

0631

BOX:

307

FOLDER:

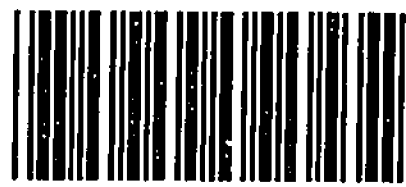
2922

DESCRIPTION:

Kelly, Charles

DATE:

05/29/88



2922

0632

Witnesses:

Counsel,

Filed

day of

188

Pleads,

THE PEOPLE

vs.

by District
Att. William

Charles Kelly

Burglary in the Third degree,
Burglary in the Third degree,
Burglary in the Third degree,
[Section 498.50634-528.530]

JOHN R. FELLOWS,

District Attorney.

7 2 New York 88

pleads Burg 34.

S.P. Good years.

A True Bill.

W. M. Thro

Foreman.

June 12th

June 13th June 14th

June 15th June 16th

G.S.A.

0633

Police Court—

3 District—

City and County { ss.:
of New York,

of No. 49 Norfolk Street, aged 55 years,

occupation Janitor being duly sworn

deposes and says, that the premises No. 49 Norfolk Street, 10th Ward

in the City and County aforesaid the said being a dwelling house and store

and which was occupied by deponent as a dwelling

~~and in which there was at the time a human being, by name~~

were BURGLARIOUSLY entered by means of forcibly breaking and pulling out the staple securing a lock to a rear door leading from the yard of said premises into the basement thereof

on the 22nd day of May 1888 in the night time, and the following property feloniously taken, stolen, and carried away, viz:

A quantity of carpenters tools of the value of fifty dollars

the property of me Cohen but in deponent's charge 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

Charles Kelly

for the reasons following, to wit:

That at about the hour of 10.15 Pm of said date deponent searched the basement of said premises for the purpose of turning the gas off and then found the defendant concealed in said basement that the defendant attempted to break a lamp which deponent had in his hand and made a motion

0634

as if to draw a pistol or some weapon
from his pocket and then escaped
to the street after which defendant
caused his arrest and outgauge
found said premises broken as described
Isaac Bernstein

Swear before me this
23rd day of May 1888
H. J. White
Police Justice

It appearing to me by the within depositions and statements that the crime therein mentioned has been
committed, and that there is sufficient cause to believe the within named
guilty thereof, I order that he be held to answer the same and he be admitted to bail in the sum of
Hundred Dollars and be committed to the Warden and Keeper of the City Prison
of the City of New York, until he give such bail.
Dated 1888
Police Justice.
I have admitted the above named
to bail to answer by the undertaking hereto annexed.
Dated 1888
Police Justice.
There being no sufficient cause to believe the within named
guilty of the offence within mentioned, I order he to be discharged.
Dated 1888
Police Justice.

Police Court, District.

THE PEOPLE, &c.,
on the complaint of

Offence—BURGLARY.

1
2
3
4

Dated 1888

Magistrate.

Officer.

Clerk.

Witness.

No. Street.

No. Street.

No. Street.

\$ to answer General Sessions.

0635

Sec. 198-200.

3 District Police Court.

CITY AND COUNTY
OF NEW YORK, N.Y.

Charles Kelly 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 Kelly*

Question. How old are you?

Answer. *22 years*

Question. Where were you born?

Answer. *MS*

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

Answer. *94 Stanton St. 2 weeks*

Question. What is your business or profession?

Answer. *Wood Turner*

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

Answer. *I am not guilty*

Chas Kelly

Taken before me this

day of

1888

Police Justice

0636

Dated _____ 188

.....
Police Justice.

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

Dated.....188.....
.....*Police Justice.*.....

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

Dated 1888

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.

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.

THE PEOPLE, &c.,
ON THE COMPLAINT OF

Grace Campbell
 4497 72nd Street
 Brooklyn, N.Y.

Offence

2

3

4

Dated 21 May 1967 18

.....Magistrate.

[Signature]

✓ / Precinct.....

Witnesses.....

No Street.

No. Street,

No. 217 Street 217

to answer

RECEIVED
DISTRICT ATTORNEY
JAN 11 1988
TO REPLY
STREET.

0637

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 Kelly

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

Charles Kelly

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

The said *Charles Kelly*

late of the *South* Ward of the City of New York, in the County of New York, aforesaid, on the *twentieth* day of *May*, in the year of our Lord one thousand eight hundred and eighty-*eight*, with force and arms, at the Ward, City and County aforesaid, a certain building there situate, to wit: the *dwelling house* of one

Isaac Bernstein

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

Isaac Bernstein

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

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SECOND COUNT—

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

~~Charles Kelly~~
~~attempting to commit~~
of the CRIME OF ~~Grand~~ LARCENY in the first degree, committed as follows:

The said ~~Charles Kelly~~

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,

a quantity of ~~conspicuous~~ goods, to wit:
number and description to the
Grand Jury aforesaid unknown,
to the value of fifty dollars,

of the goods, chattels and personal property of one ~~John Cohen~~ (the
name "John" being fictitious, his real Christian
name being to the Grand Jury aforesaid unknown,
in the dwelling house of the said Isaac Bernstein, —

there situate, then and there being found, ~~from~~ the dwelling house aforesaid, then and there
~~attempt to~~ 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.

~~Charles Kelly~~
~~Attorney~~

0640

BOX:

307

FOLDER:

2922

DESCRIPTION:

Kelly, John

DATE:

05/18/88



2922

0641

BOX:

307

FOLDER:

2922

DESCRIPTION:

Bertine, Edward A.

DATE:

05/18/88



2922

Inocultant dismissed

0643

Advertisement for conspiracy
Section 10, South Carolina

and people

Shelley

W. B. Hartman

JOHN R. FELLOWS

District Attorney

W. B. Hartman

W. B. Hartman

W. B. Hartman

1638 6238
1888
Filed day of May
Pleas Not Guilty (Indictment)

Counsel

Filed

day of

May

1888

Pleas

Not Guilty

(Indictment)

Indictment for Conspiracy
[Section 163, Penal Code]

THE PEOPLE

vs.

John Kelly

and

Edward A. Bertine

JOHN R. FELLOWS,

District Attorney.

A True Bill.

Wm. Deane
Foreman.

Part IV June 10/90
Indictment dismissed

0645

GENERAL SESSIONS .

THE PEOPLE
against
JOHN KELLY,
and
EDWARD A. BERTINE .

HON. JOHN R. FELLOWS ,

District Attorney.

Dear Sir:-

Prior to the 29th of March, 1888, one George Benson, now deceased, fled from Mexico to this country, where extradition proceedings were begun by the Mexican government against him, based upon charges of forgery and counterfeiting. Such proceedings were had that Benson was finally apprehended in this city by the United States Marshal, acting pursuant to a warrant for the arrest of Benson, issued by United States Commissioner Lyman. Upon this warrant Benson was committed to Ludlow Street Jail by the United States Marshal, where he remained until his death. I am informed by Mr. Lindsay that there was an order of commitment made out by the Commissioner, but no formal mittimus. During the time of his incarceration he was immediately under keeper John F. McCabe. McCabe states that on the 29th of March, 1888, Benson offered him one thousand dollars if he, McCabe would procure

