question during the recess."

At folio 292 of Case, the Court, reversing its previous rulings, decides to admit evidence (under defendant's objection) of transactions occurring before and after the time alleged in the indictment, *not in the line of corroboration*, "but to show the purpose and intent of the abduction."

The Court, obviously recognizing also the impropriety and danger to defendant in admitting evidence upon the trial that might bear upon one count in the indictment, and yet be concededly inadmissible under the other count, said, in ruling upon Mr. Howe's request that the District Attorney be required to elect upon which count he would proceed.

The Court: "I can only do what Judges always do under such circumstances; to charge the jury that if they come to consider in this case the question of rape they must *endeavor* to disregard the testimony of any other act. *Whether men are capable of doing that or not I cannot say.* How can I at this stage, there being no election as I look at

it; the District Attorney not being bound to elect, how can I exclude it?"

Mr. Howe: "Will your Honor permit me before you decide this, to say to you that acts and circumstances after or before, certainly after, are not testimony tending to corroboration, *and they can be admitted in no other view;* the Plath case states that, that is the very language of the Court of Appeals."

The Court: "Not at all admitting it, Mr. Howe, in the line of corroboration. I do not propose to say that now to this jury; it is to be admitted to show the purpose and the intent of the abduction."

Mr. Howe: "Your Honor will give me the benefit of an exception to that."

The Court: "Yes. I say to this jury if the accusation shall be one of rape, and it shall finally be submitted to the . . . . there are two counts in this indictment, one is in effect a charge of rape, and the other is a charge of abduction, that is, the *taking* of this girl *for purposes of sexual intercourse.*"

Mr. Howe: "Your Honor rules as in the Plath case, that it is incompetent for the purposes of corroboration, but you admit it on the question of intent."

The Court: "The intent under the abduction charge."

Mr. Howe: "Your Honor will give me the benefit of an exception, to have it clearly on the record" (folios 293 to 297).

In folio 302 the Court says: "*You can put upon the record that all this line of testimony is taken subject to objection.*"

One James W. Cameron was sworn as a witness for the people. This man had had some business relations with the defendant; had been in the baseball business with him (folio 397). A controversy arose between them; Cameron says because of the

manner in which the business was conducted by Wilson the defendant (fols. 418 to 422). and the defendant says, inferentially, because of Cameron's lapses in money matters, reprehensible conduct in using and giving the girls strong drink, and general hostility to defendant's interests (folios 430 to 439), and the business relations of these parties seems to have terminated in bad feeling.

Cameron was manifestly an unfriendly witness.

Additional to the girl's testimony on the question whether defendant ever had sexual intercourse with her, Cameron undertakes to say at folio 407 of Case, that he got "*a momentary glance*" at the defendant and the girl in question on a bed together; it was in the evening, sometime between the 15th of February and the 20th of May, 1891, at 205 West Thirty-first street. The girl was dressed and Wilson was in his drawers (fols. 398 and 407).

At folio 409 this witness says he went up "there" as early as 8 o'clock a. m. and saw defendant and the girl in bed, but whether together or not he does not say.

Again: This man says about the 16th, or 17th of May, 1891, at Hartford, Conn., in the Brower House, he looked over the transom of a door as he was going up stairs and saw the defendant and this girl on a bed together (fol. 427).

As to how convincing this evidence is, if that question is reached in the case, this Court will judge.

This, with what the girl says, *supra*, seems to comprise the evidence upon the question of sexual intercourse, covering a period of some eleven months or more, from September, 1890, when the girl came to defendant, to August 1891, when she was taken from him by officers of the Society.

Testifying about the alleged Christmas Day intercourse, the girl at folio 116 of Case, before reaching *the assertion of intercourse*, and evidently not remembering that there had ever been any such

transaction, was asked by the District Attorney the following question.

Ques. "What else did he (defendant) do that day?

Ans. (by the girl) "*That is all he done that day,*" omitting the intercourse.

Then by leading questions she afterwards made affirmative answers merely, as to the connection.

Then the situation of the case at the conclusion of the girl's direct examination is therefore this: The evidence has been limited by the Court to the 25th of December, and if the jury should find the act to have been perpetrated on that day, the statute makes it rape, and yet the rape count is withdrawn because the District Attorney practically conceded his failure to prove such intercourse.

At folios 164 and 165 of Case, the girl directly contradicts what she had previously sworn to about the November occurrence, and here swears that *Christmas was the first time defendant had ever "done wrong to her."*

At folios 166 and 167 the girl again flatly contradicts herself by testifying first, that there was nothing wrong done to her at the 3rd ave. flat, and then says there was.

This girl knew, certainly as much about her relations with the defendant as Cameron could possibly know, and she flatly contradicts him on the question of intercourse and confines the same substantially to Christmas Day alone, the November occurence being too vague and indefinite to be for a moment considered as proved.

Then, conceding the girl's testimony to be true upon the question of intercourse, it certainly suggests at once an abstinence and self restraint on the part of defendant, if his purpose in assuming charge of the girl was sextual intercourse, so remarkable as to become an absurdity.

At what tremendous cost then, were these at long interval indulgences, if this girl was taken and so generously provided for, merely for the purpose

of sexual intercourse. Nevertheless, among the multitude of witnesses sworn by the People, persons who were in both daily and nightly intimate association with these two persons, and most likely to know what their relations were, only by the girl, after a season with the Society's officers, and a second information, and the *opportune* witness Cameron, could such intercourse be shown. By others defendant's conduct toward the girl was shown to be uniformly kind, considerate and *chaste*.

True, much testimony was received in the case, the relevancy of which is not apparent, and the only tendency of which under the unfortunately drawn indictment and the several rulings of the Court, was to so confuse and perplex the jury that any verdict rendered would be rather the expression of the jury's bias than a finding under the forms of law.

The defendant swears, both generally and specifically that he never at any time had improper intercourse with this girl, and that he had no such purpose or intention either before, at the time of, or after taking charge of her. (Case, folios 848 and 857.)

Now, in passing from the consideration of the *facts* in this case to the *law*, one proposition can be asserted with entire confidence, viz.: That the conviction of the defendant was unquestionably the result of spreading before the jury a great mass of prejudicial testimony involving almost every detail of his life that could be inquired into in such a way as to create an adverse impression, with little apparent regard to limitation or strict admissibility. For instance, the People's exhibits of Oct. 9th, 1891, dated July 21st, 1890, (Case, folios 1195 to 1199), and of Oct. 14th, 1891, dated August 1st, 1891, (Case, folios 1201 to 1204), were two letters the possession of which by the People was, it is contended, obtained by most questionable methods and in direct violation of constitutional rights, alleged to have been admitted as evidence in the case and improperly

read to the jury (under defendant's objection), marked on different days, the effect of which being to maintain to the end of the trial the feeling of indignation which it was known this evidence would create in the minds of the jurors.

It can be safely said that, without the reading of these letters to the jury in this case there would have been no conviction; and it can be just as truly said that, under the ruling of the Court of Appeals in the Plath case, *supra*, these letters could not be properly admitted. Against the influence of such evidence, it would hardly be possible for the jury to render a verdict favorable to the defendant. The jury would be driven to a conviction "upon general principles."

That these letters were vile and filthy, will not be for a moment denied, and the man who would write them, merits the severest condemnation, but, how much more far-reaching and deplorable would be the result were they suffered to tear the bandage from her eyes, and swerve the even poise of JUSTICE.

In this case there was a specific presentment by the grand jury and to the proof of the offense so charged and that only, the People must be limited.

The defendant says at folio 1028 of Case that he regrets writing these letters (marked for identification, fols. 323–324).

That the defendant in the Plath case was characterless, and engaged in the vilest of the vile occupations, was no justification, the Court says, for his conviction for the crime of abduction. Did the defendant take this girl December 25th, as charged in the indictment *for the purpose of sexual intercourse.* The fact is, he took her months before that date, as shown by the proof, however, for no such purpose, but "to send her to school and educate her for the stage."

POINTS.

I.

The Court erred by allowing the District Attorney in his opening of this case, under objection, to poison the minds of the jury against the defendant by such unwarranted and prejudicial statements as: "This man (defendant) has been *for a quarter of a "century in the habit of destroying children.*" "The examination will show that the defendant has "been *in our midst the destroyer of children*" (fol. 4). "There is no man *more infamous this side "the gates of hell*" (fol. 7), etc.

That both the Court and District Attorney conceded the objectionable character of these statements, citing authorities holding the same to be improper, is unnecessary.

While suffering such statements to be made, the Court's admonition to the jury as to disregarding some of them, did not then extract the virus from the minds of jurors where a lodgment had already been found. These statements were wholly unwarranted and calculated at the very beginning of the trial to unjustly bias the minds of the jurors against defendant to his manifest prejudice.

People *vs.* Doyle, 12 N. Y. Supp., 836.

II.

The Appellate Court will reverse the conviction and grant a new trial when incompetent and inadmissible evidence was received by the trial Court under the objection of defendant's counsel duly taken, and when such evidence was manifestly prejudicial to the defendant.

People *vs.* Gibson, 4 N. Y., Supp., 170.

The Court said in its charge to the jury in this case: "The case has taken a *wide scope* by reason

of some of the surrounding characteristics and circumstances, and perchance something may have crept in *that might not have been strictly pertinent*," etc. (fol. 1073).

The defendant *likewise* contends that the people were given such latitude by the Court in the introduction of testimony, that a large percentage of their evidence offered, and received under objection, was obviously incompetent and inadmissible. To specify, however, within the limits of these points, each of such alleged errors, would require the reprinting much of the case itself, but, some of the more glaring and elementary, are herein particularly referred to, and to the residue, the Court will doubtless give due attention in the examination of the case as a whole.

1st. The Court erred in overruling the objection of defendant's counsel to evidence offered by the People and received, of transactions occurring in Utica when Eddie Weed and the Sunderland girl were there in August, 1890 (fols. 138 to 142).

2d. The Court erred in allowing William H. Sunderland, a witness for the people, to testify under the objection of defendant's counsel, to the receiving by the girl of a transportation-ticket to Utica, and how the same came to her (fols. 188 and 189).

3d. The Court erred in receiving under the objection of defendant's counsel, the evidence of the People's witness, *McFadden*, as to the playing of defendant's baseball club in August, 1890 (fol. 203).

4th. The Court erred in allowing the People to show by the witness, *McFadden*, under objection, that defendant went under an assumed name while the witness was acting as advance agent for him, etc. (fol. 211).

People *vs.* Gibson, *supra*.

5th. The Court erred in receiving like testimony by the People's witness, Roberts, under the objection of defendant's counsel duly made (fol. 224).

