

**A LIFE OF SERVICE:
REMEMBERING THE TOMBS ANGEL**

By John F. Werner & Robert C. Meade, Jr.

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"I resolved that if I could save but one woman, my life would have been well lived."

Mrs. Rebecca Salome Foster

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Lately, notice has finally been taken of the scandalous paucity of monuments in the public parks, squares and buildings of our country and of New York City that pay tribute to women deserving of recognition. Until recently, for example, in all of Central Park there were no statues honoring real women, only several commemorating fictional ones, and there were only five statues in honor of historical women in the parks and public squares throughout the whole of New York City.¹ It is remarkable indeed, then, that *almost 120 years ago, in 1904*, a tribute in marble and bronze was erected in an important public building in lower Manhattan in honor of Rebecca Salome Foster for her many years of devoted, selfless attention to the inmates of the original Tombs Prison, their families, and other poor and unfortunate souls, many of them immigrants, action that earned her during her life the sobriquet the “Tombs Angel.” Her story, as we shall see, had been, as was her monument, largely forgotten. This is an injustice that this article hopes to correct.

THE LIFE AND WORK OF REBECCA SALOME FOSTER

1. The Backgrounds of Rebecca and John A. Foster

Not a great deal is known about Mrs. Foster’s early life. She was born in 1848 into the large family of John Howard Elliott, a native of Great Britain who worked as a merchant, and

Margaret Adele (Blue) Elliott of Mobile, Alabama. Rebecca was one of nine children, mostly daughters (although, as was unfortunately all too common for the time, not all may have survived into adulthood).² In 1850, the Elliott family was living in New Orleans. By 1860, the family had moved to New York City. The Elliotts relocated to Westchester County, or at least were recorded as living there in the summer of 1860, possibly as an escape from the summer weather of the City.³

On February 28, 1865, in Calvary Episcopal Church, 277 Park Avenue South at 21st Street in the Gramercy Park neighborhood of Manhattan, Rebecca married John Armstrong Foster.



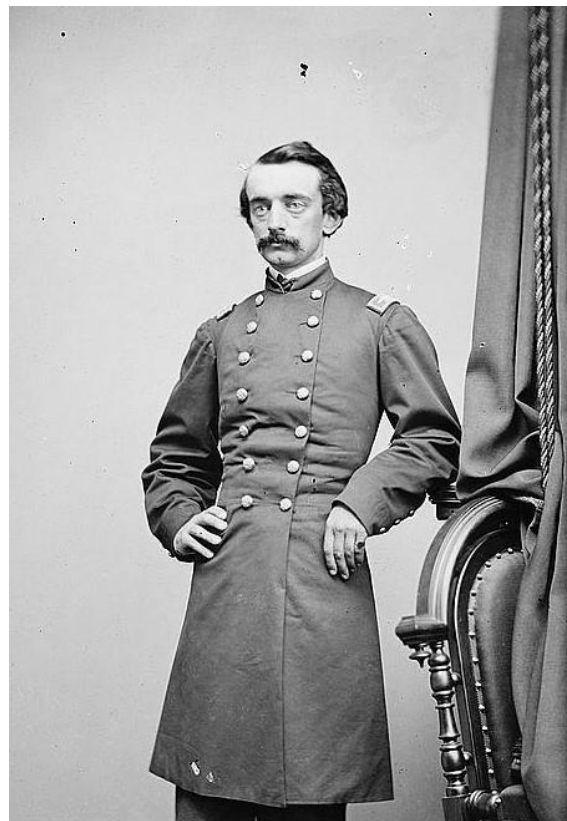
General John A. Foster, circa 1861. Civil War Photographs, 1861-1865, Library of Congress, Prints & Photographs Division, LC-B813- 1796 C.

John Foster was born in Schoharie County, New York, in 1833, the son of a physician who practiced in New York City for over 50 years.⁴ John Foster served in the Civil War for a period and then, in 1862, when he was only 29, he took part in the raising of the 175th Regiment, New York State Volunteers, an infantry regiment, and served as a Lt. Colonel. Among other things, the regiment was engaged in operations in Louisiana and, in 1863, in the siege and assault against Port Hudson, the success of which, after the taking of Vicksburg, freed the Mississippi River for the Union. In this action the regiment's commanding officer was killed and

Foster was promoted to Colonel.⁵ In 1864, the regiment participated in General Sheridan's Shenandoah Valley Campaign.⁶

Foster was an attorney. In early 1864, he was assigned to the Bureau of Military Justice in the War Department in Washington, which was presided over by the Judge Advocate General, General Joseph Holt.⁷ Among the duties of the Judge Advocate General's office was to administer military justice, including the prosecution of courts martial.⁸ In or about February 1865, Colonel Foster served on, or acted as prosecutor in matters before, a commission that adjudicated court martial proceedings in Philadelphia, from which he may have taken some time off to head north to get married. This commission was chaired by the distinguished career Army officer, West Point graduate, and veteran of Fort Sumter, Bull Run, Antietam, Fredericksburg, and Gettysburg, Major General Abner Doubleday of upstate New York.⁹

Two days after the assassination of President Lincoln, Secretary of War Edwin Stanton designated three officers from the War Department to take leading roles in the investigation of the conspiracy that led to the crime, even while the military and detectives were searching for the conspirators and John Wilkes Booth was being pursued in Virginia. Colonel Foster was one of these officers.¹⁰ He collected evidence, analyzed it, considered the possible culpability of witnesses and suspects, developed a theory of the case, directed the incarceration of suspects¹¹ and performed other activities to build the case. Secretary Stanton also designated a Judge Advocate from the west, Colonel



Union General John Armstrong Foster in uniform, c. 1861. Civil war photographs, 1861-1865, Library of Congress, Prints & Photographs Division, LC-DIG-cwpb-05319.

Henry L. Burnett, to oversee preparation of the case for trial and ordered him to Washington to work directly under General Holt.¹² Colonel Foster provided evidence and prepared reports for Colonel Burnett in which, among other things, he described the actions of Booth, George Atzerodt, and other suspected conspirators on the day and night of the assassination, at Ford's Theater and elsewhere in Washington and environs, and in the days afterward.¹³ General Holt was the lead prosecutor at the trial of the Lincoln conspirators before a military commission and Colonel Burnett was his principal deputy at the trial.¹⁴

Foster officially left the Army in August 1865 and was brevetted as a Brigadier General in recognition of his distinguished service.¹⁵ The Library of Congress has photographs of Foster, including in uniform, which are reproduced in this article, that apparently were taken by Mathew Brady or his assistants.

After the war, John Foster practiced law in New York City. He served for a time as an Assistant United States Attorney, was active in the Republican Party,¹⁶ and was the senior member of a law firm, Foster, Glassey & Thomas, which had offices at 229 Broadway in Manhattan.¹⁷ Rebecca Foster would on occasion assist him with his practice, including when he was appearing in court. The fact that her husband earned his living in the legal world directly contributed to the kind of work that Mrs. Foster chose to do.



Calvary Episcopal Church, where the Fosters wed and where much of Mrs. Foster's work was centered, c. 1900. Collection of the New-York Historical Society.

Calvary Church played a central role in Mrs. Foster's life and in the work she undertook on behalf of persons accused and convicted of crime, their families, and other outcasts. As she had done, her two daughters, Marie Louise and Jeanette, married at Calvary Church, in 1892 and 1893, respectively.¹⁸ Mrs. Foster was, it appears, always a giving person. In 1878, for instance, she was the principal organizer of a fair to raise money for charity in New York City.¹⁹ It seems that her good works on behalf of prisoners arose out of her church associations and were inspired by the Anglican missionary movement, which exerted significant influence in the last half of the

19th century. Of course, Christian missionaries, Catholic and Protestant, traveled to the far ends of the earth during those years and after, but they ministered locally as well. Many members of the laity sought to put their religious and ethical principles into action in the world by helping the poor of the cities. These workers conducted their efforts as extensions of their churches, in the settlement house movement of that time,²⁰ and in independent ventures.

An important spiritual advisor to Mrs. Foster was Rev. Henry Y. Satterlee (1843-1908), who from 1882 until 1896 was the rector of Calvary Church. During those years, Rev. Satterlee was active in mission work to the masses of poor then living on the city's Lower East Side. In 1896, Rev. Satterlee was named the first Episcopal Bishop of Washington, D.C., but he maintained

many of his associations in New York City, including that with Mrs. Foster. Rev. Satterlee is credited with founding the Cathedral Church of St. Peter and St. Paul, more commonly known as the National Cathedral, acquiring the property on which the Cathedral was built and overseeing its early construction. He performed the marriage ceremony for both of Mrs. Foster's daughters at Calvary.²¹

The Rev. Mr. Satterlee was a powerful advocate for his faith and recruited many men and women to his congregation.²² The power of his word was forcefully brought home to Mrs. Foster at a time of severe crisis in her life. Mrs. Foster had suffered a great tragedy in 1867, when her daughter, Lomie Elliott, died at age two. The grief this disaster brought on was compounded later, in 1878, when her only son, John Armstrong, died at age five.²³ The Rev. Mr. Satterlee's biographer wrote of Mrs. Foster:

Her faith staggered and she drifted out into the gloom of unbelief. She was persuaded to see Dr. Satterlee. With his wise and understanding sympathy he threw a ray of hope into her life. She began to attend church to hear him preach. He invited her to come to his Monday meeting of workers among the poor. By degrees her faith reasserted itself as an active force impelling her to service.²⁴

These events transformed Mrs. Foster's life and appear to have helped greatly to set her on the course she was to follow for the whole of her life thereafter.²⁵

Her life of service, then, was an outgrowth of her religious faith and her response to hardship and loss. She understood well what it means to suffer, and she felt kinship with, and compassion and sympathy for, others who had endured suffering too, including those, such as the vast numbers of immigrants on the Lower East Side, whose circumstances were decidedly different from her own. And yet, there was more behind her life's work even than these things. She undertook her work also as a reflection of her gratitude for what life had given to her, because, she

said, “at that time I and my family had everything to be thankful for in the world ...”²⁶ At a certain point, she said, “I resolved that if I could save but one woman, my life would have been well lived.”²⁷