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for Benson a wax impression of the lock of the door leading from the hallway into the yard of the jail. Benson said he would give \$500 to McCabe when he gave the wax impression to his servant, the defendant Kelly, on Grand Street near the Bowery the following morning at 8:30. Kelly spoke to McCabe and said that Benson had told him to go and see McCabe about the impression of said lock, and Kelly informed McCabe that he would be well paid for getting an impression. McCabe further states that Benson gave him a piece of wax and showed him the way the impression should be made. Subsequently McCabe met Kelly, who asked McCabe if he had the impression,,and McCabe replied, No, that he was unable to procure the key. After this Benson spoke to McCabe about the scheme and McCabe states that he gave evasive replies. The defendant, Edward A. Bertine, made a confession of his connection with the conspiracy in which he stated that he had known Kelly for some years; that about two months prior to the 20th of April, 1888, Kelly came to him and stated that he was arranging a plan by which Benson could escape; that Kelly wanted him to go to a place where he could purchase a rope-ladder. Kelly stated the plan of escape to Bertine, and also told him that there was a prisoner named Bodine confined in the jail who was in the habit of receiving visits from a locksmith, who had fitted keys to the lock of the door leading to the yard and that he was to assist Benson to escape and escape himself; that he, the defendant Bertine, and Kelly then went to a store in South

Street near Peck Slip and jointly left an order with the man in charge for a rope ladder to cost eighteen dollars, and gave him two dollars as a deposit; that they never went for the ladder. Afterwards Bertine states that Kelly took him to a house in Broome Street, between Essex and Ludlow, and pointed out a pole as the means by which the ladder could be thrown to Benson after he had made his escape from the cell, but that this scheme was afterwards abandoned for the reason that Kelly told Bertine that Benson was unable to get the key. Bertine further states that after this Kelly told him of another scheme to aid Benson; that it was the custom of the Marshal after Benson was placed in court, to take Benson to the water-closet in the hall of the Post-Office building and that while doing so on a day to be fixed Benson was to knock down and throw cayenne pepper in the Marshal's eyes, and then to make his escape; that a few days subsequent to the last time that Benson was taken to court Kelly told Bertine, "we will have to get a couple of men and when Benson is being taken to court again by Marshal Bernhardt, who never handcuffed Benson we can run up against Bernhardt, as though by accident, knock him down and then permit Benson to escape.

Bertine then states that he and Kelly went to a junk-shop in the Eighth Ward of this city, where he knew two men, whom they told of the plan to help Benson, and that if they would consent to help they would be well paid for their services. The men were to hold the officer down while Benson got around the corner of

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the street where a coach would be waiting. Bertine states that this plan was never carried out, as Kelly received a note from Benson stating that he would not be taken to court on the day the plan was to be carried out, and that Bertine and Kelly told the men that their services would not be needed.

From these facts the defendants were indicted for conspiracy, upon twenty-eight counts, charging the above facts in various ways: First, of conspiring with Benson to procure from McCabe, the keeper, for one thousand dollars, a wax impression of the lock of the jail door, for the purpose of taking Benson from the custody of the United States Marshal; second, upon the same facts, of conspiring to take Benson from the custody of the Sheriff of the court; third, of conspiring to take Benson from Ludlow Street Jail, where he was confined for a misdemeanor, by the offer of a bribe of \$1000 to McCabe, his keeper; fourth, upon the same facts to procure the escape of Benson and thus pervert and obstruct the due administration of the laws; fifth, to procure the escape of Benson by means of force and violence.

The grave question arises upon this indictment as to the jurisdiction of the Court of General Sessions to entertain this charge. If the prisoner Benson, as must be conceded was the case, was a prisoner in the custody of the United States Marshal at the time of this conspiracy it is exceedingly doubtful whether the State

courts have jurisdiction over the offense. On the other hand, it is manifestly clear that the United States courts would have complete jurisdiction to punish the defendants for the crime of conspiracy against the government of the United States. Whilst no question as to jurisdiction seems to have been raised by demurrer, I would suggest that it be preliminarily determined. The most recent adjudication upon this subject is by ^{Justice} ~~John D.~~ E. Sawyer of the United States Circuit Court at San Francisco, in the Terry-Magle case, (Reported Albany Law Journal, Oct. 12, 1889, page 284). That case has been said to go to the extremest limit in maintaining Federal authority.

In this case, if Benson was in the custody of the United States Marshal he certainly could not at the same time be in the custody of the Sheriff upon the same charge; in other words, he could not be in the custody of both officers at the same time under the same process, and therefore it is difficult to see how the defendants could conspire to obstruct the laws or the due administration of justice, or to commit a crime, as those words are used in section 168 of the Penal Code, as they would seem to refer to violations of the laws of this state and not of the United States or any other state. The facts would seem to show prima facie that no crime was committed against the State. So far as the proof is concerned, the testimony of Bertine and McCabe is perhaps sufficient to make out a prima facie case,

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which is most important
 but Bertine's testimony lacks corroborations, as to plans concocted subsequently between Kelly and Bertine and the prisoner Benson to procure the ladder and to commit the assault upon the officer to secure the escape of Benson. Whilst the corroboration, it is true, need not go to every material part of the testimony of Bertine, yet what occurred subsequent to the scheme to get the impression of the lock is of so important a nature that a jury might well look with suspicion and distrust upon the story Bertine tells without its being confirmed. In this respect the case is by no means strong. As, however, the courts of the United States have ample jurisdiction to indict and punish the defendants for any crime they may have committed, and as the jurisdiction of our courts is exceedingly doubtful, I do not believe that it is incumbent upon the People in this case to push it to trial, unless it be to finally determine on demurrer the question of law involved.

Nov. 25th 1889.

*Respectfully,
 Ben J. D. Passer
 U.S. District Judge*

0651

THE PEOPLE OF THE STATE OF
NEW YORK

against

John Kelly and
Edward A. Portine

Report.

JOHN R. FELLOWS,

DISTRICT ATTORNEY,

No. 32 CHAMBERS STREET,
NEW YORK CITY

0652

CITY AND COUNTY } ss.
OF NEW YORK,

POLICE COURT, 2 DISTRICT.

Michael Crowley
of the Central office Street, aged years,
occupation being duly sworn deposes and says,

that on the day of 1888

at the City of New York, in the County of New York, Edward A. Bertine

(marked) is a necessary and material

witness against John O'Kelly

Deponent says that he has reason

to believe that said witness will

not appear and asks that he

give security for his appearance

the testy Michael Crowley

Sworn to before me, this 21 day

April 1888

James J. Sullivan Police Justice,

City & County of Second Dist
 New York So. Police Court
 James P. Keating Warden of the
 County Jail situated No 70
 Ludlow Street - aged 39 years
 being duly sworn says that on
 the 29th day of March 1888 at
 the City of New York in the County
 of New York he was informed by
 John F McCabe a Keeper
 in said County Jail that ~~James~~
 George Benson a prisoner
 confined there spoke to him
 said McCabe about the chain
 he wore saying why don't you
 wear a better one. That said
 Benson then and there stated to
 said McCabe that he would
 give him \$1000 if he said Mc
 Cabe would procure a wax
 impression of the lock of the door
 leading from the hallway into the
 yard of said Jail That said
 Benson informed him said McCabe
 that he would give the first \$500

when he gave the said impression
 to his servant John O'Kelly and
 the second \$500 when the key
 was made and that said Mc
 Cabe was to try the key to
 see if it was all right after
 said O'Kelly gave it to ^{him} ~~me~~
 and thereafter return the same
 to said Benson. Dependent says
 that said McCabe states that
 said Benson told him to
 meet John O'Kelly on the corner
 of Grand Street and Bowery
 the following ~~properly~~ morning
 at 8.30. A.M. That said
 McCabe went there and saw
 said O'Kelly and said O'Kelly
 spoke to said McCabe and
 stated that Benson told
 him to come and see him
 said McCabe about said
 impression of said Lock and
 said O'Kelly informed McCabe
 that he would be well paid
 for getting the impression and

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said Kelly made an appointment
to meet McCabe the following
morning at the same place

Deponent says that said McCabe
informed him that said Benson
gave ^{him} a piece of wax to him
and showed him the manner
the impression should be
taken

Deponent says that
said McCabe met said
Kelly by appointment as
aforesaid and said Kelly
asked said McCabe if he had
the impression and said McCabe
replied "No" that he was unable
to procure the key

That said Benson several
times thereafter spoke to
said McCabe about said
impression and asked ^{him} to
see Kelly which ^{he said} ~~you do~~
McCabe did and on each ^{and}
Every time that said Kelly
met said McCabe he gave
said ~~McCabe~~ ^{Kelly} was sure answers

about said imprisonments

Deponent further says that he is further informed by Edward A. Bertone a copy of his affidavit is hereto annexed and made part of this affidavit and Complaintant

Wherefore deponent charges said John O'Leary ^{feloniously & unlawfully} with attempting to aid George Benson a prisoner confined in the County Jail to escape. He said Benson being ^{in the} lawful custody of deponent as Deputy Sheriff and Warden of the County of Jail of the City & County of New York by virtue of a commitment signed by Nathan T. McMahon United States Marshall for the Southern District of the State of New York for the offence of Forgery in violation Section 88 of the Penal Code.