6th. The Court erred in allowing the People's witness, Ada Maskell, to be interrogated by the District Attorney and her answer to be received after due objection by defendant's counsel, as follows: "Ques. Do you ever remember seeing "Wilson go into the bedroom and take the clothes "off the bed while the occupants were in it in the "month of December" (fol. 254)?

7th. The Court erred in interrogating the People's witness, Jane Davenport, and receiving her answers as to what she overheard from the flat she occupied between defendant and somebody else, at some other time than Christmas, 1890, after the same had been duly objected to by defendant's counsel (fols. 269 to 278).

8th. The Court erred in allowing the District Attorney to interrogate the People's witness, Roberts, and his answers to be received as to whether in April, 1891, he saw the Sunderland girl in bed at No. 205 West 31st street in rooms occupied by the defendant, after the same had been duly objected to by defendant's counsel (fols. 296 and 297).

9th. The Court erred in allowing the District Attorney to interrogate thee Pople's witness, Roberts, as to where "Franklin's" baseball team played from and after May, 1891, after the same had been duly objected to by defendant's counsel (fols. 300 and 301).

10th. The Court erred in allowing the District Attorney to interrogate the witness Harrington, and his answers to be received as to calling at rooms on 7th avenue, and what he saw there about January, 1891, concerning defendant's dress, etc., after the same had been duly objected to by defendant's counsel (fols. 317 and 318).

11th. The Court erred in allowing the District Attorney to interrogate the People's witness, Harrington, and his answers to be received as to whether

certain letters shown witness (not addressed to the Sunderland girl, however) were in the handwriting of the defendant, after the same had been duly objected to by defendant's counsel (fols. 322 to 326).

12th. The Court erred in allowing the witness, Doubleday, to be interrogated by the District Attorney as to having seen a newspaper advertisement for board purporting to have been inserted by defendant, and her answer to be received, after the same had been duly objected to by defendant's counsel (fols. 327 and 328).

13th. The Court erred in allowing the District Attorney to interrogate the witness, Doubleday, and her answers to be received as to what happened st her house between herself and husband, etc., while the Sunderland girl was there, after the same had been duly objected to by defendant's counsel (fols. 334 to 337).

14th. The Court erred in allowing the District Attorney to interrogate the People's witness, Fitzsimmons, and her answer to be received as to seeing defendant's bed and sofa disturbed in November, 1890, after the same had been duly objected to by defendant's counsel (fol. 374).

15th. The Court erred in allowing the District Attorney to interrogate the People's witness, Lyons, and her answers to be received, as to transactions and conversations had with the defendant at No. 205 West 31st street in March, 1891, after the same had been duly objected to by defendant's counsel (fol. 379).

16th. The Court erred in allowing the District Attorney to interrogate the People's witness, Mary Keppler, and her answers to be received, as to conversations between defendant and the husband of the witness in May or June, 1891, at No. 221 East 114th street, after the same had been duly objected to by defendant's counsel (fol. 388).

17th. The Court erred in allowing the District Attorney to interrogate the People's witness, *Cameron*, and his answers to be received, as to answering an advertisement in a New York paper purporting to have been inserted by defendant in February, 1891, after the same had been duly objected to by defendant's counsel (fol. 395).

18th. The Court erred in allowing the District Attorney to interrogate the People's witness, *Cameron*, and his answers to be received, as to the movements of the defendant and his baseball club during the season of 1891, at what hotels they stopped, what their deportment was, and the conversation between the defendant and witness when he claims to have characterized the business, etc., after the same had been duly objected to by defendant's counsel (fols. 410 to 420).

19th. The Court erred in receiving the answer of the witness *Cameron* to a question put to him by the District Attorney, as follows: "I told him (defendant) I considered it (his baseball club) a traveling house of prostitution," after such question and answer had been duly objected to by defendant's counsel; also in refusing to strike out such answer upon motion of defendant's counsel duly made (fols. 421 and 422).

20th. The Court erred in allowing the District Attorney to interrogate the People's witness, Schultes, and his answers to be received, as to whether he had any conversation with defendant on the day of his arrest and what that conversation was, after the same had been duly objected to by defendant's counsel (fols. 474 and 475).

21st. The Court erred in allowing the District Attorney upon his cross examination of defendant's witness, Rouss, to interrogate him as follows:

1st. Ques. "Did you ever hear that Wilson was charged with crime in Philadelphia?"

2d. Ques. "Did you ever hear that he (defendant) was tried, convicted and sentenced for forgery in the State of Pennsylvania?"

3d. Ques. "Did you ever hear that in 1879, he (defendant) was tried and convicted for enticing a girl away in the city of New Orleans named Ella Burke?"

4th. Ques. "Did you ever hear anybody say that in 1876 in Camden, New Jersey, the defendant was indicted for assault and battery upon Jesse E. Houston, tried and found guilty?"

5th. Ques. "Did you ever hear in December, 1876, that he (defendant) was indicted for an assault in Camden upon one George Tontelotte?" and other similar questions, and after such questions had been severally and duly objected to by defendant's counsel on the ground that the same were incompetent and asked merely to prejudice the jury against the defendant (fols. 616 to 621).

22d. The Court erred in allowing the District Attorney upon cross-examination under the objection of defendant's counsel to interrogate defendant's witness, Wakeman, and his answer to be received as follows:

Ques. "A man who would take young girls away with him and with whom he had intercourse and by whom he had children, you would characterize as a moral man?" (fols. 643 and 644).

23d. The Court erred in allowing the District Attorney upon his cross-examination and under the objection of defendant's counsel duly made, to interrogate the witness Brunell as follows:

Ques. "Did you not exhibit your person and shape to him (defendant)?" (fol. 690).

24th. The Court erred in admitting the evidence, and allowing the District Attorney upon his cross-examination of the witness Brady, under the objection of defendant's counsel duly made, to read to the jury a telegram purporting to have been sent

by the defendant to the witness and in allowing the witness to testify to her purpose in coming to New York (fols. 744 and 745).

25th. The Court erred in allowing the District Attorney upon his cross-examination to interrogate the witness Brady as follows: Ques. "Mr. Wilson has said here in his examination that he took your daughter from a vile den; that her surroundings were infamous?" after the same had been duly objected to by defendant's counsel (fol. 748).

26th. The Court erred in allowing the District Attorney upon his cross-examination to interrogate the defendant as follows: Ques. "Did you there (in Corinth, Miss.) have sexual intercourse with her (Ella Long)?" under the objection of defendant's counsel duly made (Case, fol. 936aq).

27th. The Court erred in admitting in evidence People's Exhibit of Oct. 14th, 1891, viz: defendant's alleged letter to Ella Long, dated at New York, Aug. 15th, 1890 (Case, fols. 1213 to 1216), and allowing the same to be read to the jury, under objection by defendant's counsel duly made (Case, fols. 936aw and 936ax).

The Court in admitting this letter said: "It may "or may not go to his contradiction. I will receive "the letter" (same folios).

28th. The Court erred in admitting in evidence People's Exhibit of Oct. 14th, 1891, viz: defendant's alleged letter to Ella Long, dated at New York, Aug. 21st, 1890 (Case, fols. 1205 to 1208) and allowing the same to be read to the jury under objection by defendant's counsel duly made (Case, fols. 954 and 954a).

The Court in admitting this letter said: "It *may* "have a tendency to contradict the defendant" (Case, same folio).

29th. The Court erred in admitting in evidence People's Exhibit of October 14th, 1891, viz: defendant's alleged letter to Ella Long, dated Aug. 1st, 1890 (Case, fols. 1201 to 1205), and allowing the same to be read to the jury under objection by defendant's counsel duly made (Case, 954b and 954c).

The Court in admitting this letter said: "The "letter will be received as tending to contradict "this defendant's testimony and also as bearing "upon the character" (Case, same folios).

30th. The Court erred in admitting in evidence People's Exhibit of Oct. 9th, 1891, viz: defendant's alleged letter to Ella Long, dated at Buffalo, N. Y., July 21st, 1890 (Case, fols. 1195 to 1200), and allowing the same to be read to the jury under objection by defendant's counsel duly made (Case, fols. 954c to 954e).

The Court in admitting this letter said: "The "letter may be received, not for the purpose of "proving the contents of that letter, but for the "purpose of showing the intent and motive affecting character. I have not read it fully, *but if* "it does—*if* it has any tendency to contradict this "defendant it may be admissible. *I don't know* "*whether it has or not*" (Case, same folios).

The foregoing exhibits were letters alleged to have been written by defendant to a girl other than the one charged to have been abducted; they were obviously offered by the People to prejudice the minds of the jury against the accused, and as evidence were clearly objectionable.

People *vs.* Crapo, 76 N. Y., 288, and cases cited.

31st. The Court erred in allowing the District Attorney upon his cross-examination to interrogate the defendant as follows:

Ques. "Did you not promise her (Ella Long) that "you would marry her if she would keep out of "the way of the prosecution?" and his answer to

be received after the same had been duly objected to by defendant's counsel (Case, fols. 954j and 954k).

32d. The court erred in allowing the People's witness *Cameron*, to testify to alleged occurrences happening between defendant and the girl after the latter became sixteen years old, March 4th, 1891, tending to show sexual intercourse, under defendant's objection, and the like testimony of other witnesses for the People was equally incompetent and inadmissible; for instance (fols. 426I to 429I). In fact substantially all the testimony of the people's witness, *Cameron*, relates to occurences happening *after* the girl became sixteen years old. *Cameron* only became acquainted with defendant about February, 1891 (fol. 395). This evidence did not go to the corroboration of the proof as to defendant's purpose in *taking* the girl in the first instance and before she was sixteen years old, and would be incompetent for any other purpose.

III.

To warrant a conviction under the count in this indictment charging abduction, a felonious *taking* of the girl in question, as well as the purpose thereof, must be proved.

People *vs.* Plath, 100 N. Y., 590.

a. Without the felonious *taking*, there can be no abduction under the statute upon which this indictment is predicated.

People *vs.* Plath, *supra.*

b. Proof of an act of sexual intercourse with the girl while under sixteen years of age merely, does not constitute the crime of abduction unless the

original *taking* was for such purpose, otherwise it would be *rape*, as charged in the second count.

People *vs.* Plath, *supra.*
People *vs.* Connor, 31 N. Y. State R., 163.

c. A finding from proof in this case of a single act of sexual intercourse (if that were shown), occurring some four months after the *taking* of the girl, that he took her for such purpose, is so palpably wrong as to become error as matter of law.

IV.

Upon this trial, evidence by the People to prove other criminal acts on the part of the defendant in order to support the probabilities of the evidence that he committed the particular act charged, is inadmissible.

People *vs.* Gibson, 4 N. Y., Sup., 170.

Where a specific intent is required to make an act criminal, the doing the act does not raise a presumption that it was done with that intent.

People *vs.* Plath, *supra.*

V.

