

0008

BOX:

370

FOLDER:

3464

DESCRIPTION:

Armstrong, George

DATE:

10/25/89



3464

0009

BOX:

370

FOLDER:

3464

DESCRIPTION:

McDonald, Henry

DATE:

10/25/89



3464

00 10

Witnesses:

Wm Casey

Counsel,

Filed 25- Oct. 1899

Plsds,

THE PEOPLE

vs.

Henry Mc Donald

and

George Armstrong

Grand Larceny Second Degree

[Sections 528, 536, 537, Penal Code]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Mr L. C. Boley Foreman.

(Court) Oct 24/99

Read J. L.

Per the C. 6 ms P.M.

0011

Police Court

District

Affidavit—Larceny.

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

William Casey

of No. 1 Chatham Square Street, aged 30 years,
occupation Book Collector being duly sworndeposes and says, that on the 13 day of October 1889 at the City of New
York, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the night time, the following property, viz:

A pocket book containing good and
lawful money of the United States of
the amount and value of Ten dollars
one silver ring, one gold Pencil, one
small iron key and two tickets representing
pledged property and one felt hat
all of said property being of the
value of thirty 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 Henry Mc Donald and George Armstrong

(both men here) from the fact that he is
informed by Charles A. Farnosa an officer
attached to the Sixth Precinct Police that
he found part of said property in his
possession Deponent is further informed
by Frank Bishop that he found one
of said tickets representing pledged
property in the room occupied by said
Armstrong immediately after the aforesaid
officer had taken him therefrom

William Casey

Sworn to before me, this 14 day
of Oct 1, 1889

Police Justice.

00 12

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 25 years, occupation Police Officer of No. 6th Precinct Street, being duly sworn deposes and

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

Sworn to before me, this 14
day of Oct 1889

Charles A. Formosa

D. J. O'Sullivan
Police Justice.

0013

CITY AND COUNTY } ss.
OF NEW YORK, }

aged 32 years, occupation Frank Bishop
Watchman of No.

4 1 Chatham Square Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of William Casey

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

Sworn to before me, this 14
day of Oct 1889

Frank Bishop

Da V. C. Murphy
Police Justice.

Sec. 198—200.

District Police Court

CITY AND COUNTY }
OF NEW YORK. } ss.

OF NEW YORK, }
Henry Mc Donald being duly examined before the under-
 signed according to law, on the annexed charge; and being informed that it is h ~~right~~ to
 make a statement in relation to the charge against h ~~him~~; that the statement is designed to
 enable h ~~him~~ if he see fit to answer the charge and explain the facts alleged against h ~~him~~
 that he is at liberty to waive making a statement, and that h ~~his~~ waiver cannot be used
 against h ~~him~~ on the trial.

Question. What is your name?

Answer

Question. How old are you?

Am super

Question. Where were you born?

Answer

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

Answer

Question. What is your business or profession?

Answer

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

Answer

I took the property
Henry M. & Donald

Taken before me this

day of —

18

Police Justice

00 15

Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer.

George Armstrong

Question. How old are you?

Answer.

30 years

Question. Where were you born?

Answer.

N B

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

Answer.

1 Chatham Square 2 mos

Question. What is your business or profession?

Answer.

Labourer

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 dont know anything about
it George Armstrong

Taken before me this

day of

188

Police Justice.

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

guilty thereof, I order that, ⁷ he be held to answer the same and ⁷ he be admitted to bail in the sum of Ten Hundred Dollars, Each and be committed to the Warden and Keeper of the City Prison, of the City of New York, until ⁷ he give such bail.

Dated Pch 17 1889 Sd Jodhpur 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*

0017

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court--- / District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

William Casey
1 Chatham Square
Henry Mc Donald
George Armstrong

3. _____
4. _____

Offence *Larceny*

Dated *Oct 14* 188 *9*

Daniel O'Reilly Magistrate.

Chas A. Farness Officer.

6 Precinct.

Witnesses *Frank Bishop*

No. *1* Chatham Square Street.

Officer

No. _____ Street.

_____ Street.

_____ Street.

1000 *G. S.*

COMMITTED.

0018

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against
Henry McDonald
and
George Armstrong.

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

accuse *Henry McDonald and George Armstrong*
of the CRIME OF GRAND LARCENY IN THE *second* DEGREE, committed
as follows:

The said

Henry McDonald and
George Armstrong, both

late of the City of New York, in the County of New York aforesaid, on the *thirteenth*
day of *October* in the year of our Lord one thousand eight hundred and *eighty-*
nine, at the City and County aforesaid, with force and arms,
the sum of *ten* dollars in money lawful
money of the United States of the value of
ten dollars, one ring of the value of
five dollars, one pencil of the value of
five dollars, one key of the value of
ten cents each, two parson tickets of
the value of *three* dollars each, one
hat of the value of *three* dollars, and
one pocketbook of the value of *fifty*
cents

of the goods, chattels and personal property of one

William Casey

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.

0019

SECOND COUNT—

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

Henry McDonald and George Armstrong
of the CRIME OF CRIMINALLY RECEIVING STOLEN PROPERTY committed as follows:

The said

Henry McDonald and George Armstrong, both

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,

The sum of ten dollars in money, lawful money of the United States and of the value of ten dollars, one ring of the value of five dollars, one pencil of the value of five dollars, one key of the value of ten cents, two pawn-tickets of the value of three dollars each, one hat of the value of three dollars, and one pocketbook of the value of fifty cents

of the goods, chattels and personal property of one

William Casey

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

William Casey

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

Henry McDonald and George Armstrong

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

JOHN R. FELLOWS,
District Attorney.

0020

BOX:

370

FOLDER:

3464

DESCRIPTION:

McGuire, John

DATE:

10/16/89



3464

Witnesses:

Alof Anderson

off. James A. Cronin

7th Prec

126

Counsel,

Filed

day of

1889

Pleads,

THE PEOPLE

vs.

John McGuire

Grand Larceny, 1st Degree.

(From the Person.)

[Sections 528, 584 — Penal Code]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Foreman.

Wm. D. Goly.

Oct. 17/89

James A. Cronin

S. S. 14 days P.B.M.

0021

0022

Police Court—

3rd District.

Affidavit—Larceny.

City and County }
of New York, } ss.

of No.

135

Cherry

Street, aged

38

years,

occupation

Sailor

being duly sworn

deposes and says, that on the

3rd

day of

October

188

at the City of New

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

of deponent, in the night time, the following property, viz:

one double case silver watch of the
value of seven dollars and fifty
cents

(~~7~~ 50
1.00)

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 M. Guire (now here)

for the reason that on the above-mentioned
date about the hour of 12.30 o'clock A.M.
deponent was standing on the sidewalk
in front of No. 137 Cherry Street when said
defendant snatched the above-described
property from deponent's left hand
and ran away with the same

Defendant

Sworn to before me this
day of

Police Justice.

0023

CITY AND COUNTY } ss.
OF NEW YORK, }

POLICE COURT, 3 DISTRICT.

of the 7th Precinct Police Street, aged _____ years,
occupation Police Officer being duly sworn deposes and says,
that on the _____ day of _____ 188

at the City of New York, in the County of New York, @ Hof. Anderson
now here) is a material softness in
the Case of the people against John
eff. Guire on a Charge of Grand
larceny. That deponent has good
reason to believe that said
Anderson will not appear at the
next Court of General Sessions to
testify as such witness. Wherefore
deponent prays that said Anderson be
committed to the House of Detention.

James J. Cronin

Sworn to before me, this 10th
of October 188 9 day

W. B. Smith
Police Justice

0024

Sec. 198—200.

3 District Police Court.

CITY AND COUNTY OF NEW YORK } ss.

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

Question. What is your name?

Answer. *John McGuire*

Question. How old are you?

Answer. *21 years*

Question. Where were you born?

Answer. *New York City*

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

Answer. *25 Catharine St. about 6 months*

Question. What is your business or profession?

Answer. *Insurance*

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 have nothing to say to the Charge*

John McGuire

Taken before me this
day of *October* 1889.

Police Justice.

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

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.

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.

Date October 9th 1888 W. H. West Police Justice.

Date October 9th 1888 W. H. West 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.

0026

BAILED,

No. 1, by

Residence Street.

No. 2, by

Residence Street.

No. 3, by

Residence Street.

No. 4, by

Residence Street.

Police Court---

3

1505
District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Hof Andersen
vs.
John McEune

2

3

4

Gregory J. Brown
Officer

Dated *Oct 3* 188

Driffy Magistrate.

James J. Brown Officer.

Precinct.

Witnesses *James J. Brown*

of the 7th Precinct Street.

Hof Andersen

committed to the House Street.

No. *Detention* Street.

to the House Street.

No. *Detention* Street.

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to the House Street.

0027

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 McGuire

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

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

The said

John McGuire

late of the City of New York, in the County of New York aforesaid, on the *third*
day of *October* in the year of our Lord one thousand eight hundred and
eighty-*nine*, in the *night* — time of the said day, at the City and County
aforesaid, with force and arms,

*one watch of the value of
seven dollars and fifty cents*

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

John R. Fellows,
District Attorney.

0028

BOX:

370

FOLDER:

3464

DESCRIPTION:

McKenna, Charles

DATE:

10/29/89



3464

Mary J. McClellan
Henry Kiernan
Emil Reimant.

Depth Character
exceedingly beautiful
see his Record.

22

Filed 29 day of Feb 1879.
Plends, Wm. Smith

THE PEOPLE

vs:

2

Charles M. H.

Nov. 13/87 I have not received
 anything from JOHN R. FELLOWS,
 1604 W. 4th St., Chicago.

District Attorney

A True Bill

Formulas

Wm Lloyd Garrison

Exhibit in the Third degree,
Section 498, 506, 528, 532, 551.

Nov. 13, 1911. 10:11 AM. Not reached today.

Adjoining to JOHN R. FELLOWS,
Nov-14-01, 1870

5

HEALTH DEPARTMENT OF THE CITY OF NEW YORK
 Sanitary Bureau, Vital Statistics
 Office, 301 MOTT STREET,
 New York, May 10, 1888.

A TRANSCRIPT FROM THE RECORD OF DEATHS

IN THE CITY OF NEW YORK.

NAME OF DECEASED
 DATE OF DEATH.
 AGE OF DECEASED

HOW LONG RESIDENT IN CITY
 BIRTHPLACE
 CONDITION
 OCCUPATION

COLOR
 FATHER'S BIRTHPLACE
 MOTHER'S BIRTHPLACE

PLACE OF DEATH
 WARD.

CAUSE OF DEATH.

TIME FROM ATTACK TILL DEATH
 YEARS MONTHS DAYS HOURS MINTS

UNDER TAKER

MEDICAL ATTENDANT

PLACE OF BURIAL

NOTICE.—In issuing this transcript of record, the Health Department of the City of New York does not certify to the truth of the record transcribed. The seal of the Board of Health attests only the correctness of the transcript, and no inquiry as to the facts reported has been provided for by law.

Signature of J. H. Brown, M.D., Deputy Registrar

Signature of J. H. Brown, M.D., Deputy Registrar

Signature of J. H. Brown, M.D., Deputy Registrar

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Signature of J. H. Brown, M.D., Deputy Registrar

Signature of J. H. Brown, M.D., Deputy Registrar

0031

AMBROSE H. PURDY.

LAW OFFICE OF
PURDY & McLAUGHLIN,
280 BROADWAY,

JAMES W. McLAUGHLIN.

General Session Court New York, November 24, 1889

The People
vs
Charles McKenna

Asst Dist Atty Parker
Dear Sir

As a personal favor
to me will you please let the case of Chas McKenna
go off for the day and put it on next Tuesday
or Wednesday. Mr Purdy has three cases to dis-
pose of in Part II and will not be able to dispose
of the case of Chas McKenna today. By doing this
you will confer upon me a personal favor.

Yours Truly
James McLaughlin

POOR QUALITY
ORIGINAL

0032

AMBROSE H. PURDY.

LAW OFFICE OF
PURDY & McLAUGHLIN,
280 BROADWAY,

JAMES W. McLAUGHLIN.

General Sess. Court

New York, November 4th 1898

The People etc
vs
Charles McKenna

Ass. Dist. Atty. Parker.

Dear Sir

Will you please allow
the case of Charles McKenna to go off until the
latter part of this week on account of Mr Purdy
and my self being engaged at Supreme Court in
the case of Pfander vs Dr. Sears

Yours Respectfully,

James W. McLaughlin

Mr Parker.
Will you please
case of McKenna
morning Mr Purdy
engaged up at Pt
and my self present
in the morning
Jas W. M.

COURT OF GENERAL SESSIONS.

X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X

The People &c.,
Respts.,

--against--

C h a r l e s M c K e n n a,
Applt.,

X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X-X

NOTICE OF APPEAL.

CITY AND COUNTY OF NEW YORK, SS:-

To

John Sparks, Clerk of the Court of General Sessions
of the Peace, in and for the City and County of New York,
and

To

John R. Fellows, Esq., District Attorney of the City
and County of New York:

Gentlemen:-

You and each of you will please take notice that the above named Appellant, Charles McKenna, Appeals to the Supreme Court of the State of New York, from the judgment rendered against him in the above entitled action by the Court of General Session of the Peace, held in and for the City and County of New York, on the 28th day of November, A.D.1889, and from each and every part of said Judgment.

Dated, the 2nd day of April, 1890.

Purdy & McLaughlin,

Counsel for Appellant.

#280 Broadway, N. Y. City.

4 E 0 0

NY COURT OF GENERAL SESSIONS.

The People &c.,

Respts., Plaintiff

against

Charles McKenna,

Applt., Defendant

NOTICE

PURDY & McLAUGHLIN,

Attorneys for Applt.,

No. 280 BROADWAY, New York City.

Due and timely service of copy of the within
hereby admitted.
this day of 18

Attorney.

To

Filed April 1892

Sworn to before me this
day of 18

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

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

0035

The Return of the Judges of the
Court of General Sessions of the peace held in and for the City and
County of New York.

A transcript of the Indictment and Judgment Roll of the
Court, together with all things touching or in any wise concerning the same.

[L. S.]

We Certify, under the seal of our said Court, to
the Justices of the Supreme Court mentioned
in the annexed notice of Appeal, filed in the
Clerk's Office of this Court, on the 2^d
day of April 1890

By the Court,

Whitpark
Clerk.

0036

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Charles McKenna

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

Charles McKenna

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

The said *Charles McKenna*;

late of the *Ninth* Ward of the City of New York, in the County of New York, aforesaid, on the *sixteenth* day of *October* in the year of our Lord one thousand eight hundred and *Eighty nine*, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the *shop* of one

Emil Reinert

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

Emil Reinert;

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

0037

SECOND COUNT—

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

Charles McKenna
of the CRIME OF Petit LARCENY committed as follows:

The said Charles McKenna,

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

*three pair slippers of the value
of two dollars each, and two
razors of the value of one
dollar each.*

of the goods, chattels and personal property of one Emil Reinert

in the shop of the said Emil Reinert

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

0038

THIRD COUNT—

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

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

The said *Charles McConna*,

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

*three pair slippers of the value of
two dollars each, and two razors
of the value of one dollar each,*

of the goods, chattels and personal property of one *Emil Reinert*,

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

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

Charles McConna

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

JOHN R. FELLOWS,
District Attorney.

Witnesses;

Counsel,

Filed

29 day of Oct 1889

Pleads

Not Guilty to Oct 1889

THE PEOPLE

vs.

Charles McKenna

Burglary in the Third degree.
[Section 408, 506, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Wm S. Cole

Foreman.

0039

0040

At a Court of General Sessions of the Peace,

holden in and for the City and County of New York, at the City Hall of the said City, on thurs day, the fourteenth day of November, in the year of our Lord One Thousand Eight Hundred and eighty nine

PRESENT,

The Honorable Fredrick Smyth
Recorder of the City of New York,

Justice of the
Sessions.

Charles McKenna is in due form of law arraigned at the bar upon an indictment for burglary in 3^d degree ^{Receiving stolen goods} ~~Criminal~~ and having heard the indictment read and being asked whether he demanded a trial thereon, answers that he does require a trial, and says that he is not guilty thereof. Whereupon the following Jury is balloted and sworn to well and truly try and a true verdict give according to evidence, viz:

<u>Robert Welch</u>	<u>Madwin Houghton</u>	<u>Leopold Arnold</u>
<u>Frank Taylor</u>	<u>Winfield Walker</u>	<u>Charles Daves</u>
<u>Gerson Siegel</u>	<u>David Williams</u>	<u>Solomon Latz</u>
<u>Samuel W. Drungold</u>	<u>Edmond H. Evans</u>	<u>Ernest W. Hofstede</u>

who upon their oath aforesaid do say that the said Charles McKenna is guilty of ~~the receiving stolen goods~~ ^{the same have been stolen} ~~knowing~~ ^{as by the indictment} is alleged against him, Tuesday November 26th 1889 -

Court meets Present as Before
Counsel for defendant moves for a new trial and for arrest of judgment, which motions are overruled by the Court
It is thereupon demanded of the said Charles McKenna what he hath to say why judgment should not be pronounced against him according to law, who nothing further saith unless as before he hath said.

Whereupon it is considered, ordered and adjudged by the Court, that the said Charles McKenna for the felony aforesaid whereof he is convicted as aforesaid be imprisoned in the State Prison at hard labor for the term of five years,

A true extract from the minutes.

Thompson
Clerk of Court.

0041

1 Court of General Sessions, City and County of New York.
2

3 The People &c.

4 vs.

Bill of Exceptions.

5 Charles McKenna.
6

7 Be it remembered that the issue arising upon the plea
8 of not guilty heretofore pleaded in the above entitled ac-
9 tion by the above named defendant came on to be tried at a
10 Court of General Sessions of the Peace held in and for the
11 City and County of New York at the City Hall of the City
12 of New York on the 14th day of November A. D/ 1889;
13

14 Present:

15 The Honorable Frederick Smyth, Judge of the Court
16 of General Sessions.

18
19 Andrew D. Parker, Esq., Assistant District Attorney,
20 appeared for the People.

21 James W. McLaughlin, Esq., appeared for the defen-
22 dant.

23 A jury having been duly impanelled and sworn, Mr.
24 Parker opened his case, and then introduced the following
25 evidence on behalf of the People:
26

27 Mary Mullen, being duly sworn, testified as follows,
28 to wit:

29 By Mr. Parker:

30 I live in the basement of premises No. 408 west 16th Street
31 for about six weeks, the house is partly owned by Mary

0042

(2)

1 Jane McGrory, there are four rooms in the basement, and I
2 live in one of the front rooms in the front basement with
3 Mrs Brennan, I am a married woman, and my husband works in
4 a feed store at No. 405 15th Street, my husband goes to
5 work in the morning at ~~four~~^{five} o'clock, and he is in the habit ^{it}
6 of coming back before dinner time, sometimes at five o'clock
7 when he has to go to work. On the morning of the 16th of
8 October I saw the defendant about twenty minutes of five
9 o'clock in the front room, I was in my own bedroom I dress-
10 myself and came out to see if it was my husband come home
11 to breakfast, the defendant was staggering across the floor
12 like a drunken man and was covered with blood and cobwebs,
13 he sat down on a chair and I did not say anything to him
14 thinking he was my husband, and I went back to my room, I
15 saw Mrs Brennan and I spoke to her, after I spoke to her
16 she went over to the defendant and put her hand on his coat
17 and asked him why he was drunk in the morning, he had on
18 the same coat as he has on now, and Mrs Brennan thinking
19 that he was her son said to him "Peter", your clothes were
20 smooth, why did you change your coat for that rough coat?
21 his hat was covered with cobwebs and dust. Then Mrs Brennan
22 went back to bed and I went back to my own room. It was
23 dark at this time, about twenty minutes to five o'clock. I
24 stayed in my room till about ten minutes past ~~six~~^{six} o'clock
25 and the defendant sat in a chair with his head laying on
26 the window sill, and he appeared to be asleep. I came out
27 to make a fire at twenty minutes to six o'clock to the
28 front room; The windows open on the Street. There is an
29 iron fence in the front of the building, and there is an
30 iron grating inside of this fence, about two feet long and ^{one}

0043

1 and one half wide surrounded by flagstone, which leads down
2 to the cellar. I came in at ten minutes after six o'clock
3 to make the fire and to get the breakfast ready, I went out
4 side into this little area to open the shutters and I not
5 iced that the grating was disturbed, and the stones were
6 loosened, they were not that way before, because I saw
7 them the night before when I closed the shutters. The defend
8 ant got up took his hat and walked out, this was about
9 ten minutes after six o'clock.

10 I saw the defendant again about eleven o'clock, in the ~~front~~
11 front hall, trying to go down the cellar, Miss McGrory
12 Harry Kiernan and myself were there, Mrs Brennan was in her
13 room at the time, and I said to her there is a man in the r
14 oom, I was out in the hall and he was talking loud to Miss
15 McGrory, he wanted to go down stairs and she refused to ad
16 mit him, I went out and saw Harry Kiernan and Miss McGrory
17 and the defendant all together talking about going down to
18 the cellar. That was the only conversation I heard. McKenna
19 said he had got some stuff, he wanted to go down and Miss
20 McGrory said he should not go down. Then Miss McGrory went
21 for an officer and I called out to Mrs Brennan, there is
22 the man you thought was your son this morning "she said"
23 he is not my son, then he said he was not in the room and
24 I said he was. Mrs Brennan came into the hall, looked at
25 him and went back into the room; she went up and put her
26 hand on his coat and said he was the man who was in the
27 room in the morning that he had on the same coat, I went
28 into my own room and so did Mrs Brennan. Mr Kiernan stood
29 out in the front and told McKenna that he should not go
30 down ^{to the cellar}, Miss McGrory went out the front way for a policeman

0044

1 I saw McKenna standing in the front at the iron railing
2 and Mr Kiernan stood in the areaway by the grating. There
3 was another man with McKenna, I don't ^{know} who he was, he stayed
4 out in the front. Then I went about my business, that is
5 all I know.

6
7 Cross Examined by

8 Mr McLaughlin.

9 My name is Mary Mullen and I occupy one of the frontrooms
10 in the basement of premises No. 408 west 16th Street.

11 There are two rooms connecting with each other, Mrs Bren-
12 nan occupies one and I occupy the other, and Harry Kiernan
13 occupies the back basement, Mrs Brennan occupies the next
14 room to me in the front basement. I met McKenna in the
15 alleyway ^{about 11 o'clock} with another man, Mary Jane McGrory and Harry
16 Kiernan were there, the strange man did not speak at all.

17 I was in the Police Court as a witness but was not called
18 I had no conversation with any one about this case but Mr
19 Parker and Officer Carey, I told Mr Parker what I knew

20 about the case, and I told Officer Carey when he came to
21 the house to subpoena the people's witnesses, he was going
22 to subpoena Mrs Brennan but I told him that she was blind

23 She told him that I was present and had identified the man
24 and I told him that I was and that is all the conversation

25 I had about this case. It took place in Mrs Brennan room

26 Carey asked me what I knew ^{and what I had seen} about the case and if I would

27 know the man if I saw him again and I said yes ^{that I had seen him and would know him} that is

28 all the conversation I had with Carey. I spoke to no one

29 else but Carey and Mr Parker about the case. I had no con

30 versation with Logan, I came down to Court with Logan from

31 my house to-day, he came up for me. he served me with a

32 subpoena before but I

0045

(5)

1 came down by myself until to-day, he came to my house about
2 two days ago for the first time and served me with a sub-
3 poena, and I did not see him again until to-day, I always
4 came down myself before until to-day when Logan attached
5 me this afternoon.

6

7 Re-direct examination

8 by Mr Parker.

10 I was brought down on an attachment this morning by Mr
10 Logan, he told me that I must go but he did not drag me
11 down or use any violence.

12

13 By the Court.

14 Mr Logan did not have to forece me to-day.

15

The Court adjourned.

0046

Friday November 18th 1889.

Mary Jane McGrory, being duly sworn, testified as follows.

By Mr Parker.