James P. Keating

Brought before me this

21 day of April 1888

Samuel W. Keating Police Justice

New York, April 20th., 1888.

I Edward A. Bertine, of Number 77 East 117th. Street, this city, do make the following statement of my own free will and accord *and being duly sworn*
deposes and says
I have known John Kelly, for the past five years; about two months ago, the said John Kelly came to me and told me that his friend George Benson was then locked up in Ludlow Street Jail, and that he the said Kelly was arranging a plan by which he the said Benson could make his escape from the said jail; that the said John Kelly asked ~~that~~ me to accompany him to some place where he the Kelly could purchase a rope-ladder. After I had received instruction from Kelly as to how Benson was to make his escape from the jail, he informed me that there was at that time a prisoner confined in the jail named Bodine, and that the said Bodine was in the habit of receiving visits from a locksmith, who had fitted keys to the lock of the door leading to the yard, and that he was to assist Benson to escape, and then to escape himself. I then accompanied the said Kelly to a store in South Street near Peck Slip, and we jointly left an order with the man in charge of said store for a rope ladder, and left a deposit with him of ten dollars; the ladder was to cost eighteen dollars; he never went to the store for the ladder. After we ordered the ladder Kelly took me to the yard of a house in ~~Green~~ Street, between Essex and Ludlow Streets, and there pointed out to me a pole which was in the yard, as the means by which the rope ladder could be thrown to Benson after he unlocked the gate from his cell, thereby making his escape from the said prison or jail. This scheme was afterwards abandoned.

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The reason given by Kelly for abandoning the scheme of aiding Benson to escape by means of the rope-ladder, was on account of Benson being unable to procure the key to the door leading to the yard.

Kelly informed me that it was the custom of the United States Marshal, after Benson was placed into court to take the said Benson to the water-closet which was in the hall of the Post Office Building, and that while doing so on a day to be fixed after the said conversation, ^{Benson} ~~we~~ *was to knock down &* ~~we~~ *then* were to throw cayenne paper in the eyes of the marshal and allow Benson to make his escape. A few days subsequent to the last time that the said Benson was taken to court, the said Kelly came to me and said "We will have to get a couple of men, and when Benson is being taken to court again by the United States Marshal (Bernhardt), who never handcuffed the said Benson in taking him to and from the jail- we can run up against Bernhardt, as though by accident, and knocked him down and then permit Benson to escape. In accordance with the last mentioned agreement, and at the request of the said Kelly, I went to a junk store in the 8th. ward of this city, where I was slightly acquainted with two men, and with the said Kelly went to these men, and told them that we wanted their assistance to help Benson to escape; that Benson was to be taken from the Indian Street jail, to the United States Court, on the following morning, and that we, Kelly and myself wanted to get the prisoner away from the officer who would have him in charge, and that if they would consent to help us we would pay them well for their services

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for knocking the officer down and assisting Benson to escape. The men were to hold the officer down while Benson got around the corner of the street, where a coach was to be waiting him. To this the men agreed; and we appointed a time to meet them at the corner of third street and Bowery, this city. On that same evening Kelly received a letter from Benson in which Benson stated that he would not be taken to court as he had expected, on the following day. After the receipt of the letter already referred to, Kelly and myself went to the men we had engaged to throw the officer down who had Benson in his custody, and told them that their services would not be needed on the day agreed upon; but to hold themselves in readiness when called upon. Kelly has also ~~told~~ *talked about procuring* ~~me to procure~~ drugs for him which would cut the iron bars of the cells of Benson's cell. The said Kelly has also ~~requested me to procure~~ *talked about procuring* saws for the purpose of sending them to Benson, to aid the said Benson to escape.

Edward A. Bertine
#77 E 117th St.

Witnesses:

James McQuinn
Frank Mangin Jr

300 Mulberry Street.

Sworn to before me
E. V. Bertine

Statement of

The 21 day of April 1888

James McQuinn

Police Justice

POOR QUALITY
ORIGINAL

0660

CITY AND COUNTY }
OF NEW YORK, } ss.

aged 32 years, occupation Sleeper of No. 321 E 59 Street, being duly sworn deposes and

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

Sworn to before me, this 21
day of Apr 1888 } John T. McCabe

Sam'l C. Bull
Police Justice.

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Sec. 198-200.

District Police Court.

CITY AND COUNTY }
OF NEW YORK, } ss.

John Scully 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.

Question. How old are you?

Answer.

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 may think will tend to your
exculpation?

Answer.

I am not guilty
John Scully.

Taken before me this
day of

April

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Police Justice.

2992

Police Justice.

188

Dated

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

There being no sufficient cause to believe the within named

Police Justice.

188

Dated

to bail to answer by the undertaking hereto annexed.

I have admitted the above named

Police Justice.

188

Dated

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

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 James P. Keating

Police Court

District

THE PEOPLE &c., B
ON THE COMPLAINT OF

James P. Keating
Defendant
John O'Reilly

Dated April 21 1888

Samuel O'Reilly Magistrate

Padamo

Schedule's Sheriff

Witnesses Edward A. Bunker

No. 77 E 117th Street

Committee on Education

Voluntary Association of Teachers

No. 100 E 117th Street

No. 100 E 117th Street

No. 100 E 117th Street

No. 100 E 117th Street

No. 100 E 117th Street

DAIED, May 21st 1888

Vol. in Cementation Schaffner

Residence 70 West 50th Street

James Edward A. Bunker

Bunker April 24th 1888

James A. Mc Govern

880 Lexington Avenue

X

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

-----X

The People of the State of New York

Against

John Kelly and Edward A. Bertine

-----X

THE GRAND JURY OF THE CITY AND COUNTY OF NEW YORK,
by this indictment accuse, John Kelly and Edward A.
Bertine, of the crime of Conspiracy, committed as follows:

Heretofore to wit: on the fourteenth day of January
in the year of our Lord one thousand eight hundred and
eighty-eight, at the City of New York in the County of
New York aforesaid, Samuel H. Lyman, Esquire, then and at
all the times herein mentioned a Commissioner of the
United States of America, fully authorized and lawfully
empowered in the premises, upon a complaint then and there
made before him under oath in due form of law, and pur-
suant to the provisions of the statutes and laws of the
United States of America in such case made and provided,
by one Juan N. Navarro, Esquire, the Consul General of a
certain foreign government, to wit: the United Mexican
States, charging one George Benson, then lately before
found within the limits of the said State of New York,
with having committed within the jurisdiction of the
said United Mexican States, the crime of forgery, the same

being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons, who, being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{guilt} might be heard and considered.

And the said George Benson afterwards, to wit: on the

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day and in the year aforesaid, at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid or he should be otherwise dealt with according to law.

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day and in the year aforesaid, at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment at all times herein mentioned thereafter, and at the time of the commission of the crime and conspiracy hereinafter alleged.

And the said John Kelly, late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, afterwards to wit: on the ~~said~~ twenty-ninth day of March in the year aforesaid, at the City and County aforesaid together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together between and amongst themselves, that the said George Benson so being a prisoner confined in the said prison and so being in the lawful custody of the said Marshal, upon the said commitment should by force feloniously escape from such prison and custody.