The employment of a girl under sixteen years of age for the purpose of sexual intercourse even, does not constitute the crime of abduction except where the *taking* of her person is accomplished by some active agency for such purpose. There must be proof of both abduction and the purpose for which it was accomplished.

People *vs.* Plath, *supra.*

1. To warrant a conviction in this case it must therefore be shown that the girl was *taken* for the purpose of sexual intercourse and the Court clearly erred in refusing to charge the jury as requested by defendant's counsel, "that unless the jury find, beyond a reasonable doubt that the defendant took the girl, at the time he took her for purposes of sexual intercourse, they must acquit" (Case, fol. 1082).

2. Also the Court clearly erred in refusing to charge the jury as requested by defendant's counsel, "that if the jury find from all the evidence that the motive, purpose and intention of the defendant when he took the girl was to rescue her from her unfortunate condition, to educate her for the stage and to improve and better her condition, they must acquit" (Case, fols. 1082 and 1083.)

3. The Court clearly erred in charging the jury, "that if the defendant took the girl with a lawful, legal and proper intent and having become possessed of her and then used her for the purpose of sexual intercourse, and she was under sixteen years of age, then he brings himself within the purview of this section of the law" (Case, fol. 1083).

If this be good law, then the *taking* or change of custody of the girl, whether felonious or otherwise, is not an essential ingredient of the crime of abduction, and between that and *rape* under Section 278 Penal Code, *supra*, there is not the slightest distinction, except as to punishment.

VI.

If the *taking* for the purpose of sexual intercourse is proved to the satisfaction of the jury *it matters not, to constitute the crime of abduction, whether the purpose was actually accomplished, or whether such purpose was frustrated before its actual accomplishment;* the felonious *taking,* is the gravamen of the crime.

People *vs.* Plath, *supra.*

Blackstone defines abduction as "the taking and carrying away of a child, a ward, a wife, etc., either by fraud, persuasion or open violence."

3 Blackstone's Com., 139–140.

The legislature recognizing the fact that the crime of abduction becomes complete upon proving the felonious *taking*, without regard to the actual consummation of such purpose, fixed the maximum punishment for the abduction at five years and a thousand dollars, while the maximum punishment for rape, at the time of this alleged charge, was fixed at twenty years imprisonment, this, for an act of sexual intercourse with a child under the age of sixteen years, regardless of the other ingredients necessary to constitute the crime of rape in case of adults, etc.

Penal Code, Sec. 278.

4. The Court clearly erred in refusing to charge the jury as requested by defendant's counsel, that the people are bound to show "beyond a reasonable doubt. that the defendant intended to abduct the girl for the purpose of sexual intercourse, when he *took* her to warrant a conviction" (Case, fol. 1084).

5. The Court clearly erred in refusing to charge the jury, as requested by defendant's counsel "that if the jury find that Wilson, when he *took* the girl did not intend to take, harbor or use her for the purpose of sexual intercourse, as charged in the in-

dictment, that subsequent sexual intercourse between the parties should be disregarded by the jury" (Case, fol. 1088).

Contrast the foregoing charge and refusals to charge from 1 to 5 inclusive, with the following from *i* to *m* inclusive.

As the indictment against defendant was framed charging him *conjunctively* with having "on the 25th day of December, 1890, at the city and county of New York, feloniously taken, received, harbored, employed *and* used one Libbie Sunderland, who was then and there a female under the age of sixteen years, to wit, of the age fifteen years, for the purpose of sexual intercourse, etc.," proof of the felonious *taking* was just as essential to warrant a conviction of abduction as before the 1886 amendment of section 282 of the penal code.

People *vs.* Stott, 5 N. Y. C. Rep., 61, being a similarly drawn indictment.

It was obviously the purpose of the Legislature in enacting the amendment *supra*, to circumvent the ruling of the Court of Appeals in People *vs.* Plath, 100 N. Y. R., 590, viz., that the felonious *taking* was the gravamen of the crime of abduction, and if such was the effect of the amendment (which is here denied), then such purpose was effectually nullified in the framing of this indictment, and a *taking* for the prohibited purpose, viz., sexual intercourse, was essential to warrant a conviction thereunder.

Owing, perhaps, to the peculiarity of this indictment and to the mistaken effect of the amendment *supra*, the charge of the learned Court to the jury in this case regarding the necessity for proving a felonious taking appears strangely confused and confusing, and contains apparently irreconcilable and conflicting declarations as to what is and is not the law upon this point.

d. Thus, at folio 1085 of Case, the Court says in charging the jury, "I am asked to charge you that

the gravamen of the crime charged in this indictment is not sexual intercourse, but abduction for the purpose of sexual intercourse. I charge you that."

e. Again, same folio, "I am asked to charge you that the only relation or relevancy of sexual intercourse in the case, if found to have occurred, is an incident or element tending to establish the purpose or intention of the defendant at the time the offense is charged to have been committed. That is the law, and I charge that."

f. Again, "But I charge you precisely and specifically if you shall find that there was no unlawful act, that the girl was not *taken* for the purpose of abduction as defined in the statute—no taking for the purpose of sexual intercourse," etc. (fols. 1086 and 1087).

g. Again, "But if you find, on the other hand, that at the time he *took* her that she was under sixteen, and that he *took* her for the purpose of prostitution, or for the purpose of sexual intercourse," etc. (case, fol. 1095). "It is just as much a crime to *take* a female of previous unchaste character under the age of sixteen for the purpose of prostitution or sexual intercourse as to take a chaste female under sixteen for a like purpose" (fol. 1086). "The object of the statute, says a learned writer, is to prevent children from being seduced from their parents or guardians by flattery or enticing words or promises of gifts, for the purpose of sexual intercourse or prostitution under the age sixteen" (fol. 1098).

h. Again, "If you find that he took her for the purpose interdicted by the statute, and find that she is under the age of sixteen" (fol. 1099).

Again, "If you find affirmatively that the intention was to abduct for sexual intercourse, or for the purpose of sexual intercourse as I have defined it," etc. (fol. 1100).

Then the Court recites to the jury the facts assumed proved in the case, dating from the first meeting between the defendant and the girl in Binghamton, N. Y. (Case, fols. 1106 to 1120).

Again, the Court charged, "If they (father and stepmother) both consented to the taking of this child for an unlawful purpose," etc. (fol. 1121).

i. Again, the Court charged as follows: "Of course you understand, gentlemen, as I have already said to you, that the act of sexual intercourse *is not a necessary ingredient to this crime*, but it is an *incident*, a circumstance which you can consider" (fol. 1124).

j. Again, "And when you come to examine the purpose and intent with which he got her" (fol. 1142).

Again, "If he took her before she was sixteen for a prohibited purpose," etc. (fol. 1153).

k. Again, "The corroboration must be as to the main act, to wit, abduction for the purpose of sexual intercourse" (fol. 1158).

l. Defendant's counsel: The act of sexual intercourse is not the question of crime.

The Court: You are right.

m. Defendant's counsel: The crime consists in the intent of abduction, and it might exist without being followed by sexual intercourse—the sexual intercourse is only an incident.

The Court: From which they may infer intent. I take the same view precisely.

Chief Judge Ruger says, in delivering the opinion in the Plath case, *supra*, "It was essential to the support of this conviction that People show, not only a *taking* by the defendant within the meaning of the statute, but also that such taking was for the purpose of prostitution. If the evidence establishes only a taking and fails to show that it was for the

prohibited purpose, it is insufficient to sustain the conviction, and so proof of the fact that the person of the female was used for the purpose of prostitution without proof of the abduction would not bring the accused within the condemnation of the statute.

VII.

The Court erred in allowing the District Attorney upon his cross-examination to interrogate the defendant in the particulars hereinbefore specified as error, including the People's exhibits therein referred to, and their admission in evidence, all under the objection of defendant's counsel.

People *vs.* Crapo, 76 N. Y., 288.

The Court says, Church, *C. J.*, delivering the opinion, "The discretion which the Courts possess to permit questions of particular acts to be put to witnesses for the purpose of impairing credibility, should be exercised with great caution, when an accused person is a witness on his own trial. He goes upon the stand under a cloud; he stands charged with a criminal offense not only, but is under the strongest possible temptation to give evidence favorable to himself. His evidence is therefore looked upon with suspicion and distrust, and if in addition to this, he may be subjected to a cross-examination upon every incident of his life, and every charge of vice or crime which may have been made against him, and which have no bearing upon the charge for which he is being tried, he may be so prejudiced in the minds of the jury as frequently to induce them to convict, upon evidence which otherwise would be deemed insufficient. It is not legitimate to bolster up a weak case by probabilities based upon other transactions. An accused person is required to meet the specific charge against

him, and is not compelled to defend himself against every act of his life."

Under the ruling of the Court in the above case the admission of the letters hereinbefore referred to was clearly error; they were part of a private correspondence between two persons sustaining such relations toward each other that the letters were the logical outcome thereof. If the same expressions had been used verbally by one party to the other, it would not be contended that the talk, though foul and filthy, would legitimately be a matter about which the defendant could be interrogated upon cross-examination to impeach his credibility as a witness or his general moral character—the transaction being with a person other than the girl named in this indictment as having been abducted by the defendant.

Again, the Court says in the Crapo case, "The prosecution can never be taken by surprise, either as to the defendant being a witness, or his character. The reasoning against this kind of evidence is far more logical and satisfactory. Mr. Phillips states it substantially as follows: That the obligations of an oath only binds to speak touching the matters in issue; that it would be an extreme grievance to a witness to be compelled to disclose the past transactions of his life, which may have since been forgotten, and to expose his character afresh to evil report."

The trial of this case was in some respects most extraordinary. Upon the question of the reception and rejection of evidence, in the light of the indictment, the rulings of the Court were obviously so conflicting and varied, that a jury would be unable to consider the legitimate proof and discard all else. At the beginning of the trial it was obviously the Court's intention to confine the proof to a specific issue raised by the indictment, but before the conclusion of the trial, it would seem that the door came to be erroneously opened for the admission of any proof, that the People might claim to be derogatory to the character of the accused.

It is clear that the Court erred in charging the jury, "that there would be a crime attached if a person gets possession of a female under the circumstances as related here; if he gets possession of her lawfully with no intent to violate the statute, but having got her he then conceived a design to violate the statute, his crime begins from that time" (Case, fol. 1223).

Thus the Court charges in effect that the defendant might have this girl in his possession for a lawful purpose, one month, one year or five years, and if at the end of that time he conceived a design to have sexual intercourse with her he could be convicted under this statute defining abduction. Such a contention is in direct conflict with the law as declared in the Plath case, *supra*, and substitutes abduction for rape.

The Court erred in charging the jury "that just as soon as a man puts his character in issue his life ought to go before the jury as an open book" (Case, fol. 1162).