I live with my mother at No. 354 west 16th Street, and me and my mother own the premises No. 408 west 16th St. Those premises are a double house front and rear, the ~~front~~ front house is by itself on the Street and there is quite a large yard in back of it, you have go ^{by} through the alley way to get into it, there is also a hallway ^{by} through. There is a basement in the front house and a hallway in this basement. ^{Kiernan} Harry the house keeper lives in the back part of the basement. There is a cellar under the front house, and there is a doorway in the hall basement which is kept locked, and I always keep the key, there is a front and back grating, but the coal shoot has been filled so that no one can go down that way, the back grating is station^{ary}ed, it could not possibly be taken up; -- the front grating of iron, that can be taken up by anyone that understands the way to lift it up, but anyone that did not would pull it and loosen the two flat flags that lay at the side. It is not fastened by a chain but by sliding a small way under a piece of wood, and when ^{you open it} you touch it a little bit ^{and} it ~~falls~~ falls back to the wall, the piece of wood is broken and the cement on the flags is loosened. There is nothing in the cellar only pipes, there is a fresh air pipe close to the grating in the front that runs out under the sidewalk and it is impossible to get down without stepping on that ^{It is a good step down, directly under the grating} pipe. There is a cellar in the back of the house too. On the morning of the 16th of October I visited those premises about 11 o'clock, I went into Mr

0047

8

1 *in the back part of the front house in the basement*
Kiernan's room, as I do every day to see if he is in need of
2 any help or of any thing to be done and while I was in his
3 rooms I saw two men pass into the yard down into the cellar
4 of the rear house, that came into the hallway, McKenna and a
5 another man which I saw Tuesday night, I know the other man
6 by sight, they *passed through the yard and of the rear house*
7 cover on that cellar that you lift up, there is an opening
8 in the yardway that you go down some steps to approach the
9 cellar from the yard, I said to Kiernan there is two men going
10 in the rear cellar and I will go over and see what they want
11 I went over and went down in the cellar, and I saw them in
12 the middle of the cellar with lighted matches in their hands,
13 feeling on the beams of the cellar. I asked them what they
14 wanted and McKenna said that he lived there. I says, "what
15 is your name?" He says, "O'Neill." I says, "you dont live
16 here," he said he did and from the appearance of the men I
17 I thought it advisable to come up McKenna's car was out and
18 his shirt was full of blood; I came up and left them there/
19 *there is no body named O'Neill in the house*
and I went back to where I came from and sat down, presently
20 they both came up out of the cellar and crossed over down to
21 this hall in this hall in the front basement and Mr Kiernan
22 stopped and McKenna said "is there any way to get down from
23 inside to the cellar here?" Mr Kiernan said yes but it is
24 locked, he said where is the key?; I stepped up *into the hall* and said
25 "where is the key? I have got the key but you cannot go
26 down, he said "I will go down the front way"; he started
27 in the hallway and when he reached the door Mrs. Brennan
28 and Mrs. Mullensaid, here is the man that was in your room
29 this morning." Mrs. Brennan looked at his coat sleeve; she
30 says, "yes, what brought you to my room at that hour? Mc-

0048

(9)

1 McKenna excused himself and he and the other man went out in
2 the area, Mr Kiernan and I followed them out to the front.
3 McKenna walked over to the front grating but we would not
4 let him go down, *I said you cannot go down there - that was the front grating* at that time the cement around the stones
5 was loosened and the grating was not set down properly, *one end was up* and
6 the piece of wood was broken, *and the cement cracked* and *it* is still broken, I had
7 seen the grating the day before and it was in good condition.
8 While we were at the grating McKenna said he would go down
9 I said I would go for a policeman, and I stated towards
10 Ninth Ave. No. 408 is four doors from the corner of Ninth
11 Ave. I stood ~~on~~ *at* the corner ~~to~~ *see* if I could ~~see~~ a policeman,
12 McKenna and the other man followed me up; McKenna said,
13 "Mary Jane, let me down that cellar?" I said, "what do
14 you want in that cellar? He said, I have machines down
15 there. I says, you were in one cellar, what right have
16 you to bring your machines to that house beside any house
17 in the block?" He said I made a mistake in the cellars, ~~that~~
18 I know it is in the front cellar where the pipes is for I
19 fell on them going down. He said this to me on the corner
20 he said he was drunk when he put the stuff in there. There
21 was no indication that anyone had fallen on the pipes; his
22 ear was cut; I said to him, your ear is cut, and he said
23 yes he knew it was, that he fell on the pipe going down.
24 Then I said you can't go down and he said he would and he
25 started ~~on~~ back down towards the house and left me still
26 on the corner, I met a neighbor, a gentleman and I told him
27 about it; he says, you will find an officer over there where
28 they are registering; I went over and called him out, it
29 was officer Fagan and he ran over, I went *back to the house* back with him, ~~to~~
30 both McKenna and this other man were standing at the door
31 and the officer ran over to them and when they saw him com-

0049

1 ing they ran towards 10th Avenue west and he after them
2 and I waited at the door till ^{he} ~~they~~ came back, the officers
3 could not catch the defendant and when he came back he
4 Kiernan and I lifted up the grating and we all went down
5 We found clipping machines and razors; boxes of matches
6 and some papers I brought them upstairs in my apron into
7 his room and the officer did not take them. The papers
8 were small envelopes that they put cigars in.
9 By Mr. Parker.

10
11 The officer took them to the station house afterwards, and
12 I received a subpoena the next day. Those razors and
13 clipping machines which you now show me are the ones that
14 I found. I went to Jeffers Market court in pursuance
15 of the subpoena, and I saw McKenna there; he said that
16 there was a man named Martin arrested for these goods and
17 he went there to get that stuff for him and get him out
18 of ^{prison} ~~jail~~; he said he was arrested for it. There was nothing
19 else found in the cellar, but a pack of cards were found
20 in Mrs. Brennan's basement doorway with blood on it; the
21 cards that you now show are the cards. Mr. Kiernan, Mrs.
22 Mullen, and detectives Cafey and Logan were there when
23 McKenna made that statement.

24 By Mr. McLaughlin: I don't live on those premises at all,
25 I live at No. 354, right off the corner of Ninth Avenue.
26 The premises are four doors from the corner. It was
27 about 11 o'clock in the morning, I was in Mr. Kiernan's

28 room. McKenna entered the back way through the hallway. ^{I know he did because} I
29 saw him go across the yard, and cross the hallway. I
30 saw him turn around the stoop, and I knew that he
31 would have to come that way to turn around

0050

12

1 the stoop, I ^{was in} saw him Mr Kiernans room from 3 to 5 minutes,
2 when I seen McKenna in the yard. I went there to see how
3 things were being conducted as is my custom, as I have
4 charge of these premises for my mother. McKenna was not
5 in the yard, he was in the cellar, he did not stand in
6 the yard, ^{he saw him go} ~~he went right~~ across the yard down in the cellar
7 He did not have to remove the wooden top to that cellar,
8 it was off. I went to the cellar alone, I know the back
9 cellar, I was born in the neighborhood, but have lived
10 out of it at times, I have resided for the last ^{four} ~~five~~ years
11 where I reside at present, and previous to that I was tak-
12 ing care of some property on the east side, but have ^{lived} ~~con-~~
13 tinuously in the neighborhood of those premises. I never
14 saw McKenna before to know who he was, and I do not know
15 that he served my mother with vegetables for the last five
16 or six years. I do not remember seeing him in the ~~neigh-~~ neigh-
17 boorhood until that day, if I knew who he was I would not
18 have asked him his name. There was another person with Mc~~K~~
19 Kenna, but I do not know who he was, but I would know him
20 if I saw him again, he did not say any-thing at all, I saw
21 him on ninth Avenue near 16th Street one night this week
22 that is since McKennas arrest, I never saw him before and
23 I do not recognize him as living in the neighborhood, he
24 did not speak a single word to me, he spoke to McKenna in
25 the cellar while in my presence. he was searching the ceil-
26 ing in the back cellar, and I asked him which place did he
27 put the things. The back cellar is reached by a short nar-
28 row wooden ladder or steps. I came up out of the cellar
29 and McKenna and the other man folowed a few minutes after
wards, I heard no conversation between McKenna and the

1 man in the back yard, I did not see them standing in the
2 back yard I only saw them walk across the yard, I saw them
3 come across the yard before they went down in the cellar
4 Yes sir they entered the passageway. When you come down in
5 the cellar you are opposite Mr Kiernans door, that is where
6 McKenna stood. I was in Mr Kiernans room when they entered
7 the back hallway. Mr Kiernan went out first, and McKenna
8 spoke to him first asking "is ther any way to get ~~down in~~
9 ~~that cellar~~ from the inside? Mr Kiernan said yes, but it ws
10 locked. I carry the key of that entrance from the hallway
11 to the cellar, it is generally covered by barrels and old
12 carpets, and it is also locked. Mr Kiernan was present when
13 I had the conversation with McKenna in the hall, the man
14 with McKenna did not speak at all, when I refused to give
15 McKenna the key of this inside entrance, he said he would
16 go down the front way, and he walked to the front to go
17 down, Mr Kiernan and I followed behind and Mr Kiernan pre-
18 vented him from going down. This was about 11 o'clock in
19 the day, the entrance from the front is in full view of the
20 Street. There was no conversation between myself and McKenna
21 at the front cellar, except that I told him that he could
22 not go down, he did ^{not} call me by ^{first name} ~~any~~ ^{anything} in the house but he did
23 on the corner. I was called as a witness in the Police
24 Court, I believe that I made a statement there, but I did
25 not state that McKenna told me that he was looking for some
26 ~~things~~ that O'Neil had sent him there for, or that O'Neil
27 had said in the presence of McKenna, that a friend of
28 O'Neils had stolen some property and that this prpperty
29 was concealed on my premises and that they desired to get it

0052

in the Police Court
1 I made no such statement about the other man in the case,
2 I did not hear the name of O'Neil mentioned only by McKenna
3 he said that was his name, I did not send the other upstairs
4 for a candle, or give him any matches. I know a man by name
5 of Morton, and I had him arrested charged with disorderly
6 conduct around the premises. He does not reside in those
7 premises, he lived in 20th street at that time, I don't
8 know where he lives now, I did not make a complaint against
9 him at the station house I went directly to the Court and
10 made a complaint against him and a warrant was issued for
11 his arrest. I did not see the man who was with McKenna go
12 upstairs and come down again, nor did I see him with a candle
13 *when I saw them in the cellar*
14 but they both had matches and they were lighting them

14 Henry Kiernan ; being duly sworn, testified as follows;

15 to wit:

16 Direct examination by

17 Mr. Parker.

18 I live in No. 408 west 16th street, with my family, and I
19 take care of those premises for Miss McGrory and her mother

20 I live in the rear basement, I saw the defendant in those
21 premises on the 16th of October, about 11 o'clock; I was
22 sitting in my room with my wife, and Mary Jane McGrory came

23 *JM* in ~~followed by the defendant~~. I did not see him when he

24 first came in the premises, the first I saw of him was when

25 he followed Mary Jane McGrory into the hallway where I live

26 He asked me if there was any way to get down to the cellar
27 in the hallway? I said there was but that it was locked,.

28 He says, "who has got the key?" Mary Jane stepped out----.

29 There is a cellar in the front house.

30 *2* the Court

0053

1 He wanted to get in the cellar of the front house.
2 By Mr Parker.
3 Mary Jane stepsm out and says" I have got the key and you
4 can't go down" they walked out then. He did not say any-
5 thing tothat then, he went out and I followed him, he said
6 he would go down; he would open the grating and go down
7 that way, that grating is in the areaway fronting on the
8 street. She told me not to let any one down there until she
9 went and got an officer. Some of this talk was in the hall
10 and some of it was outside. I know Mrs. Mullen shewas in
11 the hallway during part of this conversation; I know Mrs,
12 Brennan. Mrs Mullen and Mrs Brennanhad some talk but I do
13 not know what they said. I told him he could not go down,
14 and he stood in the areaway, there was aman standing on
15 the sidewalk; I could not swear that I know him, I do not
16 know his name. They went out in the areaway and Mary Jane
17 and I went with them, ther was no other talk only what I
18 have said. About I should say two months before this thing
19 happened ther~~e~~ was new pipe put down there, an air pipe in
20 the cellar, ther~~e~~ was grating put there so as no one could
21 lift it and about that at each side was cement into the
22 flagstone underneath, there is a long board and that ^{fits} fills
23 in. I did not notice the condition of the grating till af-
24 terwards----- as soon as we went in the cellar. The officer
25 came.
26 By the Court
27 yes sir; the officer came the same day.
28 By Mr Parker.
29 You could see where ^{the grating} it had been pulled, the cement was gone
30 I did not notice it the day before, it was all-right the

0054

1 last time that I noticed it, that is when it was fixed ,
2 that was two months ago. Mary Jane went for an officer,
3 the defendant followed her up to the corner, the man who
4 was with him stood around there. Mary Jane was gone about
5 five or seven minutes, the defendant came back before her
6 He said Mary Jane gave him permission that he could go
7 down and get it; I said if that is so he would have to
8 wait there and she could do it. He said he had machines and
9 stuff in a black bag, but he did not care so much for the
10 machines but he wanted the black bag. There is nothing ^{Rept} in
11 that cellar; it is locked all the time. Ther were pipes
12 there, the pipe runs from the back yard in the rear to the
13 front house and runs right out on the sidewalk into the
14 sewer; it comes within that height of the grating (illus-
15 trating), you have got to step on the pipe before you get
16 to the ground. Mary Jane came back I guess just before or
17 behind the policeman. Officer Fagan came, he got within
18 about four houses and McKenna and the other ^{man} ~~one~~ started to
19 run and the officer ran after them, and as soon as the of
20 ficer started to run I opened the cellar of Mary Jane Mc
21 Grory and went down and found two razors and three hair
22 cutting machines, one of the razors is broken, that is one
23 of them (showing razor), I can tell one of them machines
24 (showing machines), there is a new one I know and that one
25 there has a broken tooth; I found them on the beam of the
26 cellar of the front house. I don't know anything about the
27 cards at all. The officers came back without catching the
28 defendant. After the defendant was arrested I was summoned
29 to go before Justice Gorman on the 18th of October, that
30 was gaturday, and I went. I saw the defendant there, and

0055

1 I heard him say something, I might not give his words but o
2 to the best of my knowledge he said a man told him that a
3 man named Morton was arrested for stealing the stuff, it
4 was ib that ^{cellar} and that if he and McKenna could get it and
5 return it to the owner, the owner of the things would not
6 prosecute him. I do not know whether the other people
7 heard it. There was officer Garey, officer Fagan, Mary Jane
8 McGrory, Mrs. Mullen and myself. I would not be sure wheth-
9 er Logan was there.

10 Cross Examination by
11 Mr McLaughlin.

12 This front entrance is not on the street, it is in the area
13 way, it is not at the outline of the street, the area is
14 lower than the street, a little lower than that. I can't
15 be sure I never measured it, I cannot tell if it is not
16 more than a foot, ~~you~~ ^{of} examined it last night you can form
17 your own opinion. I told you before that I could not tell
18 you more than a foot, it is in full view of ~~the~~ ^{the} street, it
19 was about 11 o'clock I said, there is an iron railing ~~around there~~

20 Re-direct examination by
21 Mr Parker.

22 Yes; a fence in front of the house the same as any other .

23 By the Court.

24 Yes sir; there is a railing between the house and the side-
walk.

25 By Counsel.

26 No sir; that would not hide the view of this part of the
27 grating; the iron pipe that runs from the street is the or-
28 dinary black sewer pipe.

29 By the Court.

0056

1 I guess it was about that round, (showing)

2 By Mr Parker,

3 Yes sir; more than five or six inches in diameter, I guess.

4 By Counsel,

5 I saw McKenna that morning when he came into the hallway after
6 Mary Jane McGrory. No sir; I did not see him before he enter
7 ed the back cellar, she came in before him, came and sat
8 down in my rooms, and they followed her down. The first time
9 when she came in before she went into the rear cellar, she
10 was not there more than three or four minutes I suppose; af
11 ter she came she hardly sat down again when she went right
12 out

13 Emil Reinart, being duly sworn, testified as follows :-
14 to wit:

15 By Mr Parker,

16 I live at No. 455 West 13th Street and I am a barber and
17 I do business there. On or about the night of the 15th or
18 16th of October I lost three hair cutting machines, and forty
19 five razors, cigars tobacco and the cards. I did not author
20 ize any one to take it away from me , it was stolen. Yes sir
21 the property that you now show all of it is my property my
22 name is on the razors too. I produced this property here to
23 day, that pack of cards is mine also, (offered in evidence) I got them in the Jef-
24 ferson Market Police Court, the same day that I identified
25 them, I got them from an officer I do not know his name I
26 believe it was officer Maloney, there was two of them I do n
27 ot know which of them gave them to me.

28 Cross examination by *Mr McKenna*
29 *Re last trial*
30 ~~Mr McKenna~~ that I saw them before I got them in Jefferson
Market was in the 20th Street Station House. I missed them on

0057

1 right next morning, at 2 o'clock in the morning.

2 By the Court.

3 That was on the 16th of October, ^{They were} ~~I was~~ in my place the
4 night before, the 15th.

5 By Counsel.

6 Yes sir; I missed them on the 16th of October, I entered
7 the shop right after 2 o'clock in the morning, I was called
8 up by the officer, I believe his name is Hurly, I have not
9 recovered any of the property only these.

10 By the Court.

11 The value of the 40 razors and the other things that I lost
12 is eighty dollars about.

13 Robert Fagan, being duly sworn, testified as follows
14 ^{with} ~~to By Mr. Parker.~~

15 By Mr Parker.

16 I am an officer attached to the 16th precinct, on the 16th
17 of October I was on duty at the Registry office on ninth
18 Ave. near 16th Street. I know Mary Jane McGrory, I saw her
19 on that morning about 10 o'clock and I had a conversation
20 with her. In pursuance of that conversation, I left the
21 Registry office to follow a man, she told me he had some
22 stuff, I followed her and went to 408 16th Street and when
23 I got near the building, when I was three doors this side
24 of 408 I seen two men standing down the Street further look
25 ing at me very closely and they started to run as they seen
26 me. I do ^{know} ~~one~~ ^{the defendant} ~~was~~ that man McKenna, he ran towards tenth
27 Ave. and the other man ran into the hallway in fifteenth
28 Street. I pursued neither one directly, I pursued both but
29 they seperated at the alley, I ^{followed} ~~found~~ the one that went
30 through the alley. I did not catch either that day.

0058

1 I was in the Police Court after the defendant was arrested
2 I heard him make a statement there at the Jefferson Market
3 Police Court, I heard him mention a man's name, Red Morton/
4 I was not close enough to hear all, I was in the Court room
5 but not close enough to hear what he said. I did not hear
6 all the statement, no sir.

7 Cross examined by
8 MrMcLaughlin.

9 Yes I know two liquor saloons kept by two Quirks, I do not
10 know either of their names, I know the place down on 10th
11 Ave. on 16th Street. No sir I have not been there within the
12 last two or three days in regard to McKenna. I had no conver-
13 sation with Mr Quirk in regard to McKenna, nor with anybody
14 else in those premises, no sir not in the saloon.

15 Thomas F. McGuire, being duly sworn, testified as fol-
16 lows, to wit:-

17 I am attached to the 16th Precinct, I arrested the defen-
18 dant on the 17th in Ganzevoort Street, I think it is 79,
19 I believe he lives there with his mother and father
20 brother and sister. I arrested him in the morning a little
21 after six, he was in bed. Officer ^{Maloney} of the same Precinct was
22 with me, when we entered the room house we enquired of his
23 mother if he was in, I knew this man McKenna before, his
24 mother said and also his brother said he was not in. He
25 asked me what he was arrested for, I told him he would
26 find ^{out} when he got to the station house. I arrested him for
27 Officer Carey, I did not have anything to say to him on
28 the way or at the station house. I was not in Court when
29 he was arraigned, I turned him over to detectives Carey
30 and Logan, he was not kept in the station that day, he was

0059

1 taken to Court that morning. It was my day off I supposed
2 he was taken to Court after 8 o'clock.

3 By the Court.

4 Yes sir; I was instructed by another Officer to make the
5 arrest *because I know the defendant.*

6 George Logan, being duly sworn, testified
7 as follows, to wit:

8 By Mr Parker.

9 I am a ward Officer attached to the 16th Precinct, I know
10 of him, yes sir; I only knew of him, that was all, I never
11 saw him before his arrest, when he was arrested he was
12 brought to the station house at that Precinct, I saw him
13 there, I had no talk with him I heard him make a state-
14 ment to the Police Magistrate, not in the station house
15 He was taken to the Jefferson Market Police Court the same
16 day he was arrested, I was there and I had him remanded
17 that day. He told the Police Magistrate next day, the day
18 he was committed, that he met a tall man on the corner and
19 he told him that a man named ^{"Red"} Morton had been arrested for
20 the job and the stuff was in McGrory's cellar and that if
21 he McKenna, got the stuff that they could not do anything
22 to Red Morton. I never seen him, he said a tall man on
23 the corner told him this. Yes sir; the Magistrate called
24 him up and asked why he went there, what business he had
25 there, and that was the explanation he gave.

26 John Carey, being duly sworn, testified
27 as follows, to wit:

28 By Mr Parker.

29 I am an officer attached to the 16th Precinct, I know the
30 defendant, I saw him at the time of his arrest and subse-

0060

22

1 quent to his arrest, and at the time he was in the station
2 house prior to being brought to Court. He was kept in the
3 cell at that time. I heard him make a statement that he saw
4 a tall dark complexioned man at the corner of 16th street
5 who told him that Red Morton was arrested for some goods
6 that was in McGrorys cellar and he asked him to go and get
7 them. He said that this man said to him, that if he got
8 them they could not be anything done to Red Morton. I went
9 to the Police Court when he was arraigned there, he was re-
10 manded the first day and the next day he was taken by De-
11 tective Logan, I did not go, and the complaint was made and
12 he was committed. Yes sir; he told Judge Gorman that he
13 did not steal these goods but that Red Morton was arrested
14 for them and he went there to get them. Detective Logan,
15 Mary Jane McGrory, Mrs Mullen, Kiernan and Fagan were
16 there *when he made that statement.*

17 Cross examined.

18 I know Quirks saloon on 16th Street, I was not there nor
19 did I have any conversation with Quirk since McKenna arrest
20 I was there the night before his arrest, I went there to
21 investigate a complaint which came from there for assault
22 that was claimed to have been committed by McKenna on an-
23 other man. On Durking yes sir; and I ascertained that Mc-
24 Kenna was struck by a bottle there.

25 Mr Parker: That is the People's case.

26 The Case for the Defence.

27 By Counsel.

28 I ask your Honor to take from the consideration of this
29 jury the first count of the indictment which is burglary
30 in the third degree.

0061

1 The Court.

2 I understand the District Attorney goes on the count for
3 receiving stolen goods, ~~there is no occasion of my taking~~
4 ~~any.~~

5 Counsel.

6 ~~I so desire it.~~

7 Mr Parker.

8 I said that I ~~would~~ ^{abandoned} that. ^{Counsel}
9 Counsel.

10 I ask your Honor to take from the consideration of this
11 jury the offence of receiving stolen goods because the evi
12 dence in this case points, if it points at all, against
13 such contention; the evidence is all circumstantial in its
14 character.

15 The Court

16 That is ^{legal} ~~good~~ evidence.

17 Counsel.

18 Very true, but there must be some evidence to show a recei
19 ving on the part of the defendant McKenna.

20 Mr Parker.

21 What about the confession.

22 Counsel.

24 There is no confession.

25 The Court

26 There is evidence ^{enough} ~~anyway~~ to go to the jury if they believe
27 it that this man either exercised or attempted to exercise
28 acts of ownership over that property---his going into that
29 cellar, his going to get ^{the property} ~~it~~ and saying it was there, ^{and} he
30 claimed the right to get possession of it.

0062

23

1 Defendant ⁴accepted to this ruling on the ground that such
2 acts would not constitute the crime of receiving stolen
3 goods.