After her work began, however, the life of her family took another tragic turn. In time, General Foster came to practice law alone because, it appears, “[h]e had contracted habits which proved his professional and social ruin, and he could no longer be tolerated by his partners ... [H]is desire for drink gradually lost him nearly all his friends.”²⁸ It was reported that he had become mentally irresponsible by 1887. The following year, without reason, he abandoned his family “and wandered about aimlessly, lodging at haphazard.”²⁹ In September 1889, he met his former orderly from the army, who gave him shelter in a two-story frame building behind his insurance office on upper Broadway. The orderly let him sleep on chairs covered with an army blanket as there was no bed in the place. Foster died alone in that space in February 1890.³⁰ Mrs. Foster had taken to dressing in black after he had abandoned the family. Sadly, a reporter noted, she was thus “fitly attired yesterday when she went to the office where her husband’s body lay.”³¹ She brought a large bouquet of flowers with her. When speaking with the coroner, “she fainted away, and excited much sympathy.”³² General Foster was only 57 years old. Mrs. Foster applied for a pension as the widow of a Union soldier.³³

2. New York City in the Late 19th Century



A painting of Collect Pond attributed to Archibald Robertson, 1798. The Tombs Prison was built on a portion of the pond site beginning in 1835. Metropolitan Museum of Art, The Edward W. C. Arnold Collection of New York Prints, Maps, and Pictures, Bequest of Edward W. C. Arnold, 1954, 54.90.168.

The world in which Mrs. Foster pursued her vocation was one that had undergone, and was still in the midst of, profound and dramatic changes. In 1800, the population of the United States was 5,308,483 and that of New York State 589,051.³⁴ There were only 60,515 inhabitants of New York County in that year.³⁵ In the

years that followed, the United States underwent substantial industrialization, particularly in the North. In the aftermath of upheavals in Europe in and around 1848 and the Great Famine in Ireland, and in the decades after the Civil War, vast waves of immigrants came to the United States. By 1850, there were 3,097,394 persons resident in New York State.³⁶ Ten years later, the population of New York City had grown to 813,669, of whom 47 % were immigrants.³⁷ By 1900, the population of Manhattan had ballooned to 2,050,600,³⁸ and of these, 850,884 were foreign-born.³⁹

Many of these immigrants were impoverished and lacked skill in English. As we note further later, a large number lived in shabby and unhealthy tenements in crowded districts in Manhattan. Among the byproducts of this harsh environment were chronic poverty, desperation, and crime, which evils affected large numbers of persons whom Mrs. Foster encountered in her work.

As we will see, Mrs. Foster was an extraordinary woman in many respects, whether judged by the standards of her time or even our own. One thing that certainly set her apart from most other women of her day is that she became fully occupied by her work, so that it truly became for her a vocation (even though, as we shall note,



Mulberry Bend, a part of the notorious Five Points neighborhood, NYC, photographed by Jacob Riis, c. 1890. Riis' photographs illustrate the harsh conditions of life in the tenements, the social consequences of which Mrs. Foster sought to alleviate. Courtesy of the Preus Museum, NMFF.003400.

she was not paid). Some women of means and education were certainly striking out into the world in various ways in the second half of the nineteenth century, examples of which can be found in the first Women's Rights Convention at Seneca Falls, New York (1848), with its famous *Declaration of Sentiments*;⁴⁰ the Woman's Christian Temperance Union, which was founded in Cleveland, Ohio in 1874, had over 200,000 members by 1892, and was the largest and most influential women's organization that had existed until that time;⁴¹ women's clubs and the Chautauqua Movement;⁴² and the women's suffrage movement, which culminated in the 19th Amendment to the United States Constitution extending to women the right to vote (1920). But at the time Mrs. Foster was doing her work, very few women of her station were leaving their homes for outside employment. In the United States in 1900, four out of five women aged 16 and over did not work outside the home.⁴³ Those who did often lacked the financial means to do otherwise and were commonly limited to occupations as teachers, nurses and the like, and frequently were

compelled to work by serious, even dire economic necessity, such as recent immigrants, widows in a lower economic class, etc. Employment “in the well-to-do classes of society [was] exceptional.”⁴⁴

And of all those who did work, very few indeed voluntarily chose to shoulder the burdens Mrs. Foster assumed and engage in employment in the challenging environments in which she spent her days.

3. How Mrs. Foster’s Work Began

The specific impetus for Mrs. Foster’s work on behalf of prisoners and their families came about by the purest chance in 1884.⁴⁵ According to Rev. John Josiah Munro, a one-time chaplain of the Tombs Prison, who heard the story directly from Mrs. Foster, a story the gist of which she herself confirmed on other occasions,⁴⁶ her laundress came to her asking for help after the woman’s young son had been arrested for a theft of which he claimed he was innocent. General Foster agreed to defend the boy, but on the day the case was to be heard, he was too ill to appear. He sent Mrs. Foster with a note requesting an adjournment. When Mrs. Foster reached the court, the case was already on, and when an opportunity presented itself, she made a powerful plea on behalf of the boy. The judge presiding was greatly impressed by Mrs. Foster and he discharged the boy. The judge apparently then called Mrs. Foster’s attention to the case of a young, homeless girl who had been arrested that day for solicitation. Evidently reluctant to sentence the girl to incarceration, the judge asked Mrs. Foster to investigate the girl’s story before he took final action. Mrs. Foster investigated the case, reported her findings to the court, and had the girl paroled into her own

custody. She then returned the girl to her home in another part of the country. The girl was thus saved from what would almost surely have been a life of wretchedness.⁴⁷

Thus, Mrs. Foster found her calling. The appearance in court that day proved not an isolated instance, but an unforeseen opportunity for Mrs. Foster to do some good. She was led to make herself available to repeat the work she had done in that first case and to convince the judges that in doing so she could be of help to the court and the administration of justice and to the accused. From that time on, for many years thereafter, Mrs. Foster frequented the courthouses, the Tombs Prison, and its environs. That judge and other members of the bench often asked Mrs. Foster to assist them in discerning the backgrounds of the defendants before them, information which was then otherwise unavailable to the judges as probation officers did not exist in those days. Very often the defendants with respect to whom the judges sought information from her were young girls and women, but there were boys too. When needed she would help men as well.

William T. Jerome, a Judge of the Court of Special Sessions from 1895-1901 and later (1902-1909) the District Attorney of New York County, who was a figure of considerable prominence in those days (his cousin was Jennie Jerome, the mother of Winston Churchill), knew Mrs. Foster very well. "Her value to the court," he emphasized, "... was in the fact that she had rare good judgment ..."⁴⁸

A woman would be brought up to the bar, plead guilty, and be remanded. We would ask Mrs. Foster to look into the case and report to us. She would find out where the woman worked -- what her life was, what her interests were, who her people were, what her surroundings had been, how she came to get into this trouble ...⁴⁹

Judge Jerome added that Mrs. Foster's "absolute sincerity and purity of motive impressed [themselves] upon every one and led them to trust her."⁵⁰ "The judges trusted her judgment ..."⁵¹

So it came to be that “[f]or many years it [was not] an infrequent occurrence for the presiding justice in one of the city’s criminal courts to call from the bench, ‘Is Mrs. Foster in the room?’”⁵²

4. What Mrs. Foster Did for Prisoners, Their Families, the Courts, and Others

After the accidental commencement of her career, Mrs. Foster’s activities quickly expanded beyond the provision of information to the judges upon request about the background and actions of the defendant, beyond what might be characterized using current terminology as a kind of oral pre-sentence report. Indeed, we see the germ of this growth in Mrs. Foster’s actions in the very first case she had. In addition to providing the judges with background information on defendants, she also came to offer in appropriate cases means of supervision of and assistance to the defendants as an alternative to incarceration or perhaps after the completion of an abbreviated sentence. Judge Jerome said:

[F]requently, before the prisoner was convicted, [Mrs. Foster] would make an investigation, and if judgment was suspended she would, especially in the case of young women, take them into her charge, procure situations for them, and exercise a general supervision over them for a considerable time, helping them wisely. She had a little place, up somewhere on the Sound, where she took some of these. For others she would procure lodgings, and frequently, when a woman was sentenced and sent to prison, she would look out for her children; and where men were sentenced she would look out for their wives, procure means to help them -- give them food and clothing, procure work for them.⁵³

What Mrs. Foster did was to provide the court, in cases that she judged to be suitable and where she demonstrated that suitability to the court, a way to sentence defendants that would not be unduly harsh and punitive, but that rather could, while protecting society, provide a chance that the defendant could be induced to forgo or abandon a life of crime. Without the information Mrs.

Foster made available and the steps she took in suitable cases to offer a realistic pathway to a better life to the defendant, the court might have been forced to impose on defendants penalties that were too severe: as in that first case, the judge might recognize that the options available could be too hard upon the defendant, but, without Mrs. Foster's help, lack a mechanism to tailor the sentence to the real equities of the situation. Mrs. Foster became an advocate, in suitable cases, for alternatives to incarceration and for the rehabilitation of defendants. Mrs. Foster's approach was innovative and visionary, prefiguring the rehabilitative model of penology that became widespread in the decades after she had completed her work.



The backyard of a tenement, where laundry is drying and children and adults are outside, in the Five Points neighborhood, NYC, photographed by Jacob Riis, c. 1890. Courtesy of the Preus Museum, NMFF.002171.

