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Criminal Law—Vagrancy

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Vagrancy

Vagrants under New York law include persons who in any manner induce, entice or procure another to commit certain lewd or indecent acts.²⁰ Violation of section 887 is classed as a public offense.

In *People v. Moss*,²¹ the defendant was convicted in the City Court of Buffalo of violating section 887(4)(d), in that he induced the complainant to commit sexual intercourse and other indecent acts with him in his home. From the evidence presented, it appeared that the complainant, an intelligent girl of legal age, was a willing accomplice in the immoral acts. No other witnesses were presented by the State.

A unanimous court, overruling the City Court and the Supreme Court, held that the conviction was not supportable under section 887. Considering that section in its entirety, the legislative intent appeared clearly directed against persons without visible means of support, beggars, tramps, truants, loiterers with criminal records and others of comparable circumstances.²² Subsection 4 of section 887 was viewed as a general prostitution statute, part (d) of which was directed against the procurer who induces, organizes and stands behind an organized commercial prostitution.²³

The Court felt that the public offense under consideration had definite overtones of a penal offense, particularly in light of its possible sanction of three years imprisonment.²⁴ As such, it demanded the procedural safeguards required for other criminal prosecutions of a comparable nature,²⁵ including the basic tenet that the uncorroborated testimony of a voluntary participant in such relations is insufficient to support conviction.²⁶

In light of the manifest legislative purpose of section 887(4)(d), directed toward those who procure others for commercial prostitution, the Court was entirely justified in its holding for defendant. The reprehensible nature of the acts here in question should not be allowed to cloud the fact that section 887 was designed to punish a distinguishable offense.

20. N. Y. CODE CRIM. PROC., §887(4)(d).

21. 309 N. Y. 429, 131 N. E. 2d 717 (1956).

22. N. Y. CODE CRIM. PROC. §§887, 889-a.

23. *People v. Gould*, 306 N. Y. 352, 118 N. E. 2d 553 (1954).

24. *People ex rel Stolofsky v. Superintendent*, 259 N. Y. 115 181 N. E. 68 (1932).

25. N. Y. CODE CRIM. PROC., §399.

26. WIGMORE, EVIDENCE §1976 (3d ed. 1942). In a criminal or civil case involving a wrong by a man to a woman's chastity, or analogous thereto, the complainant woman's testimony alone, uncorroborated by other evidence is not sufficient.