People *vs.* Crapo, *supra*.

The conviction and judgment appealed from should be reversed.

JAMES R. STEVENS,
Atty. for Appellant.

J. D. HALLEN,
Of Counsel.

Re S.C.F. Wilson
Brief on
appeal

Fort Hamilton, New York July 22,98.

To the Honorable Joseph E. Newburger
one of the Judges of the Court of General
Sessions of the City of New York.

Your Honor:-

In submitting to your honor a petition for the remission of the residue of the fine of One Thousand Dollars ($1000.00) not served out by Sylvester F. Wilson, imposed upon him in addition to five years imprisonment by the late Judge Martine in October 1891, and in acting as the agent of said Wilson in the premises, permit me respectfully to submit the following explanation:

Firstly, personally and how I came to take up his case:

I am in my sixty-ninth year and after more than thirty years practice at the bar, (chiefly in England and California,) in 1885, I retired from practice and expected to spend the rest of my days in ease and retirement on a very modest competency which my more than thirty years of labor had procured me.

Unable to live in idleness, and being already something of a biologist and chemist, I took up the study of medicine; but after graduating, feeling dissatisfied with the old school practice, I resolved not to practice at all, unless I could find something more scientific than that practice seemed to me to be. I think I found this in the Homoepathic School whose principles and practice I studied, and after getting my diploma endorsed by the Regents of the University of New York, I practiced, almost exclusively among the poor and gratuitously. About a year ago the late Henry George - (wisest and best of Americans) handed me a letter from the prisoner, and asked me to look into his case, and that if I should think it deserving of assistance to tell him how he could be of any use; and the said Henry George did I believe

at the same time send out of his small means, the sum of Five Dollars to help the said Sylvester F. Wilson in his immediate distress.

When I saw the nature of the crime whereof the said Sylvester F. Wilson had been convicted, I felt greatly prejudiced against him; but thinking he had been more than sufficiently punished, I endeavored to induce various members of the bar of New York to take up his case as a matter of Charity. In this from various causes, special to the individuals addressed, I did not succeed, and becoming more and more convinced as I studied the case, that the prisoner had been treated with excessive severity perhaps with injustice, and that certainly he had been convicted in an illegal manner, I consented to act as his agent in applying for leave to make this application and in presenting the same to the Court. I have not received or been promised, neither is there the smallest probability that I ever could or should receive any fee or reward whatever for so acting; but on the contrary, it has already cost me a great amount of labor, very onerous at my age, and an expense which I support with difficulty.

Secondly. Of the guilt of the prisoner as disclosed by the record, the evidence is assuredly insufficient to overcome the presumption of innocence by the law.

Thirdly. The sentence, the utmost penalty of the law is surely excessive in a case in which first the girl confessed to acts of sexual commerce before she knew the defendant; and second the defendant offered and always stood ready to repair any wrong he might have committed by marrying the girl.

Fourthly. Judge Patterson, one of the most highly respected Judges of the Bench of New York, suspended execution of the sentence in language indicative of his

opinion as to the irregular, nat to say, illegal conduct of the trial, stronger than I have ever heard or read of as uttered by a judge in like case.

Fifthly. Notwithstanding such stay by Judge Patterson, the prisoner was railroaded to prison in a manner which I have been unable to understand and his appeal has never been heard.

Sixthly. By good conduct in prison, he became entitled to a remission of nearly seventeen months'time. At the expiration thereof, he was held at Sing Sing in default of payment of the fine of One Thousand Dollars, after the expiration of the five years, less "short time", and by the order of Judge Lent was on the 12th of September, 1896, committed to Ludlow Street Jail, to serve out the Thousand Dollar fine at One dollar per day, no account whatever being taken of his having been confined for sixteen months in the City prison of New York before being sent to State's Prison; fourteen months whereof was after sentence had been pronounced.

Seventhly. The man is absolutely a pauper, all his means and those of his friends were exhausted in vain efforts to bring his case before an Appellate Court.

Eighthly. The man is now held in prison for the crime of poverty only. Instead of acting as a deterrent example it only serves to exasperate the people as a glaring illustration of inequality in the administration of the law, and as my practice among poor working people has given me more than ordinary means of judging, whenever among laboring men the case of Wilson has been referred to in my hearing, it has been in terms of indignation at the injustice which has been done to him.

Ninthly. At his conviction Wilson was 39 years of age. He has now the appearance, and less than the vigor of a man of sixty or upwards. As a physician and upon my honor I do solemnly declare my belief that his present imprisonment is

acting injuriously both upon his body and mind. His days and nights are passed in idleness, brooding upon his sorrows and the injustice which he believes to have been done him and I do declare my belief that a continuance of such imprisonment is likely to render him mentally, and probably physically, incapable of self support and a burden upon the community for the rest of his life.

The foregoing are some of the reasons which induce me to urge upon your Honor a favorable consideration of the Prisoner's petition, and that you will grant the prayer thereof.

I have the honor to be,

Yours very respectfully,

Montagne R Leverson M.D.

M.A & Ph.D. of Göttingen Univ. (South Germany)

Ludlow Street Jail New York July 14th: 1898.

TO Asa Bird Gardiner, Esq.:
District Attorney of the City of New York.

Please take notice that on Thursday the twenty f[illegible] day of July instant, at ten o'clock in the forenoon, [illegible] thereafter as he can be heard, pursuant to leave given by the Hon: Joseph E. Newburger one of the Judges of the Court of Sessions of the city of New York, Montague R. Leverson, now of Fort Hamilton New York, an attorney of the Supreme Court of the United States and a member of the Bar of the Supreme Court of the State of California, also a doctor of Medicine, will as my agent, and pursuant to said leave so given as aforesaid, apply to the non. Joseph E. Newburger to remit the residue of the fine of One thousand dollars now yet served out by me, under the sentance passed on me by the late Judge Martine, in or about the month of October, 1898.

Yours respectfully

Sylvester H. Wilson.

Rec. the Manuscript
for Publication
of
Ingersoll's Wilson

Sheriff's Office.
COUNTY OF NEW YORK.

Thomas J. Dunn,
SHERIFF.

STEWART BUILDING, 280 BROADWAY.

New York, July 22nd, 1898. 189

Hon. Thomas J. Dunn,

Sheriff, New York County.

Dear Sir:-

According to the instructions contained in your letter dated July 21st, I have the honor to submit the following report as to the physical and mental condition of one Sylvester F. Wilson, now confined as a prisoner im the New York County Jail:-

I, John Mac Mahon Brown, M.D., Examiner in Lunacy, having on this 22nd day of July, 1898, duly examined into the health of one Sylvester F. Wilson, now confined as a prisoner in the County Jail, find him of sound mind but suffering from insomnia and irritability. (Physically) His heart, lungs, liver and kidneys are in a fairly healthy condition, but he suffers from irritability of the bladder which causes frequent micturition and he suffers from extreme debility. His constitution in general is in a broken down condition from, I believe, long imprisonment, the continuation of which, in my mind, will be detrimental to his health.

John Mac Mahon Brown

Physician, New York County Jail.

Sheriff's Office.
COUNTY OF NEW YORK.
STEWART BUILDING, 280 BROADWAY.

Thomas J. Dunn,
SHERIFF.

New York, July 22nd, 189

Hon. Joseph E. Newberger,
Judge, Court of General Sessions,
Criminal Court Building, City.

Dear Judge:-

Replying to the letter received from William J. McKenna, Chief Clerk of District Attorney's Office, in which he states that you want a physician to examine Sylvester F. Wilson, you will please find enclosed the Doctor's report.

Trusting this will be satisfactory, I remain,

Yours very truly,

Thomas J. Dunn
Sheriff.

Enclosure.

85 Cornelia street, Brooklyn, July 18.

Judge Joseph Neuberger:

Dear Sir---If I am encroaching on judicial functions in writing this letter in behalf of a man who, in my opinion, has suffered sufficiently, please throw this letter in the scrap basket; if I am within my rights, please give the matter your most thoughtful attention, with a disposition to be merciful, when the matter comes before you for judgment.

I refer to the case of Sylvester Franklin Wilson. I learn from ~~xxx~~ an article in a newspaper that he has served his term in prison, some five years, and is now confined in Ludlow street jail in default of $1,000 with which to pay a fine that was a part of his sentence. Of the merits of his case I know little, and that little is quite apt to be partial to him, since it comes from his friends, but it does seem to me that, even if it be granted that he is guilty of the crime of abduction, as charged, no good purpose can be served in keeping him longer in Ludlow street jail, where he ~~x~~ has already served out two-thirds of his fine. It is too much like the long-discarded and barbarous imprisonment for debt practiced in less enlightened times.

There lies before me as ~~x~~ I write a little printed document by Mr. Wilson, stating that "Like prisoners in Morocco, prisoners in Ludlow street jail ---no matter how many years kept there---are not supplied with clothing or shoes. If no money or friends are at hand to supply them, one must go naked and barefooted." You know better than I whether this is true. If it is true, it is or should be a blasting disgrace to the city, the State and the American Flag.

And so, honored sir, I earnestly ask you to consider whether, even though guilty, he has not been punished enough; whether it can do him or the State or the people of the State any good to imprison him further; whether the merciful remission of the remainder of his fine would not be best for all concerned.

Yours for justice and mercy,

Stephen Bell,

Printer and member of Typographical Union No. 6, of New York.

Sec. 198—200.

5th District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

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

Question. What is your name?

Answer. Sylvester Franklin Wilson

Question. How old are you?

Answer. 40 years

Question. Where were you born?

Answer. Ohio

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

Answer. 344 East 83rd Street

Question. What is your business or profession?

Answer. Mechanic

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

Answer. I am not guilty

Sylvester F Wilson

Taken before me this 19th *day of* August 1890

Police Justice.

POOR QUALITY ORIGINAL

1013

Police Court--- 5th District. 1087

THE PEOPLE, &c.,
ON THE COMPLAINT OF

William A. Finn
vs.
1 Sylvester Wilson
2
3
4

Offence Abduction
Sec. 282 Penal Code.

Dated August 17 1891.

C. N. Meade Magistrate.

Finn Officer.

S.P.C.C. Precinct.

Witnesses Lillie A. Sunderland

No. 100 East 23 Street.

No. Street.

No. Street.

$1000 to answer G.S.

DISTRICT ATTORNEY'S OFFICE RECEIVED AUG 20 1891

BAILED,

No. 1, by
Residence Street.

No. 2, by
Residence Street.

No. 3, by
Residence Street.

No. 4, by
Residence Street.

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

Defendant

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

Dated August 19 1891. C. N. Meade Police Justice.

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

Dated 18 Police Justice.

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

Dated 18 Police Justice.