Mrs. Foster became in a short progression a one-person combination of social services agency, probation office, parole office, and legal aid society working on behalf of the court and the accused and those who had been convicted, as well as their families -- and, of course, just as is the case today, the incarceration of a family member who had been bringing in income to sustain the family would be a catastrophe for the entire family -- this at a time when government services for the poor were either non-existent or rudimentary, and private, non-profit and charitable endeavors, though growing, were

far less extensive than they are today. The Legal Aid Society of New York, for instance, was

established in 1876 to provide legal assistance to low-income German immigrants; its remit expanded to the provision of legal assistance to all in need only in 1896.⁵⁴ With the great influx of immigrants in those days, this was also a time in which many of those with whom Mrs. Foster came into contact lived in very precarious circumstances, when not much error or misjudgment was required to cast a person and his or her family into dire economic trouble. In part, Mrs. Foster's work presaged the role of professional probation officers, who were only introduced in New York pursuant to legislation after 1900.⁵⁵ Thus, the judges came to depend upon Mrs. Foster not only for information about the backgrounds of defendants, but also for guidance about and assistance with possible placements for the defendant outside of prison, arranged and undertaken by Mrs. Foster, that might facilitate the prisoner's reclamation.

Meticulous, energetic, and fair investigation of the facts, a willingness to believe where warranted in the accused's potential for reclamation, and the development of concrete measures that could be taken to assist the defendant to turn away from crime were central to Mrs. Foster's work, as was noted by a friend of hers:

She makes such careful and thorough investigation of every case she undertakes to help, that she can often present facts that would be otherwise entirely unknown to judge and jury ... Very often, after the trial of a woman or young girl, the judge gives her, either under suspended sentence, or without sentence, into Mrs. Foster's custody, when she is immediately taken to some safe temporary shelter, from which she can either find work or be sent to her home.⁵⁶

Two accounts described her activities as follows:

She visited the courts almost daily, and visited the cells of the women prisoners whenever there was hope of doing good. There were times when the justices doubted her wisdom and feared that her womanly sympathy would overbalance her judgement. Then detectives were sent to supplement her investigations, but the fact that the court continued to appeal to her for help and that the Justices

of the criminal courts welcomed her aid, proves that such fears were groundless. The quiet little woman ... came... to be regarded by justices and prisoners alike as a veritable sunbeam amid murky courts and prison surroundings.⁵⁷

* * *

[The prison work of] Mrs. Foster began with some casual visits to the Tombs, with no thought that so many of the later years of her life would be spent in that building and in this work of rescue ... Though there was no probation law in operation at that time, she practically fulfilled all the duties of such officer. She secured the confidence of prison officials and of the judges. She was intrusted by the latter with the investigation of cases, mainly of girls and women committed for various offences. The greatest reliance was placed in her judgment, and under the power of the judges to suspend sentence, many cases were practically placed in her custody. She gave freely of her money as of her time and strength to help needy prisoners.⁵⁸

Mrs. Foster did not merely make herself available to the court when called upon, but often initiated applications to the court to provide assistance to the defendant. Thus, she became an advocate for accused persons who, in her judgment, were open to being helped, which was a groundbreaking role for a woman at a time when there were very few women attorneys in the United States. A reporter wrote in 1891 that “[i]f she steps forward and asks the Justice to release the woman or to commit her to such or such an asylum or retreat, her request is pretty sure to be granted, for her opinion is respected.”⁵⁹ Thus, we find, for example, the case of Jennie Purcell, who was convicted of grand larceny. When the judge came to sentence her, he said the following: “You have a bad record on the Bowery. I fear it is impossible for you to reform. But Mrs. Foster tells me she will care for you, so I will let you go.”⁶⁰ And:

-- Mrs. Foster appealed to the court in favor of Lucy Davis, who had been charged, along with another girl, both of them from Mott Street, with abduction. Mrs. Foster found that Davis had

a respectable sister residing in the city, who agreed to take her in. The court discharged Davis, and the other girl as well.⁶¹

-- Mrs. Foster spoke up in court in favor of Clara Marks, who had run away from her home in New Haven and been picked up in New York after she had been deserted by a man who had promised to marry her. At the request of her parents, the girl was sent to a reformatory for six months; Mrs. Foster accompanied her there.⁶²

-- Mrs. Foster spoke to the court in favor of a young girl who had been charged with shoplifting two pairs of cuff buttons, a first offense. The court suspended sentence and the girl was released.⁶³

Thus, it was, thanks to Mrs. Foster, for very many.

Mrs. Foster considered her work, in cooperation with the judges, as that of “encouraging the discouraged, helping the families of men sent to prison, getting work for those who are discharged and looking after girls and women whose sentences have been suspended, and for whom she is made responsible by the justices ...”⁶⁴

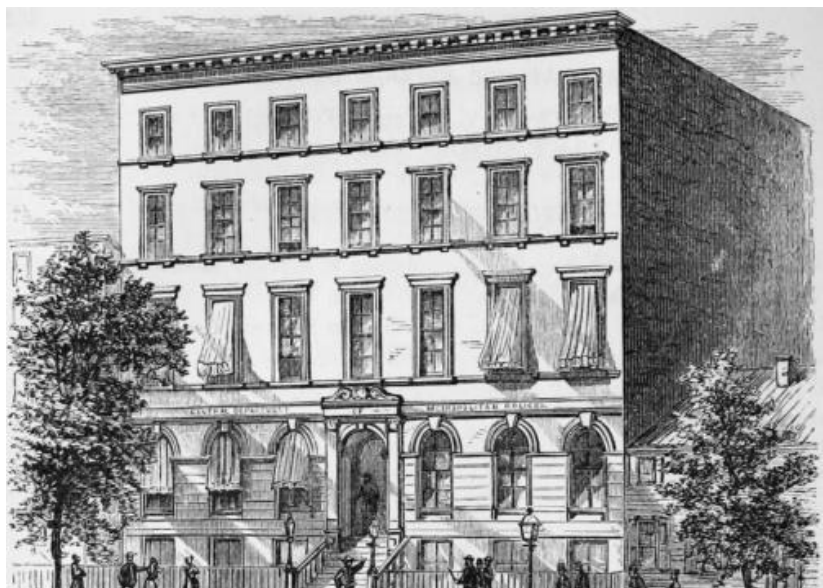
Mrs. Foster felt a particular concern for young girls and women who had never previously been in trouble with the law. She recognized that a first offense, or an accusation thereof, was a decisive moment for the girl or woman, that her entire future life could be determined for ill or good by how she was treated by the system of justice at that point. Such an accusation or offense constituted a grave danger, but also presented a great opportunity for permanent reclamation; if the opportunity were not seized, the life of the girl or woman could easily be destroyed forever in hopeless crime and degradation.

Her object is to soften every evil-minded woman's heart, and to have her so disposed of that the influences around her will be for the best. There is no woman so depraved that Mrs. Foster will not attempt to save her. What she regards as her special mission, however, is the influencing of women who are involved with the law for the first time and who therefore stand in a very critical position.

A first arrest, Mrs. Foster believes, is often the turning point of a woman's career. She may not have been bad before, only foolish, careless, reckless, or unfortunate, but now she may go down. But taken in time, here in her trouble, when she most needs a friend, she may be switched upon the right track for good and all.⁶⁵

Although, as we have noted, her religious faith provided an inspiration and a foundation for her efforts, Mrs. Foster's goal was secular, not the conversion of souls. Mrs. Foster extended assistance without any regard to the religious orientation, if any, of the person she aided and without using her aid as an occasion to proselytize on behalf of her faith.⁶⁶ The District Attorney stated that "[t]o all, Jews and Christians and those of no faith, she extends a helping hand."⁶⁷ The Rev. Mr. Munro wrote that she would "help everyone in time of need, regardless of creed, color or race."⁶⁸

The infamous Tombs Prison -- why it was infamous we explain later -- was the principal situs of her work. "The prisoners from all the police courts, if held for trial, eventually come to the Tombs prison, so this is naturally her base of operations... Even the jailers in the prisons attached to



Police Headquarters, Mulberry Street, circa 1870. Published in Manual of the Corporation of the City of New York 1868 compiled by Joseph Shannon (1869).

the police courts send to the Tombs for Mrs. Foster sometimes when they have unmanageable women in their care whom they think she would like to see.”⁶⁹ She also worked in the Court of Special Sessions and other courts, where she would make her applications and reports to the judges presiding over cases of interest to her and to the court.⁷⁰

In order to gather facts for her investigations and identify candidates for release without sentence or after a suspended or reduced sentence and placement into her custody, Mrs. Foster spent much time in the prison with the accused, inquiring into their backgrounds and providing encouragement. She also collected information about the financial condition of each accused’s family and would extend financial assistance to the family when needed (it often was). She would provide food, clothing, travel expenses, shoes, financial aid, and other assistance to the defendants and their families. She was, Chaplain Munro wrote, “a very charitable lady, and in course of a year gave away much money, clothing, shoes and railroad tickets and meals, to hundreds of men and women as they came out of prison.”⁷¹ Frequently, she would attend legal proceedings as the friend of the defendant.

Mrs. Foster paid close attention to obtaining decent clothing for the prisoners whom she helped. “Many of those arrested are innocent of the crime charged,” she said, “yet a ragged, dirty boy looks more likely to be guilty than innocent, and the clean clothing with which I am able to supply him ... may make all the difference between a favorable and an unfavorable impression on the Court. Many a young girl, too, has been saved from dropping into degradation by the gift of neat clothing that enabled her to look for work.”⁷²

Another report described her work in this way:

She worked especially among the women prisoners at the Tombs, giving them advice, questioning them, and, where she found worthy

cases, appealing to magistrates in their behalf. She was often instrumental in gaining for those for whom she recommended judicial mercy release from custody and a new start in life. She visited police courts, and was known and trusted by many magistrates, who treated her with great courtesy ... Because of the character of the woman, it has been said that nine times out of ten if she spoke to a magistrate in a prisoner's behalf the latter would be discharged.⁷³

Mrs. Foster was in the Tombs so often -- "every morning, regular as clockwork," according to the Sheriff⁷⁴ -- that she became a fixture of the place.

In the Tombs prison Mrs. Foster has always had as much freedom as the Warden himself. She is known to every employee in the place and goes in and out whenever she pleases. Matrons and keepers stand ready always to do anything they can for her, and as a result she is able to do a kind of work among the unfortunates confined there that would be impossible did she not possess the absolute confidence of the authorities.