And the said John Kelly, and Edward A. Bertine and George Benson, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and

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county aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and county aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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 Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the

terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek and asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{criminally} might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman,

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Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the city and county aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment at all times, ^{herein} mentioned thereafter, and at the time

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JOHN ABRAHAM, JR. AND JAMES ABRAHAM, JUNIOR, DEFENDANTS

Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the city and county aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment at all times ^{herein} mentioned thereafter, and at the time

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of the commission of the crime and conspiracy herein-
after alleged.

And the said John Kelly and Edward A. Bertine both
late of the City and County aforesaid, well knowing the
premises, afterwards, to wit: on the said twenty-ninth
day of March in the year aforesaid, at the city and county
aforesaid, did unlawfully conspire, combine, confederate
and agree together and with ~~one~~ ^{the said} George Benson, and divers
other persons to the Grand Jury aforesaid unknown, to ^{feloniously} aid
and assist the said George Benson so being a prisoner
confined in the said prison under the commitment afore-
said, and in the lawful custody of the said Marshal as
aforesaid, in escaping from the said prison and from the
lawful custody of the said Marshal as aforesaid.

And the said John Kelly, Edward A. Bertine and George
Benson, afterwards, to wit: on the said twenty-ninth day
of March in the year aforesaid at the City and County
aforesaid, in pursuance and furtherance of and according
to the said conspiracy, combination, confederacy and agree-
ment between and amongst themselves as aforesaid, did
unlawfully, solicit, incite and endeavor to persuade one
John F. McCabe, then being a Deputy Sheriff of the said
City and County of New York and a keeper in the said
prison to procure and cause to be made for them and to
be furnished and delivered to them a wax impression of
the lock of a certain door leading from the said prison
into the yard thereof.

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And the said John Kelly, Edward A. Bertine and George Person in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

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THIRD COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine, of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, a felony, to wit: the crime of forgery, the same -

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being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid committed within the jurisdiction of the requiring party should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, to the end that the evidence of his ^{criminality} complicity might be heard and considered.

And the said George Benson afterwards, to wit: on the

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day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid or he should be otherwise dealt with according to law.

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Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment ~~for the felony of~~ *for the felony of* ~~at~~ *at* all times herein mentioned thereafter and at the time of the commission of the crime and conspiracy hereinafter alleged.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together between and amongst themselves that the said George Benson so being a prisoner confined in the said prison and so being in the lawful custody of the said Marshal, upon the said commitment ~~for the felony of~~ *for the felony of* ~~should~~ *should* by force feloniously escape from such prison and custody.

And the said John Kelly, ~~and~~ Edward A. Bertine and George Benson, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and

county aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and county aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided, and against the peace of The People of the State of New York, and their dignity.

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FOURTH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, a felony, to wit: the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof and which said treaty was then and at all the times herein mentioned in full force and operation, and by the

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terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek and asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{criminality} might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman,

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Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the city and county aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment ^{below signed} ~~herein~~ at all times mentioned thereafter, and at the time

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of the commission of the crime and conspiracy herein-
after alleged.

And the said John Kelly and Edward A. Bertine both
late of the City and County aforesaid, well knowing the
premises, afterwards, to wit: on the said twenty-ninth
day of March in the year aforesaid, at the city and county
aforesaid, did unlawfully conspire, combine, confederate
and agree together and with one George Benson and divers
other persons to the Grand Jury aforesaid unknown, to ^{feloniously} aid
and assist the said George Benson so being a prisoner
confined in the said prison under the commitment afore-
~~said~~ said, and in the lawful custody of the said Marshal as
aforesaid, in escaping from the said prison and from the
lawful custody of the said Marshal as aforesaid.

And the said John Kelly, Edward A. Bertine and George
Benson, afterwards, to wit: on the said twenty-ninth day
of March in the year aforesaid at the City and County
aforesaid, in pursuance and furtherance of and according
to the said conspiracy, combination, confederacy and agree-
ment between and amongst themselves as aforesaid, did
unlawfully, solicit, incite and endeavor to persuade one
John F. McCabe, then being a Deputy Sheriff of the said
City and County of New York and a keeper in the said
prison to procure and cause to be made for them and to
be furnished and delivered to them a wax impression of
the lock of a certain door leading from the said prison
into the yard thereof.

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And the said John Kelly, Edward A. Pertine and George Penon in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

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FIFTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire then and at all the times herein mentioned a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, a misdemeanor, to wit: the crime of forgery, the same _____

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being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid committed within the jurisdiction of the requiring party should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, to the end that the evidence of his ^{guilt} complicity might be heard and considered.

And the said George Benson afterwards, to wit: on the

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day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid or he should be otherwise dealt with according to law.

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Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and had the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment ~~at all times herein mentioned thereafter and at the time of the commission of the crime and conspiracy hereinafter alleged.~~

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together between and amongst themselves that the said George Benson so being a prisoner confined in the said prison and so being in the lawful custody of the said Marshal, upon the said commitment ~~should by force feloniously escape from such prison and custody.~~

And the said John Kelly and Edward A. Bertine and George Benson, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and

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county aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and county aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided, and against the peace of The People of the State of New York, and their dignity.

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Sixth ~~SECOND~~ COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Person then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, ^{a misdemeanor, to wit:} the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the

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terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek and asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{guilt} might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman,

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terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek and asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{guilt} might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman,

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terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek and asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his ~~complicity~~ ^{criminality} might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman,

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Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the city and county aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the prison there situate, commonly called the New York County Jail, or Ludlow Street Jail, did then and there keep, hold, and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of and upon the said commitment, ~~at all times, mentioned thereafter, and at the time~~ ^{herein} mentioned.

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of the commission of the crime and conspiracy herein-
after alleged.

And the said John Kelly and Edward A. Bertine both
late of the City and County aforesaid, well knowing the
premises, afterwards, to wit: on the said twenty-ninth
day of March in the year aforesaid, at the city and county
aforesaid, did unlawfully conspire, combine, confederate
and agree together and with one George Benson and divers
other persons to the Grand Jury aforesaid ~~unknown~~ ^{feloniously} to aid
and assist the said George Benson so being a prisoner
confined in the said prison under the commitment afore-
~~said~~ ^{for a misdemeanor as aforesaid} said, and in the lawful custody of the said Marshal as
aforesaid, in escaping from the said prison and from the
lawful custody of the said Marshal as aforesaid.

And the said John Kelly, Edward A. Bertine and George
Benson, afterwards, to wit: on the said twenty-ninth day
of March in the year aforesaid at the City and County
aforesaid, in pursuance and furtherance of and according
to the said conspiracy, combination, confederacy and agree-
ment between and amongst themselves as aforesaid, did
unlawfully, solicit, incite and endeavor to persuade one
John F. McCabe, then being a Deputy Sheriff of the said
City and County of New York and a keeper in the said
prison to procure and cause to be made for them and to
be furnished and delivered to them a wax impression of
the lock of a certain door leading from the said prison
into the yard thereof.

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And the said John Kelly, Edward A. Pertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided, and against the peace of the People of the State of New York, and their dignity.

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SEVENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman Esquire, then and at all the times herein mentioned a commissioner of the United States of America fully authorized and lawfully empowered in the premises upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit, the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force

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and operation, and by the terms whereof it was among other

things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents deliver up to justice persons who being accused of the crime of forgery as aforesaid committed within the jurisdiction of the requiring party should seek an asylum or be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson, afterwards, to wit, on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit, on the said fourteenth day of January in the year aforesaid and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last

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...and the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States ^{of America} that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit, on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail until such warrant for his surrender should so duly issue as aforesaid, or he be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the proceedings aforesaid, and him the said George Benson in the prison there situate commonly called the New York County Jail or Ludlow Street Jail, did then and there keep, hold and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of the said proceedings City and County of New York, and a keeper in the said

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at all times herein mentioned thereafter and at the time
of the commission of the crime and conspiracy hereinafter
alleged.

at all times herein mentioned thereafter and at the time
of the commission of the crime and conspiracy hereinafter
alleged.