The World
WEEKLY DEPARTMENT,
PULITZER BUILDING, PARK ROW, N. Y.

July 21, 1898

To the Hon. Joseph E. Newburger,
one of the Judges of the Court
of General Sessions of New York.

Sir:

I ask you to consider favorably the petition of Sylvester F. Willson for a remission of the residue of the fine not yet served out by him under the sentence passed upon him by the late Judge Martine in October 1891.

I remember that the impression his conviction caused among serious people and the editors of the press generally was that the law had at least been unduly strained to secure his conviction, and that notwithstanding such conviction he was looked upon as probably a victim and at any rate not a very guilty man.

It was generally expected that his conviction would be reversed, and the way in which, notwithstanding the strong terms in which one of the most respected Judges of New York suspended execution, he was hurried off to prison, destroyed all moral effect which might have followed his conviction, supposing him to have been guilty.

The curious way in which his appeal has been prevented from being heard has been a cause of considerable comment on the administration of Justice.

But the man has served out his term of imprisonment, and is now in jail, in a state of enforced idleness, calculated to breed insanity and this for the crime of poverty.

He is a pauper, rendered so by the law and by the law made a burden upon society.

He is prematurely aged, and as I am informed by medical authority, liable to become insane through constant brooding on his troubles.

Had he been much more guilty than the evidence showed he could possibly have been, he has been more than sufficiently punished, and his continued incarceration savors more of private vengeance and of cruelty than of justice.

The effect upon the community of seeing a man imprisoned for nearly three years, for not being able to pay a fine of $1000.o while a rich man would immediately be set free is calculated to be of the worst, and I respectfully urge in the interests of justice and of mercy that the residue of his fine be remitted in accordance with the prayer of his petition. I have the honor to be

Yours respectfully,

F. E. Willson

LIBRARIAN OF THE WORLD.

To the HONORABLE JOSEPH E. NEWBURGER,
Judge of the Court of General Sessions of the
City of New York.

The petition of Sylvester F. Wilson a prisoner in the County Jail of the county of New York,

respectfully sheweth:

That heretofore, and in the month of October, 1891, your petitioner was, at a term of the Court of General Sessions, held in and for the City and County of New York, convicted of the crime of abduction and by the Court, Judge Martine (since deceased) presiding, sentenced to five years' imprisonment and to pay a fine of One thousand dollars, the maximum punishment for such alleged offense. That William F. Howe Esquire of New York City, first appeared as attorney for your petitioner upon the trial resulting in such conviction and judgement but retired from the ~~case~~ Case before the conclusion of such trial because of a disagreement between himself and your petitioner touching the conduct of the defense, and was succeeded by Clark Bell Esq: of the said City of New York. That subsequent to said conviction and judgment, an appeal was taken therefrom to the General Term of the Supreme Court. A certificate of reasonable doubt was duly obtained ~~by~~ from Justice Edward Patterson and bail, pending such appeal was first fixed at Ten Thousand dollars, but was subsequently reduced to Five thousand dollars.

That your petitioner succeeded, after an imprisonment of sixteen months in the city prison of New York, in obtaining his release on bail, through the humane interposition of philanthropic persons. That in the meantime, Mr: Bell retired from the case and James R.

Stevens of Cohoes,New York,wassubstituted as your petitioner's attorney of record to prosecute said appeal.

That the testimony taken upon said trial was very voluminous and your petitioner therefore experienced difficulty in securing funds to print the Case on appeal,which only after much labor and difficulty was prepared for the printer.

That owing to your petitioner being in prison and the difficulties placed in his way,his Case and exceptions and appeal have never been heard.

That at last through the generosity of charitable persons your petitioner ,being wholly destitute of funds, the sum of seven hundred and fifty dollarswas provided and the case printed,containing over twelve hundred folios.

That as your petitioner is informed and believes,an elaborate and voluminous brief of the law and the facts of the case was prepared by Mr: Stevens,your petitioners said attorney,for use upon the argument of said appeal before the General Term,and said brief,was after a severe struggle with poverty,duly printed.

That ,as your petitioner is informed and believes,in consequence of his said attorney,James R. Stevens,living so remote from the courts of New York City,to wit,inCahoes,New York,oneJ.D.Hallon,an attorney of New York City,was entrusted with the care of certain details appertaining to the giving of bail,as aforesaid,the serving of the proposed case,receiving the amendments thereto, printing the same after settlement,and putting the appeal in readiness for argument;Mr:Stevens,in the meantime,undertaking to prepare the brief of law and fact; that as your petitioner is informed and believes,said local attorney in New York City procured the certificate of the Judge,caused the same to be printed in the case,and the same was duly settled by Judge Martine.

That as your petitioner is further informed and believes, the said J.D. Mallon, the local attorney, became involved in some tortuous transactions, on account of which he left the city and has not since returned and your petitioner has not since known of his whereabouts.

That the stay obtained by your petitioners was revoked several times by judges of the First Division of the court, and as many times renewed by the judges of the Second Division, but finally, for reasons your petitioner has never understood, your petitioner was arrested, notwithstanding his appeal, and conveyed to the State Prison at Sing Sing.

That your petitioner has further been informed and believes, that after the said J. D. Mallon had absconded, and when petitioners attorney Mr. Stevens, had completed his brief and sought to place said appeal on the calendar, for arrangement, he was told that the case had not been settled nor filed and was therefore not in shape for argument. That Mr. Stevens went with the District Attorney (or his assistant) to Judge Martine (prior to his decease) to ascertain whether he had settled the case and the Judge said that he could not remember whether he had or not, that if it were settled, it should be found filed with the Clerk of the Court of General Sessions, but the same has not been found.

That, until the said J. D. Mallon had absconded, no doubt had ever been raised as to the due signing and filing of said case, although the said J. D. Mallon was in the city and around the courts for fully one year after he informed the said Stevens that the same had been fully settled and filed and a printed statement that the same had been signed sealed and ordered to be filed as part of the

record,on the ~~8~~ 28th:day of January 1895 is attached to said case. That as your petitoner has been informed and believes,his said attorney,Mr:Stevens,thereupon submitted to the District Attorney a copy of the printed case,with all amendments complete,with arequest that it be examined and,if found satisfactory,consent be given to its settlement as printed,and that the appeal be then put upon the calendar for argument. That such case was retained at the District Attorney's office for such purpose,but no definite action could therefter be secured by the said District Attorney's office ~~[illegible]~~ to be taken and your petitioner was compelled to endure imprisonment because he could not get his appeal heard,notwithstanding as he has been advised and believes, there was scarcely any doubt but that the conviction against him was bound to be reversed..

Your petitioner further respectfully shows that he served the term of imprisonment to which he was sentenced ,notwithstanding the palpable illegality of the proceedings on his trial,and was thereafter transferred to Ludlow Street Jail to serve a thousand days for the Thousand dollar fine imposed in addition to the imprisonment. That he has been in said jail since the12th:of September1896,and is still there confined When granting a permanent stay,pending appeal and argument for a new trial Justice Patterson of the Supreme Court said;"From an examination of the official minutes of this case in the opinion of the Court grave errors have occurred and illegal evidence been introduced and ,it is the opinion of the Court that the defendant should not be sent to ~~[illegible]~~ prison to serve a sentence until this case has been reviewed by the higher Courts,and it is so ordered."

That an application for remission of the fine was made and the same was denied by the Hon:Joseph E.Newburger. That subsequently thereto

xx

on the petition of this petitioner, the said Hon: Joseph E. Newburger granted leave to renew the application for such remission, by an order duly made and entered, endorsed on the back of said petition at the June Term of the said Court of Sessions in pursdance whereof this petition is presented. Wherefore your petitioner prays that in view of all the circumstances connected with his case, as well as of the imprisonment he has undergone, as of his poverty and ill health, that your honor will order that the residue of the fine imposed upon him and not yet served out by your petitioner may be remitted to him, and that he may be released. Your petitioner has always asserted and he still maintains his innocence of the crime charged against him, and he confidently believes that had it not been for the unfortunate circumstances above narrated connected with his trial, he would not have been convicted; also that his conviction would have been reversed on appeal had that appeal come on to be heard; but aside from these considerations your petitioner prays your honor to take into account the fact that he has already served an imprisonment far exceeding any punishment ever before inflicted for the offense with which he was charged

And your petitioner will ever pray: Sylvester F. Wilson.

City and County of New York SS

Sylvester F. Wilson being duly sworn says, that he has read the foregoing petition subscribed by him and knows the contents thereof, and the same is true to the knowledge of deponent, except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

Sworn to before me this
15 day of July 1898.
Patrick H. Pickett
Comm of Deeds
N.Y. Co.

Sylvester F. Wilson

In the matter
of the Petition
of Ely Preston
for Writ
of
Habeas Corpus

ED. W. CHAMBERLAIN,
Attorney and Counsellor,
~~150 BROADWAY.~~ 146 West 59th St.
New York, 14 May 1889.

Re Petition
Sylvester F. Wilson

To
Hon. Frank S. Black,
Governor of State of New York.

Sir — From a superficial observation of the case of Sylvester F. Wilson I have always been of the impression that he was innocent of the crime of abduction. I have always believed, as I know numbers of other persons believe, that his conviction was accomplished not because he was guilty but for the purpose of making capital for a pestiferous association of mad fanatics and distant philanthropists. The severity of the sentence confirms my suspicion that undue prejudice was the instigating force in this conviction. I heartily join in the petition for his release by pardon.

Very respectfully
Ed. W. Chamberlain

I concur in the above recommendation
Lawson Lowdy 270 West 59th St. N.Y.

1022

In re

SYLVESTER F. WILSON

By

ED. W. CHAMBERLAIN

Law Offices
-of-
James R. Stevens,
Cohoes, N.Y.

July, 20th, 1898.

M. R. Leverson, M.D.

Fort Hamilton, N.Y.

My Dear Doctor .

Have been absent for some length of time from the city. Returned this morning . Fear I am too late to furnish any further aid in the Wilson matter. I regret this, inasmuch as I would have beem glad to do anything in my power to second your efforts to se secure a remission of the balance of the fine. I contend that in any aspect of this case, it would be a manifest miscarriage of justice to longer detain Wilson . Knowing what I do regarding the failure to have the whole proceeding reviewed, I cannot see how an impartial tribunal can turn a deaf ear to the only appeal left. My experience at the Executive chamber convinced me that the court was the last resort, and I have so much confidence in the judiciary of this state that I firmly believe, in the interest of simple justice, you will succeed in effecting a release. Can I do or say anything else to accomplish this result?

Hastily and Truly,

James R. Stevens

EDITORIAL DEPARTMENT

TWENTIETH CENTURY
64 FIFTH AVENUE

NEW YORK May 26th, 1898.