4 Counsel.

5 ~~That may be true, your Honor, but was there any actual~~
6 ~~receiving of it.~~

7 The Court.

8 ~~In some part of the evidence he said he put it there. I~~
9 ~~leave it to the jury.~~

10 Counsel.

11 I ask your Honor to give me the benefit of an exception
12 ~~to your refusal to take that count from the jury.~~

13 ^{Meaning 5 2 1/2} McKenna, I want you to go around there and let those
15 twelve jurors see your ear.

16 Mr Parker.

17 Are you going to put him on the stand.

18 Counsel

19 No.

20 Mr Parker .

21 I object to his putting this defendant in as an ^{Exhibit} ~~exhibition~~
22 Counsel.

23 I desire to have introduced as an exhibit in this case
24 that which has already been accounted for by the ~~Court~~
25 District Attorney on a different theory than mine.

26 The Court.

27 What is the exhibit

28 Counsel.

29 The cut on the defendants ear.

30 The Court.

0063

1 You have to prove that it is his ear first.

2 Mr Parker.

3 Why don't you put McKenna on?

4 Counsel.

5 No, no, Brother Parker.

6 George R. Westerfold, being duly, testi-
7 fied as follows.

8 By Counsel.

9 Mr Westerfold, you see the ear of the defendant there.

10 Objected to.

11 The Court.

12 You may prove by this witness that he examined the ear of
13 this man.

14 By Counsel.

15 I see the ear, I examined it when I was sitting there be
16 side him.

17 By the Court.

18 You did not see any cut on it.

19 I see the marks of the cut, I assume it is a cut, there
20 is marks produced there, I see a deep cut or contusion.

21 By Counsel.

22 There is a deep scar.

23 Counsel.

24 I desire to introduce the ear I want them to look at it.

25 The Court.

26 No, that will do.

27 Counsel.

28 I desire to enter upon the record---

29 The Court.

30 You wont enter anything upon the record without my per-

0064

1 mission.

2 Counsel.

3 Your Honor can strike this out, I have made the offer to
4 permit McKenna, the defendant, to exhibit his car and the
5 cut thereon to the jury, and I take exception to each and
6 every ruling of your Honor as made thereon.

7 Edward Donohue, being duly sworn, testi-
8 fied as follows.

9 By Counsel.

10 I saw the defendant prior to his arrest in 17th street
11 between 8th and 9th Avenues, I remember seeing his car,
12 before his arrest, I think it was----

13 By the Court.

14 I do not know what day he was arrested, I did not keep
15 track of it.

16 By Counsel

17 He was arrested the following morning after I saw him I
18 think, I believe it was on the 16th, I could not exactly
19 swear to it, it was in the evening about half past eight
20 his ear was cut, I did not see the plaster on his head He
21 did not show me his head. His ear was cut here. (pointing)

22 The Court.

23 Do you abandon the first two counts?

24 Mr Parker.

25 Yes sir, I think upon consideration I had better, there
26 is a count for burglary and a count for larceny, I aban-
27 don the first and the second.

28 The Court.

29 That leaves the third count.

0065

The Recorder charged the Jury as follows:

Gentlemen of the Jury:

The District Attorney having elected to abandon the two first counts in the indictment, one of which charges the defendant with the crime of burglary in the third degree and the other with the crime of grand larceny in the second degree. That leaves but one count for your consideration which count charges the defendant with receiving stolen property knowing it to have been stolen at the time he so received it. This count was found under this provision of the statute: "A person who buys or receives any stolen property, or any property which has been wrongfully appropriated in such a manner as to constitute larceny according to this chapter, knowing the same to have been stolen or so dealt with", is guilty of receiving stolen property and is punishable in the manner prescribed by the statute.

The question for you to determine will be first, whether there was larceny perpetrated by some person other than this defendant? The evidence as to the larceny stands uncontradicted. It is the evidence of Mr Reinhart, the barber, who tells you that he has a shop at No/ 455 West 13th Street, and that three hair cutting machines, forty-five razors, cigars, tobacco and a pack of playing cards, his property, were stolen. A portion of the property has been produced here and identified by him as the property which was stolen out of his premises on the 15th or 16th of October. You can have no doubt, it seems to me, ^{if the burden is on} as to the fact having been established beyond all question. The next

0066

question for you to determine will be (if you determine the first question in the affirmative), did this defendant, knowing that the property was stolen receive it in to his possession with guilty knowledge? If he did, he is guilty of the crime charged in the third count of this indictment. Now, gentlemen, no witness has testified positively to having seen this defendant in possession of any portion of the stolen property; but there is an mass of evidence which it will be unnecessary for me to refer to except in the most general way, which, if it is true has a tendency to establish the fact that this defendant at least attempted to exercise certain acts of ownership over that property. He was seen going into this apartment house; he went into one of the callars of th at house with another person, and he lighted a match and searched those premises; he then made a demand to go into the front portion of the same premises and that demand being refused, he made certain statements as to his having been in the front premises; he said that he fell and ~~cut his~~ ~~that he cut his~~ car in going into the premises and he had marks of blood on his person. In those front premises which, if the evidence is true, he entered through the front grating(if I recollect the testimony right) the property which has been produced here and identified by the complainant as a portion of the property which was stolen from his premises was found. Then you have the statements which were made in the Police Court and those which were made in ~~the Police Court and those~~ ~~which were made~~ by the defendant in the presence of Miss McGrory and the janitor of the building and of those other

0067

persons who were present, and you have also the fact that he was in the front of those premises prior to eleven o'clock that morning. If you come to the conclusion upon all this evidence that the defendant received this property, or any portion of it, which was stolen from the premises of the barber, and at the time he so received it he knew it was stolen property, he is guilty of the offence charged.

As to his knowledge that this was stolen property, you have a right to take into consideration with the other facts and circumstances his statement, if he made it, that this property was in the place when it was found, that a man named "Red Morton" had stolen it, that he was arrested charged with the larceny of the property, and that if he, the Defendant, could get it and return it to the owner from whom it was stolen that Morton would get off from the charge which was pending against him.

This is a very simple case, and one that ought not to take an intelligent jury long to determine. The Defendant is entitled in this as in all other cases to every reasonable doubt. It is not necessary for me to repeat what I have so often said upon reasonable doubt at this term of the Court in your hearing. If there is a reasonable doubt arising up on the evidence as to the Defendants guilt of receiving stolen property, then you will give him the benefit of that doubt and acquit him; but if the evidence all taken together satisfies you beyond ^{all} reasonable doubt, that the property was the subject of larceny by some person other than the defendant, and that he received that property or any portion of it into his possession knowing at the time that he so received it that it was stolen property, then of

0058

Py
course, m it will be your duty to convict. The mere fact that the Defendant has not gone upon the witness stand and availed himself of the privilege which the laws gives him of becoming a witness in his own behalf, ~~the law says~~ is not to be permitted to prejudice him in the slightest degree.

Counsel: This evidence being circumstantial in its character, I ask your Honor to direct this jury that it must point to the guilt of the accused to the exclusion of every other reasonable hypothesis.

The Court: Gentlemen, some of this evidence is circumstantial and some of it is direct evidence. Such evidence as is circumstantial the law says is legal evidence. And if all the circumstances which have been detailed and upon which the District Attorney relies points in one direction, and that is towards the guilt of this defendant, you are bound to regard that evidence and give it the same weight as you would give to the evidence of a witness who had sworn directly to having seen the alleged crime perpetrated; but if all the circumstances taken together are susceptible of two constructions, one pointing towards guilt and the other towards innocence, in a criminal case the jury are bound to give the defendant the benefit of the most favorable construction.

Py
~~That is all, gentlemen. I have to say to you.~~

The Foreman: May I ask for additional instruction?

The Court: Yes sir.

The Foreman: Is the effort to obtain possession of the property which had not before been in his possession, a receiving of the property?

0069

1 The Court: No.

2 Mr Parker: I ask your Honor to charge the jury that it may
3 be an attempt to commit that crime.

4 The Court: No, I decline to charge any further on this
5 subject than I have charged. You have all the evidence be
6 fore you gentlemen, you must be satisfied that the defen
7 dant had the property at some time after the larceny in ~~the~~
8 his possession and that he received it from the person who
9 committed the larceny.

10 Counsel: I except to the Judge's charge as ~~the~~ whole and
11 to each portion thereof, particularly where he said it is
12 a very simple case and one that ought not to take an in-
13 telligent jury long to determine.

14
15 The jury having rendered a verdict as appears by the
16 record, and the defendant having been arraigned at the
17 bar of the Court for sentence, the District Attorney be-
18 ing present, the defendant moved for a new trial upon
19 the following grounds, to wit.

20
21 1. Because the verdict was contrary to law.

22
23 2. Besause the verdict was clearly against the ev-
24 idence.

25
26 3 Because the Court had, at the trial, misdirected
27 the jury in matters of law, and had refused to instruct
28 them as requested by the defendant, and the defendant,
29 had at the trial, duly excepted to such misdirection and
30 refusal

0070

1 The defendant, at the same time and place, the District
2 Attorney being present, also moved in arrest of judgement
3 upon the ground that the facts stated in the indictment
4 did not constitute the crime of which the defendant had
5 been convicted, and for errors apparent upon the face of
6 the record.

7
8 The said motions of the defendant for a new trial
9 and in arrest of judgement were, and each of them was, de
10 nied by the Court, and to the denial of the said motions
11 and of each of them the defendant then and there duly ex
12 cepted.

13
14 And thereupon the Court pronounced judgement, as ap
15 pears by the record.

16
17 And for as much as the said several matters so pro
18 nounced and given in evidence, and the said several mat
19 ters so insisted upon and objected and excepted to by the
20 defendant do not appear of record, the defendant hath pro
21 posed the foregoing bill of exceptions, which contains all
22 the evidence given at the trial, the motions, objections
23 and requests made by the defendant at the trial and the
24 decisions of the Court thereon, the motions for a new
25 trial and in arrest of judgement and the proceedings there
26 on, and all exceptions.

27 And this, the said bill of exceptions, the Honorable
28 Frederick Smyth, Recorder of the City of New York, Justice
29 of the Sessions hath, on the day of A.D. 1890, an
30 motion of Ambrose H. Purdy and James W. McLaughlin, Esq.,

0071

- 1 of counsel for the defendant, signed, sealed and ordered
- 2 to be filed as a part of the record in this action.

Robt. H. Hunt
Revy



*I have examined and compared the
above proposed case with the
official minutes of the stenographer
and the same is now correct.*

April 21, 1890.

Ben J. H. Passer
Notary Public

POOR QUALITY
ORIGINAL

0072

To John C. Dillon Esq.
District Attorney

Dear Sir

You will please
take notice that the within is a copy
of the bill of exceptions proposed by the
defendant in the within-entitled action.

Dated the 21st day of April A.D. 1890

Yours Respectfully
Curdy M. Laughlin
Counsel for Defendant
No. 280 Broadway
City

J. C. Dillon Esq.

THE PEOPLE Etc.,

Plaintiff,

against

Charles Minter
Defendant.

Proposed Bill of Exceptions
STATEMENT

{ Within Bill of Exceptions
Served as directed & true
on file April 26/90
PURDY & McLAUGHLIN,
Attorneys for Defendant,

No. 280 Broadway, New York City.

POOR QUALITY
ORIGINAL

0073

Supreme Court

New York General Sessions of the Peace.

first department

THE PEOPLE

OF THE STATE OF NEW YORK,

Respondents

against

Charles McKeen

Appellant

Case on Appeal

from

Court General Sessions of the Peace

Indictment

121 1119

Filed

1890

0074

INFORMATION CUT
OFF AT BOTTOM
EDGE

0075

Arrested Apr 8th 88 in west 17th his associate
Charge Robbery. Convicted was shot in the back
of assault 3rd degree him to vacant rooms
4 yr in Pen. \$250.00 fine at 408 W 16th where he
Judge Martine died. dis. for want of
evidence.

Aug 25th 86. Charge arrested for assault
Rake. Convicted assault on Carroll's driver in
3rd deg. 1 yr. Pen. \$250.00 west 15th with Cart
fine - Recorder Smyth. run g - discharged

Arrested by off Smith with Recorder's Indict
10th Prec Charge P. Lacey arrested twice charged
Convicted & sentenced charged with attempt
to Mor in Pen. from - ing to steal five dollars
Court of Special Session from the person of
Mary E Mc Cabe - at

Arrested charged with 408 W 16th - with Jerry C. Fine
Robbing Lady on Christopher who was arrested. Mrs
Steel Car. held for Mc Cabe refused to prosecute
trial. his sister inter charged having
-ceded with the lady called Mrs Johnson
he was discharged 84-10 ave by pointing
loaded revolver at her
and received ten dollars
which - returned & she
sneaked

0076

COOK & GALHOUN,

MANUFACTURERS OF

FINE HARNESS & SADDLERY,

NO. 584 PARK AVENUE,

New York, Nov-13th 1889

To the Hon. Frederick Smyth

We wish to say that we have known John W. Kennard for the past fifteen years, and always found him to be a sober steady & honest young man. We have always found him in any little business transaction which we have had with to be upright. We have known his father for the past fifteen years to be an honest sober and industrious man. We have done business with him during all that time and always found him to be what we say he is also respected by all who know him.

Yours Respectfully
Cook & Galhoun

0077

Verha
S
Hollman

TORN PAGE

0078

Charles McKenna
Apr 84-88 - Charge Robbery
tried & convicted of
assault 3rd deg 1 yr
Pen. \$250 fine Judge Martine
Aug 25th 1886

Charge Rape. Convicted
assault - 3rd deg. 1 yr
Pen \$250. fine Recorder Smith
arrested for Robbing
woman on Christopher at
Car. 9th Prec Chase

Arrested for Burglary in
West 17th St. his associate was
shot and taken by McKenna
to vacant rooms 408 W 16th
where he died.

Arrested by off. Smith 16th
Charge P Larceny 6 mo. Pen
Stealing Coal from Canal Boat

Arrested for shooting Arthur
Connolly 453 W 16th
His Contact off M. Rice
16

TORN PAGE

0079

Arrested for assault
on Jas Carroll's driver of
West 15th with Cartney

2. Indictments for
assault - not tried

He was 3 days out
of prison when arrested

4

0080

VI.

Oct 1892

STATE OF NEW YORK.
Executive Chamber,
ALBANY.

Nov 29. 1892

Sir:

Application for Executive clemency having been made on behalf of
Charles McKenna who was convicted of *receiving stolen goods*
in the county of *New York* and sentenced *Nov 26. 1889*
to imprisonment in the *Sing Sing Prison* for the term of
five years

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

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

Very respectfully yours,

J. S. Williams

Private Secretary.

Hon. DeLancey Miall

New York City.

0081

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

189

Chas. McKenna: —

Office of —

S. J. —

at (4) P. Red —

0082

The People vs. Charles McKenna.

The Recorder charged the jury as follows:

Gentlemen of the Jury:

The District Attorney having elected to abandon the two first counts in this indictment, one of which charges the Defendant with the crime of burglary in the third degree and the other with the crime of grand larceny in the second degree. That leaves but one count for your consideration which count charges the Defendant with receiving stolen property knowing it to have been stolen at the time he so received it. This Count was found under this provision of the statute: "A person who buys or receives any stolen property, or any property which has been wrongfully appropriated in such a manner as to constitute larceny according to this chapter, knowing the same to have been stolen or so dealt with", is guilty of receiving stolen property and is punishable in the manner prescribed by the statute.

The questions for you to determine will be first, whether there was a larceny perpetrated by some person other than this defendant? The evidence as to the larceny stands uncontradicted. It is the evidence of Mr. Reinart, the barber, who tells you that he has a shop at No. 455 West Thirteenth Street, and that three hair cutting machines, forty-five razors, cigars, tobacco and a pack of playing cards, his property, were stolen. A portion of the property has been produced here and identified by him as the property which was stolen out of his premises on the 15th or 16th of October. You can have no

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doubt, it seems to me, as to the fact having been established beyond all question. The next question for you to determine will be (if you determine the first question in the affirmative), did this defendant, knowing that the property was stolen receive it into his possession with guilty knowledge? If he did, he is guilty of the crime charged in the third count of this indictment.

Now, gentlemen, no witness has testified positively to having seen this defendant in possession of any portion of the stolen property; but there is a mass of evidence which it will be unnecessary for me to refer to except in the most general way, which, if it is true, has a tendency to establish the fact that this Defendant at least attempted to exercise certain acts of ownership over that property. He was seen going into this apartment house; he went into one of the cellars of that house with another person, and he lighted a match and searched those premises; he then made a demand to go into the front portion of the same premises and that demand being refused, he made certain statements as to his having been in the front premises; he said that he fell and that he cut his ear in going into the premises and he had marks of blood upon his person. In these front premises which, if the evidence is true, he entered through the front grating (if I recollect the testimony right) the property which has been produced here and identified by the complainant as a portion of the property which was stolen from his premises was found. Then you have the statements which were made in the Police Court and those which were made in the Police Court and those which were made by

0084

doubt, it seems to me, as to the fact having been established beyond all question. The next question for you to determine will be (if you determine the first question in the affirmative), did this defendant, knowing that the property was stolen, receive it into his possession with guilty knowledge? If he did, he is guilty of the crime charged in the third count of this indictment.

Now, gentlemen, no witness has testified positively to having seen this defendant in possession of any portion of the stolen property; but there is a mass of evidence which it will be unnecessary for me to refer to except in the most general way, which, if it is true, has a tendency to establish the fact that this Defendant at least attempted to exercise certain acts of ownership over that property. He was seen going into this apartment house; he went into one of the cellars of that house with another person, and he lighted a match and searched those premises; he then made a demand to go into the front portion of the same premises and that demand being refused, he made certain statements as to his having been in the front premises; he said that he fell and that he cut his ear in going into the premises and he had marks of blood upon his person. In these front premises which, if the evidence is true, he entered through the front grating (if I recollect the testimony right) the property which has been produced here and identified by the complainant as a portion of the property which was stolen from his premises was found. Then you have the statements which were made in the Police Court and those which were made in the Police Court and those which were made by

0085

the Defendant in the presence of Miss McGrory and the janitor of the building and of those other persons who were present, and you have also the fact that he was in the front of those premises prior to eleven o'clock that morning. If you come to the conclusion upon all this evidence that the Defendant received the property, or any portion of it, which was stolen from the premises of the barber, and at the time he so received it he knew it was stolen property, he is guilty of the offence charged.

As to his knowledge that this was stolen property, you have a right to take into consideration with the other facts and circumstances his statement, if he made it, that this property was in the place when it was found, that a man named "Red Morton" had stolen it, that he was arrested charged with the larceny of the property, and that if he, the Defendant, could get it and return it to the owner from whom it was stolen that Morton would get off from the charge which was pending against him.

This is a very simple case, and one that ought not to take an intelligent jury long to determine. The Defendant is entitled in this as in all other cases to every reasonable doubt. It is not necessary for me to repeat what I have so often said upon reasonable doubt at this term of the Court in your hearing. If there is a reasonable doubt arising upon the evidence as to the Defendant's guilt of receiving stolen property, then you will give him the benefit of that doubt and acquit him; but if the evidence all taken together satisfies you beyond all reasonable doubt, that the property was the subject of larceny by some person other than the defendant,

0086

and that he received that property or any portion of it into his possession knowing at the time that he so received it that it was stolen property, then, of course, it will be your duty to convict. The mere fact that the Defendant has not gone upon the witness-stand and availed himself of the privilege which the law gives him of becoming a witness in his own behalf, the law says is not to be permitted to prejudice him in the slightest degree.

Counsel: This evidence being circumstantial in its character, I ask your Honor to direct this jury that it must point to the guilt of the accused to the exclusion of every other reasonable hypothesis.

The Court: Gentlemen, some of this evidence is circumstantial and some of it is direct evidence. Such evidence as is circumstantial the law says is legal evidence. And if all the circumstances which have been detailed and upon which the District Attorney relies points in one direction, and that is towards the guilt of this defendant, you are bound to regard that evidence and give it the same weight as you would give to the evidence of a witness who had sworn directly to having seen the alleged crime perpetrated; but if all the circumstances taken together are susceptible of two constructions, one pointing towards guilt and the other towards innocence, in a criminal case the jury are bound to give the defendant the benefit of the most favorable construction.

That is all, gentlemen, I have to say to you.

The Foreman: May I ask for additional instruction?

The Court: Yes sir.

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The Foreman: Is the effort to obtain possession of the property which had not before been in his possession, a receiving of the property?

The Court: NO.

Mr. Parker: I ask your Honor to charge the Jury that it may be an attempt to commit that crime.

The Court: No, I decline to charge any further on this subject than I have charged. You have all the evidence before you, gentlemen, ~~and~~ you must be satisfied that the Defendant had the property at some time after the larceny in his possession and that he received it from the person who committed the larceny.

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20/225-
1820-300
15-4

The People
vs.
Charles McKenna. { Court of General Sessions, Part I.
 { Before Recorder Smyth.

Thursday, November 14, 1889.

Indictment for burglary in the third degree.

Asst. Dist. Atty. Parker for the People.

Mr. McLaughlin for the Defendant.

A Jury was empanelled and sworn.

Mary Mullen sworn and examined by Mr. Parker.

Q. Where do you live.

A. No. 408 West 18th Street.

Q. How long have you lived there.

A. About six weeks.

Q. What part of the house do you live in.

A. The front basement.

Q. The front basement. A. Yes sir.

Q. That house is owned by Miss Mary Jane McGory partly, is it not.

A. Yes sir.

Q. With whom do you live.

A. Mrs. Brennan.

Q. How many rooms are there in the basement of that house.

A. Four.

Q. And which room do you occupy.

A. One of the front rooms.

Q. You are a married woman.

A. Yes sir.

Q. Your husband works where.

A. No. 405 15th Street.

0089

Q. In what sort of business.

A. Feed store.

Q. What time does your husband go to work in the morning.

A. Four o'clock.

Q. Is he accustomed after going to work to come back before dinner time.

A. Yes sir.

Q. What time about.

A. Sometimes he comes back at five for a cup of coffee when he has to go out to work.

Q. Upon the morning of the 18th of October last did you see the Defendant in those premises.

A. Yes sir.

Q. Please tell me when and all the circumstances.

A. About twenty minutes to five.

Q. Twenty minutes to five in the morning.

A. Yes sir.

Q. In what room was he.

A. The front room.

Q. Where were you when you first heard or saw him.

A. In my bed-room, when I heard him I was in my own bed-room.

Q. And what did he do.

A. I dressed me and come out to see if it was my husband home to breakfast.

Q. In what condition was the Defendant as to being drunk or sober.

A. He was staggering across the floor like a drunken man covered with blood and cobwebs.

Q. What did he do in the room.

0090

- A. He sat down on a chair.
- Q. Did you say anything to him.
- A. No.
- Q. You thought it was your husband.
- A. Yes sir.
- Q. You went where then.
- A. Back to my room.
- Q. Did you see Mrs. Brennan there.
- A. Yes sir, and spoke to her.
- Q. After you spoke to her what did Mrs. Brennan do if anything and where did she go.
- A. She went over and put her hand on his coat and asked him why he was drunk in the morning.
- Q. What kind of a coat did he have on.
- A. The same coat he has on now.
- Q. And did she make any remark about the coat.
- A. Yes sir.
- Q. What did she say.
- A. She called him by name supposing it was her own son, "Peter, your clothes were smooth, why did you change your coat for that rough coat."
- Q. In what condition was his hat, did you notice.
- A. Yes, covered with cobwebs and dust.
- Q. And then Mrs. Brennan went where.
- A. To bed.
- Q. And where did you go.
- A. Back to my room.
- Q. Is was dark at that time, twenty minutes to five.
- A. Yes sir.

0091

Q. How long did you stay in your room.

A. To about ten minutes past six.

Q. And the Defendant, where was he.

A. Sitting up in the chair, laying his head on the window-sill.

Q. Asleep or not.

A. I do not know, he was apparently asleep; I came out to make a fire at twenty minutes of six to the front room; the windows open on the street.