Mrs. Foster sometimes makes as many as twenty visits in a day to the prison, and seldom falls below five. Every morning regularly she makes an early call to find out what new cases have come in, and whether among the newcomers there is anybody to whom she can be of use. It isn't necessary for her to consult the prison books to find out what she wants to know. The keepers and matrons keep their eyes wide open for cases for her, and she is in possession of all the news of the prison each morning before she has been in it five minutes. If there is a young girl in the female prison she goes in and sees her. She has never failed to make a friend where she has tried to, and few of those she has talked to have failed to be penitent, for a time anyway. Even the most depraved of the female prisoners, those who spend half their lives in the prison and are far beyond rescue, have a pleasant "Good morning" for her when she enters the prison.⁷⁵

Various religious denominations had a presence in the Tombs, and religious services were conducted in a chapel on the premises. But the religious groups that led those services and their members were generally perceived by the prison authorities as "do-gooders," rather naive and not helpful. Mrs. Foster, on the other hand, was revered by the judges and prison authorities for her

honesty, sagacity, and integrity, the soundness of her judgment, and her very practical, very constructive methods and ideas. The religious groups might preach to the incarcerated and urge them to choose a life of goodness; Mrs. Foster, by contrast, provided concrete and realistic means and tools -- training, financial assistance, housing, gainful employment -- that could set the accused and convicted on a course to a law-abiding life.

After her husband's death in 1890, Mrs. Foster devoted herself to her occupation all the more intensively. Her daughter remarked that she "cannot remember the time when mother was not engaged in some charitable work or other."⁷⁶ The Warden of the Tombs said that "no one unacquainted with the details of Mrs. Foster's work will ever know the self-sacrificing life that she led ..."⁷⁷ One of Mrs. Foster's friends wrote that she "devoted every day in the year" to the work.⁷⁸ Mrs. Foster was so dedicated to her work, and so effective in it, that not long after she had begun she became widely known among her beneficiaries, judges, prison and court personnel, and others, including her fellow parishioners of Calvary Church, by the name "the Tombs Angel," an informal honorific initially bestowed, it appears, by the prisoners. One of the judges said of her that "[s]he was not only a 'Tombs angel,' but a court angel."⁷⁹

Inevitably, Mrs. Foster's activities in the courtrooms of the city became known outside the courts. In time, all the newspaper reporters of the city learned about Mrs. Foster's work, and, though by no means a naïve bunch, they came to respect her. The attention, however, made her uncomfortable and she sought to persuade the reporters against publicizing her work and her cases.⁸⁰ One reporter wrote of her in 1891 that "[t]he first object of her life is to help women in misfortune. Her second object seems to be to avoid publicity."⁸¹ "[H]er influence has frequently been of service in keeping out of the press things that would have been harmful [to the person she was trying to aid] if they had been given notoriety." "'Boys,' she would say, 'it's only a poor girl

that has gone wrong, and you know that notoriety in her case will undo one-half of what I can do to put her right again. Leave it out, won't you?' And in a majority of cases she had her way."⁸² But if her pleadings to reporters to keep a case out of the newspapers appeared to fail, she would then ask that the reporters at least keep her own name and role out of the story. "'It will interfere with my work,' she would say."⁸³ One reporter, noting "her extreme reticence about her work," wrote the following about her appeal to him and his colleagues when she began her work:

When she first began ... she called the reporters together and said it would be impossible for her to go on with the work if they were going to make "stories" out of her. She asked that she might never be mentioned when it was possible to avoid it. She never talked about her work among her friends and with her family, and her life in the courts and the Tombs was lived quite apart from her life at home and in society.⁸⁴

Mrs. Foster started her day with services at Calvary Church and went from there to the Tombs.⁸⁵ The sexton of Calvary Church reported that at these morning visits there would usually be people in need, sometimes as many as 20 or 30, waiting there for her, hoping for help, including impoverished persons not in trouble with the law. "She used [the church] as her uptown office, and she kept the clothes and things she gave away in the basement. She was always collecting every kind of thing and sending it here. Sometimes a wagon would drive up and unload."⁸⁶

Reviewing the record, one has to conclude that Mrs. Foster was blessed with a rare and special persona, a character and temperament that fitted her well for her occupation and the challenges it presented. Supported by her religious faith, she was able to resist despair in the face of the harsh deprivation she saw, the resistance or dishonesty of convinced and recalcitrant criminals she encountered, and the severity of the difficulties she ran up against every day, and to remain warm and sympathetic. And, remarkably, even cheerful, as was confirmed by one of her daughters, who, when asked whether Mrs. Foster's work made her unhappy, described her as "the

merriest one of the family. She seemed younger than her daughters.”⁸⁷ And yet she was practical and level-headed and of sound judgment at the same time, which qualities, as Judge Jerome noted, were critical to her ability to achieve her objectives. She was as far as it was possible to be from a well-meaning, but naive charitable dilettante.

Mrs. Foster was described as “a bright woman and brave as a lion. Her own deep troubles roused her sympathy for the desolate.” She was blessed with courage that was “prompt and unflinching.”⁸⁸ Chaplain Munro of the Tombs Prison called her “a woman of much ability and considerable force of character. She was ... generous to a fault, and ready to help everyone in time of need ...”⁸⁹ Judge Jerome spoke of her as “a small, nice-looking woman, very quiet and unobtrusive. And yet that is hardly right, either, for she was very active and always busy. But she went about her affairs in a direct and simple way.”⁹⁰ A coroner who encountered her often during his career wrote that “only a woman of her broad culture, large tolerance, and unprejudiced mind could exercise such influence as she exercised on Judges, juries, lawyers, and all who met her.”⁹¹

The Sheriff of the Tombs, who saw her almost daily and therefore knew her very well, said of her:

She was always bright and cheery, and had a laugh or a joke or a pleasant word for everyone. She used to come whisking in every morning, and trip through the place, saying good-morning to everyone by name. She always came bustling into my office as breezy and chipper as a young girl. It was always “Good morning to you, Sheriff; are you good-natured to-day?” You couldn’t help warming up to her ... Every morning it was just the same. “I’ve got some people to see,” she would say. “Can I go into the cells?” She’d always ask. She could have gone right in, coming for... years that way, and everybody knowing her, but she always asked, and when I said, “Why, of course you can,” she’d say, “Thank you kindly, Sheriff; thank you kindly.”⁹²

One of the judges commented on the strength of her character:

She was in no sense what is ordinarily termed a “strong minded woman.” On the contrary, in bearing and conversation she was as gentle as a child. In another sense, however, she was the strongest minded woman I ever knew in the persistence with which she carried out her projects. Her social and philanthropic lives were distinct. Socially she was genial, a fine conversationalist, and delightful. In her work she showed great sagacity in judging of the real character of a case, and never became so interested as to be sentimental.⁹³

A reporter who had spoken to prison officials about her wrote these words in 1891:

Go into any prison or police court you choose in this city ... and ask any official what he thinks of Mrs. Foster, and he will reply earnestly in words of almost extravagant praise. It is really very surprising how powerfully she has impressed them all with a sense of her goodness. Jailers who look upon the most pitiful scenes daily with supreme indifference, and from much practice talk habitually in hard authoritative tones, soften their voices perceptibly when speaking of her.⁹⁴

One of those jaded and cynical jailers expressed his admiration in these striking words:

It’s perfectly amazing what power to comfort that woman has. I’ve had poor creatures here who would howl and screech and swear and shriek in rage by the hour, in spite of everything we and the matron could do and say. And then Mrs. Foster would come and just sit down outside the bars, and in five minutes them she-devils would be on the floor inside holding her hand through the bars and crying fit to shake their heads off, but quiet and subdued-like, you know.

And she don’t say much either. That’s what beats me out. But, then, maybe, you’d understand how she does it if you’d just talk to her once. She’s that gentle and sweet, and yet strong, you know, that – well, you know what I mean.⁹⁵



View of the interior yard of the Tombs, also depicting the Bridge of Sighs, 1875. The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection, The New York Public Library.

Although Mrs. Foster clearly felt great sympathy for the defendants with whom she dealt and was willing to go to extraordinary lengths to help them, she could not have been as useful and effective as she was had she not been, at the same time, as alluded to in a quotation from Judge Jerome above, free from naiveté and impervious to ready deception from the promises and excuses given to her by unworthy potential recipients of her aid whom she encountered from day to day. The Sheriff of the Tombs said that “[y]ou couldn’t fool Mrs. Foster.”

Sometimes she would be approached outside the Tombs by ex-prisoners, people in trouble, and “dead beats,” in the Sheriff’s words, who were looking to her for a “stake.” She would give them something, but she would not be misled by false promises of reform. Of the deadbeats, the Sheriff said, “[s]he was on to ‘em all right. She never talked reform to them.” She was, to be sure, “tender-hearted,” he said, “but not soft like some.”⁹⁶ Similarly, Judge Jerome observed that in her work she was often told untruths, “but her judgment was so good, and her experience so great, that it was the very rarest thing for any of these people to be able to deceive her.” When attempts to mislead her were made, he continued, “she was sagacious enough to detect the fact that they were untruths, so that when she reported to the court, the court felt that, as far as it was possible to ascertain them, all the facts of the case had been

learned, and that it might act with perfect safety upon her report ...”⁹⁷ When the facts warranted it, she would inform the court that, in her judgment, a defendant “was of such a character that she did not think there should be a suspension of sentence.”⁹⁸

Mrs. Foster was “a woman of medium height, rather slender, with an exceedingly sweet face, topped with a wealth of black hair.”⁹⁹ The sexton at Calvary said that “to look at her, you would say she was no more than thirty-eight or nine, but she must have been over fifty.”¹⁰⁰ As was noted earlier, she always dressed the same in memory of the loss she had suffered when her husband had abandoned the family:

For years she has worn precisely the same sort of costume, and once you have seen her, whether you came on her suddenly, see her approaching in the distance, or only get a glimpse of her as she flits by, you will recognize her. She always wears a black dress and a widow’s hat with the crape veil behind, and not the slightest ornament to relieve the somberness of her costume. The nearest approach to color in her attire is the line of white ruffling around the inside edge of her hat, and that is scarcely visible unless you happen to be standing very near her. She is an indefatigable worker, and the respect in which she is held in the courts, prisons, and hospitals of the city is most marked. The moment she enters a court room every attendant will edge up a bit to see if there isn’t something he can do for her. City Magistrates and even the Judges of the Court of General Sessions will stop important cases to give Mrs. Foster an interview. Any request within reason that she may make is sure to be granted...¹⁰¹

Societies are obviously very complex mechanisms and are never wholly one thing. Still, scholars and writers tell us that life among the fortunate and the strivers of the last decades of the 19th century in New York City and in the United States in general was marked by conspicuous interest in and even preoccupation with wealth, gain, and social position and standing, as well as, with some frequency, propensity for corruption. Mrs. Foster lived in but also apart from this world: her personal circumstances, it appears, were comfortable, but her heart, her head, and the life of

work she created for herself were very far removed from the world of those years as described by Mark Twain and from the social milieu referred to by Edith Wharton, with irony, as that of an age of innocence.