His Excellency,

Governor Black,

Dear Sir:-

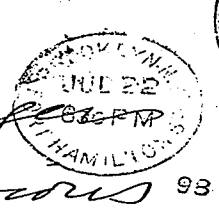
I am requested to join with others in an effort to secure from you justice for a poor prisoner confined in Ludlow Street Jail. I have repeatedly written in the "Twentieth Century" that the case of Sylvester F. Wilson was one calling for executive clemency and also for the repeal of the law which made possible the imprisonment of this man, after he served his legal sentence in Sing Sing. I appeal to you, as a lawyer and, particularly, as a humane man, for an inquiry into the case, and I have no doubt whatever that the result will be what I earnestly ask, namely, the liberation of the prisoner.

With great respect,

Your obedient servant,

D. O'Loughlin

Personal



The Hon Jos: E Hawley
Court of Sessions
Criminal Court Bldg
N. Y. City
N.Y.

THE JOHNSON COMPANY,

LORAIN, OHIO and JOHNSTOWN, PA.

New York, July 21, 1898.

To the Hon. Joseph E. Newburger,
Judge of the Court of General Sessions,
City.

Sir:-

I respectfully ask you to take favorable action on the petition of Sylvester F. Wilson for the remission of the residue of the fine of one thousand dollars not yet served out by him, imposed upon him by sentence of the late Judge Martine in October 1891, in addition to the extreme penalty of five years imprisonment, for the crime of abduction, the girl he was charged with abducting, having too, admitted on the trial that she was an impure girl at the time of the alleged abduction.

The prisoner has served the full term of imprisonment imposed (the maximum term) less allowance for good conduct in prison. I do not pretend to pass upon the guilt or innocence of the prisoner, though in the opinion of able lawyers he was illegally convicted, but supposing him to have been guilty, I respectfully submit that the punishment meted out to him was unusually severe. His present imprisonment--simply because he cannot pay a sum of money--serves no good purpose. It strengthens the belief, already unhappily strong, that the law is unequally administered between the rich and poor. This belief is apt to be further strengthened by the peculiar circumstances of this case, as follows:

First The peculiar proceedings upon the trial, generally believed to have involved much illegality.

Second The prisoner's having been hurried off to prison in spite of the strong terms in which one of the most respected

of New York's judges (Justice Patterson) granted a stay on account of the (to him) evidently illegal conduct of the trial, and

Third The manner in which, after all, the prisoner has not been able to get his appeal heard.

The above circumstances have brought about a state of things that the man's very conviction has raised a presumption of his innocence, and instead of acting beneficially on the public mind as upholding a respect for law, order and morality, it has had a contrary effect, and this greatly intensified by the fact that the prisoner is now being held simply for the crime of poverty.

I therefore respectfully ask you to remit to the prisoner, as prayed by him, the residue of the fine of one thousand dollars imposed upon him in addition to the five years imprisonment he has endured (less allowance.)

I have the honor to be, sir,

Yours respectfully,

Jno L Johnson

COURT OF GENERAL SESSIONS OF THE PEACE,

COUNTY OF NEW YORK.

THE PEOPLE, &C.,

v.

SYLVESTER F. WILSON.

NEWBURGER, J.-- This is an application for a remission of the residue of the fine of one thousand dollars ($1,000) not served out by the defendant.

In the month of October, 1891, the defendant was convicted of the crime of Abduction, and sentenced by Mr. Justice Martine to five years' imprisonment and to pay a fine of one thousand dollars. The defendant served the term of imprisonment, as required by the sentence, in State's Prison, and since the twelfth day of September, 1896, has been confined in Ludlow Street Jail, serving out the fine imposed.

It appears from the petition that the defendant is poor and unable to pay the remainder of the fine not served; and from a certificate submitted from Dr. J. McMahon Brown, physician to the New York County Jail, it further appears that the defendant is in ill health, and that a further imprisonment would be detrimental to his health. For these reasons the petition is granted and the defendant discharged.

Michael Puckett
Warden
Rudland St Jail

Rudland St Jail
Johnstown 6 30

N.Y. COURT OF GENERAL SESS

IONS.

The People, &c.,

v.

SYLVESTER F. WILSON.

Order Remitting Residue

of Fine.

Filed Aug 21/98

Michael Pickett
Warden
Ludlow St Jail

Ludlow St Jail
Telephone 630 Spring

N.Y. COURT OF GENERAL SESSIONS.

The People, &c.,

v.

SYLVESTER F. WILSON.

Order Remitting Residue of Fine.

Filed Aug 21/98

WILSON & SCOTT,
Attorneys and Counsellors at Law,
164-166 MONTAGUE STREET,

TELEPHONE 2349 BROOKLYN.

Brooklyn, N. Y., May 16, 1898.

Hon. Francis Black,

Governor of the State of New York,

Albany, N. Y.

Your Excellency:-

I have examined the record in the case of Sylvester F. Wilson and I venture to say he was convicted upon the smallest amount of legal evidence that ever overcame the "reasonable doubt" of a fair minded jury. Since Wilson's conviction he has served a sentence abundantly severe even if guilty of the crime, and has severely paid for an act which was only technically a violation of the Law as the "woman in the case" was near the legal age and admittedly impure before his proven crime.

In one respect he acted as possibly the majority of men would have done, but in offering to marry the girl his conduct was in every sense highly commendable and unusual~~ly~~.

It is the opinion of the writer from correspondence and interview with the prisoner that his mind is slightly unhinged and I doubt not that his malady will increase in severity, unless he is given his freedom.

Should your excellency pardon him I believe you will be exercising that great power in a case peculiarly fitted for its application.

I remain,

Most respectfully, Alus. J. Scott.

Fort Hamilton
N.Y. July 22/98

The Hon Joseph E Nicolayen

Dear Sir.

I have the honor to foward herewith the petition of Mr Jon: L Johnson in behalf of Wilson.

On receiving this petition I repeated to Mr Johnson your remark ~~that~~ respecting the petition of the C. L. U. and his own; he stated his experience did not enable him to judge the meaning of what you said but if it was meant to insult, that he had signed his letter without giving the matter a very thoro' consideration that you were laboring under a misapprehension.

He also believed the same with regard to the Central Labor Union, that the adoption of their cause

so conservative a body as the C. L. M. was indicative of a very deep feeling on their part & that if their petition be slighted he thought them quite likely to resent it.

I learned from Mr. J. E. Willson (Lib. of The World) no connection of the prisoner, that he too had written you very warmly on Wilson's behalf.

I venture to suggest that the recommendation of such a man as Mr Wilson is worth tons of letters from dupes of the organisation so admirably described by Mr Chamberlain in his letter to Gov. Black to which they refer you.

I have the honor to be
dear sir
Your respectfully
J. M. R. Lemieux

H O N. F·R A N K S. B L A C K,

Governor of the State of New York,

Albany, N. Y.

WILSON & SCOTT,
ATTORNEYS AND COUNSELLORS AT LAW,
164-166 MONTAGUE STREET,
BROOKLYN-NEW YORK.

Recommitted
Cowing Hyatt

Bloomingdale Reformed Church,
Boulevard & 68th Street.
New York.

March 23nd, 1898.

Mr. M. K. Leverson,
Fort Hamilton, N.Y.

Dear Sir:-

I did not write a letter to the Governor as you requested, because I appealed to him once before, in behalf of Wilson, and he referred the case back to the courts for the remission as provided by the statute, but that requires an attorney, the very thing I told him Wilson could not secure, so I thought a further letter would be useless.

Upon the request of the District Attorney, who favors Wilson's release, I have written to Judge Cowing for the remission of the fine.

Yours sincerely,

(Dictated) Madison C Peters

Bloomingdale Reformed Church,
Boulevard & 68th Street,
New York.

March 14th. 1898.

Dr. M. R. Leverson,
Fort Hamilton, B'klyn.

Dear Sir:—

I regret that I cannot accompany you to Albany, to help you in the Wilson case. The District Attorney told me personally that he was in favor of the remission of the fine, and he suggested that I see Judge Cowing to ask for the remission of the fine.

Very sincerely yours,

(Dictated) Madison C. Peters

Rev C Marion Petey

To the HONORABLE JOSEPH E.KENEDY,

Judge of the Court of General Sessions of the City of New York.

The petition of Sylvester F. Wilson prisoner in the County Jail of the county of New York,

respectfully showeth:

That heretofore,and in the month of October,1881,your petitioner was,at a term of the Court of General Sessions,held in and for the City and County of New York,convicted of the crime of abductionand by the Court,Judge Martine(since deceased)presiding,sentenced to five years'imprisonment and to pay a fine of One thousand dollars, the maximum punishment for such alleged offense. That William F. Howe Esquire of New York City,first appeared as attorney for your petitioner upon the trial resulting in such conviction and judgement but retired from the ~~People's~~ Case before the conclusion of such trial because of a disagreement between himself and your petitioner touching the conduct of the defense and was succeeded by Clark Bell Esq: of the said City of New York. That subsequent to said conviction and judgment,an appeal was taken therefrom to the General Term of the Supreme Court. A certificate of reasonable doubt was duly obtained from Justice Edward Patterson and bail ,pending such appeal was first fixed at Ten Thousand dollars,but was subsequently reduced to Five thousand dollars.

That your petitioner succeeded,after an imprisonment of sixteen months in the city prison of New York,in obtaining his release on bail, through the humane interposition of philanthropic persons. That in the meantime,Mr.Bell retired from the case and James R.

1

Stevens of Cohoes,New York,wassubstituted as your petitioner's attorney of record to prosecute said appeal.

That the testimony taken upon said trial was very voluminous and your petitioner therefore experienced difficulty in securing funds to print the Case on appeal,which only after much labor and difficulty was prepared for the printer.

That owing to your petitioner being in prison and the difficulties placed in his way,his Case and exceptions and appeal have never been heard. At last through the generosity of charitable persons your petitioner ,being wholly destitute of funds the sum of seven hundred and fifty dollarswas provided and the case printed,containing over twelve hundred folios.

That as your petitioner is informed and believes,an elaborate and voluminous brief of the law and the facts of the case was prepared by Mr. Stevens,your petitioners said attorney,for use upon the argument of said appeal before the General Term,and said brief,was after a severe struggle with poverty,duly printed.

That ,as your petitioner is informed and believes,in consequence of the his said attorney,James R. Stevens,living so remote from the courts of New York City,to wit,inCahoes,New York,oneJ.F.Hallen,an attorney of New York City,was entrusted with the care of certain details appertaining to the giving of bail,as aforesaid,the serving of the proposed case,receiving the amendments thereto printing the same after settlement,and putting the appeal in readiness for argument;Mr.Stevens,in the meantime,undertaking to prepare the brief of law and fact;that as your petitioner is informed and believes,said local attorney in New York City procured the certificate of the Judge,caused the same to be printed in the case,and the same was duly settled by Judge Martine.