Q. Please describe the front part of that building, there is an iron fence there.

A. Yes, an iron fence.

Q. Inside of that fence what is there.

A. An iron grating.

Q. And where does that grating open.

A. Down to the cellar.

Q. Have you ever been in that cellar.

A. No sir.

Q. About what is the size of that grating.

A. I should judge it was about two feet long and one and a half wide.

Q. Made of what.

A. Made of iron.

Q. How is it surrounded.

A. Surrounded by stone.

Q. Flagstone or cobble stone.

A. Flag stone.

Q. You came in at ten minutes past six and where did you go.

A. I went to make a fire and went to work to get breakfast.

0092

Q. Did you open the shutters.

A. Yes, I opened the shutters.

Q. Where did you have to go to open the shutters.

A. Outside.

Q. Into this little area over the grating was it.

A. Yes sir.

Q. Did you observe that grating at that time.

A. Yes, I saw it was disturbed, I supposed some small boys had been to work there.

Q. Had it been so before.

A. NO.

Q. When had you last seen it.

A. The night before when I closed the shutters.

Q. And the stones, how were they, loosened.

A. They were loosened.

Q. Did you open the shutters.

A. Yes sir.

Q. What did the Defendant do then, if anything.

A. He got up, took his hat and walked out.

Q. And that was about ten minutes after six, did you see him again that day.

A. Yes sir.

Q. When and where.

A. I should judge, about eleven o'clock in the hall, trying to go down the cellar.

Q. What part of the hall was he in, the front of the house.

A. In the front hall, yes sir.

Q. Who else was there if anyone.

A. Miss McGory, Harry Kiernan and myself.

Q. Anybody else.

0093

A. Yes, I said to Mrs. Brennan ----

Q. Was Mrs. Brennan there.

A. She was in her room at the time. I says, "there is a man in the room."

Q. You went out into the hall.

A. Yes.

Q. Was there any noise or talking there.

A. Yes, he was talking loud to Miss McGory, he wanted to go down stairs and she refused to admit him.

Q. You went out and you found Kiernan, Miss McGory and McKenna.

A. Yes sir.

Q. Did you hear any conversation.

A. NO.

Q. Were they talking.

A. They were talking about going down to the cellar, that was all.

Q. What did they say.

A. McKenna said he had got some stuff, he wanted to go down and Miss McGory said he should not go down.

Q. Any further talk.

A. No, Miss McGory went for an officer.

Q. You called out to Mrs. Brennan.

A. Yes, I says, "there is the man you thought was your son this morning." She said, "it is not my son."

Q. What did he say, anything.

A. No.

Q. Did you hear him say anything about his being in the room.

A. He said he was not. I said yes, he was.

0094

Q. What did Mrs. Brennan do if anything, did she go into the hall or stay in her room.

A. She came in the hall, looked at him and went back into the room; she went up and put her hand on his coat and she said it was him, that was the same coat.

Q. Where did you go then.

A. Back into my own room.

Q. And Mrs. Brennan into her room.

A. Yes.

Q. The others where did they go.

A. Mr. Kiernan went out and stood in front and told him he should not go down to the cellar.

Q. Did you go to the front with them.

A. No, I went to the door and went to my own room.

Q. Where did Miss McGory go.

A. After a policeman.

Q. Through the front way.

A. Yes sir, she had to go to the front, she went out the front.

Q. Did you see any of them out in the front, in the area.

A. Yes sir, I saw this young McKenna.

Q. Where was he and what was he doing.

A. Standing at the iron railing.

Q. Was there any talk there that you heard.

A. No.

Q. Did you ^{hear} Miss McGory say she was going for a policeman

A. Yes sir.

Q. She started off, that is what you mean.

A. Yes.

0095

Q. Where did Mr. Kiernan go.

A. He stood out in the areaway.

Q. Did he stay at the grating.

A. He stood by the grating.

Q. Was there anyone with McKenna at this time.

A. Yes sir.

Q. Do you know him.

A. No, he was a man but I did not know him.

Q. Did he stay out in the front.

A. Yes sir.

Q. You went about your business, is that it.

A. Yes sir.

Q. Did you see him subsequently to that, after that at all that day.

A. NO.

Q. And that is all you know about the case.

A. That is all I know.

Cross Examined by Mr. McLaughlin.

Q. Where are the rooms that you occupy.

A. In the front.

Q. Where.

A. In the front basement.

Q. What is the number of the street.

A. No. 403 West 16th Street.

Q. And your name is what.

A. Mary Mullen.

Q. Floor do you occupy, what floor are you in.

A. The basement.

Q. How many rooms have you there.

A. One.

Q. There is two connecting rooms there in the basement, is there not.

0096

A. Yes sir.

Q. Who occupies the other room.

A. Mrs. Brennan occupies one and I occupy the other.

Q. Mrs. Brennan occupies the back room, does she.

A. No, Harry Kiernan occupies the back basement.

Q. Which room does Mrs. Brennan occupy.

A. She lives in the front basement, the next room to me.

Q. Mrs. Brennan sleeps in the front room, is that right.

A. Yes sir, that is right.

Q. You occupy the back.

A. Yes sir.

Q. The back basement. A. NO.

Q. There are four rooms in the basement, are there.

No answer.

Q. When you met McKenna in the entry way what time in the day was that.

A. About eleven o'clock.

Q. Who was with him besides you.

A. There was another man that I did not know, Mary Jane McGory and Harry Kiernan.

Q. Harry Kiernan was there too.

A. Yes sir.

Q. Did this other man conduct any conversation that occurred in that entry way.

A. No.

Q. He did not say a word.

A. NO.

Q. Not a word, nothing at all, is that right.

A. That is right.

0097

Q. You were in the Police Court, were you not.

A. Yes sir.

Q. Were you called there as a witness.

A. NO.

Q. You had nothing to say at all in the Police Court.

A. No, not anything.

Q. Who did you first converse with in regard to this case, did you have a conversation with anybody in regard to this case at all.

A. Not anybody.

Q. No one. A. No sir.

Q. Did you tell the officers in regard to what you knew about the case.

A. No, I did not tell any officer until I was subpoenaed.

Q. You did not speak to the officers about the case in Jefferson Market.

A. NO.

Q. Have you had any conversation since with anybody in regard to the case since you have been subpoenaed.

A. No, only what I have heard in this Court-room.

Q. Did not you converse with Mr. Parker about the case.

A. Yes sir.

Q. Did you tell him what you knew about the case.

A. Yes sir.

Q. Did you talk to Officer Carey about the case.

A. Yes sir, I told him what I knew about it when he subpoenaed me.

Q. You just this moment said you did not have any conversation with anybody.

A. Not until he came to subpoena the people there in the

0048

house, he was going to subpoena Mrs. Brennan, I told him she was most blind.

Q. You did have a conversation with Officer Carey.

A. That was all the conversation I had with him; he came to subpoena Mrs. Brennan, I told him she was most blind, she told ^{him} ~~me~~ I was present, that I seen the man and identified him; I said yes, I was.

Q. That was all that occurred.

A. That was all that occurred.

Q. Where did this conversation occur between you and Carey.

A. Right in Mrs. Brennan's room.

Q. That is the woman that you say is blind.

A. Yes sir.

Q. Now tell me just exactly over again, if you please, what you said to Carey and he to you, what did you say first and what did Carey say first.

A. He asked me what I know about the case and what I had seen.

Q. What next, what did you reply.

A. I told him yes, I had seen the man there that morning.

Q. Then what did he say.

A. He asked me if I would know the person again? I said, yes that I ~~know him~~ would know him.

Q. What else. A. Not anything.

Q. That is all. A. Yes, that is all.

Q. Now you have spoken to no person other than Mr. Carey and Mr. Parker in regard to that case, is that right.

A. Yes, that is right.

Q. You had no conversation with anybody else.

A. No, I had no conversation with anybody else.

Q. With Logan, that is Carey's partner.

0099

A. No, I had no conversation with Logan.

Q. You did not have a conversation with Logan.

A. No, nothing more than to go with him when he came after me.

Q. Did you have any conversation in regard to what you have testified to.

A. No.

Q. You came down to the Court with Mr. Logan, didn't you.

A. Yes sir.

Q. From your premises. A. Yes sir.

Q. Did Logan come into your premises for you and bring you down, is that right.

A. Yes sir.

Q. When was that he went up and brought you down in the cars.

A. To-day.

Q. Did he do that at any other time.

A. No, he come up to see me but did not bring me down in the cars any other day.

Q. Did he serve subpoenas each time on you to come down here, Mr. Logan.

A. NO.

Q. And you say Mr. Logan came up to serve subpoenas on you but did not bring you down in the car, what do you mean by that.

A. I mean he served a subpoena and I came down myself.

Q. Logan was not at your house since this case was called.

A. Yes, he came with a subpoena, he came to-day for me to come down.

By the Court. Q. When did Officer Logan come to your house first
12 with a subpoena, about how long ago.

0100

A. About two days.

Q. Did he serve a subpoena upon you then.

A. Yes sir.

Q. Did you see him again since that time.

A. I seen him to-day.

Q. You saw him to-day.

A. Yes sir.

Q. Are those the only two times you saw him at your house.

A. Yes, I believe so.

By Counsel. Q. Now two days ago Logan went to you and served a subpoena on you, did he not.

A. Yes sir.

Q. Did Logan come down with you then.

A. No, he did not, I came down myself.

Q. When did Logan come down in the cars with you, to-day.

A. To-day.

Q. This morning or when he attached you when he went up.

A. This afternoon.

By Mr. Parker. Q. To-day when Logan visited you he brought you down by force, didn't he, by attachment.

A. Yes, he told me I had to come.

Q. He did not lay you by the back of the neck, you were served yesterday by me, were you not.

A. Yes sir.

By Counsel. Q. Did Mr. Logan have to force you to come here to-day.

A. No.

The Court adjourned.

0101

Friday, November 15, 1889.

Mary J. McGrory sworn and examined.

By Mr. Parker. Q. Where do you live.

A. No. 354 West 16th Street.

Q. You live with your mother.

A. Yes sir, the same house.

Q. You and your mother own the premises 408 West 16th St., do you not.

A. Yes sir.

Q. Those premises are a double house.

A. Yes sir, front and rear.

Q. The front house is by itself on the street.

A. Yes sir.

Q. There is a little yard back.

A. Quite a large yard.

Q. How do you get to the yard.

A. Go through the alleyway.

Q. Is there a hallway also through.

A. Yes sir.

Q. Is there a basement in the front house.

A. Yes sir.

Q. And a hallway in the basement.

A. Yes sir.

Q. In the back part of the basement who resides.

A. The house-keeper.

Q. What is his name. A. Harry Kiernan.

Q. Is there a cellar under the front house.

A. Yes sir.

Q. Please tell me what principle approaches there are to that cellar.

0102

A. There is a doorway in the hall basement which is kept locked. I keep the key with my other keys always.

Q. You always carry that. A. Yes sir.

Q. Is there any opening to it.

A. Yes, there is a front and back grating but the coal shoot has been filled in so that no one can go down that way; the back grating is stationed, it could not possibly be taken up--- the front grating of iron, that can be taken up by anyone that understands the way to lift it, but anyone that did not would pull it and loosen two flat flags that lay at the side.

By the Court. Q. How is it fastened, by a chain.

A. No sir, it just slides a small way under a piece of wood and when you open it you touch it a little bit and it falls back to the wall; the piece of wood is broken and the cement on the flags is loosened.

Q. Was anything kept in that cellar in the front house.

A. Nothing at all, it is not used, only pipes.

Q. Are there any pipes close to the grating in front.

A. Just a fresh air pipe that runs out under the sidewalk.

Q. How close to the grating is that underneath.

A. You cannot possibly get down without stepping on that pipe.

Q. It is within what distance.

A. It is a good step down.

Q. It is directly under, is that so.

A. Yes, right directly.

Q. Is there any cellar in the back of the house.

A. Yes sir.

0103

Q. Now upon the morning of the 18th of October were you in those premises at all.

A. Yes sir.

Q. At about what time.

A. About eleven o'clock in the morning.

Q. And in what part of the premises.

A. I went to the rooms of Mr. Kiernan.

Q. In the back part of the front house in the basement.

A. Yes sir.

Q. Did you have any talk with him.

A. Yes sir.

Q. Did you see the Defendant on that day.

A. Yes sir.

Q. Please tell me at what time and where.

A. I went into Mr. Kiernan's room as I do every day to see if he is need of any help or of anything to be done and while I was in his rooms I saw two men pass into the yard down into the cellar of the rear house, they came into the hallway, McKenna and another man which I saw Tuesday night, I know the other man by sight, they went directly down in the cellar.

Q. Passed through the yard.

A. Yes sir.

Q. And went into which cellar.

A. The cellar of the rear house.

Q. How is that cellar approached.

A. There is an opening in the yardway that you go down some steps.

By the Court. Q. From the yard to the cellar.

16 A. Yes sir.

0104

Q. Is there a door on that cellar.

A. Yes sir, the cover, it lifts right off.

By Mr. Parker. Q. What did you do.

A. I said to Kiernan there is two men going in the rear cellar and I will go over and see what they want; I went over and went down into the cellar.

Q. Did you see the men there.

A. Yes sir.

Q. What were they doing.

A. They stood in the center of the cellar with lighted matches in their hands, feeling on the beams of the ceiling. I asked them what they wanted and McKenna here answered me that he lived there. I says, "what is your name?" He says, "O'Neill." I says, "you don't live here"; he said he did and from the appearance of the men I thought it was advisable to come up. McKenna's ear was cut and his shirt was full of blood; I came up and left them there.

Q. Is there anybody names O'Neill in that house.

A. Not any.

Q. Did you say anything to him, McKenna, about that.

A. Yes, I went back to where I came from, Mr. Kiernan's room and I sat down and presently they both came up out of the cellar and crossed over down this hall in this hall in the front basement and Mr. Kiernan stepped to the door and McKenna said, "is there any way to get down from the inside to the cellar here?"

Q. Did he say that.

A. Yes sir; Mr. Kiernan said, "yes, but it is locked"; he said, "where is the key?" I stepped up into the hall and

0105

said, "where is the key? I have got the key but you cannot go down." He said, "I will go down the front way"; he started in the hallway and when he reached the door Mrs. Brennan and Mrs. Mullen said, "here is the man that was in your room this morning." Mrs. Brennan looked at his coat sleeve; she says, "yes, what brought you to my room at that hour?" McKenna excused himself and he and the other man went out in the area, Mr. Kiernan and I followed them out to the front.

Q. When you speak of the area what do you mean.

A. He went down to the grating, came down that way.

Q. Did he try to lift it.

A. He walked over but we would not let him, I said, "you can't go down there."

By the Court. Q. That was the front grating.

A. Yes sir.

Q. What was the condition of that grating at that time.

A. It was not set down properly, one end was up.

Q. What was the condition of the stone and cement.

A. It looked cracked, the cement.

Q. And the stones, were they removed.

A. No, the stones were not removed but the cement was cracked and the piece of wood broken, it is broken still.

Q. Had it been in that condition the day before.

A. No sir.

Q. What conversation took place at that grating.

A. McKenna said he would go down, I said I would go for a policeman and I started to the corner.

Q. Which way did you go.

18 A. Toward Ninth Avenue.

0106

- Q. This number is between what avenues.
- A. No. 408 is four doors from the corner of Ninth Avenue.
- Q. You went east.
- A. Yes, I stood on the corner to see if I could see a policeman, McKenna and the other man followed me up; McKenna said, "Mary Jane, let me down that cellar." I said, "what do you want in that cellar?" He said, "I have machines down there." I says, "you were in one cellar, what right have you to bring your machines to that house beside any house in the block?" He said, "I made a mistake in the cellars, I know it is the front cellar where the pipes is for I fell on them going down. He said this to me on the corner, he said he was drunk when he put the stuff in there.
- Q. Did he say he put the stuff in.
- A. Yes sir.
- Q. He fell on the pipes, was there any talk about that.
- A. That is what he said.
- Q. Any indication of falling on the pipes.
- A. No, they were not disturbed; his car was cut; I said to him, "your car is cut", and he said yes, he knew it was, that he fell on the pipe going down.
- Q. Then what more was said, anything at that time.
- A. Yes, I says, "you can't go down", and he said he would and he started to back down.
- Q. Toward where.
- A. Towards the house and left me still on the corner.
- Q. What did you do, did you get the officer.
- A. I met a neighbor, a gentleman and I told him about it; he says, "you will find an officer over where they are

0107

registering"; I went over and called him out, it was Officer Fagan and he ran over.

Q. Did you go with him back to the house.

A. Yes sir; they both, McKenna and this other man were standing at the door and the Officer ran over to them and when they saw him coming they ran towards 10th Avenue west and he after them and I waited at the door till he came back. The officer, Kiernan and I, we lifted up the grating and we all went down this way.

By the Court. Q. Did he bring the Defendant back.

A. No sir, he could not catch him. We all lifted the grating and went down, the officer, Mr. Kiernan and I. We found clipping machines and razors; I had an apron on, we brought them up in his room; we found boxes of matches and some papers, the Officer did not take them.

Q. Some cigar papers.

A. Yes sir, small envelopes that they put cigars in.

By Mr. Parker. Q. Well, did the officer take them afterward.

A. The Officer picked them up and took them to the Station House.

Q. Now the Defendant was not arrested that time as far as you know, was he.

A. I received a subpoena the next evening.

Q. I show you those razors and clipping machines, are those the ones that you found.

A. Yes sir, those are the ones.

Q. You went to Court in pursuance of the subpoena, did you.

A. Yes sir.

Q. To what Court.

A. Jefferson Market.

0108

Q. Did you see the defendant McKenna there.

A. Yes sir.

Q. Did you hear him make any statement there.

A. Yes.

Q. What statement did he make.

A. He said there was a man named Martin arrested for these goods and he went there to get them -- he said he went there to get that stuff for him to get him out of prison, he said he was arrested for it.

Q. Was anything else found in the cellar.

A. Not in the cellar -- in Mrs. Brennan's basement doorway a package of cards was found and there was blood on it.

Q. Is that the package of cards. (Cards shown.)

A. Yes sir.

Q. Who else was present at the Court at the time that statement was made.

A. Mr. Kiernan, Mrs. Mullen and the two detectives.

Q. Who were the detectives.

A. Carey and Logan.

By Counsel. Q. Miss McGrory, which part of the premises do you occupy.

A. I do not live on those premises at all.

Q. Do you live in that immediate vicinity.

A. Yes sir.

Q. How far from these premises.

A. I live 354, right off the corner of Ninth Avenue.

Q. And the premises are about four or five doors down are they not.

A. Yes sir, four doors from the corner.

0109

Q. What time of day was it, Miss McGarry.

A. About eleven in the morning.

Q. Where were you when you first saw McKenna.

A. In Mr. Kiernan's rooms.

Q. McKenna entered the back way through the hallway you said on your direct examination.

A. Yes sir.

Q. How do you know that McKenna entered the back way through the hallway.

A. I saw him go across the yard, he crossed the hallway.

Q. You did not see him come through the hallway.

A. I saw him turn around the stoop, I know he would have to come that way to turn around that stoop.

Q. How long had you been in Kiernan's room when you saw the Defendant in the yard.

A. Between three and five minutes.

Q. You say that you went there as you do customarily to see how things are being conducted there.

A. Yes sir.

Q. You have charge of the premises for your mother, is that right.

A. Yes, that is right.

Q. When you entered the yard back of the front house who was in to yard besides McKenna.

A. He was not in the yard, he was in the cellar, he did not stand in the yard.

Q. But you stated you saw him in the back yard.

A. I saw him go across the yard to the cellar.

Q. You saw him go right down the cellar.

A. Yes sir, right down.

0110

Q. Did he remove the woodentop to that cellar before he went down.

A. No, it was off.

Q. Did anybody go out with you to the cellar.

A. No.

Q. You went alone.

A. Alone.

Q. Did you know that back cellar. A. Yes.

Q. How long have you resided in that immediate neighborhood.

A. I was born in that neighborhood.

Q. Lived there continuously.

A. Not at all times, no, I have lived out of it at times.

Q. Where have you resided for the last five or six years.

A. Four years I lived in the same house I am in at present.

Q. Where did you live before that.

A. I was taking care of some other property on the east side for a family.

Q. But you have lived continuously in the neighborhood of these premises.

A. Yes.

Q. You have seen McKenna before, have you not, Miss McGrory.

A. Never to know who he was.

Q. Do you know that he served your mother with vegetables at different times during the last five or six years.

A. No sir.

Q. You never saw him. A. No sir.

Q. But you have seen him in the neighborhood frequently.

A. No, I do not remember seeing him in that neighborhood until that day, I disremember seeing him. I would not have asked him his name if I knew who he was.

Q There was another person there besides McKenna, was there not.

A. Yes.

Q. Who was he.

A. I do not know who he is, I would know him if I saw him again though.

Q. Did you have any conversation with him.

A. He did not speak at all; McKenna spoke.

Q. He did not say a word.

A. NO.

Q. You say you saw him the night before this other party.

A. No, I did not say I saw him ~~is~~ there the night before, I say I saw him since the arrest of McKenna.

Q. When was that.

A. One night this week I saw him around the neighborhood.

Q. Whereabouts did you see him.

A. On the Ninth Avenue near 16th Street.

Q. Do you recognize him as living in the neighborhood there.

A. No, I do not know.

Q. You never saw him before either.

A. No, not to my knowledge.

Q. You are positive that the other party said nothing to you at all.

A. He did not answer me at all.

Q. Not a single word.

A. No, he spoke to McKenna though in the cellar.

Q. But not in your presence.

A. Yes, in my presence in the cellar but he did not speak to me.

Q. What did he say.

0112

A. I asked him which place did he put the things.

Q. And he was searching in the ceiling of the back cellar.

A. Yes.

Q. This back cellar is reached by a short, narrow wooden ladder, isn't it, or steps like.

A. Yes, you ought to know, you saw it last night, didn't you.

Q. McKenna came up with you out of the cellar, did he.

A. No he did not come up with me. I left him there.

Q. You left him in the cellar and came up.

A. Yes.

Q. Did they follow. A. Not right after, a few minutes after.

Q. But they did follow. A. Yes sir.

Q. Did you hear the conversation that took place between McKenna and the other man in the back yard.

A. I did not see them standing in the yard at all, I saw them walk across the yard down to the cellar.

Q. You saw them after they came up, did you not.

A. No, I saw them come across the yard where I was.

Q. Then they entered the passageway.

A. Yes.

Q. They went through the passageway to Kiernan's room, is that right.

A. When you come down in the cellar you are opposite his door that is where he stood.

Q. Where were you then when they entered the back hallway.

A. In Mr. Kiernan's room.

Q. Did you come out of the room first or Kiernan.

A. Kiernan.

0113

Q. And who first commenced the conversation.

A. McKenna.

Q. And what did he say.

A. He says, "is there any way to get from the inside?"

Q. What did Kiernan say.

A. He said yes, but it was locked.

Q. And you carried the key of that entrance from the hallway to the cellar.

A. Yes.

Q. And it is generally covered by barrels and old carpets, is it not.

A. Yes sir, it is locked though.

Q. It is generally covered, is it not.

A. Yes, it is not used.

Q. It has been covered over by carpets, barrels and rubbish generally.

A. Yes sir.

Q. Mr. Kiernan was present during your conversation with McKenna.

A. In the hall, yes.

Q. Did the other man have anything to say at all.

A. What other man?

Q. The other man who was with McKenna there.

A. NO.

Q. Not a word.

A. NO.

Q. Then what did McKenna say next after your refusal to give him the key of this inside entrance.

A. He said he would go down that front way.

Q. Then he walked to the street.

A. Yes, to the front to go down.

Q. You went out with him to the street.

0114

A. Yes, I followed behind him.

Q. And who else, Mr. Kiernan.

A. Yes.

Q. And you prevented him entering the cellar by the front entrance.

A. Mr. Kiernan prevented him.

Q. This was eleven o'clock in the day you say.

A. Around that hour.

Q. This entrance from the front is in full view of the street.

A. Yes sir.

Q. At the front cellar was there any conversation between you and McKenna.

A. Nothing more than I said he could not go down.

Q. Didn't he say something to you, calling you by your first name.

A. No, not in the house, at the corner he did.

Q. Were you called as a witness in the Police Court, Miss McGrory.

A. Yes.

Q. Did you state there any conversation with McKenna.

A. I believe I did, yes.

Q. Did you state there that McKenna said to you that he was looking for some stuff there that O'Neill had sent him there for -- did you say in the Police Court that O'Neill had said in the presence of McKenna that a friend of O'Neill's had stolen some property and this property was concealed on your premises and they desired to recover it

A. O'Neill?

Q. The other man in the case, did you make any such statement in the Police Court.

27 A. I did not.

0115

Q. No statement at all.

A. No, I did not hear the name of O'Neill mentioned only by McKenna, he said that was his name.

Q. Did you send this other man upstairs in the rear house for a candle, the other man that was with McKenna.

A. No, indeed I did not.

Q. Or give him any matches. A. No sir.

Q. Do you know a man of the name of Morton.

A. Yes sir.

Q. Did you have him arrested. A. Yes sir.

Q. Charged with what offence.

A. Disorderly conduct around the premises.

Q. Does he reside on those premises.

A. No sir.

Q. Does he live in the neighborhood.

A. No sir, he lives in 20th Street, he did at that time, I don't know where he lives now.

Q. You don't know where he resides now. A. No.

Q. You made a complaint against him did you. At the Station House first.

A. No sir.

Q. Directly at the Court and a warrant was issued for his arrest. A. Yes.

Q. Did you see the other man that was with McKenna leave the cellar, go upstairs and come back again.

A. No sir.

Q. Did you see him with a candle or matches.

A. When I saw them down there in the cellar both had matches then.

Q. And ignited them, did they. A. Yes.

0116

Henry Kiernan sworn and examined.