5. Mrs. Foster's Work in Her Own Words

Some greater sense of the nature of Mrs. Foster's work and her character can be gleaned from her own words as she summarizes the activities of a typical day:

I began at 9 A.M. in the vestibule of Calvary Church, where seven persons were awaiting me. To two I gave money for food, to one rent money, and to two orders for shoes. The others I took to superintendents of two Department Stores for positions.

Then to the Court of Special Sessions, for the Case of B.H. (previously investigated), accused of petty larceny, whose sentence was shortened to only 30 days. Met in the corridor a young woman, homeless and penniless, with month old baby in her arms, whose husband had just been sentenced for 3 months, and paid \$2 rent until I can get her work.

In the Court of General Sessions, four cases: M.C., aged 19, had stolen \$5, her first crime. Inquiry proved previous good character, and she was let off with ten days. A.B., 17, suspected of stealing [a] ring, was discharged in my custody. I took her to her mother, who will report to me regularly. M.N., when drunk, had broken a window. As it was her first offence, she was allowed to go on suspended sentence and her mother took her home. M.B., 20, servant, accused of theft. I had found all her employers for her three years in this country willing to take her back, but as the Court considers household thieves a most dangerous class, I was able only to get her sentence shortened to three months, on the ground of previous good record.

Next, in District Attorney's office, was promised speedy trials for three cases in prison. Then to 17th street and 10th avenue and to 87th street and Columbus avenue, inquiring [of the] characters of two girls whose cases are to come up to-morrow.

I then returned to the District Attorney's office, by his request, to consult about a young girl, a victim of the "Cadet System

[prostitution].” Saw the girl there, only 16, pretty and ignorant, an easy prey to vicious designs. Took her to St. Barnabas House, where she will be safe and whence I will take her back and forth daily to Court till her trial is over, and afterwards I will care for her as long as she needs help and until she can get work. Then, summoned by Prison Ward officer to Bellevue Hospital, to see a young girl just brought in for having attempted suicide. She was unwilling to talk until the nurse explained who I was, when she readily confided all her griefs to me. I comforted her as best I could and promised to stand by her in Court when tried, and to ask the Judge to put her in my care.

Then home, at 6 P.M., to find a Subpoena Server waiting with two subpoenas for me to serve on two women I had taken into my care on parole eight months before, agreeing to produce them in Court when needed. As they were wanted the next day, I dined hurriedly and went to 106 Essex street and 82 Eldridge street, served the subpoenas, arranged to meet the women in Court the next morning, and returned home, my day’s work done.¹⁰²

In 1896 Mrs. Foster recounted this story:

In the early summer there came into the court a young woman, scarce eighteen years old, accused of stealing \$ 1,800, in open daylight, on the street. She was engaged to marry a man who made her help to him in getting this money a condition of their speedy marriage, and she consented to and did help him -- afterwards repented, and confessed. On my promise to care for her the judge suspended sentence, and gave her to me. I found work for her in the country -- a place which she has kept.¹⁰³

Mrs. Foster described three more of the cases that touched her that summer:

A young man, not yet twenty, but with a wife and babe, came to New York from Lowell, Mass., leaving his wife and child with his mother until he could find work, and send for her. The first day, while looking around for board -- a stranger in a strange city -- he met another young man in a restaurant, and told him what he wanted, and asked him if he could direct him to a good, cheap place. All the money he had with him was \$9.00. This man said he too was poor, a peddler, but he had a good room, and would gladly share it, and so help both. This was agreed on, and my man from Lowell went home with him. That very night both were arrested as receivers of stolen goods, and it was the peddler’s business to sell them. I wrote to Lowell, got letters from the clergyman who baptized and married

my boy, also his mother and wife, and so proved his innocence, and obtained his discharge. I was anxious he should go back home, and he was willing, so I got him a ticket, and he returned to Lowell. Afterwards, through a friend, I obtained for him, work in Boston, which place he still has.

Another; a young woman, twenty-two years old, was employed in a boarding-house as waitress. One of the boarders accused this girl of stealing a ring, and had her arrested. The girl protested her innocence, and I saw every employer she had had in the seven years she had lived at service. She had only had three places, and every one declared her honest and faithful in every way. The ring was not found on her, but she was held for trial. I then saw the people in the boarding-house, and finally learned that this ring had been missed and declared lost before this girl had entered the house. On that evidence and her good character she was discharged. I found her service in the family of one of the people who were in the court house at once. She is still there.

Another case is that of a young girl who tried to take her life in Harlem, and, on her promise to never try it again, was discharged. She went out again just as destitute, friendless and homeless as before, and after two or three days more of suffering, tried it again. This time I was in court. I got suspended sentence for her, and sent her to Pelham Shelter for rest and quiet till she could recover herself and be able to work. There she was in safe, tender hands ...¹⁰⁴

Another story of Mrs. Foster's work was reported by one of her friends to the parishioners of Calvary Church:

So, it happened that one afternoon, several years ago, when [Mrs. Foster] came out of the Tombs Prison, she was at once accosted by a young woman whose general appearance only too plainly indicated her manner of life, and whom Mrs. Foster had never seen before. At the girl's earnest request, Mrs. Foster accompanied her, without knowing where she was to be taken, to an apartment house up-town, in one of whose rooms a girl of twenty-two lay dying. She died, in fact, an hour and a half after Mrs. Foster's arrival, but in that time was able to tell the outlines of her sad history, and to express her one great desire of being buried beside the grave of her heart-broken mother, in the cemetery of a small country town at some distance. When her health had failed, the three or four girls, her companions, did all in their power to give ease and comfort to her last days, and when she and they all knew that she was dying, they begged her to see some clergyman. She, at first, persistently refused,

but said, finally, seeing their distress, and feeling her own terrible loneliness, “If you could find Mrs. Foster, I would see her.” So, as Mrs. Foster... can always be found by those who need her, this poor betrayed, forsaken, dying girl was able to have a little comfort, falling asleep with her hand tight clasped in that of the only true friend she knew.¹⁰⁵

6. Funding the Work

Mrs. Foster personally carried out all her labors in the Tombs and environs, in the courts and in her investigations throughout the city and elsewhere, and all her work finding homes and employment and providing financial and other assistance.

She accepted no compensation for her work.¹⁰⁶ She never took any money from the judges.

Judge Jerome said that

[I]ots of times I have tried to give her money for some particular case – where she had made expenditures to take care of the family while the man was in jail. She would say: “No, I cannot take any money from any of the judges. I know the judges who are here now would not think I was coming to them with the hope of getting some, but there might come judges here who would not feel that way about it. They would get to look upon me as a nuisance ...”¹⁰⁷

Some of the funds she expended came from her own resources. In time, however, as her program expanded, word of her work spread and she sought out funds and was able to raise them. She raised monies from members of Calvary Church,¹⁰⁸ including the “Friends at Court,” a group that was established at the instance of the Rev. Mr. Satterlee specifically to help her.¹⁰⁹ This group started with six members. In its later years the group raised as much as \$3,000 annually, equivalent to almost \$100,000 today, to support Mrs. Foster’s work;¹¹⁰ in 1901, the group’s goal was \$3,600. By 1902 there were about 200 regular subscribers.¹¹¹ She also sometimes received support from

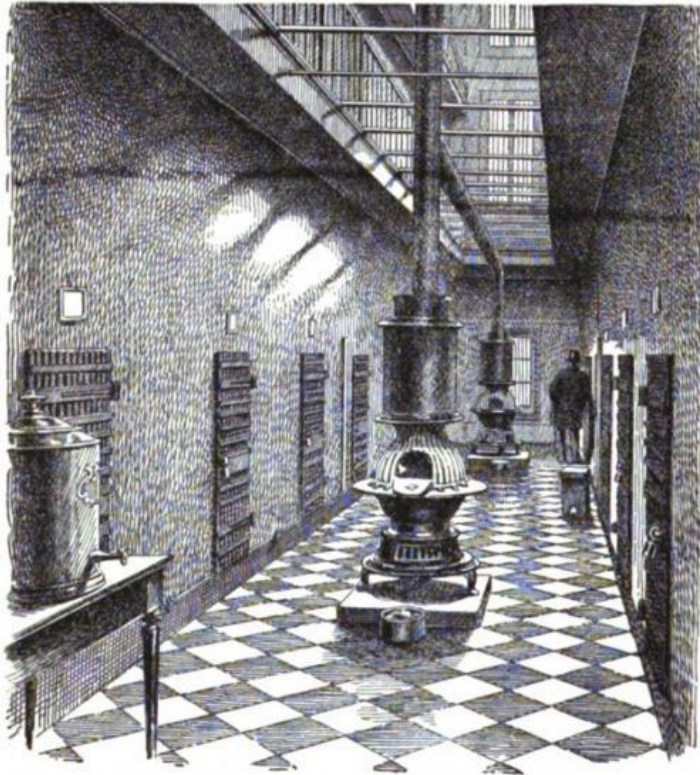
prominent and well-to-do families, and well-known philanthropists. Among those who reportedly aided her were Rockefellers, Vanderbilts, De Peysters, Van Rensselaers, Burdens, and Astors.¹¹²