That as your petitioner is further informed and believes, the said J.D Hallon, the local attorney, became involved in some tortuous transactions, on account of which he left the city and has not since returned and your petitioner has not since known of his whereabouts.

That the stay obtained by your petitioners was revoked several times by judges of the First Division of the court, and as many times renewed by the judges of the Second Division, but finally, for reasons your petitioner has never understood, your petitioner was arrested, notwithstanding his appeal, and conveyed to the State Prison at Sing Sing.

That your petitioner has further been informed and believes, that after the said J. D. Hallon had absconded, and when petitioners attorney Mr. Stevens, had completed his brief and sought to place said appeal on the calendar for arrangement, he was told that the case had not been settled nor filed and was therefore not in shape for argument. That Mr. Stevens went with the District Attorney (or his assistant) to Judge Martine (prior to his decease) to ascertain whether he had settled the case and the Judge said that he could not remember whether he had or not, that if it were settled, it should be found filed with the Clerk of the Court of General Sessions, but the same has not been found.

That, until the said J. D. Hallon had absconded, no doubt had ever been raised as to the due signing and filing of said case, although the said J. D. Hallon was in the city and around the courts for fully one year after he informed the said Stevens that the same had been fully settled and filed and a printed statement that the same had been signed sealed and ordered to be filed as part of the

record,on the ~~8~~ 28t :day of January 1895 is attached to said case. That as your petitoner has been in forsed and believes,his said attorney,Mr:Stevens,thereupon submitted to the District Attorney a copy of the printed case,with all amendments complete,with arequest that it be examined and,if found satisfactor.,consent be given to its settlement as printed,and that the appeal be then put upon the calendar for argument. That such case was retained at the District Attorney's office for such purpose,but no definite action could thereafter be secured, to be taken by the said District Attorney's office ~~#@//$##//%#@###/~~ and your petitioner was compelled to endure imprisonment because he could not get his appeal heard,notwithstanding as he has been advised and believes, there was scarcely any doubt but that the conviction against him was bound to be reversed..

Your petitioner further respectfully shows that he served the term of imprisonment to which he was sentenced ,notwithstanding the palpable illegality of the proceedings on his trial,and was thereafter transferred to Ludlow Street Jail to serve a thousand days for the Thousand dollar fine imposed in addition to the imprisonment. That he has been in said jail since the12th:of September1896,and is still there confined. When granting a permanent stay,pending appeal and argument for a new trial, Justice Patterson of the Supreme Court said;"From an examination of the official minutes of this case in the opinion of the Court grave errors have occurred and illegal evidence been introduced and ,it is the opinion of the Court that the defendant should not be sent to ~~###~~ prison to serve a sentence until this case has been reviewed by the higher Courts,and it is so ordered."

That an application for remission of the fine was made and the same was denied by the Hon;Joseph E.Newburger. That subsequently thereto

of this petitioner

viz: on /etition, the said Hon; Joseph E. Newburger granted leave to renew the application for such remission, by an order duly made and entered, endorsed on the back of said petition at the June Term of the said Court of sessions in pursuance whereof this petition is presented. Wherefore yourpetitioner prays that in view of all the circumstances connected with his case, ~~as hereinbefore detailed and appearing on the record~~, as well as of the imprisonment he has undergone his poverty and ill health that your honor will order that the residue of the fine imposed upon him ~~in addition to his imprisonment~~ and not yet served out by your petitioner may be remitted and that he may be released. Your petitioner has always asserted and he still maintains his innocee of the crime charged against him, ~~and still maintains and asserts his innocence thereof~~ and he believes that, had it not been for the unfortunate circumstances above mentioned connected with his trial ~~connected with his defense upon the trial~~, he would not have been convicted. ~~That even then, had it not been for misfortunes attending his appeal therefrom, such conviction and judgment would have been certainly reversed~~; but aside from these considerations also that his conviction would have been reversed on appeal but that appeal alone on the record your petitioner prays your honor to take into account the fact that he has already served an imprisonment very much in excess of any punishment ever before inflicted for the offense with which he was charged, and that your Honor will exercise the clemency hereby sought, and remit the residue of the fine imposed upon your petitioner and that your petitioner may be released, and your petitioner will ever pray, etc;

Dated at Ludlow st Jail July 1898.

City and County of New York SS

Sylvester F. Wilson being duly sworn say, that he has read the foregoing petition subscribed by him, and knows the contents thereof, and that the same is true to the knowledge of deponent except as to the matters therein stated to be alleged on information and belief, and as to those matters he believes it to be true.

Sworn to before me. 5th day of July 1898

CITY AND COUNTY OF NEW YORK, } ss.

Libbie Agnes Sunderland

aged 16 years, occupation school girl of No. 100 East 23' Street, being duly sworn deposes and says, that he has heard read the foregoing affidavit of William A. Finn and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this 17" *day of* August 1891. } Libbie Agnes Sunderland

Police Justice.

State of New York
City and County of New York } S. S.

Libbie Agnes Sunderland age 16 years on the 4th day of March 1891, occupation school girl of Binghamton State of New York, being duly sworn deposes and says that on or about the 25th day of December 1890. I was living in a flat at number 219 Seventh Avenue in the said City of New York with one Sylvester Franklin Hilson, and on or about that day while in the said apartments the said Hilson commanded me to wash his feet which I did with a sponge and a basin of water, and after which he commanded me to rub his neck with some liniment, which I also did and during which he put his hand up under my clothes and on my legs, and he then told me to unbutton my

drawers, which I did, and then the said Nilsan unbuttoned the front of his pants and taking out his naked penis he inserted it in my private parts and had full sexual intercourse with me, and that the said sexual intercourse took place in the parlor of the said apartments, while the said Nilsan was sitting on a chair and I was standing up in front of him and between his legs.-

I herewith furthermore state that from the date of the foregoing mentioned sexual intercourse up to about the second weeks of January 1891. the said Nilsan had sexual intercourse with me on several differant occasions

Libbie Agnes Sunderland

Sworn to before me this 17th day of August 1891.

Otto Wedd

Police Justice

Fifth District Police Court.

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

William A. Finn

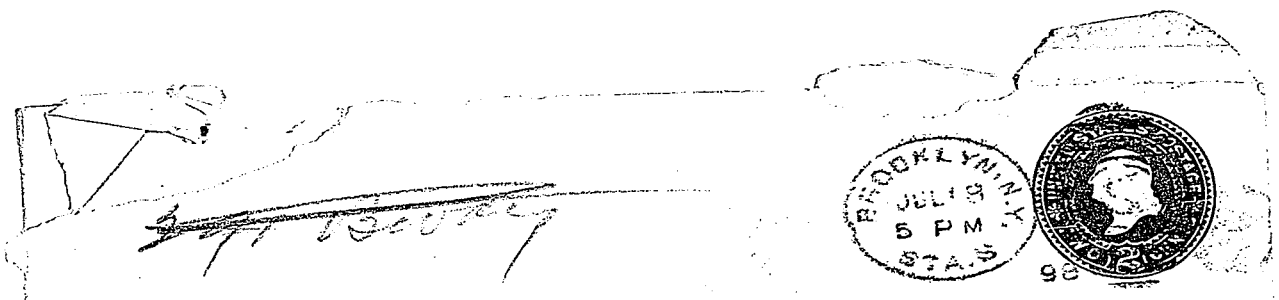
of Number 100 East 23d Street being duly sworn, deposes and says, that he has been informed by one Libbie Agnes Sunderland and verily believes that on the 25th day of December 1890 at the City of New York, in the County of New York, at number 219 Seventh Avenue in said City of New York, one Sylvester Franklin Wilson (now present) did unlawfully take, receive, employ, harbor and use a certain female (now present) called Libbie Agnes Sunderland, said female then and there being under the age of sixteen years, to wit, of the age of fifteen years, for the purpose of sexual intercourse, not being her husband, in violation of the statute in such case made and provided and especially of Section 282 of the Penal Code of the State of New York.

Wherefore the complainant prays that the said Sylvester Franklin Wilson may be ~~apprehended, arrested~~ dealt with according to law.

Sworn to before me, this 17th *day of* August 1891. } William A. Finn

C. O'Mead

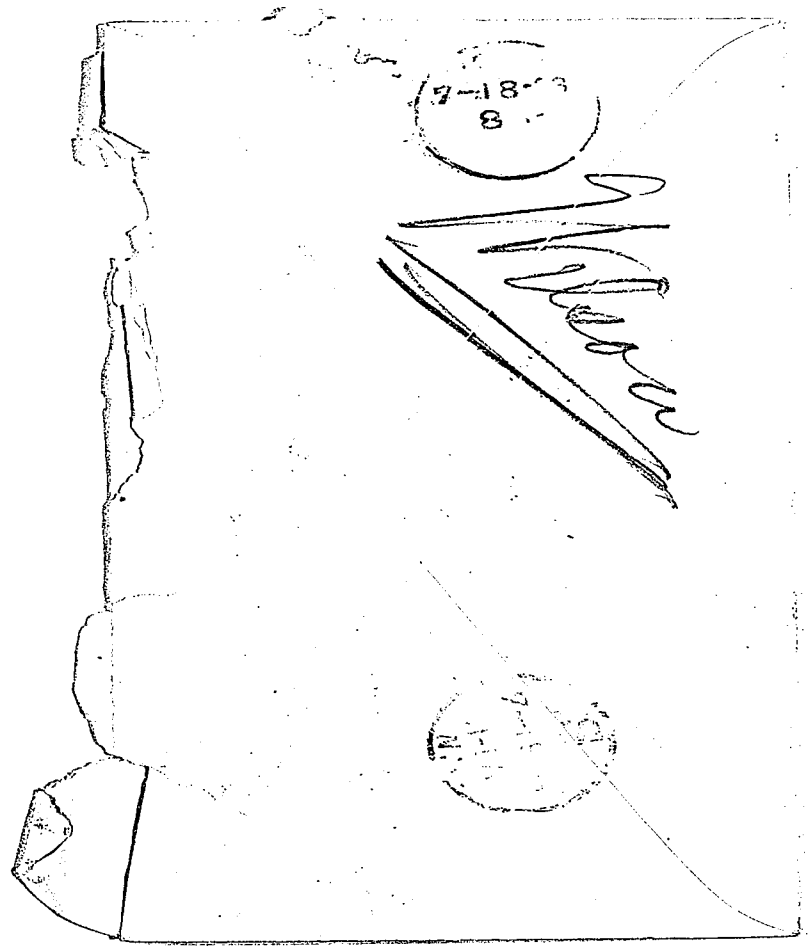
Police Justice.