Q. Where do you live.

A. No. 408 West 18th Street.

Q. Are you a married man. A. Yes sir.

Q. And your family there with you.

A. Yes sir.

Q. You are I believe, a sort of house-keeper, care-taker of those premises for Miss McGrory and her mother.

A. Yes.

Q. You live in what part of the premises.

A. In the basement in the rear.

Q. Upon the 18th of October did you see the Defendant at those premises.

A. Yes sir.

Q. At what time of day.

A. About the hour of eleven I was sitting in my room with my wife and Mary Jane McGrory came in and said to me ---

Q. Where was this man when you first saw him.

A. Coming, following Mary Jane McGrory in the hallway.

Q. Did you see him when he came into the premises.

A. No sir, I did not.

Q. The first you saw of him was when he followed Mary Jane McGrory.

A. Into the hallway where I live.

Q. Tell me what took place from that on, please.

A. He asked me if there was any way to get down to the cellar in the hallway? I said there was, I said it was locked though. He says, "who has got the key?" Mary Jane stepped out-- There is a cellar in the front house.

0117

By the Court. Q. He wanted to get into the collar of the front house. A. Yes.

By Mr. Parker. Q. Mary Jane steps out and she says what.

A. She says, "I have got the key and you can't go down"; they walked out then.

Q. Did he say anything to that.

A. Not then to my knowledge, I followed him out and he said he would go down; he would open the grating and go down that way; that grating is in the areaway fronting on the street. She said the same and he said he would; she told me not to let anyone down there until she went and got an officer.

Q. Was all this talk in the hall.

A. No sir, some of it was in the hall and some of it was outside.

Q. Do you know Mrs. Mullen. A. Yes sir.

Q. Was she in the hall during any part of this talk.

A. Yes.

Q. Do you know Mrs. Brennan, was she there.

A. Yes sir.

Q. Was there any talk between Mrs. Brennan and Mrs. Mullen.

A. There was talk but I do not know what was said. I told him he could not go down and he stood in the areaway.

Q. He went out of the hall into the area.

A. Yes.

Q. Was anybody with him.

A. There was a man standing on the sidewalk.

Q. Do you know the man.

A. I could not swear to that either.

0118

Q. You do not know his name.

A. No sir.

Q. They went out to the areaway and you and Mary Jane went with them.

A. Yes sir.

Q. Was there any talk.

A. Only what I have said.

Q. What was the condition of that grating, if you know, at that time.

A. About I should say two months before this thing happened there was new pipe put down there, an air pipe in the cellar, there was grating put there so as no one could left it and about that at each side was cement into the flag stone underneath, there is a long board and that fits in.

Q. What was the condition of that grating at the time they all went out in the areaway.

A. I did not notice it till afterwards -- as soon as we went in the cellar.

Q. Did the officer come.

A. Yes sir.

By the Court. Q. The same day.

A. Yes sir.

By Mr. Parker. Q. In what condition was it then.

A. You could see where it had been pulled, the cement was gone.

Q. Had that been so the day before.

A. I did not notice it before.

Q. When you last noticed it was it so.

A. It was all right the last time I noticed it, that is, when it was fixed.

0119

Q. Two months before.

A. Yes sir.

Q. Did Mary Jane go for an officer.

A. Yes sir.

Q. What did the Defendant do.

A. He followed her up to the corner.

Q. What did the man that was with him do.

A. He stood around there.

Q. How long was Mary Jane away.

A. I should say about five or seven minutes.

Q. Did the Defendant come back before or with her.

A. He came back before her.

Q. Did you have any talk with him before Mary Jane came back.

A. He said Mary Jane gave him permission that he could go down and get it; I said if that was so he would have to wait there and she could do it. He said he had machines and stuff in a black bag, he did not care much about the machines but he wanted the black bag.

Q. Is there anything kept in the cellar.

A. No sir, nothing at all.

Q. Was it kept locked all the time.

A. Yes.

Q. There were pipes there.

A. Yes sir, the pipe runs from the back yard in the rear to the front house and runs right out on the sidewalk into the sewer; it comes within that height of the grating (illustrating.)

Q. Do you have to pass through the pipe.

A. You have got to step on the pipe before you get to the ground.

0120

Q. Mary Jane did she come back alone or bring a policeman.

A. She came back I guess just behind or before the policeman.

Q. What policeman came.

A. Officer Pagan.

Q. What did he do and what did the Defendant do.

A. He got within about four houses and McKenna and the other one started to run.

Q. Who started to run.

A. McKenna and the other man, and the Officer ran after them, and as soon as the Officer started to run I opened the cellar of Mary Jane McGrory and went down and found two razors and three hair cutting machines.

Q. One of the razors is broke, that is one of them. (Showing razor).

A. Yes.

Q. These hair cutting machines, to the best of your knowledge are the same ones. (Machines shown.)

A. I can tell one of them, there is a new one I know and that one there has a broken tooth; I found them on the beam of the cellar of the front house.

Q. Were there any cards found.

A. I don't know nothing at all about the cards.

Q. And the officer came back then did he.

A. Yes sir.

Q. He did not catch the Defendant.

A. No sir.

Q. After that when the Defendant was arrested did you go to Court at all.

A. I went, I was summoned to go before Justice Gorman on the 19th of October, that was Saturday.

0121

Q. And did you go.

A. Yes sir.

Q. And did you see the Defendant there.

A. Yes sir.

Q. Did you hear anything said by him.

A. Yes sir.

Q. Tell me what he said.

A. To the best of my knowledge I might not give his words - he said a man told him that a man named Horton was arrested for stealing the stuff, it was in that cellar and him and if McKenna could get it and return it to the owner the owner of the things would not prosecute him.

Q. You heard that, who else was there at that time.

A. I don't know whether the other people heard it; there was Officer Carey, Officer Fagan, Mary Jane McGrory, Mrs. Mullen and myself.

Q. Was Logan there.

A. I would not be sure.

Cross Examined.

By Counsel. Q. This front entrance is right on the street where you went down.

A. No sir, it is not right on the street.

Q. It is right inside the street line isn't it, it is bordering on the street.

A. It is in the arcway, it is not at the outline of the street.

Q. But the arcway is that much lower than the street.

A. Yes sir, a little lower than that, I can't be sure, I never measured it.

Q. It is not more than a foot.

34 A. I cannot tell.

0122

Q. I examined it last night.

A. You can form your own opinion.

Q. Is it more than a foot down.

A. I told you before I could not tell you more than a foot.

Q. It is in full view of the street.

A. Yes, it is in full view of the street.

Q. This was eleven o'clock in the day.

A. Somewhere around that time, about eleven o'clock I said.

Q. A Juror wants to know if there is not some iron railing around there.

A. There is iron railing.

By Mr. Parker. Q. A fence.

A. Yes, in front of the house the same as any other.

By the Court. Q. There is a railing between the house and the sidewalk.

A. Yes sir.

By Counsel. Q. But that would not hide the view of this part of the grating.

A. No sir.

Q. This iron pipe that runs from the street that you speak of is the ordinary black sewer pipe.

A. Yes sir.

By the Court. Q. About how thick was that pipe.

A. I guess it is about that round. (Showing.)

By Mr. Parker. Q. Five or six inches in diameter.

A. Yes sir more than that I guess.

By Counsel. Q. When did you first see McKenna.

A. I saw him that morning when he came in the hallway after Mary Jane McGrory.

Q. You did not see him before he entered the back cellar.

0123

A. No sir, I did not.

Q. She preceded McKenna, is that right.

A. She came in before him, came and sat down in my room.

Q. They came in after her.

A. They followed her down.

Q. How long was she in your room altogether, I mean at this time.

A. The first time when she came in before she went into the rear cellar she was not there more than I suppose three or four minutes, after she came back she hardly sat down again when she went right out again.

Emil Reinart sworn and examined by Mr. Parker.

Q. Where do you live.

A. No. 455 West 13th Street.

Q. And do business there.

A. There.

Q. What is your business.

A. Barber.

Q. On or about the night of the 15th or 16th of October did you lose any property from your barber shop.

A. Yes sir.

Q. What property did you lose.

A. I lost three hair-cutting machines, forty-five razors, cigars and tobacco and the cards.

Q. Did you give that property to anybody or authorize anybody to take it away from you, it was stolen was it.

A. It was stolen, yes sir.

Q. Will you please look at that property and tell me whether or no that is a part of the property stolen from you at

0124

that time.

A. Yes sir, it is, all of it, my name is on the razors too.

Q. You produced this property here to-day, did you not.

A. Yes sir.

Q. Is that pack of cards part of the property stolen.

A. Yes sir.

Q. I will offer these in evidence, where did you get that property from.

A. I got these in Jefferson Market Police Court the same time I identified them there.

Q. From whom, an officer.

A. I do not know his name.

Q. Was it Officer Moloney.

A. I believe that is the name, from the detective.

Q. Or was it Officer Hurley.

A. I do not know which, there was two of them.

By Counsel. Q. When did you last see these things, I mean before you got them in Jefferson Market.

A. I saw them the same day in the 20th Street Station House.

Q. Prior to that when did you miss them.

A. Right next morning I missed them, two o'clock in the morning.

By the Court. Q. What morning is that.

A. On the 16th of October.

Q. Were they in your place on the night before, the 15th.

A. Yes sir.

By Counsel. Q. What do you mean, that you missed the property on the 16th day of October at two o'clock.

A. Yes sir, I entered the shop right after two o'clock in the morning, I was called up by the Officer.

0125

Q. What Officer called you up.

A. I believe his name is Harloy.

Q. Have you recovered any more of your property except those.

A. I did not get anything no, only those.

By the Court. Q. What was the value of the forty razors and the other things that you lost, about how much.

A. The value of all is eighty dollars about.

Robert Fagan sworn and examined.

y Mr. Parker. Q. Officer, you are attached to the 16th precinct, are you not.

A. Yes sir.

Q. On the 13th day of October last where were you on duty.

A. At the Registry office on Ninth Avenue near 16th Street.

Q. Do you know Mary Jane McGrory.

A. Yes sir.

Q. Did you see her upon that morning.

A. Yes sir.

Q. About what time. A. Ten o'clock.

Q. You had some conversation with her.

A. Yes sir.

Q. In pursuance of that conversation what did you do.

A. I left the registry office to follow a man, she told me he had some stuff, I followed her and went to 408 16th Street and when I got near that building, when I was three doors this side of 408 I seen two men standing down the street farther looking at me very closely and they started to run as they seen me.

0126

Q. Do you know what men they were or either of them.

A. I do, one was that man McKenna, he ran towards Tenth Avenue and the other man ran into the hallway in 15th Street.

Q. Did you pursue.

A. Yes, I pursued neither one directly, I pursued both but they separated at the alley, I found the one that went through the alley.

Q. Did you catch either that day.

A. No sir.

Q. After the Defendant was arrested were you at the Police Court.

A. Yes sir.

Q. Did you hear him make any statement there.

A. Yes sir, I heard him make a statement there at the Jefferson Market Police Court, I heard him mention a man's name, Red Morton.

Q. What did he say about him.

A. I was not close enough to hear all, I was in the courtroom but not close enough to hear what he said.

Q. You did not hear the statement.

A. Not all the statement, no sir.

Cross Examined.

Q. Do you know a liquor saloon in that immediate neighborhood kept by Quirk.

A. Yes, I know two kept by two Quirk's.

Q. John Quirk.

A. I do not know either one of their first names.

Q. Down near 10th Avenue on 16th Street.

A. Yes sir, I know that place.

0127

Q. Have you been there in regard to McKenna within the last two or three days.

A. No sir.

Q. Had any conversation with Mr. Quirk in regard to McKenna.

A. No sir.

Q. Nor with anybody else in those premises.

A. No sir.

Q. I mean in the saloon. A. No sir.

Thomas F. McGuire sworn and examined.

By Mr. Parker. Q. You are attached to the 16th precinct.

A. Yes sir.

Q. Did you arrest the Defendant upon this charge?

A. Yes sir.

Q. And upon what day.

A. On the 17th.

Q. Where did you arrest him.

A. In Ganzevoort Street, I think it is 79, I am not exactly sure of the number.

Q. He lives there.

A. With his mother and father and brother and sister I believe.

Q. What time of day did you arrest him.

A. In the morning, a little after six.

Q. Where did you find him.

A. In bed.

Q. Who was with you.

A. Maloney and

Q. Of the same precinct.

A. Yes sir.

0128

Q. What conversation if any did you have with him.

A. When we entered the house we inquired of his mother if he was in, I knew this man McKenna before; his mother said no and also his brother said he was not in.

Q. When you found him what talk did you have with him.

A. He asked me what he was arrested for, I told him he would find that out when he got to the Station House, I arrested him for Officer Carey, I did not have anything to say to him on the way or at the Station House.

Q. Were you at the Court afterwards when he was arraigned.

A. No sir, I turned him over to Detectives Carey and Logan.

Q. Was he kept in the Station House that day.

A. No sir, he was taken to Court that morning.

Q. What time was he taken to court.

A. It was my day off, I suppose it was eight o'clock.

By the Court. Q. You merely made the arrest for another officer because you happened to know the man.

A. Yes sir, I was instructed by another officer.

George Logan sworn and examined.

By Mr. Parker. Q. You are attached to the 16th precinct are you not, a ward officer there.

A. Yes.

Q. Do you know the Defendant.

A. I know of him, yes sir.

Q. Before his arrest upon this charge had you known him.

A. I only knew of him, that was all, I never saw him before.

Q. When he was arrested he was brought to the Station House at that precinct, was he not.

0129

A. Yes sir.

Q. Did you see him in the Station House.

A. Yes sir.

Q. Did you have any talk with him.

A. No, I did not, I heard him make a statement to the Police Magistrate, not in the Station House.

Q. He was taken to the Jefferson Market Court on the same day he was arrested, was he not, and you were present.

A. Yes sir.

Q. What statement did he make.

A. I had him remanded that day.

Q. What statement subsequently did he make.

A. He told the Police Magistrate the next day, the day he was committed, that he met a tall man on the corner and he told him a man named Red Morton had been arrested for the job and the stuff was in McGorry's collar and that if he, McKenna, got the stuff that they could not do anything to Red Morton.

Q. Do you know Red Morton.

A. No sir, I never seen him.

Q. Did he tell the name of the man who told him this.

A. He said a tall man on the corner.

Q. Was that in answer to any question by the Magistrate.

A. Yes sir, the Magistrate called him up and asked him why he went there, what business he had there.

Q. And that was the explanation he gave.

A. Yes sir.

0130

John Carey sworn and examined.

By Mr. Parker. Q. Officer, you are attached to the 16th precinct.

A. Yes sir.

Q. Do you know the defendant.

A. Yes sir.

Q. At the time of his arrest and subsequent to his arrest and at the time he was in the Station House prior to being brought to Court did you see him.

A. Yes sir.

Q. Was he kept in the cell at that time.

A. Yes sir.

Q. Did you have any talk with him at that time or hear him make any statement.

A. Yes sir, I heard him make a statement that he saw a tall dark complexioned man at the corner of 16th Street, he told him that Red Morton was arrested for some goods that was in McGrory's cellar and he asked him to go and get them.

Q. Did he say anything further about a purpose to get them or what.

A. He said that the man said to him that if he got them there could not be anything done to Red Morton.

Q. Did you go to the Police Court at the time he was arraigned there.

A. Yes sir, he was remanded the first day and the next day he was taken by Detective Logan, I did not go, and the complaint was made and he was committed.

Q. At that time did you hear him make any statement.

A. Yes sir, he told Judge Gorman that he did not steal these

0131

goods but that Red Morton was arrested for them and he went there to get them.

Q. Who else was there at that time in this case when he made that statement.

A. Detective Logan, Mary Jane McGrory, Mrs. Mullen, Kiernan and Fagan.

Cross Examined.

Q. Do you know Quirk's saloon on 13th Street, Officer.

A. Yes sir.

Q. Have you been there within a few days, I mean within the time that McKenna has been arrested.

A. No sir.

Q. Did you have any conversation with Quirk at all.

A. Not since McKenna was arrested.

Q. Just before it.

A. Prior to his arrest, yes, the night before.

Q. You went there with a view of getting a complainant against McKenna, did you not.

A. I went there to investigate a complaint which came from there.

Q. For assault.

A. Yes sir.

Q. That was committed on McKenna.

A. It was claimed to have been committed by McKenna on another.

Q. On Durking.

A. Yes sir.

Q. You ascertained there that McKenna was struck there with a bottle.

A. I did.

Mr. Parker: That is the Peoples' case.

0132

The Case for the Defence.

Counsel: I ask your Honor to take from the consideration of this jury the first count of the indictment which is burglary in the third degree.

The Court: I understand the District Attorney goes on the count for receiving stolen goods, there is no occasion of my taking it away.

Counsel: I so desire it.

Mr. Parker: I said that I wayed that.

Counsel: I ask your Honor to take from the consideration of this Jury the offence of receiving stolen goods because the evidence in this case points, if it points at all, against any such contention; the evidence is all circumstantial in its character.

The Court: That is good evidence.

Counsel: Very true, but there must be some evidence to show a receiving on the part of the defendant McKenna.

Mr. Parker: What about the confession.

Counsel: There is no confession.

The Court: There is evidence anyway to go to the Jury if they believe it that this man either exercised or attempted to exercise acts of ownership over that property --- his going into the cellar, his going to get it and saying that it was there, he claimed the right to get possession of it.

Counsel: That may be true, your Honor, but was there any actual receiving of it.

The Court: In some part of the evidence he said he put it there. I leave it to the Jury.

0133

Counsel: I ask your Honor to give me the benefit of an exception to your refusal to take that count from the Jury.

McKenna, I want you to go around and let those twelve jurors see your car.

Mr. Parker: Are you going to put him on the stand?

Counsel: NO.

Mr. Parker: I object to his putting this Defendant in as an exhibit.

Counsel: I desire to have introduced as an exhibit in this case that which has already been accounted for by the District Attorney on a different theory than mine.

The Court: What is the exhibit?

Counsel: The cut on the Defendant's ear.

The Court: You have got to prove that it is his ear first.

Mr. Parker: Why don't you put McKenna on?

Counsel: No, no, Brother Parker.

George R. Westerfeld sworn and examined.

By Counsel. Q. Mr. Westerfeld, you see the ear of the Defendant there.

Objected to.

The Court: You may prove by this witness that he examined the ear of this man.

By Counsel: Q. Will you examine that ear.

A. I have, I see it.

Q. Examine the ear that is cut.

A. I did examine it when I was sitting there beside him.

By the Court. Q. You did not see any cut on it.

0134

A. I see the marks of the cut, I assume it is a cut, there is marks produced there, I see a deep cut or contusion.

By Counsel. Q. A deep scar.

A. There is.

Counsel: I desire to introduce the car, I want them to look at it.

The Court: No, that will do.

Counsel: I desire to enter upon the record ----

The Court: You wont enter anything upon the record without my permission.

Counsel: Your Honor can strike this out, I have made the offer to permit McKenna, the Defendant, to exhibit his car and the cut thereon to the Jury. and I take exception to each and every ruling of your Honor as made thereon.

Edward Dono ue sworn and examined by Counsel.

Q. Did you see the defendant ~~Edward~~ McKenna prior to his arrest.

A. Yes sir, in 17th Street between 8th and 9th Avenues.

Q. Do you remember seeing his car.

A. Yes sir.

Q. When, how long before his arrest.

A. I think it was ----

By the Court. Q. Do you know what day he was arrested.

A. No sir, I did not keep track of it.

By Counsel. Q. The 17th of last month, October, he was arrested.

A. It was the following morning I think he was arrested.

Q. You saw him on the 16th.

A. I believe it was, I could not exactly swear to it.

Q. What time was it.

0135

A. In the evening about half past eight.

Q. Did he have his ear cut.

A. Yes sir.

Q. Did you see plaster on his head.

A. I did not take notice, he did not show me his head.

Q. Was there plaster on his ear.

A. His ear was cut right here. (Pointing.)

The Court: Do you abandon the first two counts?

Mr. Parker: Yes sir, I think upon consideration I had better,
there is a count for burglary and a count for larceny, I
abandon the first and the second.

The Court: That leaves the third count.

POOR QUALITY
ORIGINAL

0136

Q
Counsel: I except to the Judge's charge as a whole and to each portion thereof, particularly where he said it is a very simple case and one that ought not to take an intelligent jury long to determine.

The Jury rendered a verdict of guilty of receiving stolen goods.

Counsel: I ask your Honor before you make a disposition of the case that you remand him until next Wednesday, I want to have Mr. Purdy here to make a motion in arrest of judgment and for a new trial on the minutes.

The Court: You may make your motion for a new trial and arrest of judgment on my minutes.

Counsel: I ask that he be remanded for two days.

The Court: Yes.

0137

Testimony in the
case of
Charles McKenna
filed Oct. 1, 1899

0138

OFFICE OF
THOS. J. MORGAN,
SANITARY
Plumber, Steam and Gas Fitter,
586 Park Avenue,
(Four doors North of 63d St.)

New York, N.Y. Nov. 13th 1889

The Hon. Frederick Smith

Dear Sir

I have had John M. Kennan
working for me for one year during which
time I always found him to be an honest
and industrious young man and always done
what was right while in my employ. His
Father James M. Kennan I have known for
the past ten years to be an honest and
hard working man

Yours Respectly
Thomas J. Morgan

0139

Police Court, 2 District.

City and County of New York, ss.

of No. 354 West 16th Street, aged 29 years,
 occupation House Keeper being duly sworn, deposes and says,
 that on the 16 day of October 1889, at the City of New
 York, in the County of New York,

Charles McKenna (known as) and another person not arrested and whose name is unknown to deponent, did unlawfully enter the cellar of premises No. 408 West 16th Street with the intent to commit a felony to wit: remove stolen property which was subsequently found after said defendant was arrested.

Deponent saw said two defendants in the cellar of the rear building at the above premises, with lighted matches and deponent demanded to know what they the said defendants were doing in said cellar, and said McKenna answered he was looking for some stuff he then demanded to be allowed to go in the cellar of the front house, and deponent refused him admission and deponent caused said defendants McKenna arrest said unknown person escaped.

Deponent in company of Henry Herman of No. 408 West 16th Street then examined the front cellar and there found three Hair Clippers and two Razors lying upon a beam. Deponent is now informed that said property found by deponent was his property that his Barber shop at No. 455 West 13th Street was burglariously entered and said property stolen by persons unknown to him.