And the said John Kelly late of the City and County
aforesaid, and the said Edward A. Bertine late of the same
place well knowing the premises unlawfully contriving
and intending to pervert and obstruct justice and the due
administration of the laws, afterwards to wit on the
twenty-ninth day of March in the year aforesaid, at the
City and County aforesaid, together with the said George
Benson and divers other persons to the Grand Jury afore-
said unknown, did unlawfully conspire, combine, confederate
and agree together, between and amongst themselves to
cause and procure the said George Benson by the aid and
assistance of them the said John Kelly, Edward A. Bertine
and the said other persons to escape from the said
prison and from the lawful custody of the said Marshal
as aforesaid, to the manifest perversion and obstruction
of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George
Benson, afterwards, to wit: on the said twenty-ninth day
of March in the year aforesaid, at the City and County
aforesaid, in pursuance and furtherance of and according
to the said conspiracy, combination, confederacy and agree-
ment between and amongst themselves as aforesaid, did
unlawfully solicit, incite, and endeavor to persuade one
John F. McCabe, then being a Deputy Sheriff of the said
City and County of New York, and a keeper in the said

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prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and county aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided and against the peace of the People of the State of New York and their dignity.

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SEVENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned a commissioner of the United States of America fully authorized and lawfully empowered in the premises upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit, the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force

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and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents deliver up to justice persons who being accused of the crime of forgery as aforesaid committed within the jurisdiction of the requiring party should seek an asylum or be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson, afterwards, to wit, on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit, on the said fourteenth day of January in the year aforesaid and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last

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and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents deliver up to justice persons who being accused of the crime of forgery as aforesaid committed within the jurisdiction of the requiring party should seek an asylum or be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson, afterwards, to wit, on the day and in the year aforesaid at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit, on the said fourteenth day of January in the year aforesaid and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last

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mentioned day, the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law together with a copy of all the testimony taken before him on such hearing to the Secretary of State of the said United States, ^{of America} that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit, on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail until such warrant for his surrender should so duly issue as aforesaid, or he be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the proceedings aforesaid, and him the said George Benson in the prison there situate commonly called the New York County Jail or Ludlow Street Jail, did then and there keep, hold and confine, and the said George Benson was in the lawful custody of the said Marshal and confined in the said prison under and by virtue of the said proceedings

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at all times herein mentioned thereafter and at the time of the commission of the crime and conspiracy hereinafter alleged.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, afterwards, to wit: on the twenty-ninth day of March in the year aforesaid, at the City and County aforesaid together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together, between and amongst themselves to ~~cause and procure~~ ^{that} the said George Benson, by the aid and assistance of them the said John Kelly, Edward A. Bertine and the said other persons ^{should} ~~to~~ escape from the said prison and from the lawful custody of the said Marshal as aforesaid, to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said

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prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the city and county aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided and against the peace of the People of the State of New York and their dignity.

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NINTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight at the City and County aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York being held in custody therein under process of law, to wit: under and by virtue of a commitment for a felony, the said County Jail being ~~was~~ place designated by law for the keeping of persons so held in custody.

And the said John Kelly late of the City and County aforesaid and the said Edward A. Bertine late of the same place, well knowing the premises did unlawfully conspire ~~with~~ with each other and with the said George Benson that the said George Benson so being confined in the said prison upon the said commitment for a felony as aforesaid, should by force feloniously escape from ~~such~~ ^{the said} prison and custody.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid, did~~

did unlawfully solicit, induce and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a Keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison, into the yard thereof.

And the said John Kelly, Edward A. Portline and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between them, and amongst themselves as aforesaid, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such Keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

Persons aforesaid, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between them, and amongst themselves as aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such Keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison, into the yard thereof.

And the said John Kelly, Edward A. Parsons and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between them and amongst themselves as aforesaid, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

And the said John Kelly, Edward A. Parsons and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between them and amongst themselves as aforesaid,

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TENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York, being held in custody therein under process of law, to wit: under and by virtue of a commitment for a misdemeanor, the said County Jail being a place designated by law for the keeping of persons so held in custody.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, did unlawfully conspire with other and with the said George Benson that the said George Benson so being confined in the said prison upon the said commitment for a misdemeanor as aforesaid, should by force unlawfully escape from the said prison and custody.

And the said John Kelly, Edward A. Bertine and George Benson afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid

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did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison, into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~

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ELEVENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York, being held in custody therein under process of law, to wit: under and by virtue of a commitment for a felony, the said County Jail being a place designated by law for the keeping of persons so held in custody.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, did unlawfully conspire with each other and with the said George Benson to feloniously aid and assist the said George Benson so being confined in the said prison upon the said commitment for a felony, as aforesaid, in feloniously escaping from the said prison and from the lawful custody aforesaid.

And the said John Kelly, Edward A. Bertine and George Benson afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid

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of the crime of conspiracy as follows:

did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison, into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the Statute in such case made and provided and against the Peace of the People of the State of New York and their dignity.

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 of Bureau in New York City, on the said day of March aforesaid, in pursuance and furtherance of the said conspiracy to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~

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TWELFTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York, being held in custody therein under process of law, to wit: under and by virtue of a commitment for a misdemeanor, the said County Jail being a place designated by law for the keeping of persons so held in custody.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, did unlawfully conspire with each other and with the said George Benson to unlawfully aid and assist the said George Benson so being confined in the said prison upon the said commitment for a misdemeanor as aforesaid, in unlawfully escaping from such prison and custody.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid

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AND THE SAID JOHN KELLY, EDWARD A. BERTINE AND GEORGE BENSON

did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison, into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as afore-~~ said, afterwards to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day

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THIRTEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy committed as follows:~

Heretofore, to wit: on the twenty-ninth day of March, in the year of our Lord one thousand eight hundred and eighty-eight at the City and County of New York aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York, and a person held in custody therein under process of law, the said County jail being a place designated by law for the keeping of persons so held in custody.

And the said John Kelly and Edward A. Bertine both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, together with the said George Benson unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, did unlawfully conspire to cause and procure the said George Benson by the aid and assistance of them the said John Kelly and Edward A. Bertine to escape from the said County Jail to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day

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day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, afterwards, to wit: on the said twentieth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twentieth day

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Handwritten THIRTEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy committed as follows:+

Heretofore, to wit: on the twenty-ninth day of March, in the year of our Lord one thousand eight hundred and eighty-eight at the City and County of New York aforesaid, one George Benson was a prisoner confined in the County Jail of the County of New York, and a person held in custody therein under process of law, the said County jail being a place designated by law for the keeping of persons so held in custody.

And the said John Kelly and Edward A. Bertine both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, together with the said George Benson unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, did unlawfully conspire ~~to cause and procure~~ ^{that} the said George Benson by the aid and assistance of them the said John Kelly and Edward A. Bertine ~~to should~~ escape from the said County Jail to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day

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IN SENATE, JANUARY 18, 1907. REPORT OF THE COMMISSIONERS OF THE LAND OFFICE.

day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

IN SENATE, JANUARY 18, 1907. REPORT OF THE COMMISSIONERS OF THE LAND OFFICE.