Judge Joseph Newburger

New York City

(Manhattan)



1050

Please make out an order remitting
the balance of the fine in this case

E. L. Hall —

Sylvester F. Nelson

BOLTON HALL.

William H. Scott,
Counselor at Law,
Trinity Building,
Rooms 128 and 130, 111 Broadway, N. Y.

May 14, 1898.

Hon. Frank S. Black,
Governor of New York,
Albany, N.Y.

Sir:-

In reference to the case of Sylvester F. Wilson, now confined in Ludlow Street Jail in default of the payment of a fine, I would respectfully add my name to those who ask for a pardon.

He has already suffered a long imprisonment, and it seems to me contrary to the spirit of our laws that a man should be detained for a long time on account of his inability to pay a fine far beyond the possibilty of nearly all our citizens.

In view of the difficulties, which his poverty has put in the way of the hearing of his appeal, it seems to me that he should have the benefit of the doubt as to his guilt under the law.

Yours respectfully,

Bolton Hall.

BOLTON HALL,
COUNSELLOR AT LAW,
111 BROADWAY,
N. Y.

Hon. Frank S. Black,

"The Capitol"

Albany, N.Y.

New York, July 20, '98.

Dear Sir:

Your communications re Wilson case just reached me. I shall not be in the city to-morrow. District Atty Gardner told me that Wilson had been punished enough & that he was willing to let him go. Mr. MacIntyre said about as much when I saw them in the Spring. The District Attorney say gentle that I write to the Governor. His Excellency referred me & the Courts as the simplest way. Admit the man's guilt, he has already suffered more than was ever required of any man. Beyond + Judge Newburger's clemency & justice will undoubtedly lead him to remit the residue of the fine.

Yrs truly Wadsworth Peters

In the Court of General Sessions of the City of New York.

In the matter of the petition of Sylvester F. Wilson for a remission of the residue of the fine of $1,000 not served out by him.

Before the Honorable Joseph E. Newburger, one of the Judges of said Court.

The Central Labor Union respectfully showeth:

The Central Labor Union is an organization of wage workers of New York City, and comprises about 50,000 members, residents and citizens of the City of New York.

The case of Sylvester F. Wilson has been the subject of much consideration by the members of the Central Labor Union, and the treatment meeted out to him has seemed to its members as unusual and cruel that the Central Labor Union, as a body, after much deliberation, has resolved to unite in the present petition to the Honorable Joseph E. Newburger, Judge of the Court of Sessions of the City of New York.

The Central Labor Union desires at the outset to profess its abhorrence of the crime wherewith the said S. F. Wilson was charged and of which he

was convicted, and its present course is not to be regarded as in any way countenancing or condoning any such crime.

But those of the members of the Central Labor Union who recollect the trial conviction and sentence of the said S. F. Wilson were surprised at said sentence and did not seem to feel satisfied that justice had been done.

Innumerable opinions of attorneys and others who had examined the proceedings and record in the case reached the Central Labor Union, stating that the reversal thereof was certain as soon as the record should be brought to the notice of an Appellate Court by way of appeal.

Among these was the opinion of the Hon. Justice Patterson of the Supreme Court of New York, expressing his sense of the Character of the proceedings at the trial.

These opinions greatly influenced the Central Labor Union in presenting this memorial in support of the petition of the said S. F. Wilson.

The sentence imposed upon him seems to the Central Labor Union to have been unnecessarily severe, and difficulties of an almost insurmountable

nature seem to have presented themselves in opposition to his appeal.

He has endured the full term of imprisonment for which he was sentenced (less allowance for good conduct) and he is now held in jail in idleness and to the great cost of the community, simply because he cannot pay the fine imposed, and thus for the crime of poverty he has been held in jail since the 12th of September, 1896.

No possible good can be achieved by the further detention of Sylvester F. Wilson in jail. His health and mind are being destroyed by his enforced idleness, and instead of his imprisonment serving as a warning to others it serves but to excite pity for a victim of a cruel law cruelly administered, and to bring the administration of Justice and the law itself into contempt.

Therefore the Central Labor Union respectfully urges Your Honor's favorable action upon the petition of the said S. F. Wilson.

Edward F. Farrell,
Corresponding Secretary,
Central Labor Union.

City and County of New York, ss.:

Edward F. Farrell, of 331 East 88th. Street, New York City being duly sworn says that he is the Corresponding Secretary of the Central Labor Union and that at a meeting of that body held on July 10th. 98. he was directed by unanimous vote to petition as above and to affix the seal of the Central Labor Union to said petition.

Edward F. Farrell,

Sworn to & subscribed before me this 18th day of July 1898

Joseph Winkopp
Notary Public
N.Y.C.

Petition
of the
Central Labor Union
in the
Matter of the Remission
of the
Residue of the Fine
of
Sylvester F. Wilson.

1059

CITY AND COUNTY OF NEW YORK, } ss.

POLICE COURT, 5th DISTRICT.

William H. Sunderland

of ~~No.~~ Binghamton, New York ~~Street~~, aged 43 years,

occupation Segar maker being duly sworn deposes and says

that ~~on the~~ ~~day of~~ ~~188~~

~~at the City of New York in the County of New York~~ he is the father of one Libbie Agnes Sunderland (now present) and that the said Libbie was born on the 4th day of March 1875 in the town of Little Falls, Herkimer County, State of New York.

William H Sunderland

Sworn to before me, this 17th day of August 1894

Police Justice

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK
against
Dewitt S. Wilson

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

Dewitt S. Wilson —

of the CRIME OF ABDUCTION, committed as follows:

The said Dewitt S. Wilson, —

late of the City of New York, in the County of New York aforesaid, on the twenty-eighth day of December, in the year of our Lord one thousand eight hundred and ~~eighty~~ ninety, at the City and County aforesaid, did feloniously take, receive, harbor, employ and use one Lillie Rogers Sunderland, who was then and there a female under the age of sixteen years. to wit: of the age of fifteen — years, for the purpose of sexual intercourse, he, the said Dewitt S. Wilson not being then and there the husband of the said Lillie Rogers Sunderland, against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York and their dignity.

~~JOHN R. FELLOWS,~~

~~District Attorney.~~

~~Second~~ COUNT:—

AND THE GRAND JURY ~~AFORESAID~~, by this indictment, further accuse the said [illegible]

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

The said [illegible],—

late of the City and County aforesaid, afterwards to wit: on the day and in the year aforesaid, at the City and County aforesaid, with force and arms, in and upon a certain female not his wife, to wit: her, the said [illegible], then and there being, wilfully and feloniously did make ~~another~~ assault, she, the said [illegible] being then and there a female under the age of sixteen years, to wit: of the age of [illegible] years; and the said [illegible] then and there wilfully and feloniously did perpetrate an act of sexual intercourse with her, the said [illegible], 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.

[illegible],
~~JOHN R. FELLOWS~~, *District Attorney.*

1062

BOX:
451
FOLDER:
4157
DESCRIPTION:
Woodworth, Joseph
DATE:
09/25/91

Witnesses:

Wm H. Wade

Edward C. Price

3d & 1st Off. Comer

Counsel,

Filed 25th day of Sept 1891

Pleads, Not Guilty 2d

THE PEOPLE

vs.

Joseph Woodworth

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

DE LANCEY NICOLL,
District Attorney.

A TRUE BILL.

W. J. O'Berry
Foreman.

POOR QUALITY ORIGINAL

1064

(1365)

Police Court— 1s District. **Affidavit—Larceny.**

City and County of New York, } ss.

of No. 353 (York) 51- Jersey City Street, aged 25 years,
occupation Painter being duly sworn,
deposes and says, that on the 26 day of July 189/ at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of deponent, in the day time, the following property, viz:

one gold Watch with Plated Chain attached of the value of Seventy dollars and other property consisting of wearing apparel all of the value of one hundred dollars

Deponent

Sworn to before me this 26 day of July 189/

Police Justice

and that this deponent has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen and carried away by Joseph Woodworth (marked) Deponent says that said defendant is hereby sent to bed in a room together in Hotel Irving 14th Street and Irving Place in said City on the night of said date Deponent says that when he awakened he missed said property

and said defendant took goods away
Deponent says that said
defendant left part of his
wearing apparel in the place
of what he took and he
admits taking the aforesaid
property

Wm H Wade

Sworn to before me
this 15 day of Sept 1891
Solon Bell
Police Justice

Sec. 198—200.

1 District Police Court.

CITY AND COUNTY OF NEW YORK, } ss.

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

Question. What is your name?

Answer. Joseph Woodworth

Question. How old are you?

Answer. 17 years

Question. Where were you born?

Answer. N Y

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

Answer. 476 Second Ave 6 years

Question. What is your business or profession?

Answer. Brass Buffer

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

Jas. Woodworth.

Taken before me this 5 *day of* Sept 1887

Police Justice.

POOR QUALITY ORIGINAL

1067

1242

Police Court--- 1st District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

William L. Noyes
353 [illegible]
Joseph Needham [illegible]

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

Offence: Larceny

Dated Sept 15 1891

McCarthy Magistrate.

[illegible] Officer.

[illegible] Precinct.

Witnesses Officers

No. ...... Street.

No. ...... Street.

No. ...... Street.

$ 500 to answer G S

Committed [illegible]

BAILED,

No. 1, by ......

Residence ...... Street.

No. 2, by ......

Residence ...... Street.

No. 3, by ......

Residence ...... Street.

No. 4, by ......

Residence ...... Street.

It appearing to me by the within depositions and statements that the crime therein mentioned has been committed, and that there is sufficient cause to believe the within named Defendant guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Five Hundred Dollars, and be committed to the Warden and Keeper of the City Prison, of the City of New York, until he give such bail.

Dated Sept 15 1891 Solon B Smith Police Justice.

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

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

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

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

New York, Sept 21/91

To Whom it may concern. This is to certify that Joseph L. Woodworth has been in the employ of Archer Suncoast & Co, for the period of one year during which time I have found him to be sober and industrious. On account of slackness in work I was compelled to dispense with his services.

Very Respectfully

Edward. S. Price

Foreman Polishing Room.

1069

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Joseph Woodworth

The Grand Jury of the City and County of New York, by this indictment, accuse Joseph Woodworth of the CRIME OF GRAND LARCENY IN THE second DEGREE, committed as follows:

The said Joseph Woodworth late of the City of New York, in the County of New York aforesaid, on the 26th day of July in the year of our Lord one thousand eight hundred and ninety-one, at the City and County aforesaid, with force and arms,

one watch of the value of sixty dollars, one chain of the value of ten dollars and divers articles of clothing and wearing apparel, of a number and description to the Grand Jury aforesaid unknown, of the value of forty dollars, —

of the goods, chattels and personal property of one William H. Wade

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

De Lancey Nicoll,
District Attorney.

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