Deponent charges that said unlawful entry of defendant premises was in violation of section 505 of the penal Code of the City of New York. Mary Jane M. Grogan

Deponent to before the Hon
 14 day of October 1889
 John J. Hermann
 Clerk of the Court

0140

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 23 years, occupation Barber of No.

455 West 13 Street, being duly sworn deposes and
says, that he has heard read the foregoing affidavit of Mary Burghley
and that the facts stated therein on information of deponent are true of deponents' own
knowledge.

Sworn to before me, this 19 day of October 1887 Emil Bernick

John J. Herman
Police Justice.

Answer.

I was in the celler looking for
the things, but had nothing to do
with the Burglary

Chas. Mc Kenna

Taken before me this

day of October 1887

John J. Herman Police Justice.

0141

CORRECTION

0142

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 23 years, occupation Barber of No. 455 West 13 Street, being duly sworn deposes and says, that he has heard read the foregoing affidavit of Mary Susan Gray and that the facts stated therein on information of deponent are true of deponents' own knowledge.

Sworn to before me, this 19

day of October 1887

Emil Reinert

John J. Herman
Police Justice.

0143

Sec. 198-200.

2

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer. *Charles McKenna*

Question. How old are you?

Answer. *21 years*

Question. Where were you born?

Answer. *State of Massachusetts*

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

Answer. *69 Thimble Street 4 years*

Question. What is your business or profession?

Answer. *Shoe Cutter*

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 was in the cellar looking for
the things, but had nothing to do
with the Burglary*

Chas. McKenna

Taken before me this

*19*day of *October*188*9**John J. McKenna*
Police Justice.

0144

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

guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of Twenty 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 Oct 19 1889 John J. Hoffman 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.

0145

2/20 11-2 x ~ ~ ~
2) 2 60 21 5 0 1 5 0

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court--- 2 1588 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Mary Jane McElroy
354 West 16th St
Charles McElroy

Offence *unlawful*
entering a building

Dated Oct 19 1889

William Magistrate.

Carry & Lagan Officer.

Off Maloney 16th Precinct
Off Maguire 16th Precinct

Witnesses *Harry McElroy*

No. *408 West 16th* Street.

Emmet Reardon call as first witness

No. *453 West 13th* Street.

Off Hurley 16th Precinct

Mrs. McElroy 16th Precinct

No. *66 Fagan 16th Precinct*

2500 to answer *4*

Case

The People
vs.
Charles McKenna.

Court of General Sessions, Part I.
Before Recorder Smyth.

November, 1889.

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0147

The People
vs.
Charles McKenna.

{ Court of General Sessions, Part I.
Before Recorder Smyth.

Thursday, November 14, 1889.

Indictment for burglary in the third degree.

Asst. Dist. Atty. Parker for the People.

Mr. McLaughlin for the Defendant.

A Jury was empanelled and sworn.

Mary Mullen sworn and examined by Mr. Parker.

Q. Where do you live.

A. No. 408 West 16th Street.

Q. How long have you lived there.

A. About six weeks.

Q. What part of the house do you live in.

A. The front basement.

Q. The front basement. A. Yes sir.

Q. That house is owned by Miss Mary Jane McGory partly, is it not.

A. Yes sir.

Q. With whom do you live;

A. Mrs. Brennan.

Q. How many rooms are there in the basement of that house.

A. Four.

Q. And which room do you occupy.

A. One of the front rooms.

Q. You are a married woman.

A. Yes sir.

Q. Your husband works where.

A. No. 405 15th Street.

0148

Q. In what sort of business.

A. Feed store.

Q. What time does your husband go to work in the morning.

A. Four o'clock.

Q. Is he accustomed after going to work to come back before dinner time.

A. Yes sir.

Q. What time about.

A. Sometimes he comes back at five for a cup of coffee when he has to go out to work.

Q. Upon the morning of the 16th of October last did you see the Defendant in those premises.

A. Yes sir.

Q. Please tell me when and all the circumstances.

A. About twenty minutes to five.

Q. Twenty minutes to five in the morning.

A. Yes sir.

Q. In what room was he.

A. The front room.

Q. Where were you when you first heard or saw him.

A. In my bed-room, when I heard him I was in my own bed-room

Q. And what did he do.

A. I dressed me and came out to see if it was my husband home to breakfast.

Q. In what condition was the Defendant as to being drunk or sober.

A. He was staggering across the floor like a drunken man covered with blood and cobwebs.

Q. What did he do in the room.

0149

A. He sat down on a chair.

Q. Did you say anything to him.

A. NO.

Q. You thought it was your husband.

A. Yes sir.

Q. You went where then.

A. Back to my room.

Q. Did you see Mrs. Brennan there.

A. Yes sir, and spoke to her.

Q. After you spoke to her what did Mrs. Brennan do if anything and where did she go.

A. She went over and put her hand on his coat and asked him why he was drunk in the morning.

Q. What kind of a coat did he have on.

A. The same coat he has on now.

Q. And did she make any remark about the coat.

A. Yes sir.

Q. What did she say.

A. She called him by name supposing it was her own son, "Peter, your clothes were smooth, why did you change your coat for that rough coat."

Q. In what condition was his hat, did you notice.

A. Yes, covered with cobwebs and dust.

Q. And then Mrs. Brennan went where.

A. To bed.

Q. And where did you go.

A. Back to my room.

Q. Is was dark at that time, twenty minutes to five.

A. Yes sir.

0150

Q. How long did you stay in your room.

A. To about ten minutes past six.

Q. And the Defendant, where was he.

A. Sitting up in the chair, laying his head on the window-sill.

Q. Asleep or not.

A. I do not know, he was apparently asleep; I came out to make a fire at twenty minutes of six to the front room; the windows open on the street.

Q. Please describe the front part of that building, there is an iron fence there.

A. Yes, an iron fence.

Q. Inside of that fence what is there.

A. An iron grating.

Q. And where does that grating open.

A. Down to the cellar.

Q. Have you ever been in that cellar.

A. No sir.

Q. About what is the size of that grating.

A. I should judge it was about two feet long and one and a half wide.

Q. Made of what.

A. Made of iron.

Q. How is it surrounded.

A. Surrounded by stone.

Q. Flagstone or cobble stone.

A. Flag stone.

Q. You came in at ten minutes past six and where did you go.

A. I went to make a fire and went to work to get breakfast.

0151

- Q. Did you open the shutters.
- A. Yes, I opened the shutters.
- Q. Where did you have to go to open the shutters.
- A. Outside.
- Q. Into this little area over the grating was it.
- A. Yes sir.
- Q. Did you observe that grating at that time.
- A. Yes, I saw it was disturbed, I supposed some small boys had been to work there.
- Q. Had it been so before. A. NO.
- Q. When had you last seen it.
- A. The night before when I closed the shutters.
- Q. And the stones, how were they, loosened.
- A. They were loosened.
- Q. Did you open the shutters.
- A. Yes sir.
- Q. What did the Defendant do then, if anything.
- A. He got up, took his hat and walked out.
- Q. And that was about ten minutes after six, did you see him again that day.
- A. Yes sir.
- Q. When and where.
- A. I should judge about eleven o'clock in the hall, trying to go down the cellar.
- Q. What part of the hall was he in, the front of the house.
- A. In the front hall, yes sir.
- Q. Who else was there if anyone.
- A. Miss McG^zory, Harry Kiernan and myself.
^
- Q. Anybody else.

0152

- A. Yes, I said to Mrs. Brennan ----
- Q. Was Mrs. Brennan there.
- A. She was in her room at the time. I says, "there is a man in the room."
- Q. You went out into the hall.
- A. Yes.
- Q. Was there any noise or talking there.
- A. Yes, he was talking loud to Miss McG²ory, he wanted to go down stairs and she refused to admit him.
- Q. You went out and you found Kiernan, Miss McG²ory and McKenna.
- A. Yes sir.
- Q. Did you hear any conversation.
- A. NO.
- Q. Were they talking.
- A. They were talking about going down to the cellar, that was all.
- Q. What did they say.
- A. McKenna said he had got some stuff, he wanted to go down and Miss McG²ory said he should not go down.
- Q. Any further talk.
- A. No, Miss McG²ory went for an officer.
- Q. You called out to Mrs. Brennan.
- A. Yes, I says, "there is the man you thought was your son this morning." She said, "it is not my son."
- Q. What did he say, anything.
- A. No.
- Q. Did you hear him say anything about his being in the room.
- A. He said he was not. I said yes, he was.

0153

- Q. What did Mrs. Brennan do if anything, did she go into the hall or stay in her room.
- A. She came in the hall, looked at him and went back into the room; she went up and put her hand on his coat and she said it was him, that was the same coat.
- Q. Where did you go then.
- A. Back into my own room.
- Q. And Mrs. Brennan into her room.
- A. Yes.
- Q. The others where did they go.
- A. Mr. Kiernan went out and stood in front and told him he should not go down to the cellar.
- Q. Did you go to the front with them.
- A. No, I went to the door and went to my own room.
- Q. Where did Miss McG[~]ory go.
- A. After a policeman.
- Q. Through the front way.
- A. Yes sir, she had to go to the front, she went out the front.
- Q. Did you see any of them out in the front, in the area.
- A. Yes sir, I saw this young McKenna.
- Q. Where was he and what was he doing.
- A. Standing at the iron railing.
- Q. Was there any talk there that you heard.
- A. No.
- Q. Did you ^{hear} ~~say~~ Miss McG[~]ory say she was going for a policeman
- A. Yes sir.
- Q. She started off, that is what you mean.
- A. Yes.

0154

Q. Where did Mr. Kiernan go.

A. He stood out in the areaway.

Q. Did he stay at the grating.

A. He stood by the grating.

Q. Was there anyone with McKenna at this time.

AL Yes sir.

Q. Do you know him.

A. No, he was a man but I did not know him.

Q. Did he stay out in the front.

A. Yes sir.

Q. You went about your business, is that it.

A. Yes sir.

Q. Did you see him subsequently to that, after that at all that day.

A. NO.

Q. And that is all you know about the case.

A. That is all I know.

Cross Examined by Mr. McLaughlin.

Q. Where are the rooms that you occupy.

A. In the front.

Q. Where.

A. In the front basement.

Q. What is the number of the street.

A. No. 408 West 16th Street.

Q. And your name is what.

A. Mary Mullen.

Q. Floor do you occupy, what floor are you in.

A. The basement.

Q. How many rooms have you there.

A. One.

Q. There is two connecting rooms there in the basement, is there not.

0155

A. Yes sir.

Q. Who occupies the other room.

A. Mrs. Brennan occupies one and I occupy the other.

Q. Mrs. Brennan occupies the back room, does she.

A. No, Harry Kiernan occupies the back basement.

Q. Which room does Mrs. Brennan occupy.

A. She lives in the front basement, the next room to me.

Q. Mrs. Brennan sleeps in the front room, is that right.

A. Yes sir, that is right.

Q. You occupy the back.

A. Yes sir.

Q. The back basement. A. NO.

Q. There are four rooms in the basement, are there.

No answer.

Q. When you met McKenna in the entry way what time in the day was that.

A. About eleven o'clock.

Q. Who was with him besides you.

A. There was another man that I did not know, Mary Jane McGory and Harry Kiernan.

Q. Harry Kiernan was there too.

A. Yes sir.

Q. Did this other man conduct any conversation that occurred in that entry way.

A. No.

Q. He did not say a word.

A. NO.

Q. Not a word, nothing at all, is that right.

A. That is right.

0156

Q. You were in the Police Court, were you not.

A. Yes sir.

Q. Were you called there as a witness.

A. NO.

Q. You had nothing to say at all in the Police Court.

A. No, not anything.

Q. Who did you first converse with in regard to this case, did you have a conversation with anybody in regard to this case at all.

A. Not anybody.

Q. No one. A. No sir.

Q. Did you tell the officers in regard to what you knew about the case.

A. No, I did not tell any officer until I was subpoenaed.

Q. You did not speak to the officers about the case in Jefferson Market.

A. NO.

Q. Have you had any conversation since with anybody in regard to the case since you have been subpoenaed.

A. No, only what I have heard in this Court-room.

Q. Did not you converse with Mr. Parker about the case.

A. Yes sir.

Q. Did you tell him what you knew about the case.

A. Yes sir.

Q. Did you talk to Officer Carey about the case.

A. Yes sir, I told him what I knew about it when he subpoenaed me.

Q. You just this moment said you did not have any conversation with anybody.

A. Not until he came to subpoena the people there in the

0157

house, he was going to subpoena Mrs. Brennan, I told him she was most blind.

Q. You did have a conversation with Officer Carey.

A. That was all the conversation I had with him; he came to subpoena Mrs. Brennan, I told him she was most blind, she told ^{him} ~~me~~ I was present, that I seen the man and identified him; I said yes, I was.

Q. That was all that occurred.

A. That was all that occurred.

Q. Where did this conversation occur between you and Carey.

A. Right in Mrs. Brennan's room.

Q. That is the woman that you say is blind.

A. Yes sir.

Q. Now tell me just exactly over again, if you please, what you said to Carey and he to you, what did you say first and what did Carey say first.

A. He asked me what I knew about the case and what I had seen.

Q. What next, what did you reply.

A. I told him yes, I had seen the man there that morning.

Q. Then what did he say.

A. He asked me if I would know the person again? I said, yes that I ~~knew him~~ would know him.

Q. What else. A. Not anything.

Q. That is all. A. Yes, that is all.

Q. Now you have spoken to no person other than Mr. Carey and Mr. Parker in regard to that case, is that right.

A. Yes, that is right.

Q. You had no conversation with anybody else.

A. No, I had no conversation with anybody else.

Q. With Logan, that is Carey's partner.

0158

A. No, I had no conversation with Logan.

Q. You did not have a conversation with Logan.

A. No, nothing more than to go with him when he came after me.

Q. Did you have any conversation in regard to what you have testified to.

A. No.

Q. You came down to the Court with Mr. Logan, didn't you.

A. Yes sir.

Q. From your premises. A. Yes sir.

Q. Did Logan come into your premises for you and bring you down, is that right.

A. Yews sir.

Q. When was that he went up and brought you down in the cars.

A. To-day.

Q. Did he do that at any other time.

A. No, he come up to see me but did not bring me down in the cars any other day.

Q. Did he serve subpoenaes each time on you to come down here, Mr. Logan.

A. NO.

Q. And you say Mr. Logan came up to serve subpoenes on you but did not bring you down in the car, what do you mean by that.

A. I mean he served a subpoena and I came down myself.

Q. Logan was not at your house since this case was called.

A. Yes, he came with a subpoena, he came to-day for me to come down.

By the Court. Q. When did Officer Logan come to your house first
12 with a subpoena, about how long ago.

0159

A. About two days.

Q. Did he serve a subpoena upon you then.

A. Yes sir.

Q. Did you see him again since that time.

A. I seen him to-day.

Q. You saw him to-day.

A. Yes sir.

Q. Are those the only two times you saw him at your house.

A. Yes, I believe so.

By Counsel. Q. Now two days ago Logan went to you and served a subpoena on you, did he not.

A. Yes sir.

Q. Did Logan come down with you then.

A. No, he did not, I came down myself.

Q. When did Logan come down in the cars with you, to-day.

A. To-day.

Q. This morning or when he attached you when he went up.

A. This afternoon.

By Mr. Parker. Q. To-day when Logan visited you he brought you down by force, didn't he, by attachment.

A. Yes, he told me I had to come.

Q. He did not lug you by the back of the neck, you were served yesterday by me, were you not.

A. Yes sir.

By Counsel. Q. Did Mr. Logan have to force you to come here to-day.

A. No.

The Court adjourned.

0 160

Friday, November 15, 1889.

Mary J. McGrory sworn and examined.

By Mr. Parker. Q. Where do you live.

A. No. 354 West 16th Street.

Q. You live with your mother.

A. Yes sir, the same house.

Q. You and your mother own the premises 408 West 16th St.,
do you not.

A. Yes sir.

Q. Those premises are a double house.

A. Yes sir, front and rear.

Q. The front house is by itself on the street.

A. Yes sir.

Q. There is a little yard back.

A. Quite a large yard.

Q. How do you get to the yard.

A. Go through the alleyway.

Q. Is there a hallway also through.

A. Yes sir.

Q. Is there a basement in the front house.

A. Yes sir.

Q. And a hallway in the basement.

A. Yes sir.

Q. In the back part of the basement who resides.

A. The house-keeper.

Q. What is his name. A. Harry Kiernan.

Q. Is there a cellar under the front house.

A. Yes sir.

Q. Please tell me what principle approaches there are to
that cellar.

0151

A. There is a doorway in the hall basement which is kept locked, I keep the key with my other keys always.

Q. You always carry that. A. Yes sir.

Q. Is there any opening to it.

A. Yes, there is a front and back grating but the coal shoot has been filled in so that no one can go down that way; the back grating is stationed, it could not possibly be taken up--- the front grating of iron, that can be taken up by anyone that understands the way to lift it, but anyone that did not would pull it and loosen two flat flags that lay at the side.

By the Court. Q. How is it fastened, by a chain.

A. No sir, it just slides a small way under a piece of wood and when you open it you touch it a little bit and it falls back to the wall; the piece of wood is broken and the cement on the flags is loosened.

Q. Was anything kept in that cellar in the front house.

A. Nothing at all, it is not used, only pipes.

Q. Are there any pipes close to the grating in front.

A. Just a fresh air pipe that runs out under the sidewalk.

Q. How close to the grating is that underneath.

A. You cannot possibly get down without stepping on that pipe.

Q. It is within what distance.

A. It is a good step down.

Q. It is directly under, is that so.

A. Yes, right directly.

Q. Is there any cellar in the back of the house.

A. Yes sir.

0162

Q. Now upon the morning of the 16th of October were you in those premises at all.

A. Yes sir.

Q. At about what time.

A. About eleven o'clock in the morning.

Q. And in what part of the premises.

A. I went to the rooms of Mr. Kiernan.

Q. In the back part of the front house in the basement.

A. Yes sir.

Q. Did you have any talk with him.

A. Yes sir.

Q. Did you see the Defendant on that day.

A. Yes sir.

Q. Please tell me at what time and where.

A. I went into Mr. Kiernan's room as I do every day to see if he is need of any help or of anything to be done and while I was in his rooms I saw two men pass into the yard down into the cellar of the rear house, they came into the hallway, McKenna and another man which I saw Tuesday night, I know the other man by sight, they went directly down in the cellar.

Q. Passed through the yard.

A. Yes sir.

Q. And went into which cellar.

A. The cellar of the rear house.

Q. How is that cellar approached.

A. There is an opening in the yardway that you go down some steps.

By the Court. Q. From the yard to the cellar.

16 A. Yes sir.

0163

Q. Is there a door on that cellar.

A. Yes sir, the cover, it lifts right off.

By Mr. Parker. Q. What did you do.

A. I said to Kiernan there is two men going in the rear cellar and I will go over and see what they want; I went over and went down into the cellar.

Q. Did you see the men there.

A. Yes sir.

Q. What were they doing.

A. They stood in the center of the cellar with lighted matches in their hands, feeling on the beams of the ceiling. I asked them what they wanted and McKenna here answered me that he lived there. I says, "what is your name?" He says, "O'Neill." I says, "you don't live here"; he said he did and from the appearance of the men I thought it was advisable to come up. McKenna's ear was cut and his shirt was full of blood; I came up and left them there.

Q. Is there anybody names O'Neill in that house.

A. Not any.

Q. Did you say anything to him, McKenna, about that.

A. Yes, I went back to where I came from, Mr. Kiernan's room and I sat down and presently they both came up out of the cellar and crossed over down this hall in this hall in the front basement and Mr. Kiernan stepped to the door and McKenna said, "is there any way to get down from the inside to the cellar here?"

Q. Did he say that.

A. Yes sir; Mr. Kiernan said, "yes, but it is locked"; he said, "where is the key?" I stepped up into the hall and

0164

said, "where is the key? I have got the key but you cannot go down." He said, "I will go down the front way"; he started in the hallway and when he reached the door Mrs. Brennan and Mrs. Mullen said, "here is the man that was in your room this morning." Mrs. Brennan looked at his coat sleeve; she says, "yes, what brought you to my room at that hour?" McKenna excused himself and he and the other man went out in the area, Mr. Kiernan and I followed them out to the front.

Q. When you speak of the area what do you mean.

A. He went down to the grating, came down that way.

Q. Did he try to lift it.

A. He walked over but we would not let him, I said, "you can't go down there."

By the Court. Q. That was the front grating.

A. Yes sir.

Q. What was the condition of that grating at that time.

A. It was not set down properly, one end was up.

Q. What was the condition of the stone and cement.

A. It looked cracked, the cement.

Q. And the stones, were they removed.

A. No, the stones were not removed but the cement was cracked and the piece of wood broken, it is broken still.

Q. Had it been in that condition the day before.

A. No sir.

Q. What conversation took place at that grating.

A. McKenna said he would go down, I said I would go for a policeman and I started to the corner.

Q. Which way did you go.

18 A. Toward Ninth Avenue.

0165

Q. This number is between what avenues.

A. No. 408 is four doors from the corner of Ninth Avenue.

Q. You went east.

A. Yes, I stood on the corner to see if I could see a policeman, McKenna and the other man followed me up; McKenna said, "Mary Jane, let me down that cellar." I said, "what do you want in that cellar?" He said, "I have machines down there." I says, "you were in one cellar, what right have you to bring your machines to that house beside any house in the block?" He said, "I made a mistake in the cellars, I know it is the front cellar where the pipes is for I fell on them going down. He said this to me on the corner, he said he was drunk when he put the stuff in there.

Q. Did he say he put the stuff in.

A. Yes sir.

Q. He fell on the pipes, was there any talk about that.

A. That is what he said.

Q. Any indication of falling on the pipes.

A. No, they were not disturbed; his ear was cut; I said to him, "your ear is cut", and he said yes, he knew it was, that he fell on the pipe going down.

Q. Then what more was said, anything at that time.

A. Yes, I says, "you can't go down", and he said he would and he started to back down.

Q. Toward where.

A. Towrds the house and left me still on the corner.

Q. What did you do, did you get the officer.

A. I met a neighbor, a gentleman and I told him about it; he says, "you will find an officer over where they are

0166

registering"; I went over and called him out, it was Officer Fagan and he ran over.

Q. Did you go with him back to the house.

A. Yes sir; they both, McKenna and this other man were standing at the door and the Officer ran over to them and when they saw him coming they ran towards 10th Avenue west and he after them and I waited at the door till he came back. The officer, Kiernan and I we lifted up the grating and we all went down this way.

By the Court. Q. Did he bring the Defendant back.

A. No sir, he could not catch him. We all lifted the grating and went down, the officer, Mr. Kiernan and I. We found clipping machines and razors; I had an apron on, we brought them up in his room; we found boxes of matches and some papers, the Officer did not take them.

Q. Some cigar papers.

A. Yes sir, small envelopes that they put cigars in.

By Mr. Parker. Q. Well, did the officer take them afterward.

A. The Officer picked them up and took them to the Station House.

Q. Now the Defendant was not arrested that time as far as you know, was he.

A. I received a subpoena the next evening.

Q. I show you those razors and clipping machines, are those the ones that you found.

A. Yes sir, those are the ones.

Q. You went to Court in pursuance of the subpoena, did you.

A. Yes sir.

Q. To what Court.

A. Jefferson Market.

0167

Q. Did you see the defendant McKenna there.

A. Yes sir.

Q. Did you hear him make any statement there.

A. Yes.

Q. What statement did he make.

A. He said there was a man named Martin arrested for these goods and he went there to get them -- he said he went there to get that stuff for him to get him out of prison, he said he was arrested for it.

Q. Was anything else found in the cellar.

A. Not in the cellar -- in Mrs. Brennan's basement doorway a package of cards was found and there was blood on it.

Q. Is that the package of cards. (Cards shown.)

A. Yes sir.

Q. Who else was present at the Court at the time that statement was made.

A. Mr. Kiernan, Mrs. Mullen and the two detectives.

Q. Who were the detectives.

A. Carey and Logan.

By Counsel. Q. Miss McGrory, which part of the premises do you occupy.