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...of the said John Kelly and Edward A. Bertine
...of the crime of Conspiracy, committed as follows:
Heretofore, to wit: on the fourteenth day of January
in the year of our Lord one thousand eight hundred and
eighty-eight, at the City of New York in the County of
New York aforesaid, Samuel H. Lyman, Esquire, then and at
all the times herein mentioned a Commissioner of the
United States of America, fully authorized and lawfully
empowered in the premises, upon a complaint then and
there made before him under oath in due form of law, and
pursuant to the provisions of the Statutes and laws of
the United States of America in such case made and pro-
vided, by one Juan N. Navarro, Esquire, The Consul General
of a certain foreign government, to wit: the United
Mexican States, charging one George Benson, then lately
before found within the limits of the said State of New
York, with having committed within the jurisdiction of
the said United Mexican States, the crime of forgery, the
same being a crime provided for by a certain treaty
for extradition theretofore duly adopted and concluded
by and between the governments of the said United States
of America and the said United Mexican States, and duly
ratified in conformity with the constitutions thereof,
and which said treaty was then and at all the times
herein mentioned in full force and operation, and by
the terms whereof it was among other things agreed that

FIFTEENTH COUNT.

And the Grand Jury aforesaid by this indictment
further accuse the said John Kelly and Edward A. Bertine
of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January
in the year of our Lord one thousand eight hundred and
eighty-eight, at the City of New York in the County of
New York aforesaid, Samuel H. Lyman, Esquire, then and at
all the times herein mentioned a Commissioner of the
United States of America, fully authorized and lawfully
empowered in the premises, upon a complaint then and
there made before him under oath in due form of law, and
pursuant to the provisions of the Statutes and laws of
the United States of America in such case made and pro-
vided, by one Juan N. Navarro, Esquire, The Consul General
of a certain foreign government, to wit: the United
Mexican States, charging one George Benson, then lately
before found within the limits of the said State of New
York, with having committed within the jurisdiction of
the said United Mexican States, the crime of forgery, the
same being a crime provided for by a certain treaty
for extradition theretofore duly adopted and concluded
by and between the governments of the said United States
of America and the said United Mexican States, and duly
ratified in conformity with the constitutions thereof,
and which said treaty was then and at all the times
herein mentioned in full force and operation, and by
the terms whereof it was among other things agreed that

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the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue is warrant for the apprehension of the said George Benson so charged as aforesaid, the he might be brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon

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which said last mentioned day the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the said United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the county Jail of the County of New York aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York, did then and there keep, hold and confine, by virtue of

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which confinement and holding in the said County Jail, the said George Benson thereupon became and was under the laws of the said United States of America and the laws of this State, at all times thereafter herein mentioned, and at the time of the commission of the crime and conspiracy hereinafter alleged, a prisoner in the said prison, under upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment.

And the said John Kelly, late of the City and County aforesaid, and the said Edward A. Bertine late of the same place, well knowing the premises, afterwards, to wit: on the twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together between and amongst themselves that the said George Benson so being a prisoner confined in the said prison and so being in the lawful custody of the said Sheriff, upon the said commitment should by force feloniously escape from such prison and custody.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John

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the time of the commission of the crime and conspiracy

to wit: on the said twenty-ninth day of March in the year aforesaid,

the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression: 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.

F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression: 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.

SIXTEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward Bertine, of the crime of Conspiracy, committed as follows: Heretofore, to wit: on the fourteenth day of January

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in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction

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of the requiring party, should seek an asylum or should be found within the territories of the other, provided however, that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify this or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson afterwards to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did

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duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State, of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February, in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the County Jail of the County of New York aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York, did then and there keep, hold and confine, by virtue of which confinement and holding in the said County Jail, the said George Benson thereupon became and was under the laws of the United States of America and the laws of this State, at all times thereafter herein mentioned, and at

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RETURNED TO THE REGISTER OF DEEDS OF THE CITY AND COUNTY OF NEW YORK

the time of the commission of the crime and conspiracy hereinafter alleged, a prisoner in the said prison, under, upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment.

And the said John Kelly and Edward A. Bertine both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully conspire, combine, confederate and agree together and with the said George Benson, and divers other persons to the Grand Jury aforesaid unknown, to feloniously aid and assist the said George Benson so being a prisoner confined in the said prison under the commitment aforesaid, in the lawful custody of the said Sheriff as aforesaid, in escaping from the said prison and from the lawful custody of the said Sheriff as aforesaid.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of

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Blotter and upon the said countenances

the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

SEVENTEENTH COUNT.

And the Grand Jury aforesaid, By this indictment further accuse the said John Kelly and Edward A. Bertine, of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned a Commissioner of the United States of America, fully authorized and lawfully empowered

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in the premises upon a complaint then and there made before him under oath in due form of law, and pursuant to the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States, a felony, to wit: the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found would justify his or her apprehension and commitment for trial if the crime had

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Warrant for the arrest of George Benson
 in the County of ... State of ...
 I, the undersigned, being a Commissioner of the
 said County of ... State of ... do hereby certify
 that the within and foregoing is a true and correct
 copy of the original of the same as the same
 is now on file in my office.

been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there,

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to wit: on the said fifteenth day of February in the year
aforesaid at the City and County aforesaid, duly commit
the said George Benson to the custody of the United
States Marshal in and for the Southern District of New
York, to be by him held in the proper jail until such
warrant for his surrender should so duly issue as afore-
said or he should be otherwise dealt with according to
law.

Whereupon the said Marshal did duly receive the said
George Benson into his custody under and by virtue of the
said commitment, and him the said George Benson in the
County Jail of the County of New York aforesaid, the same
being a prison under the charge, management and control of
the Sheriff of the said County of New York, did then and
there keep, hold and confine, by virtue of which confine-
ment and holding in the said County Jail, the said George
Benson thereupon became and was under the laws of the
United States of America and the laws of this State, at
all times thereafter herein mentioned, and at the time of
the commission of the crime and conspiracy hereinafter
alleged, a prisoner in the said prison, under, upon and by
virtue of the commitment aforesaid, and in the lawful
custody of the said Sheriff, by virtue of the premises
and upon the said commitment.

And the said John Kelly, late of the City and County
aforesaid, and the said Edward A. Bertine, late of the same
place, well knowing the premises, afterwards, to wit: on the

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said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together between and amongst themselves that the said George Benson so being a prisoner confined in the said prison and so being in the lawful custody of the said Sheriff upon the said commitment for a felony as aforesaid, should by force feloniously w escape from such prison and custody.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

66. And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as afore-

said, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

EIGHTEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one

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of more than one of the said States, and to the end that the evidence of his criminality

George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States a felony, to wit: the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of ^{the} said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality

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might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York, to be by him held in the

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proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in the County jail of the County of New York aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York, did then and there keep, hold and confine, by virtue of which confinement and holding in the said County Jail, the said George Benson thereupon became and was under the laws of the United States of America and the laws of this State, at all times thereafter herein mentioned, and at the time of the commission of the crime and conspiracy hereinafter alleged, a prisoner in the said prison, under, upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment.

And the said John Kelly and Edward A. Bertine, both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully conspire, combine, confederate and agree together and with one George Benson and divers other persons to the Grand Jury aforesaid, unknown, to feloniously aid and assist the said George Benson so

being a prisoner confined in the said prison under the commitment aforesaid for a felony as aforesaid, and in the lawful custody of the said Sheriff as aforesaid, in escaping from the said prison and from the lawful custody of the said Sheriff as aforesaid.

And the said John Kelly, Edward A. Bertine, and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would

furnish them with such wax impression; 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.

NINETEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine, of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found with-

in the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States a misdemeanor, to wit: the crime of forgery, the same being a crime provided for by a certain treaty

furnish them with such wax impression; 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.

NINETEENTH COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine, of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States a misdemeanor, to wit: the crime of forgery, the same being a crime provided for by a certain treaty

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for extradition theretofore duly adopted and concluded by and between the governments of the said United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H.