Public gatherings of various sorts, including some attended by Mrs. Foster, were also held to raise money to provide support for her work.¹¹³ At one such gathering in a private home in 1899, for example, a former Assistant District Attorney spoke in favor of Mrs. Foster's work. The District Attorney himself had been scheduled to attend and address the group, but when other responsibilities prevented him from doing so, Bishop Satterlee spoke in his place. The meeting concluded with a presentation by Mrs. Foster describing her efforts.¹¹⁴

In early 1901, the Friends at Court reported to the parishioners of Calvary that, in the preceding year, Mrs. Foster had made 1,171 visits; helped 419 prisoners and 81 prisoners' families; sent 83 persons to their homes in various parts of this country; paid traveling expenses to Germany of two girls, to Italy of a woman and child, to Ireland of two girls, and to France and Bermuda of one each. She had distributed 230 pairs of new shoes. Among other things, she had paid out \$463.98 for the traveling expenses of former prisoners; \$736.21 for food; \$281.00 for rents; \$181.90 for ice in prisons; \$152.38 for lodgings; and \$60.75 for coal and wood.¹¹⁵

In November of 1896, Mrs. Foster reported to the relevant committee at Calvary Church that she had made 420 visits to prisons and courts during the summer of that year alone. During that summer, she informed the group, "I have helped, more or less, 187 women and 71 men; sent back to their homes 13 women and girls and 7 boys; and provided lawyers for 133 women and 84 men; [and] I have given, during the summer, to women and girls, 213 garments and 87 pairs of shoes and 127 hats, also clothing to 13 men ..."¹¹⁶ The gifts of parishioners, she advised the committee, "have made it possible to do much that else would have been impossible."¹¹⁷

7. Providing Legal Assistance



MURDERERS' ROW IN THE TOMBS. CELLS FOR CONDEMNED PRISONERS.

Interior of the Tombs, Murderer's Row. Originally published in *Darkness and Daylight* by Helen Campbell, 1895.

A regular part of Mrs. Foster's work was to find attorneys for defendants in serious cases. With money in short supply, Mrs. Foster used her persuasive powers to prevail upon attorneys to take on cases *pro bono*. For instance, she often induced the young Samuel Seabury, Esq., who later became a very famous reformer and judge in New York,¹¹⁸ to take cases from her on this basis. Early on, when Seabury was in court one day, she came up to him and asked if he would act as

counsel for some of her non-paying defendants.¹¹⁹ He accepted and thereafter threw himself enthusiastically into the cases she recommended to him. "She was kindly, sympathetic and humane and so great was my respect for her," Seabury said, "that there was no case that she asked me to defend that I refused."¹²⁰ For a young lawyer, this proved to be good, albeit not lucrative, experience. "There was no need to wait for causes and clients to come to me now," Seabury said. "Mrs. Foster saw to it that I was well supplied."¹²¹ Other attorneys were likewise well-supplied: in the summer of 1896 alone, for example, she provided lawyers for 133 women and 84 men.¹²²

Mrs. Foster also did what she could to provide direct, personal support to defendants in some very serious and notorious cases. One of these, a tremendous scandal at the time, was the

case of Maria Barbella.¹²³ Barbella was an immigrant from Italy. One Dominic Cataldo, a fellow immigrant, had abused her, had taken advantage of her, and then, after false promises otherwise, had rebuffed her efforts to persuade him to marry her and save her from a life of degradation. Cataldo conveyed his refusal quite publicly. “Do you think I would marry such a girl,” he said. When she persisted, he refused, adding that “hogs may marry.” Barbella became enraged, attacked him with a razor, and cut him with it. He staggered into the street and died.¹²⁴

There had been witnesses to the final altercation and Barbella thus did not deny that she had attacked Cataldo, although she asserted that she had not intended to kill him and there was evidence that she had been in a state of severe emotional distress for some time prior to and at the time of the attack. Barbella was incarcerated in the Tombs and put on trial for murder in 1895. Mrs. Foster took a great interest in her case and aided her in every way possible. She was at Barbella’s side in court every day throughout the trial. The defense did not argue that Barbella had been incompetent at the time of the attack. Barbella, who knew almost no English, testified in her own behalf at the trial, but the testimony was to no avail. Barbella was convicted. Mrs. Foster assisted Barbella throughout the sentencing hearing (the prisoner entered the courtroom “supported by Mrs. Foster, the Tombs Angel”) and stood up with her before the bar when the sentence was imposed. The judge sentenced Barbella to death. She would become the first woman to die in the electric chair in New York State if the sentence were carried out as scheduled in August 1895.¹²⁵

Barbella was sent to Sing Sing the day sentence was pronounced and Mrs. Foster accompanied her. It was reported that “Mrs. Foster will make arrangements at Sing Sing for the girl to have any delicacy she wishes, for which Mrs. Foster will pay out of her own pocket.”¹²⁶ Because Barbella was in a deeply disturbed state, Mrs. Foster allowed herself to be locked in the

room with the prisoner for one or two days and nights. Then, when Barbella was in a better frame of mind, Mrs. Foster returned to the city and her work.¹²⁷

Thereafter, Mrs. Foster continued to expend herself on Barbella's behalf. Along with a prominent volunteer, an American-born Italian countess,¹²⁸ Mrs. Foster found a new attorney for Barbella and visited the editors of all the leading newspapers in an effort to persuade them to take positions in favor of clemency for Barbella or a new trial (which of course was ultimately a matter for the Court of Appeals).¹²⁹ During the months that Barbella was incarcerated at Sing Sing, Mrs. Foster visited her frequently.¹³⁰

Attorneys representing Barbella pressed an appeal on her behalf. The appeal succeeded the next year when the Court of Appeals ordered a new trial,¹³¹ finding that the trial judge had made various errors, in particular, submitting the case to the jury upon a charge of first-degree murder that was erroneous in critical respects. At the second trial in 1896,¹³² Mrs. Foster once again sat at Barbella's side throughout.¹³³ This time Barbella's lawyers argued that she had acted under the compulsion of extreme emotional upset. The argument succeeded: Barbella was acquitted, and she left the courtroom with Mrs. Foster at her side. It was reported that Mrs. Foster would find employment for her.¹³⁴ As the attorneys who succeeded so spectacularly on behalf of Barbella had been recruited by Mrs. Foster and the Italian countess, Barbella ultimately owed her life to them.

Another case in which Mrs. Foster played a similar role was that of Mary Dunne. Mrs. Foster was at her side when she was tried on charges of having murdered her husband during a quarrel.¹³⁵ And Mrs. Foster was at the counsel table beside Ida Lieberman during the latter's trial for arson, which ended with a conviction.¹³⁶

One of Mrs. Foster's last cases was that of Florence Burns, a young woman who was charged with the murder of one Walter S. Brooks in another sensational case. During a hearing in the case that lasted several days, Mrs. Foster sat by her side as her best friend when all others had apparently abandoned her.¹³⁷ At the end of a day's hearing, Burns was "led over the Bridge of Sighs to her cell in the Tombs" accompanied by Mrs. Foster and a policeman.¹³⁸ Chaplain Munro wrote that "this is just the kind of work Mrs. Foster had been doing -- of the most unselfish and loving character to prison unfortunates for nearly twenty years."¹³⁹

8. Traveling Throughout the City and Elsewhere

Mrs. Foster's work, and in particular her investigations into the background of accused persons, took her "into all parts of the city," including the Lower East Side, where so many poor immigrants congregated in very harsh conditions, "and among all sorts of people, and she... [became] very well known to all classes of the wretched and unfortunate who are unable to help themselves."¹⁴⁰ "She visited all parts of the city day or night without fear, the policemen all knowing her and serving as a sort of bodyguard."¹⁴¹ One who knew her well said:

It was a wonder to me she could go about at all times of night and in all kinds of places alone and never have no harm come to her. She would go anywhere and do anything without thinking. One time she had been to a dinner at some fine place or other and got back to the hotel late. An old woman was waiting for her, and told her about a daughter that had got astray and was leading a bad life in a low resort on the Bowery. She had been gone from home a little over a week, and they had just found out where she was, but the dive-keeper had hid her away and the mother couldn't get to her. Well, Mrs. Foster got a cab and drove, just as she was, evening dress and all, right to the door of the dive.

She went in alone, and as she walked among the tables where men were drinking they called out to her all kinds of things. She went right to the bar and asked the keeper for the girl she was after. He

swore at her and ordered her to get out. Then one of the men at a table near the bar jumped up and called out, "Speak civil to her, Patsy. Shut up, you fellows! That's the Tombs Angel you're talking to. That's who she is."

As soon as they heard that, a lot of the men came up, and the girls crowded around her, and they made Patsy go and get the one she'd come for.¹⁴²

In a public address at what probably was a fundraising event, Mrs. Foster told this story:

One dark night, Mrs. Foster said, she was followed for several blocks on lonely East Side streets by a man who, Mrs. Foster thought at first, meant to rob her if he got a chance. At last she turned sharply around on him and asked him what he wanted. He told her he was following her to help her from being harmed. When Mrs. Foster asked him why he took such an interest in her welfare the man said:

"Oh, a friend of mine down there told me about you."

"Down there," said Mrs. Foster, in telling the story, "always means in the Tombs with those people. 'Up there' or 'up the river' means at Sing Sing."¹⁴³

Mrs. Foster not only dealt with defendants accused of and imprisoned on common criminal charges such as thievery and pickpocketing and others more serious, but also those whose primary difficulty was emotional turmoil or mental impairment or who, as in the instance mentioned earlier, had fallen into a bad life, in many cases under the influence of an evil man. Mrs. Foster reported, for example, the case of a girl she encountered on the street:

Another night I met a girl on Fourth avenue. Something in her face caught my eye, and I followed her until I caught up with her, although she ran to escape me. Then she asked me roughly what I wanted. I told her I thought she must be in some trouble, and she said, "Well, that's it. It's either the street or the river, and I'll take the river for mine."¹⁴⁴

That proved to be a life-saving encounter for the girl. Mrs. Foster took her home and then got her a position. Sixteen years later, Mrs. Foster was able to say that the girl was living a happy and decent life.¹⁴⁵



Women “Lodgers” in the Elizabeth Street Police Station, photographed by Jacob Riis, c. 1890. Courtesy of the Museum of Modern Art, 344.1964.