A. I do not live on those premises at all.

Q. Do you live in that immediate vicinity.

A. Yes sir.

Q. How far from these premises.

A. I live 354, right off the corner of Ninth Avenue.

Q. And the premises are about four or five doors down are they not.

A. Yes sir, four doors from the corner.

0168

- Q. What time of day was it, Miss McGrory.
- A. About eleven in the morning.
- Q. Where were you when you first saw McKenna.
- A. In Mr. Kiernan's rooms.
- Q. McKenna entered the back way through the hallway you said on your direct examination.
- A. Yes sir.
- Q. How do you know that McKenna entered the back way through the hallway.
- A. I saw him go across the yard, he crossed the hallway.
- Q. You did not see him come through the hallway.
- A. I saw him turn around the stoop, I knew he would have to come that way to turn around that stoop.
- Q. How long had you been in Kiernan's room when you saw the Defendant in the yard.
- A. Between three and five minutes.
- Q. You say that you went there as you do customarily to see how things are being conducted there.
- A. Yes sir.
- Q. You have charge of the premises for your mother, is that right.
- A. Yes, that is right.
- Q. When you entered the yard back of the front house who was in the yard besides McKenna.
- A. He was not in the yard, he was in the cellar, he did not stand in the yard.
- Q. But you stated you saw him in the back yard.
- A. I saw him go across the yard to the cellar.
- Q. You saw him go right down the cellar.
- A. Yes sir, right down.

0169

Q. Did he remove the woodentop to that cellar before he went down.

A. No, it was off.

Q. Did anybody go out with you to the cellar.

A. No.

Q. You went alone.

A. Alone.

Q. Did you know that back cellar. A. Yes.

Q. How long have you resided in that immediate neighborhood.

A. I was born in that neighborhood.

Q. Lived there continuously.

A. Not at all times, no, I have lived out of it at times.

Q. Where have you resided for the last five or six years.

A. Four years I lived in the same house I am in at present.

Q. Where did you live before that.

A. I was taking care of some other property on the east side for a family.

Q. But you have lived continuously in the neighborhood of these premises.

A. Yes.

Q. You have seen McKenna before, have you not, Miss McGrory.

A. Never to know who he was.

Q. Do you know that he served your mother with vegetables at different times during the last five or six years.

A. No sir.

Q. You never saw him. A. No sir.

Q. But you have seen him in the neighborhood frequently.

A. No, I do not remember seeing him in that neighborhood until that day, I disremember seeing him. I would not have asked him his name if I knew who he was.

0170

Q. There was another person there besides McKenna, was there not.

A. Yes.

Q. Who was he.

A. I do not know who he is, I would know him if I saw him again though.

Q. Did you have any conversation with him.

A. He did not speak at all, McKenna spoke.

Q. He did not say a word.

A. NO.

Q. You say you saw him the night before this other party.

A. No, I did not say I saw him ~~he~~ there the night before, I say I saw him since the arrest of McKenna.

Q. When was that.

A. One night this week I saw him around the neighborhood.

Q. Whereabouts did you see him.

A. On the Ninth Avenue near 16th Street.

Q. Do you recognize him as living in the neighborhood there.

A. No, I do not know.

Q. You never saw him before either.

A. No, not to my knowledge.

Q. You are positive that the other party said nothing to you at all.

A. He did not answer me at all.

Q. Not a single word.

A. No, he spoke to McKenna though in the cellar.

Q. But not in your presence.

A. Yes, in my presence in the cellar but he did not speak to me.

Q. What did he say.

0171

- A. I asked him which place did he put the things.
- Q. And he was searching in the ceiling of the back cellar.
- A. Yes.
- Q. This back cellar is reached by a short, narrow wooden ladder, isn't it, or steps like.
- A. Yes, you ought to know, you saw it last night, didn't you.
- Q. McKenna came up with you out of the cellar, did he.
- A. No he did not come up with me, I left him there.
- Q. You left him in the cellar and came up.
- A. Yes.
- Q. Did they follow. A. Not right after, a few minutes after.
- Q. But they did follow. A. Yes sir.
- Q. Did you hear the conversation that took place between McKenna and the other man in the back yard.
- A. I did not see them standing in the yard at all, I saw them walk across the yard down to the cellar.
- Q. You saw them after they came up, did you not.
- A. No, I saw them come across the yard where I was.
- Q. Then they entered the passageway.
- A. Yes.
- Q. They went through the passageway to Kiernan's room, is that right.
- A. When you come down in the cellar you are opposite his door that is where he stood.
- Q. Where were you then when they entered the back hallway.
- A. In Mr. Kiernan's room.
- Q. Did you come out of the room first or Kiernan.
- A. Kiernan.

0172

Q. And who first commenced the conversation.

A. McKenna.

Q. And what did he say.

A. He says, "is there any way to get from the inside?"

Q. What did Kiernan say.

A. He said yes, but it was locked.

Q. And you carried the key of that entrance from the hallway
to the cellar.

A. Yes.

Q. And it is generally covered by barrels and old carpets,
is it not.

A. Yes sir, it is locked though.

Q. It is generally covered, is it not.

A. Yes, it is not used.

Q. It has been covered over by carpets, barrels and rubbish
generally.

A. Yes sir.

Q. Mr. Kiernan was present during your conversation with
McKenna.

A. In the hall, yes.

Q. Did the other man have anything to say at all.

A. What other man?

Q. The other man who was with McKenna there.

A. NO.

Q. Not a word.

A. NO.

Q. Then what did McKenna say next after your refusal to give
him the key of this inside entrance.

A. He said he would go down that front way.

Q. Then he walked to the street.

A. Yes, to the front to go down.

Q. You went out with him to the street.

0173

A. Yes, I followed behind him.

Q. And who else, Mr. Kiernan.

A. Yes.

Q. And you prevented him entering the cellar by the front entrance.

A. Mr. Kiernan prevented him.

Q. This was eleven o'clock in the day you say.

A. Around that hour.

Q. This entrance from the front is in full view of the street.

A. Yes sir.

Q. At the front cellar was there any conversation between you and McKenna.

A. Nothing more than I said he could not go down.

Q. Didn't he say something to you, calling you by your first name.

A. No, not in the house, at the corner he did.

Q. Were you called as a witness in the Police Court, Miss McGrory.

A. Yes.

Q. Did you state there any conversation with McKenna.

A. I believe I did, yes.

Q. Did you state there that McKenna said to you that he was looking for some stuff there that O'Neill had sent him there for -- did you say in the Police Court that O'Neill had said in the presence of McKenna that a friend of O'Neill's had stolen some property and this property was concealed on your premises and they desired to recover it

A. O'Neill?

Q. The other man in the case, did you make any such statement in the Police Court.

A. I did not.

0174

- Q. No statement at all.
- A. No, I did not hear the name of O'Neill mentioned only by McKenna, he said that was his name.
- Q. Did you send this other man upstairs in the rear house for a candle, the other man that was with McKenna.
- A. No, indeed I did not.
- Q. Or give him any matches. A. No sir.
- Q. Do you know a man of the name of Morton.
- A. Yes sir.
- Q. Did you have him arrested. A. Yes sir.
- Q. Charged with what offence.
- A. Disorderly conduct around the premises.
- Q. Does he reside on those premises.
- A. No sir.
- Q. Does he live in the neighborhood.
- A. No sir, he lives in 20th Street, he did at that time, I don't know where he lives now.
- Q. You don't know where he resides now. A. NO.
- Q. You made a complaint against him did you, at the Station House first.
- A. No sir.
- Q. Directly at the Court and a warrant was issued for his arrest. A. Yes.
- Q. Did you see the other man that was with McKenna leave the cellar, go upstairs and come back again.
- A. No sir.
- Q. Did you see him with a candle or matches.
- A. When I saw them down there in the cellar both had matches then.
- Q. And ignited them, did they. A. Yes.

0175

Henry Kiernan sworn and examined.

Q. Where do you live.

A. No. 408 West 16th Street.

Q. Are you a married man. A. Yes sir.

Q. And your family there with you.

A. Yes sir.

Q. You are I believe, a sort of house-keeper, care-taker of those premises for Miss McGrory and her mother.

A. Yes.

Q. You live in what part of the premises.

A. In the basement in the rear.

Q. Upon the 16th of October did you see the Defendant at those premises.

A. Yes sir.

Q. At what time of day.

A. About the hour of eleven I was sitting in my room with my wife and Mary Jane McGrory came in and said to me ---

Q. Where was this man when you first saw him.

A. Coming, following Mary Jane McGrory in the hallway.

Q. Did you see him when he came into the premises.

A. No sir, I did not.

Q. The first you saw of him was when he followed Mary Jane McGrory.

A. Into the hallway where I live.

Q. Tell me what took place from that on, please.

A. He asked me if there was any way to get down to the cellar in the hallway? I said there was, I said it was locked though. He says, "who has got the key?" Mary Jane stepped out---. There is a cellar in the front house.

0176

By the Court. Q. He wanted to get into the cellar of the front house. A. Yes.

By Mr. Parker. Q. Mary Jane steps out and she says what.

A. She says, "I have got the key and you can't go down"; they walked out then.

Q. Did he say anything to that.

A. Not then to my knowledge, I followed him out and he said he would go down; he would open the grating and go down that way; that grating is in the areaway fronting on the street. She said the same and he said he would; she told me not to let anyone down there until she went and got an officer.

Q. Was all this talk in the hall.

A. No sir, some of it was in the hall and some of it was outside.

Q. Do you know Mrs. Mullen. A. Yes sir.

Q. Was she in the hall during any part of this talk.

A. Yes.

Q. Do you know Mrs. Brennan, was she there.

A. Yes sir.

Q. Was there any talk between Mrs. Brennan and Mrs. Mullen.

A. There was talk but I do not know what was said. I told him he could not go down and he stood in the areaway.

Q. He went out of the hall into the area.

A. Yes.

Q. Was anybody with him.

A. There was a man standing on the sidewalk.

Q. Do you know the man.

A. I could not swear to that either.

0177

Q. You do not know his name.

A. No sir.

Q. They went out to the areaway and you and Mary Jane went with them.

A. Yes sir.

Q. Was there any talk.

A. Only what I have said.

Q. What was the condition of that grating, if you know, at that time.

A. About I should say two months before this thing happened there was new pipe put down there, an air pipe in the cellar, there was grating put there so as no one could left it and about that at each side was cement into the flag stone underneath, there is a long board and that fits in.

Q. What was the condition of that grating at the time they all went out in the areaway.

A. I did not notice it till afterwards -- as soon as we went in the cellar.

Q. Did the officer come.

A. Yes sir.

By the Court. Q. The same day.

A. Yes sir.

By Mr. Q. Q. In what condition was it then.

A. You could see where it had been pulled, the cement was gone.

Q. Had that been so the day before.

A. I did not notice it before.

Q. When you last noticed it was it so.

A. It was all right the last time I noticed it, that is, when it was fixed.

0178

Q. Two months before.

A. Yes sir.

Q. Did Mary Jane go for an officer.

A. Yes sir.

Q. What did the Defendant do.

A. He followed her up to the corner.

Q. What did the man that was with him do.

A. He stood around there.

Q. How long was Mary Jane away.

A. I should say about five or seven minutes.

Q. Did the Defendant come back before or with her.

A. He came back before her.

Q. Did you have any talk with him before Mary Jane came back.

A. He said Mary Jane gave him permission that he could go down and get it; I said if that was so he would have to wait there and she could do it. He said he had machines and stuff in a black bag, he did not care much about the machines but he wanted the black bag.

Q. Is there anything kept in the cellar.

A. No sir, nothing at all.

Q. Was it kept locked all the time.

A. Yes.

Q. There were pipes there.

A. Yes sir, the pipe runs from the back yard in the rear to the front house and runs right out on the sidewalk into the sewer; it comes within that height of the grating (illustrating.)

Q. Do you have to pass through the pipe.

A. You have got to step on the pipe before you get to the

0179

Q. Mary Jane did she come back alone or bring a policeman.

A. She came back I guess just behind or before the policeman.

Q. What policeman came.

A. Officer Fagan.

Q. What did he do and what did the Defendant do.

A. He got within about four houses and McKenna and the other one started to run.

Q. Who started to run.

A. McKenna and the other man, and the Officer ran after them, and as soon as the Officer started to run I opened the cellar of Mary Jane McGrory and went down and found two razors and three hair cutting machines.

Q. One of the razors is broke, that is one of them. (Showing razor).

A. Yes.

Q. These hair cutting machines, to the best of your knowledge are the same ones. (Machines shown.)

A. I can tell one of them, there is a new one I know and that one there has a broken tooth; I found them on the beam of the cellar of the front house.

Q. Were there any cards found.

A. I don't know nothing at all about the cards.

Q. And the officer came back then did he.

A. Yes sir.

Q. He did not catch the Defendant.

A. No sir.

Q. After that when the Defendant was arrested did you go to Court at all.

A. I went, I was summoned to go before Justice Gorman on the 19th of October, that was Saturday.

0180

Q. And did you go. A. Yes sir.

Q. And did you see the Defendant there.

A. Yes sir.

Q. Did you hear anything said by him.

A. Yes sir.

Q. Tell me what he said.

A. To the best of my knowledge I might not give his words - he said a man told him that a man named Morton was arrested for stealing the stuff, it was in that cellar and him and if McKenna could get it and return it to the owner the owner of the things would not prosecute him .

Q. You heard that, who else was there at that time.

A. I don't know whether the other people heard it; there was Officer Carey, Officer Fagan, Mary Jane McGrory, Mrs. Mullen and myself.

Q. Was Logan there.

A. I would not be sure.

Cross Examined.

By Counsel. Q. This front entrance is right on the street where you went down.

A. No sir, it is not right on the street.

Q. It is right inside the street line isn't it, it is bordering on the street.

A. It is in the areaway, it is not at the outline of the street.

Q. But the areaway is that much lower than the street.

A. Yes sir, a little lower than that, I can't be sure, I never measured it.

Q. It is not more than a foot.

34 A. I cannot tell.

0181

Q. I examined it last night.

A. You can form your own opinion.

Q. Is it more than a foot down.

A. I told you before I could not tell you more than a foot.

Q. It is in full view of the street.

A. Yes, it is in full view of the street.

Q. This was eleven o'clock in the day.

A. Somewhere around that time, about eleven o'clock I said.

Q. A Juror wants to know if there is not some iron railing around there.

A. There is iron railing.

By Mr. Parker. Q. A fence.

A. Yes, in front of the house the same as any other.

By the Court. Q. There is a railing between the house and the sidewalk.

A. Yes sir.

By Counsel. Q. But that would not hide the view of this part of the grating.

A. No sir.

Q. This iron pipe that runs from the street that you speak of is the ordinary black sewer pipe.

A. Yes sir.

By the Court. Q. About how thick was that pipe.

A. I guess it is about that round. (Showing.)

By Mr. Parker. Q. Five or six inches in diameter.

A. Yes sir more than that I guess.

By Counsel. Q. When did you first see McKenna.

A. I saw him that morning when he came in the hallway after Mary Jane McGrory.

Q. You did not see him before he entered the back cellar.

0182

A. No sir, I did not.

Q. She preceded McKenna, is that right.

A. She came in before him, came and sat down in my room.

Q. They came in after her.

A. They followed her down.

Q. How long was she in your room altogether, I mean at this time.

A. The first time when she came in before she went into the rear cellar she was not there more than I suppose three or four minutes, after she came back she hardly sat down again when she went right out again.

Emil Reinart sworn and examined by Mr. Parker.

Q. Where do you live.

A. No. 455 West 13th Street.

Q. And do business there.

A. There.

Q. What is your business.

A. Barber.

Q. Oh or about the night of the 15th or 16th of October did you lose any property from your barber shop.

A. Yes sir.

Q. What property did you lose.

A. I lost three hair-cutting machines, forty-five razors, cigars and tobacco and the cards.

Q. Did you give that property to anybody or authorize anybody to take it away from you, it was stolen was it.

A. It was stolen, yes sir.

Q. Will you please look at that property and tell me whether or no that is a part of the property stolen from you at

0183

that time.

A. Yes sir, it is, all of it, my name is on the razors too.

Q. You produced this property here to-day, did you not.

A. Yes sir.

Q. Is that pack of cards part of the property stolen.

A. Yes sir.

Q. I will offer these in evidence, where did you get that property from.

A. I got these in Jefferson Market Police Court the same time I identified them there.

Q. From whom, an officer.

A. I do not know his name.

Q. Was it Officer Moloney.

A. I believe that is the name, from the detective.

Q. Or was it Officer Hurley.

A. I do not know which, there was two of them.

By Counsel. Q. When did you last see these things, I mean before you got them in Jefferson Market.

A. I saw them the same day in the 20th Street Station House.

Q. Prior to that when did you miss them.

A. ~~Right~~ Right next morning I missed them, two o'clock in the morning.

By the Court. Q. What morning is that.

A. On the 16th of October.

Q. Were they in your place on the night before, the 15th.

A. Yes sir.

By Counsel. Q. What do you mean, that you missed the property on the 16th day of October at two o'clock.

A. Yes sir, I entered the shop right after two o'clock in the morning, I was called up by the Officer.

0184

Q. What Officer called you up.

A. I believe his name is Hurley.

Q. Have you recovered any more of your property except those.

A. I did not get anything no, only those.

By the Court. Q. What was the value of the forty razors and the other things that you lost, about how much.

A. The value of all is eighty dollars about.

Robert Fagan sworn and examined.

By Mr. Parker. Q. Officer, you are attached to the 16th precinct, are you not.

A. Yes sir.

Q. On the 16th day of October last where were you on duty.

A. At the Registry office on Ninth Avenue near 16th Street.

Q. Do you know Mary Jane McGrory.

A. Yes sir.

Q. Did you see her upon that morning.

A. Yes sir.

Q. About what time. A. Ten o'clock.

Q. You had some conversation with her.

A. Yes sir.

Q. In pursuance of that conversation what did you do.

A. I left the registry office to follow a man, she told me he had some stuff, I followed her and went to 408 16th Street and when I got near that building, when I was three doors this side of 408 I seen two men standing down the street further looking at me very closely and they started to run as they seen me.

0185

Q. Do you know what men they were or either of them.

A. I do, one was that man McKenna, he ran towards Tenth Avenue and the other man ran into the hallway in 15th Street.

Q. Did you pursue.

A. Yes, I pursued neither one directly, I pursued both but they separated at the alley, I found the one that went through the alley.

Q. Did you catch either that day.

A. No sir.

Q. After the Defendant was arrested were you at the Police Court.

A. Yes sir.

Q. Did you hear him make any stateent there.

A. Yes sir, I heard him make a statement there at the Jefferson Market Police Court, I heard him mention a man's name, Red Morton.

Q. What did he say about him.

A. I was not close enough to hear all, I was in the courtroom but not close enough to hear what he said.

Q. You did not hear the statement.

A. Not all the statement, no sir.

Cross Examined.

Q. Do you know a liquor saloon in that immediate neighborhood kept by Quirk.

A. Yes, I know two kept by two Quirk's.

Q. John Quirk.

A. I do not know either one of their first names.

Q. Down near 10th Avenue on 16th Street.

A. Yes sir, I know that place.

0 186

Q. Have you been there in regard to McKenna within the last two or three days.

A. No sir.

Q. Had no conversation with Mr. Quirk in regard to McKenna.

A. No sir.

Q. Nor with anybody else in those premises.

A. No sir.

Q. I mean in the saloon.

A. No sir.

Thomas F. McGuire sworn and examined.

By Mr. Parker. Q. You are attached to the 16th precinct.

A. Yes sir.

Q. Did you arrest the Defendant upon this charge.

A. Yes sir.

Q. And upon what day.

A. On the 17th.

Q. Where did you arrest him.

A. In Ganzevoort Street, I think it is 79, I am not exactly sure of the number.

Q. He lives there.

A. With his mother and father and brother and sister I believe,

Q. What time of day did you arrest him.

A. In the morning, a little after six.

Q. Where did you find him.

A. In bed.

Q. Who was with you.

A. Maloney. ~~and~~

Q. Of the same precinct.

A. Yes sir.

0187

Q. What conversation if any did you have with him.

A. When we entered the house we inquired of his mother if he was in, I knew this man McKenna before; his mother said no and also his brother said he was not in.

Q. When you found him what talk did you have with him.

A. He asked me what he was arrested for, I told him he would find that out when he got to the Station House, I arrested him for Officer Carey, I did not have anything to say to him on the way or at the Station House.

Q. Were you at the Court afterwards when he was arraigned.

A. No sir, I turned him over to Detectives Carey and Logan.

Q. Was he kept in the Station House that day.

A. No sir, he was taken to Court that morning.

Q. What time was he taken to court.

A. It was my day off, I suppose it was eight o'clock.

By the Court. Q. You merely made the arrest for another officer because you happened to know the man.

A. Yes sir, I was instructed by another officer.

George Logan sworn and examined.

By Mr. Parker. Q. You are attached to the 16th precinct are you not, a ward officer there.

A. Yes.

Q. Do you know the Defendant.

A. I know of him, yes sir.

Q. Before his arrest upon this charge had you known him.

A. I only knew of him, that was all, I never saw him before.

Q. When he was arrested he was brought to the Station House at that precinct, was he not.

0188

- A. Yes sir.
- Q. Did you see him in the Station House.
- A. Yes sir.
- Q. Did you have any talk with him.
- A. No, I did not, I heard him make a statement to the Police Magistrate, not in the Station House.
- Q. He was taken to the Jefferson Market Court on the same day he was arrested, was he not, and you were present.
- A. Yes sir.
- Q. What statement did he make.
- A. I had him remanded that day.
- Q. What statement subsequently did he make.
- A. He told the Police Magistrate the next day, the day he was committed. that he met a tall man on the corner and he told him a man named Red Morton had been arrested for the job and the stuff was in McGrory's cellar and that if he, MvKenna, got the stuff that they could not do anything to Red Morton.
- Q. Do you know Red Morton.
- A. No sir, I never seen him.
- Q. Did he tell the name of the man who told him this.
- A. He said a tall man on the corner.
- Q. Was that in answer to any question by the Magistrate.
- A. Yes sir, the Magistrate called him up and asked him why he went there, what business he had there.
- Q. And that was the explanation he gave.
- A. Yes sir.

0189

John Carey sworn and examined.

By Mr. Parker. Q. Officer, you are attached to the 16th precinct.

A. Yes sir.

Q. Do you know the defendant.

A. Yes sir.

Q. At the time of his arrest and subsequent to his arrest and at the time he was in the Station House prior to being brought to Court did you see him.

A. Yes sir.

Q. Was he kept in the cell at that time.

A. Yes sir.

Q. Did you have any talk with him at that time or hear him make any statement.

A. Yes sir, I heard him make a statement that he saw a tall dark complexioned man at the corner of 16th Street, he told him that Red Morton was arrested for some goods that was in McGrory's cellar and he asked him to go and get them.

Q. Did he say anything further about a purpose to get them or what.

A. He said that the man said to him that if he got them there could not be anything done to Red Morton.

Q. Did you go to the Police Court at the time he was arraigned there.

A. Yes sir, he was remanded the first day and the next day he was taken by Detective Logan, I did not go, and the complaint was made and he was committed.

Q. At that time did you hear him make any statement.

A. Yes sir, he told Judge Gorman that he did not steal these

0190

goods but that Red Morton was arrested for them and he went there to get them.

Q. Who else was there at that time in this case when he made that statement.

A. Detective Logan, Mary Jane McGrory, Mrs. Mullen, Kiernan and Fagan.

Cross Examined.

Q. Do you know Quirk's saloon on 16th Street, Officer.

A. Yes sir.

Q. Have you been there within a few days, I mean within the time that McKenna has been arrested.

A. No sir.

Q. Did you have any conversation with Quirk at all.

A. Not since McKenna was arrested.

Q. Just before it.

A. Prior to his arrest, yes, the night before.

Q. You went there with a view of getting a complainant against McKenna, did you not.

A. I went there to investigate a complaint which came from there.

Q. For assault.

A. Yes sir.

Q. That was committed on McKenna.

A. It was claimed to have been committed by McKenna on another.

Q. On Durking.

A. Yes, sir.

Q. You ascertained there that McKenna was struck there with a bottle.

A. I did.

Mr. Parker: That is the Peoples' case.