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of warrant and the said warrant returned and returned with

Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day, the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York, to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the said commitment, and him the said George Benson in

and the County Jail of the County of New York aforesaid, and
the same being a prison under the charge, management and
control of the Sheriff of the said County of New York,
did then and there keep, hold and confine, by virtue of
which confinement and holding in the said County Jail,
the said George Benson thereupon became and was under
the laws of the United States of America and the laws
of this State, at all times thereafter herein mentioned,
and at the time of the commission of the crime and con-
spiracy hereinafter alleged, a prisoner in the said
prison, under, upon and by virtue of the commitment afore-
said, and in the lawful custody of the said Sheriff, by
virtue of the premises and upon the said commitment.

And the said John Kelly late of the City and County
aforesaid, and the said Edward A. Bertine, late of the same
place, well knowing the premises, afterwards, to wit: on the
said twenty-ninth day of March in the year aforesaid, at
the City and County aforesaid, together with the said
George Benson and divers other persons to the Grand Jury
aforesaid unknown, did unlawfully conspire, combine,
confederate and agree together, between and amongst
themselves that the said George Benson so being a prisoner
er confined in the said prison and so being in the lawful
custody of the said Sheriff, upon the said commitment for
a misdemeanor as aforesaid, should by force unlawfully
escape from such prison and custody.

And the said John Kelly and Edward A. Bertine and

the County Jail of the County of New York aforesaid,,
the same being a prison under the charge, management and
control of the Sheriff of the said County of New York,
did then and there keep, hold and confine, by virtue of
which confinement and holding in the said County Jail,
the said George Benson thereupon became and was under
the laws of the United States of America and the laws
of this State, at all times thereafter herein mentioned,
and at the time of the commission of the crime and con-
spiracy hereinafter alleged, a prisoner in the said
prison, under, upon and by virtue of the commitment afore-
said, and in the lawful custody of the said Sheriff, by
virtue of the premises and upon the said commitment.

And the said John Kelly late of the City and County
aforesaid, and the said Edward A. Bertine, late of the same
place, well knowing the premises, afterwards, to wit: on the
said twenty-ninth day of March in the year aforesaid, at
the City and County aforesaid, together with the said
George Benson and divers other persons to the Grand Jury
aforesaid unknown, did unlawfully conspire, combine,
confederate and agree together, between and amongst
themselves that the said George Benson so being a prisoner
er confined in the said prison and so being in the lawful
custody of the said Sheriff, upon the said commitment for
a misdemeanor as aforesaid, should by force unlawfully
escape from such prison and custody.

And the said John Kelly and Edward A. Bertine and

George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

TWENTIETH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson, then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States a misdemeanor, to wit: the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the ^{said} United States of America and the said United Mexican States, and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the

terms whereof it was among other things agreed that the contracting parties should on requisition made in their name through the medium of their respective diplomatic agents, deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek an asylum or should be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or person accused should be found would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon

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which said last mentioned day the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law, together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the ^{said} United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York, to be by him held in the proper jail, until such warrant for his surrender should so duly issue as aforesaid, or he should be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George person into his custody under and by virtue of the said commitment, and him the said George Benson in the County Jail of the County of New York, aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York,, did then and there keep, hold and confine, by virtue of which confinement and holding in the said County Jail, the said

George Benson became and was under the laws of the United States of America and the laws of this State, at all times thereafter herein mentioned, and at the time of the commission of the crime and conspiracy hereinafter alleged, a prisoner in the said prison, under, upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment .

And the said John Kelly and Edward A. Bertine, both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid at the City and County aforesaid, did unlawfully conspire, combine, confederate and agree together and with one George Benson and divers other persons to the Grand Jury aforesaid unknown, to unlawfully aid and assist the said George Benson so being a prisoner confined in the said prison under the commitment aforesaid for a misdemeanor, as aforesaid, and in the lawful custody of the said Sheriff as aforesaid, in escaping from the said prison and from the lawful custody of the said Sheriff as aforesaid.

And the said John Kelly, Edward A. Bertine and George Benson afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did

unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said ~~prison~~ prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

TWENTY-FIRST COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine, of the crime of Conspiracy, committed as follows:

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Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premises, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, Esquire, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by and between the Governments of the said United States of America and the said United Mexican States and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein mentioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their name through the medium of their respective diplomatic agents deliver up to justice persons who being

accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party should seek an asylum or be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid, and on divers days and times thereafter to and including the fifteenth day of February in the year aforesaid, upon which said last mentioned day, the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did

duly certify the same as required by law together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the ^{said} United States of America, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States, for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the ~~xxx~~ United States Marshal in and for the Southern District of New York, to be by him held in the proper jail until such warrant for his surrender should so duly issue as aforesaid, or he be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the proceedings aforesaid, and him the said George Benson in the County Jail of the County of New York aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York, did then and there keep, hold and confine by virtue of which confinement and holding in the said County Jail, the said George Benson thereupon became and was under the laws of the United States of America and the laws of this State, at all times thereafter herein mentioned, and at the time of the commission of the crime and conspiracy

hereinafter alleged, a prisoner in the said prison, under, upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine, late of the same place, well knowing the premises unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, afterwards, to wit: on the twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together, between and amongst themselves to cause and procure the said George Benson by the aid and assistance of them the said John Kelly, Edward A. Bertine and the said other persons, to escape from the said prison and from the lawful custody of the said Sheriff as aforesaid, to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one

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John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Penson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

in conformity with the constitution thereof, and which said treaty was made at all the times hereinafter

TWENTY-SECOND COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy committed as follows:

Heretofore, to wit: on the fourteenth day of January in the year of our Lord one thousand eight hundred and eighty-eight, at the City of New York, in the County of New York aforesaid, Samuel H. Lyman, Esquire, then and at all the times herein mentioned, a Commissioner of the United States of America, fully authorized and lawfully empowered in the premise, upon a complaint then and there made before him under oath in due form of law, and pursuant to the provisions of the statutes and laws of the United States of America in such case made and provided, by one Juan N. Navarro, the Consul General of a certain foreign government, to wit: the United Mexican States, charging one George Benson then lately before found within the limits of the said State of New York, with having committed within the jurisdiction of the said United Mexican States the crime of forgery, the same being a crime provided for by a certain treaty for extradition theretofore duly adopted and concluded by said and between the Governments of the United States of America and said United Mexican States and duly ratified in conformity with the constitutions thereof, and which said treaty was then and at all the times herein men-

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tioned in full force and operation, and by the terms whereof it was among other things agreed that the contracting parties should on requisitions made in their names through the medium of their respective diplomatic agents deliver up to justice persons who being accused of the crime of forgery as aforesaid, committed within the jurisdiction of the requiring party, should seek and asylum or be found within the territories of the other, provided however that this should be done only when the fact of the commission of the crime should be so established as that the laws of the place in which the fugitive or the person accused should be found, would justify his or her apprehension and commitment for trial, if the crime had been there committed, did in due form of law issue his warrant for the apprehension of the said George Benson so charged as aforesaid, that he might be brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, to the end that the evidence of his criminality might be heard and considered.

And the said George Benson, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid, was duly apprehended under and by virtue of the said warrant and brought before the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, whereupon a hearing was duly had pursuant to law, to wit: on the said fourteenth day of January in the year aforesaid and on divers days and times thereafter to and including the

fifteenth day of February in the year aforesaid, upon which said last mentioned day, the said Samuel H. Lyman, Esquire, such Commissioner as aforesaid, deeming the evidence adduced upon such hearing sufficient to sustain the said charge under the provisions of the said treaty and under the laws of the said United States of America, did duly certify the same as required by law together with a copy of all the testimony taken before him on such hearing, to the Secretary of State of the said United States ^{of America}, that a warrant might issue upon the requisition of the proper authorities of the said United Mexican States, for the surrender of the said George Benson according to the stipulations of the said treaty, and did then and there, to wit: on the said fifteenth day of February in the year aforesaid, at the City and County aforesaid, duly commit the said George Benson to the custody of the United States Marshal in and for the Southern District of New York to be by him held in the proper jail until such warrant for his surrender should so duly issue as aforesaid, or he be otherwise dealt with according to law.