Among the many cases of this type with which Mrs. Foster concerned herself were these:

-- Mrs. Foster took Lizzie Hoffman, age 18, to Bellevue for psychiatric examination. Lizzie had thrown her illegitimate baby into the river and suffered a mental

breakdown.¹⁴⁶

-- Adelaide Davidson, a young woman who had been indicted for attempting suicide in Central Park because of her husband’s cruelty, was arraigned in the Court of General Sessions. The indictment was dismissed “as Mrs. Foster, the ‘Tombs Angel,’ promised to take care of the girl.”¹⁴⁷

-- Mrs. Emma Foote, a well-dressed woman, stole 74 yards of silk in Wanamaker’s. The police thought she had been suffering from an overdose of opiates. In the Court of General Sessions Mrs. Foster pleaded with the judge to be lenient, saying that the woman was in the last stages of consumption and presenting letters written in her behalf. The judge accepted a plea to a reduced

charge and suspended sentence. The woman was discharged in the care of friends, who said they would look after her until her death.¹⁴⁸

-- A young widow named Mamie Carlton was arrested for attempting suicide and was confined to Bellevue. Mrs. Foster visited her there and offered to take her to St. Barnabas House until she could regain her strength, when a situation would be found for her. Later in court, Mrs. Foster explained to the judge what she proposed to do for the woman. The judge discharged her and Mamie accompanied Mrs. Foster to St. Barnabas House.¹⁴⁹

-- A 28-year-old waiter named Paul Baumgart tried to kill himself with laudanum because his wife had deserted him, and he did not care to live any longer. He was arrested. When his case came before the court, Mrs. Foster pleaded strongly in favor of the man and the court discharged him.¹⁵⁰

-- In Washington Square the police arrested a refined-looking woman, aged 35, who was acting strangely. She had pinned to her sleeve a piece of paper that said: "Am sick and ill. If I faint, do not think me a drunken woman. If I am insensible, please don't bury me alive." She was taken to court, where Mrs. Foster held a long conversation with her. Mrs. Foster told the judge that she knew the woman, who had once been wealthy but was now in reduced circumstances and mentally unbalanced. The judge discharged the woman, who left the courtroom leaning on the arm of the Tombs Angel.¹⁵¹



A necktie workshop, circa 1890. Jacob A. Riis / Museum of the City of New York, 2008.2.4.



Mulberry Bend Alley, circa 1895. Jacob A. Riis / Museum of the City of New York, 90.13.1.330.



Sewing and starving in an Elizabeth Street attic, circa 1890. Jacob A. Riis / Museum of the City of New York, 90.13.1.148.

One of the safe houses Mrs. Foster used in her work, which was apparently referred to informally as “the Retreat,”¹⁵² was Pelham Hall Shelter in New Rochelle, New York, which was established in 1895. This probably was the “little place, up somewhere on the Sound,” to which Judge Jerome referred in a quote given above. Mrs. Foster herself noted the importance of the Shelter to her work.¹⁵³ A contemporaneous directory reported that the home was a refuge for erring girls between the ages of 15 and 25 years old who showed a sincere desire to reform. The girls lived at the home and learned a useful trade, such as sewing or housekeeping. Efforts would be made to find these girls homes in the country in which to live and jobs suited to their needs and abilities. Mrs. Foster, who was on the Board of Trustees of the Shelter, regularly took girls who had been incarcerated in the Tombs and been placed in her charge by the court to this home to give them safe living accommodations, food, and clothing while they learned a trade that might provide them support in a future life.¹⁵⁴

In addition, in Manhattan, Mrs. Foster collaborated with the Episcopal City Mission, especially St. Barnabas House on Mulberry Street, which was where police headquarters was also located, and God's Providence Mission on Broome Street. It was in the lodgings at St. Barnabas House that Mrs. Foster was able to provide shelter in Manhattan for many unfortunate women who were committed to her care by the courts or found by her in the streets.¹⁵⁵



A family in a room in a tenement house, circa 1910. Jacob A. Riis / Museum of the City of New York, 90.13.3.125.



Street Arabs, circa 1890. Jacob A. Riis / Museum of the City of New York, 90.13.4.124.



Bandits' Roost at 59 Mulberry Street, NYC, photographed by Jacob Riis, 1888. Courtesy of the Preus Museum, NMFF.002173.

In 1901, Mrs. Foster reported that over a ten-year period she had looked after 700 girls who had been entrusted to her care, which represented only a part of the work she did.¹⁵⁶ In that same year, she calculated that in the entire time she had been doing her work, only eight girls had gone back to prison.¹⁵⁷

In her spare time (whatever there was of it), Mrs. Foster was also engaged in charitable endeavors beyond her prison work. She was active in the settlement house movement of the period.¹⁵⁸ She ran and was a mainstay of a sewing school for poor young girls, mostly Jewish immigrants from the Lower East Side, the “great east side, where want and misery are on every hand.”¹⁵⁹ Instruction in sewing, but no religious instruction, was given to these girls. After the original location of the school became too small for the demand that pressed upon it, a wealthy woman put up a building on Broome Street that became the school’s new home, as well as a venue for other work. This was known as God’s Providence Mission,¹⁶⁰ of which Mrs. Foster was said to have been a founder.¹⁶¹ Mrs. Foster might have 250 sewing students in her school at a time. “Her work of prevention was pursued as aggressively and as affectionately as her work of restoration.”¹⁶²

9. The Tombs and “Five Points”

The original Tombs where Mrs. Foster worked daily was built between 1835 and 1840 and was known officially as “The Halls of Justice and House of Detention.” It replaced a pre-Revolutionary War prison in City Hall Park that was torn down in 1838. The new structure occupied a full block on the west side of Centre Street between Elm (today’s Lafayette), Leonard and Franklin Streets (the former location of the Tombs is today the site of Collect Pond Park),¹⁶³

and also housed the quarters of the Court of Special Sessions and the Police Court, which dealt with offenses to public order such as public drunkenness. The prison quickly became known as “the Tombs” because of its Egyptian Revival-style architecture, a name that has been used for its successors up to the present day.

The builders of the prison chose poorly when they decided to construct it where they did, on the former site of Collect Pond, which is depicted in an illustration in Section 2 of this portion of this article, and which derived its name from a corruption of a Dutch word for “small body of water.” This substantial pond, in places 60 feet deep, and fed by an underground stream, was the source of the City’s drinking water in the colonial period. In the 17th and 18th centuries, the pond was a favorite spot for picnics and ice skating. In 1796, one of the first experimental steamboats was launched on the pond. By the early 19th century, however, the City had allowed commercial enterprises, including tanneries and a slaughterhouse, to locate at the pond and use its waters. As a consequence, the pond became polluted and it was filled in and leveled by 1813. Unfortunately, the filling of the pond was badly done. The site of the former pond emitted noxious odors and mosquitoes bred there happily. The deterioration of the area caused a decline in the value of property there and made the zone one ripe for the development of a slum.¹⁶⁴

The construction of the new prison was not adequate for the conditions at the site.¹⁶⁵ The Tombs was dark, dank, and, thanks to the former pond, more than damp. Only months after the Tombs opened, the building began to sink, causing cracks in the foundation through which water leaked, forming pools on the floor. The prison was plagued by water problems from then on. Difficulties with the building persisted for years. More than once a Grand Jury condemned the structure as unhealthy and unfit for its purpose.¹⁶⁶

The Tombs was primarily a place of detention for those awaiting trial and not released on bail. By the 1880's, if not before, the prison was overcrowded.¹⁶⁷ But the prison also had a secondary, quite solemn purpose -- executions by hanging took place inside the Tombs. A bridge that connected the women's section to that of the men was known as the "Bridge of Sighs" because condemned men passed over it on their way to their execution.¹⁶⁸

One writer described the Tombs as "this home of the wretched":

For a half century The Tombs has been a synonym for sin and suffering. Here every suspected criminal is taken while awaiting trial and sentence. Here criminals have become still more hardened in their sinful career, and here, too, many a person, the victim rather than the guilty person, has become disheartened... Over the heavily barred gateway of this prison might well be engraved the words: "Abandon hope, all ye who enter here."¹⁶⁹



The Tombs and Criminal Courts Building, photographed in 1894. Irma and Paul Milstein Division of United States History, Local History and Genealogy, The New York Public Library.

Charles Dickens came to New York City in 1842 and, not being a typical tourist, he paid a visit to the Tombs, which he described as “this dismal-fronted pile of bastard Egyptian, like an enchanter’s palace in a melodrama ...”¹⁷⁰ Dickens was well familiar with prisons and the harshness of aspects of life in the 19th century (his father had been imprisoned in the Marshalsea Prison for failure to pay his debts when Charles was 12 years old (about which Charles wrote in *Little Dorrit*

(1857)), at which point the boy had been forced to leave school to work in a factory). Still, Dickens was shocked by what he saw inside the Tombs. He wrote:

What! do you thrust your common offenders against the police discipline of the town, into such holes as these? Do men and women, against whom no crime is proved, lie here all night in perfect darkness, surrounded by the noisome vapours which encircle that flagging lamp you light us with, and breathing this filthy and offensive stench! Why, such indecent and disgusting dungeons as these cells, would bring disgrace upon the most despotic empire in the world!¹⁷¹

Of the prison yard he wrote:

The prison-yard in which [a jailor] pauses now, has been the scene of terrible performances. Into this narrow, grave-like place, men are brought out to die. The wretched creature stands beneath the gibbet on the ground; the rope about his neck; and when the sign is given, a weight at its other end comes running down, and swings him up into the air -- a corpse.¹⁷²



The interior of the Tombs, showing relatives visiting the prisoners, late 19th century. Courtesy of Dr. Antonio Rafael de la Cova, latinamericanstudies.org.