0191

The Case for the Defence.

Counsel: I ask your Honor to take from the consideration of this jury the first count of the indictment which is burglary in the third degree.

The Court: I understand the District Attorney goes on the count for receiving stolen goods, there is no occasion of my taking it away.

Counsel: I so desire it.

Mr. Parker: I said that I ⁱwaived that.

Counsel: I ask your Honor to take from the consideration of this Jury the offence of receiving stolen goods because the evidence in this case points, if it points at all, against any such contention; the evidence is all circumstantial in its character.

The Court: That is good evidence.

Counsel: Very true, but there must be some evidence to show a receiving on the part of the defendant McKenna.

Mr. Parker: What about the confession.

Counsel: There is no confession.

The Court: There is evidence anyway to go to the Jury if they believe it that this man either exercised or attempted to exercise acts of ownership over that property --- his going into the cellar, his going to get it and saying that it was there, he claimed the right to get possession of it.

Counsel: That may be true, your Honor, but was there any actual ^{the} receiving of it.

The Court: In some part of the evidence he said he put it there. I leave it to the Jury.

*Best accepted to this ruling on this
from that such act would not constitute*

*receiving stolen
goods*

0192

Counsel: I ask your Honor to give me the benefit of an exception to your refusal to take that count from the Jury.

McKenna, I want you to go around and let those twelve jurors see your ear.

Mr. Parker: Are you going to put him on the stand?

Counsel: NO.

Mr. Parker: I object to his putting this Defendant in as an exhibit.

Counsel: I desire to have introduced as an exhibit in this case that which has already been accounted for by the District Attorney on a different theory than mine.

The Court: What is the exhibit?

Counsel: The cut on the Defendant's ear.

The Court: You have got to prove that it is his ear first.

Mr. Parker: Why don't you put McKenna on?

Counsel: No, no, Brother Parker.

George R. Westerfeld sworn and examined.

By Counsel. Q. Mr. Westerfeld, you see the ear of the Defendant there.

Objected to.

The Court: You may prove by this witness that he examined the ear of this man.

By Counsel: Q. Will you examine that ear.

A. I have, I see it.

Q. Examine the ear that is cut.

A. I did examine it when I was sitting there beside him.

By the Court. Q. You did not see any cut on it.

0193

A. I see the marks of the cut, I assume it is a cut, there is marks produced there, I see a deep cut or contusion.

By Counsel. Q. A deep scar.

A. There is.

Counsel: I desire to introduce the ear, I want them to look at it.

The Court: No, that will do.

Counsel: I desire to enter upon the record ----

The Court: You wont enter anything upon the record without my permission.

Counsel: Your Honor can strike this out, I have made the offer to permit McKenna, the Defendant, to exhibit his ear and the cut thereon to the Jury. and I take exception to each and every ruling of your Honor as made thereon.

Edward Donohue sworn and examined by Counsel.

Q. Did you see the defendant ~~Edward~~ McKenna prior to his arrest.

A. Yes sir, in 17th Street between 8th and 9th Avenues.

Q. Do you remember seeing his ear.

A. Yes sir.

Q. When, how long before his arrest.

A. I think it was ----

By the Court. Q. Do you know what day he was arrested.

A. No sir, I did not keep track of it.

By Counsel. Q. The 17th of last month, October, he was arrested.

A. It was the following morning I think he was arrested.

Q. You saw him on the 16th.

A. I believe it was, I could not exactly swear to it.

Q. What time was it.

0194

A. In the evening about half past eight.

Q. Did he have his ear cut.

A. Yes sir.

Q. Did you see plaster on his head.

A. I did not take notice, he did not show me his head.

Q. Was there plaster on his ear.

A. His ear was cut right here. (Pointing.)

The Court: Do you abandon the first two counts?

Mr. Parker: Yes sir, I think upon consideration I had better,
there is a count for burglary and a count for larceny, I
abandon the first and the second.

The Court: That leaves the third count.

(Insert Bender Charge)

0195

That follows charge.

Counsel: I except to the Judge's charge as a whole and to each portion thereof, particularly where he said it is a very simple case and one that ought not to take an intelligent jury long to determine.

The Jury rendered a verdict of guilty of receiving stolen goods.

Counsel: I ask your Honor before you make a disposition of the case that you remand him until next Wednesday, I want to have Mr. Purdy here to make a motion in arrest of judgment and for a new trial on the minutes.

The Court: You may make your motion for a new trial and arrest of judgment on my minutes.

Counsel: I ask that he be remanded for two days.

The Court: Yes.

0 196

Winters

Lehaff
no

Lehaff
no

0197

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Charles Mc Kenna

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

Charles Mc Kenna

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

The said *Charles Mc Kenna*,

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

Ernest Bennett,

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

Ernest Bennett,

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

0198

SECOND COUNT—

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

Charles Mc Kenna
of the CRIME OF Reckless LARCENY, committed as follows:

The said Charles Mc Kenna,

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

three train shippers of the value
of two dollars each, and two
papers of the value of one
dollar each.

of the goods, chattels and personal property of one Emil Reinert.

in the shop of the said Emil Reinert,

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

0199

THIRD COUNT—

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

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

The said Charles Mc Kenna,

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

*three hair shippers of the value of
two dollars each, and two razors
of the value of one dollar each,*

of the goods, chattels and personal property of one Ernest Bennett,

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

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

Charles Mc Kenna

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

JOHN R. FELLOWS,
District Attorney.

0200

BOX:

370

FOLDER:

3464

DESCRIPTION:

McLean, James A.

DATE:

10/09/89



3464

0201

Witnesses;

~~James A. McLean~~
off Leary

18 Westford Co

Counsel,

Filed

9 Oct 1899
Pleads, Off Leary

THE PEOPLE

vs.

James A. McLean

ASSAULT IN THE THIRD DEGREE

(Section 219, Penal Code.)

JOHN R. FELLOWS,

District Attorney

[Signature]

A True Bill.

Foreman

[Signature]

Oct 14

Park III October 14/89.

True and argued.

0202

Police Court— B.C. District.

CITY AND COUNTY } AS.
OF NEW YORK, }

of No. 100 Corning Street, aged 40 years,
occupation Policeman being duly sworn, deposes and says, that
on the 17 day of June 1889 at the City of New York,
in the County of New York,

he was violently ASSAULTED and BEATEN by James McLean
man New who struck
deponent while in discharge
his duty, several violent blows
on his face and eye

without any justification on the part of the said assailant.

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

Sworn to before me, this

day of

1889

James McLean
Police Justice

0203

Sec. 193-200.

CITY AND COUNTY OF NEW YORK, ss.

3
District Police Court.

James A. McLean
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 in the trial.

Question. What is your name?

Answer. *James A. McLean*

Question. How old are you?

Answer. *24 Years of age*

Question. Where were you born?

Answer. *New York City*

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

Answer. *247 Cherry St (4 Months)*

Question. What is your business or profession?

Answer. *Laborer*

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

Answer. *He struck me first and I struck him.*

James A. McLean

Taken before me this

day of

Police Justice.

0204

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 16 188 P. J. Duffy Police Justice.

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

Dated _____ 188 _____ Police Justice.

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

Dated _____ 188 _____ Police Justice.

0205

BAILED.

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court District.

THE PEOPLES & C.,
ON THE COMPLAINT OF

2 _____

3 _____

4 _____

Dated Sept 16 1889

Magistrate

Officer.

Precinct.

Witnesses _____

No. _____ Street.

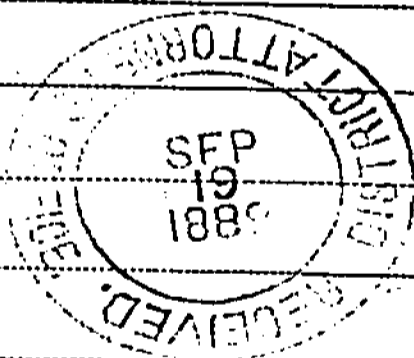
No. _____ Street.

No. _____ Street.

\$ 2500 to answer

One

answ



0206

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 A. McLean

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

James A. McLean
of the CRIME OF ASSAULT IN THE THIRD DEGREE, committed as follows.

The said

James A. McLean

late of the City of New York, in the County of New York, aforesaid, on the *twenty-second*
day of *June* in the year of our Lord one thousand eight hundred and
eighty-nine at the City and County aforesaid, in and upon the body of one *Cornelius*
Leary in the peace of the said People then and there being, with force
and arms, unlawfully did make an assault, and *him* the said *Cornelius*
Leary did then and there unlawfully beat, wound and ill-treat, to the great damage
of the said *Cornelius Leary* 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.

0207

BOX:

370

FOLDER:

3464

DESCRIPTION:

McLoughlin, William

DATE:

10/02/89



3464

Witnesses;

Josephus Hook

Counsel,

Filed

day of

1899

Pleads,

THE PEOPLE

vs.

R

William McLaughlin

Grand Larceny Second Degree.
[Sections 528, 529, 530, Penal Code.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Chas. S. Peraldo

Foreman.

John J. G. Gray

*State Reformatory
Edinburg*

0208

0209

Police Court—

District.

Affidavit—Larceny.

City and County } ss.:
of New York,of No. 225 East 124th Street, aged 40 years,occupation married being duly sworndeposes and says, that on the 14th day of July 1889 at the City of NewYork, in the County of New York, was feloniously taken, stolen and carried away from the possession
of deponent, in the daytime, the following property, viz:

The gold case watch and
chain together of the value
of at least Fifty dollars

the property of

Honora Hunt deponent's
daughter and in deponent's
charge and custody

and that this deponent

has a probable cause to suspect, and does suspect, that the said property was feloniously taken, stolen,
and carried away by William M. Foughlin (see here)

from the fact that on said date
the defendant was in deponent's
employment as a choreboy at
Bradley Beach, New Jersey, on
on said date said property
was missing and stolen from
her premises at New Jersey,
and on September 16th 1889, at
premises 225 E 124th Street
New York City—on deponent was
examining the effects of said
Foughlin she discovered the
chain watch and which was
attached to the watch in me

of
Sworn to before me, this
day
188

Police Justice.

02 10

of several pockets in said
McLaughlin's coat and also
other small articles which had
been stolen from her premises
in New Jersey.

Mrs Josephine L. Hunt

Deposited to keep my this {
18th day of September 1889 }

W. H. H. H.

John Foster

0211

Sec. 198—200.

District Police Court.

CITY AND COUNTY
OF NEW YORK, ss.

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

Question. What is your name?

Answer.

William McLaughlin

Question. How old are you?

Answer.

18 years

Question. Where were you born?

Answer.

W. I.

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

Answer.

153 East 103rd St. 1 year

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 took the watch

William McLaughlin

Taken before me this

day of

188

Police Justice.

02 12

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

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

Dated Sept 18 18 89 W. A. Wood Police Justice.

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

Dated _____ 18 _____ Police Justice.

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

Dated _____ 18 _____ Police Justice.

0213

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court---

District.

THE PEOPLE, &c.,

ON THE COMPLAINT OF

Joseph Hunt
225 East 124 St.
William McFougall

1

2

3

4

Dated

188

Magistrate.

Officer.

Precinct.

Witnesses

No.

Street.

No.

Street.

No.

Street.

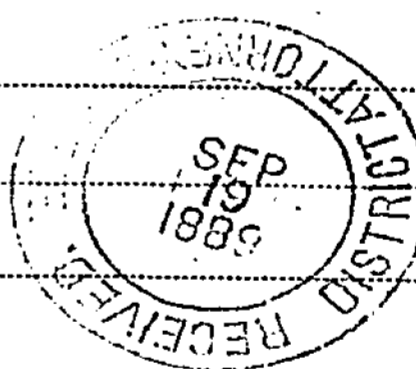
\$

1000

to answer

G.S. N

Com 78
a



02 14

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK,

against

William McLoughlin

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

William McLoughlin

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

The said

William McLoughlin

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

one watch of the value of thirty-five dollars and one chain of the value of fifteen dollars

of the goods, chattels and personal property of one

Florena Hunt

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.

02 15

SECOND COUNT—

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

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

The said

William McLaughlin

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,

*one watch of the value of
thirty-five dollars, and one
chain of the value of fifteen
dollars*

of the goods, chattels and personal property of one

Florena Hunt

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

Florena Hunt

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

William McLaughlin

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

JOHN R. FELLOWS,
District Attorney.

02 16

BOX:

370

FOLDER:

3464

DESCRIPTION:

McNally, James

DATE:

10/17/89



3464

0217

Witnesses:

Off. J. H. Keefer
Central office

Counsel,

Filed 17 day of Oct 1889.

Pleads,

THE PEOPLE

vs.

Grand Larceny, second Degree.
(From the Person.)
[Sections 628, 588 Penal Code].

James McHale

JOHN R. FELLOWS,
District Attorney.

A True Bill.

Wm L. Cole, Foreman.
Dec. 17/89
J. H. Keefer
Pen 6 mls RBM

0218

Thomas Keefe being duly
sworn deposes & says

I will not swear
to the valuation being twenty
five dollars of the articles
mentioned by me in my
complaint, I will swear that
it was a watch case I did not
see the inside of it. I am
not an expert in regard to
values, I have not got the
watch with me that is referred
to, I had it in my hand for
a second.

Sworn to before me } Thomas Keefe
this 3^d day of October 1894 }
E. J. Hagan
Peace Justice

0219

Police Court— / — District.

Attempt
Affidavit—Larceny.City and County } ss.:
of New York, }

Thomas Keefe

of No. 300 Mulberry Street, aged 29 years,
occupation Police Detective being duly sworndeposes and says, that on the 30th day of September 1889 at the City of New York, in the County of New York, was feloniously taken, stolen and carried away from the possession of ~~an unknown man~~ ^{attempted to be} deponent, in the day time, the following property, viz:One watch and chain of the
value of the value of Twenty five
dollars

the property of some person unknown to 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 ^{attempted to be} James McNaalley (now Here)for the reasons that at about the hour
of five o'clock on the afternoon of said
day deponent saw said unknown man
standing in a crowd in front of the
"Sun" office on Nassau Street and saw
the defendant here jostling against
said unknown man and saw him remove
the watch which was in a pocket of the
vest then worn on ^{said unknown man's} his person and said
watch was attached to a chain which
chain was fastened to said vest.
Deponent saw the watch in the hand
of the defendant who when arrested
by deponent, released it and it

Subscribed before me, this

day

188-

Police Justice.

0220

hung by said chain from said unknown
man's body.

Sworn to before me }
this 2nd October 1889 }

Thomas Keefe

W. H. Hagan

Police Justice

0221

Sec. 198—200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

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

Question. What is your name?

Answer. *James McNally*

Question. How old are you?

Answer. *23 years*

Question. Where were you born?

Answer. *New York*

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

Answer. *55 Spring Street, 5 years*

Question. What is your business or profession?

Answer. *Varnisher*

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 McNally

Taken before me this *2*
day of *October* 188 *9*

Police Justice.

0222

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

three 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 Oct 2 1889 [Signature] Police Justice.

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

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

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

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

0223

By Oct 3rd 2 P.M.

BAILED,

No. 1, by _____

Residence _____ Street.

No. 2, by _____

Residence _____ Street.

No. 3, by _____

Residence _____ Street.

No. 4, by _____

Residence _____ Street.

Police Court---

1517 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Thomas Keefe

James McNally

2

3

4

Attorney
Lawrence from prison

Dated Oct 2 1889

Hogan Magistrate.

Murphy & Keefe Officer.

00 Precinct.

Witnesses _____

No. _____ Street.

No. _____ Street.

No. _____ Street.

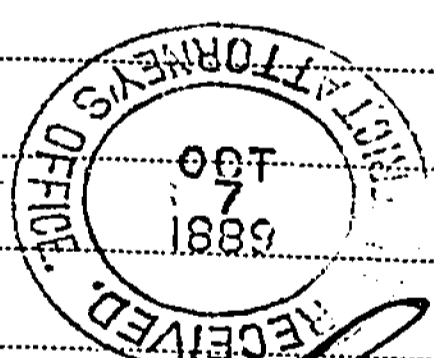
No. _____ Street.

No. _____ Street.

\$ 300. to answer

G. S. Compt.

Ver.



9 p.m.
Hogan

0224

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 McNally

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

James McNally
of attempting the crime of GRAND LARCENY in the second degree, committed as follows:

The said

James McNally
late of the City of New York, in the County of New York aforesaid, on the *thirtieth*
day of *September* in the year of our Lord one thousand eight hundred and
eighty-*nine*, in the *day* - time of the said day, at the City and County
aforesaid, with force and arms,

*one watch of the value of
fifteen dollars, and one chain
of the value of ten dollars.*

of the goods, chattels and personal property of one *a certain man whose name
is to the Grand Jury aforesaid unknown*
on the person of the said *man*
then and there being found from the person of the said *man*
then and there feloniously did steal, take and carry away, against the form of the statute in such
case made and provided, and against the peace of the People of the State of New York and their
dignity.

*John R. Fellows,
District Attorney.*

0225

BOX:

370

FOLDER:

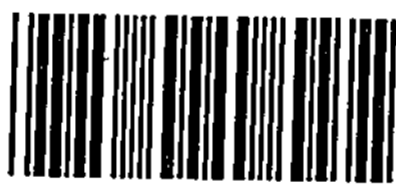
3464

DESCRIPTION:

McName, Patrick

DATE:

10/22/89



3464

Witnesses:

Patrick Family

Off. Hore

20-1-1911

Counsel,

Filed

22 day of Oct 18 89

Pleads,

Chy. City vs

THE PEOPLE

22 39-28. R

340-1-1911

Patrick McNamee

alias Frank Manning

(2 cases)

Burglary in the Third degree
and Petit Larceny

[Section 498, 506, 512 & 513 27]

JOHN R. FELLOWS,

District Attorney.

Part III October 29/89

Pleads Guilty King's deg.

S.P. 3 1/2 yd.

A True Bill.

Wm L. Cole, Foreman.

60728 14 Oct. 1889

0226

0227

Police Court— H District.City and County } ss.:
of New York, }

Patrick Farrell
of No. 590 First Street ~~Street~~, aged 39 years,
occupation Liquor dealer being duly sworn
deposes and says, that the premises No. 685 First Street 21 Ward
in the City and County aforesaid the said being a first story brick
building part
and which was occupied by deponent as a liquor store
and in which there was at the time a human being, ~~by name~~

were BURGLARIOUSLY entered by means of forcibly Opening a
door leading from the hallway
into the room adjoining the Parlor
and entering therein with intent
to commit a felony
on the 12 day of October 1889 in the day time, and the
following property feloniously taken, stolen, and carried away, viz:

Two bottles of Old Tom's Gin and
One box of cigars together
of the value of four dollars
and fifty cents (\$4.50)

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

Patrick McNamee (now here,
and another person not yet arrested

for the reasons following, to wit:

That deponent is
informed by Officer David Storr
of the 21st Precinct that he saw
said defendants at about 1³⁰ o'clock
run out of the hallway of said
premises and acting in a suspicious manner
when said officer approached said
defendants they ran away
said Officer pursued defendants

0228

and arrested said defendant now
present at the Corner of First Avenue
and 110th street with one bottle of
said Gin in his possession
which defendant has since
seen and fully and positively
identifies and a portion of the
property taken stolen and carried
away from said premises at
the time and manner herein
described.

Subscribed before me
this 12th day of Oct 1889. Patrick Farrell
R.D. Mahon
Police Justice

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.

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

Dated _____ 188 _____ Police Justice.

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

Hundred Dollars _____ and be committed to the Warden and Keeper of the City Prison

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

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 _____

Police Court, _____ District.	Offence—BURGLARY.
THE PEOPLE, &c., on the complaint of	
1. _____	
2. _____	
3. _____	
4. _____	
Dated _____ 188 _____	Magistrate.
	Officer.
	Clerk.
Witnesses, _____	
No. _____ Street,	
No. _____ Street,	
No. _____ Street,	
\$ _____ to answer General Sessions.	

0229

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 35 years, occupation Police Officer of No

21st Avenue Street, being duly sworn deposes and

says, that he has heard read the foregoing affidavit of Patrick Farrelly

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

Sworn to before me, this

day of

1839

David Hoar

J. J. McMahon

Police Justice.

0230

Sec. 198-200.

11 District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

Patrick McStarr 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.

Patrick McStarr

Question. How old are you?

Answer.

47 years

Question. Where were you born?

Answer.

New York City

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

Answer.

No 340 East 39th St. Brooklyn

Question. What is your business or profession?

Answer.

Driver

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

Answer.

I am not guilty
of the charge

Patrick McStarr

Taken before me this

day of

188

W. J. McStarr Police Justice.

0231

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 Oct 2 1887 W. T. McMahon Police Justice.

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

Dated 188 Police Justice.

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

Dated 188 Police Justice.

0232

BAILED.

No. 1, by _____
Residence _____ Street.

No. 2, by _____
Residence _____ Street.

No. 3, by _____
Residence _____ Street.

No. 4, by _____
Residence _____ Street.

173
Police Court 1545 District.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Patrick Garrity
890 1st Ave

Patrick McNamara

2 _____
3 *102*
4 *any and all for S. against D.*
5 *by name of "Frank Manning"*
6 *filed 10/12/89*

Dated *Oct 12* 188 *9*
W. McMahon Magistrate

Stor Officer.
21st Precinct.

Witnesses *Call the officer*
No. _____ Street.

James Carter
No. *590* Street.

No. _____ Street.
\$ *1000* to answer



Burg 3
P.H.

0233

Court of General Sessions of the Peace

OF THE CITY AND COUNTY OF NEW YORK.

THE PEOPLE OF THE STATE OF NEW YORK

against

Patrick McNamee

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

Patrick McNamee

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

The said

Patrick McNamee

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

Patrick Farrelly

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

Patrick Farrelly

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

0234

SECOND COUNT—

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

of the CRIME OF

Patrick McNamee
 Petit LARCENY

committed as follows:

The said

Patrick McNamee

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

*two bottles of gin of the value
of one dollar each bottle, and
fifty cigars of the value of
five cents each*

of the goods, chattels and personal property of one

Patrick Farrelly

in the

store of the said

Patrick Farrelly

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

*John R. Fellows,
District Attorney.*

0235

BOX:

370

FOLDER:

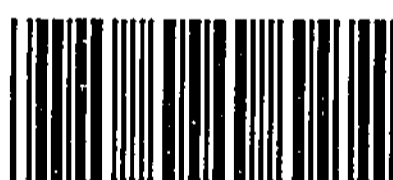
3464

DESCRIPTION:

McQuillan, John

DATE:

10/11/89



3464

WITNESSES:

off Cooper Jr

77

Rec'd 10

Counsel,

Filed

day of

1889

Pleads

Guilty 14

THE PEOPLE,

vs.

B

John McDullan

VIOLATION OF EXCISE LAW
(Selling on Sunday, Etc.)
[III Rev. Stat. (7th Edition), page 1083, Sec. 21 and
page 1089, Sec. 6.]

JOHN R. FELLOWS,

District Attorney.

A True Bill.

M. L. Cole Foreman.

Complaint sent to the Court
of Special Sessions,

Part III, ... 16 1889.

0236

0237

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 McQuillan
The Grand Jury of the City and County of New York, by this indictment, accuse
John McQuillan
of the CRIME OF SELLING INTOXICATING LIQUORS AND WINES AS A BEVERAGE ON SUNDAY, committed as follows:

The said

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

James G. Cooper, the younger
and to certain other persons whose names are to the Grand Jury aforesaid unknown,
against the form of the Statute in such case made and provided, and against the peace of
the People of the State of New York and their dignity.

SECOND COUNT—

And the Grand Jury aforesaid by this indictment further accuse the said
John McQuillan
of the CRIME OF KEEPING OPEN ON SUNDAY a place licensed for the SALE OF STRONG
AND SPIRITUOUS LIQUORS, WINES, ALE AND BEER, committed as follows:

The said

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

JOHN R. FELLOWS,

District Attorney.