Whereupon the said Marshal did duly receive the said George Benson into his custody under and by virtue of the proceedings aforesaid, and him the said George Benson in the County Jail of the County of New York aforesaid, the same being a prison under the charge, management and control of the Sheriff of the said County of New York,

did then and there keep, hold and confine, by virtue of which confinement and holding in the said County Jail, the said George Benson thereupon became and was under the laws of the United States of America and the laws of this State, at all times thereafter herein mentioned, and at the time of the commission of the crime and conspiracy hereinafter alleged, a prisoner in the said prison under, upon and by virtue of the commitment aforesaid, and in the lawful custody of the said Sheriff, by virtue of the premises and upon the said commitment.

And the said John Kelly late of the City and County aforesaid, and the said Edward A. Bertine, late of the same place, well knowing the premises unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, afterwards, to wit: on the twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, together with the said George Benson and divers other persons to the Grand Jury aforesaid unknown, did unlawfully conspire, combine, confederate and agree together, between and amongst themselves, that the said George Benson, by the aid and assistance of them the said John Kelly, Edward A. Bertine and the said other persons should escape from the said prison and from the lawful custody of the said Sheriff as aforesaid, to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of

March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did unlawfully solicit, incite, and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

TWENTY-THIRD COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy, committed as follows:

Heretofore to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner in the lawful custody of the Sheriff of the City and County of New York, and held in such custody in the County jail of the said County of New York upon a commitment for a felony.

And the said John Kelly and Edward A. Bertine both late of the City and County aforesaid, well knowing the premises, did unlawfully conspire with each other and with the said George Benson that the said George Benson so being in the lawful custody of the said Sheriff upon the said commitment for a felony as aforesaid, and so held upon such commitment should by force feloniously escape from the lawful custody of the said Sheriff.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said

City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~ afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid,, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

~~TWENTY-THIRD~~ COUNT.

And the Grand Jury aforesaid by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of conspiracy, committed as follows:

Heretofore to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner in the lawful custody of the Sheriff of the City and County of New York, and held in such custody in the County jail of the said County of New York upon a commitment for a felony ~~indemnity~~.

And the said John Kelly and Edward A. Bertine both late of the City and County aforesaid, well knowing the premises, did unlawfully conspire with each other and with the said George Benson that the said George Benson so being in the lawful custody of the said Sheriff upon the said commitment for a felony ~~indemnity~~ as aforesaid, and so held upon such commitment should by force ~~feloniously~~ ~~indemnity~~ escape from the lawful custody of the said Sheriff.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, did unlawfully solicit, incite and endeavor to persuade one John F. McCabe, then being a Deputy Sheriff of the said

City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and among~~ themselves as aforesaid afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money, upon condition that the said John F. McCabe would furnish them with such wax impression; against the form of the statute in such case made and provided and against the peace of the People of the State of New York and their dignity.

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TWENTY-FIFTH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner in the lawful custody of an officer, to wit: the Sheriff of the City and County of New York, and held in custody in the County Jail of the said County of New York by the said Sheriff, upon a commitment for a felony.

And the said John Kelly, late of the City and County aforesaid, and the said Edward A. Bertine of the same place well knowing the premises, did unlawfully conspire with each other and with the said George Benson to feloniously aid and assist the said George Benson so being then and there in the lawful custody of the said Sheriff and so held under and upon the said commitment for a felony as aforesaid, in feloniously escaping from the lawful custody of the said Sheriff as aforesaid,

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~, did

TWENTY-SIXTH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner in the lawful custody of an officer to wit: the Sheriff of the City and County of New York, and held in custody in the County jail of the said County of New York, by the said Sheriff upon a commitment for a misdemeanor.

And the said John Kelly, late of the City and County aforesaid, and the said Edward A. Bertine of the same place, well knowing the premises, did unlawfully conspire with each other and with the said George Benson to feloniously aid and assist the said George Benson so being then and there in the lawful custody of the said Sheriff and so held under and upon the said commitment for a misdemeanor as aforesaid, in unlawfully escaping from the lawful custody of the said Sheriff as aforesaid.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, combination, confederacy and agreement between and amongst themselves as aforesaid, did

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in the year of our Lord one thousand eight hundred and

unlawfully solicit, incite and endeavor to persuade one John F. McCabe then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~ afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

TWENTY-SEVENTH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, at the City and County aforesaid, one George Benson was a prisoner in the lawful custody of the Sheriff of the City and County of New York under process of law and by the said Sheriff held and confined according to law in the County Jail of the County of New York.

And the said John Kelly and Edward A. Bertine, both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the day and in the year aforesaid at the City and County aforesaid, together with the said George Benson unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws, did unlawfully conspire to cause and procure the said George Benson by the aid and assistance of them the said John Kelly and Edward A. Bertine to escape from the custody of the said Sheriff, to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and~~

~~agreement between and amongst themselves as aforesaid~~, did unlawfully solicit, incite, and endeavor to persuade on John F. McCabe, then being a Deputy Sheriff of the said City and County of New York, and a keeper in the said prison, to procure and cause to be made for them and to be furnished and delivered to them a wax impression of the lock of a certain door leading from the said prison into the yard thereof.

And the said John Kelly, Edward A. Bertine and George Benson, in the further pursuance and furtherance of and according to the said conspiracy, ~~combination, confederacy and agreement between and amongst themselves as aforesaid~~ afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, did unlawfully offer and promise to give to the said John F. McCabe, such keeper as aforesaid, a large sum of money, to wit: the sum of one thousand dollars in money upon condition that the said John F. McCabe would furnish them with such wax impression; 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.

TWENTY-EIGHTH COUNT.

And the Grand Jury aforesaid, by this indictment further accuse the said John Kelly and Edward A. Bertine of the crime of Conspiracy, committed as follows:

Heretofore, to wit: on the twenty-ninth day of March in the year of our Lord one thousand eight hundred and eighty-eight, one George Benson was a prisoner in the lawful custody of the Sheriff of the City and County of New York under process of law and by the said Sheriff held and confined according to law in the County Jail of the County of New York.

And the said John Kelly and Edward A. Bertine, both late of the City and County aforesaid, well knowing the premises, afterwards, to wit: on the day and in the year aforesaid, at the City and County aforesaid together with the said George Benson unlawfully contriving and intending to pervert and obstruct justice and the due administration of the laws did unlawfully conspire that the said George Benson by the aid and assistance of them the said John Kelly and Edward A. Bertine should escape from the custody of the said Sheriff to the manifest perversion and obstruction of justice and the due administration of the laws.

And the said John Kelly, Edward A. Bertine and George Benson, afterwards, to wit: on the said twenty-ninth day of March in the year aforesaid, at the City and County aforesaid, in pursuance and furtherance of and according

to the said conspiracy, ~~combination, confederacy and agree-~~
~~ment between and amongst themselves as aforesaid~~, did
 unlawfully solicit, incite and endeavor to persuade one
 John F. McCabe, then being a Deputy Sheriff of the said
 City and County of New York, and a keeper in the said
 prison, to procure and cause to be made for them and to
 be furnished and delivered to them a wax impression of
 the lock of a certain door leading from the said prison
 into the yard thereof.

And the said John Kelly, Edward A. Bertine and George
 Benson, in the further pursuance and furtherance of and
 according to the said conspiracy, ~~combination, confederacy~~
~~and agreement between and amongst themselves as afore-~~
~~said~~, afterwards, to wit: on the said twenty-ninth day of
 March in the year aforesaid, at the City and County
 aforesaid, did unlawfully offer and promise to give to
 the said John F. McCabe, such keeper as aforesaid, a large
 sum of money, to wit: the sum of one thousand dollars
 upon condition that the said John F. McCabe would furnish
 them with such wax impression; 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.