A view of the interior of the original Tombs. The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection, The New York Public Library.

Herman Melville in his famous story about the mysterious, phlegmatic, and taciturn Bartleby the scrivener had the Wall Street attorney who narrated say of the Tombs that “[t]he Egyptian character of the masonry weighed upon me with its gloom.” In keeping with that gloom, in the concluding section of the story, Bartleby was carried off to the Tombs as a vagrant at the instance of his landlord, declined to eat his food, and died in the yards of the prison.¹⁷³

Apparently, Mark Twain also understood that the Tombs was a widely-recognized symbol and reality of harsh or at least rigorous treatment of persons suspected and accused of crime. In the novel *The Gilded Age: A Tale of Today* (1873), which gave its name to the entire era, Twain

and his co-author, Charles D. Warner, have one of the principal characters, who gets into grave trouble with the law, incarcerated there.



A view of the interior of the original Tombs. The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Photography Collection. The New York Public Library.

We get a very clear understanding of what conditions were like inside the Tombs during the years when Mrs. Foster was working there from a report issued in 1896.¹⁷⁴ The Prison Association of New York was required by law to inspect the prisons in New York State and to report annually to the Legislature on what it found. A committee of the Association inspected the Tombs for two days in 1895. At that time, there

were three facilities inside the Tombs: the original structure and two much smaller prisons, one holding alleged petty offenders and the other women and boys.

The committee noted that cells in the main facility had been constructed against the walls and opened on a central court, as can be seen in some illustrations that appear in this section and in Section 7 of this part of this article. There were four tiers or stories of cells, with a narrow gallery running outside the cells on each tier overlooking the court. Each cell was about ten feet long and six feet wide, with a single bed about three feet wide.¹⁷⁵ The arrangement of the cells precluded

the admission of adequate light and ventilation from outside the walls. There were narrow slits through the rear wall, but the air and light inside the cells came principally from the central court through the grated doors. The prison was, still, 60 years after its opening, “dark, damp and ill-ventilated.”¹⁷⁶ There was an uncovered water closet in each cell, and these, the committee members found, “are old, rusty and more or less dirty and offensive. The cells are dark, ventilation is necessarily defective, and the smell, characteristic of a badly ventilated prison, is always present.”¹⁷⁷

The prisoners were allowed no exercise in a yard or the open air. Exercise in the Tombs consisted of this: the prisoners were allowed out of their cells twice a day for an hour and permitted to walk around the gallery outside the cells. The rest of the day, 22 hours a day, they were locked in the cells.¹⁷⁸

There were 298 cells in the prison. During the committee’s visit there were about 470 prisoners detained, which was the typical number. Thus, most of the cells housed two prisoners each, but some would not infrequently accommodate three.¹⁷⁹

In the cases where two or three men occupy one of these cells, they pass twenty-two hours of the day in this cell together. The cell contains no chair or table. There is no place to sit down except upon the narrow bed. They sleep together in this narrow bed, usually lying one with his head at one end of the bed and the other with his head at the other end, whenever two occupy the cell; when there are three occupants, the third man lies on a mattress or blanket on the floor. And in such a cell they remain, in some instances for months, day and night, in the cold of winter, and the sweltering heat of summer, breathing the foul air of the prison, and the fouler exhalations from the closets in the cells.¹⁸⁰

The permanent overcrowding of the cells “is nothing but a means of indescribable torture to a decent man, and a prolific school of vice and crime to a criminal.”¹⁸¹

There were no decent bathing facilities in the prison, only a rusty old tub in one cell on each floor. There was no employment or activity for the



The boys’ cell in the Tombs, 1870. Mrs. Foster worked with the imprisoned, who were housed in cells such as these. The Miriam and Ira D. Wallach Division of Art, Prints and Photographs: Picture Collection, The New York Public Library.

detainees of any sort, nor adequate hospital facilities. All meals were taken in the cells, without the benefit even of a table on which to place plates and utensils. The prison was “defective in every modern appliance.”¹⁸²

The members of the committee did not employ euphemisms in stating their opinion of the conditions they saw.

Such treatment of dogs would be gross cruelty; and when it is considered that the men so treated have not been convicted, and in many instances never are convicted of any crime, and that the prison is only intended to be a place for safe detention and not a place for punishment, no language which can be employed can be too severe in denunciation of such an infamy.¹⁸³

“The provisions for women prisoners,” the committee found, “are entirely inadequate; and in short, almost everything about the design and arrangement of the Tombs prison deserves unqualified censure.”¹⁸⁴

The committee therefore concluded that no attempt ought to be made to refurbish or utilize the Tombs. “The Tombs prison, as it has existed for years past, is a disgrace to the city of New York. It ought to be immediately demolished. It cannot be made decent.”¹⁸⁵ A new facility, the committee recommended, one “designed as a place of safe detention and not of punishment, and built in accordance with modern ideas of prison construction,” should be put up in its place.¹⁸⁶



The second Tombs, looking north on Centre Street, with the Criminal Courts Building beyond, circa 1904. Library of Congress, Prints & Photographs Division, LC-USZ62-83838.



Demolition of the original Tombs Prison, circa 1902. The successor Tombs can be seen in the rear. Robert L. Bracklow / Museum of the City of New York, 93.91.338.

Unlike many another governmental report, this one, by itself or perhaps in conjunction with others of like tenor, achieved results: the old Tombs was demolished. A new prison was built at the same location in 1902.¹⁸⁷ In 1894, a Criminal Courts Building, also situated on the west side of Centre Street, had been constructed across Franklin Street from the original Tombs. The new Tombs was connected to the court building by another “Bridge of Sighs” to ease the transfer of detainees to the court for legal proceedings.

It is nothing short of amazing that Mrs. Foster spent each day of the entirety of her career working, without recompense, in the horrible conditions of the Tombs described by the Prison Association committee.



A postcard showing the second Tombs, the Criminal Courts Building, and the Bridge of Sighs connecting them, circa 1915. Success Postal Card Co. / Museum of the City of New York, X2011.34.2421.

The wretchedness with which Mrs. Foster contended every day was not confined to the interior of the Tombs prison. The neighborhood very near the original Tombs, in which Mrs. Foster spent so much time, which today is Foley Square and environs, was then an

impoverished district largely of immigrant housing, of shabby and crowded tenements and extreme poverty, and of the social problems, crime not the least of these, to which such conditions give rise. The neighborhood, of *Gangs of New York* fame, was known as “Five Points,” taking that name from an intersection of streets that produced five corners, and it was thoroughly infamous, and not just throughout New York City. The great influx in immigration to the United States that we described earlier had perhaps a greater impact on this district than any other in New York State, or even the country. One scholar has written of it that “Five Points was the most notorious neighborhood in nineteenth-century America:”

Beginning in about 1820, overlapping waves of Irish, Italian, and Chinese immigrants flooded this district ... Significant numbers of Germans, African Americans, and Eastern European Jews settled there as well ... [T]he densely populated enclave was once renowned for jam-packed, filthy tenements, garbage-covered streets, prostitution, gambling, violence, drunkenness, and abject poverty. "No decent person walked through it; all shunned the locality; all walked blocks out of their way rather than pass through it," recalled a tough New York fireman. A religious journal called Five Points "the most notorious precinct of moral leprosy in the city, ... a perfect hot-bed of physical and moral pestilence, ... a hell-mouth of infamy and woe."¹⁸⁸

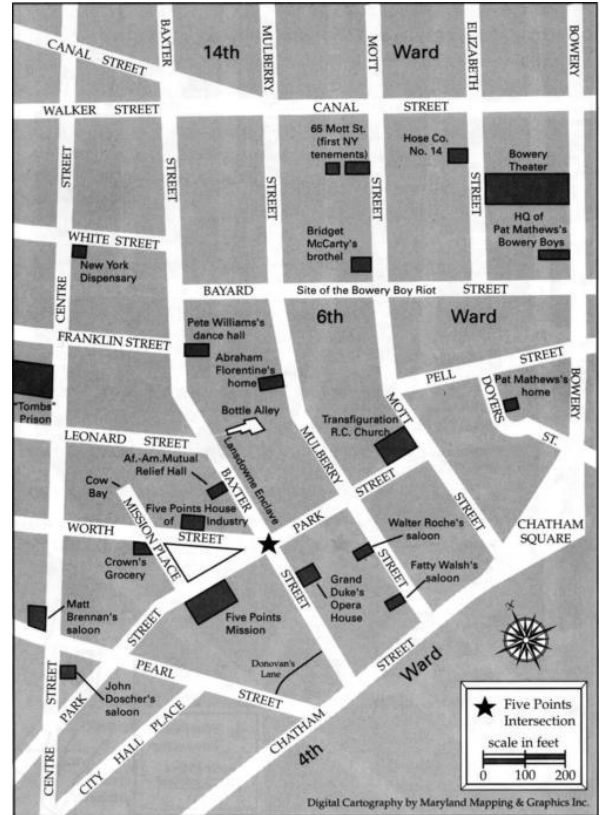
Dickens visited the Five Points, which he described in the following words:

Poverty, wretchedness, and vice, are rife enough where we are going now.

This is the place, these narrow ways, diverging to the right and left, and reeking everywhere with dirt and filth. Such lives as are led here, bear the same fruits here as elsewhere. The coarse and bloated faces at the doors, have counterparts at home, and all the world over ... See how the rotten beams are tumbling down, and how the patched and broken windows seem to scowl dimly, like eyes that have been hurt in drunken frays ...

What place is this, to which the squalid street conducts us? A kind of square of leprous houses, some of which are attainable only by crazy wooden stairs without ...

Here too are lanes and alleys, paved with mud knee-deep, underground chambers, where they dance and game; the walls bedecked with rough designs of ships, and forts, and flags, and American Eagles out of number: ruined houses, open to the street, whence, through wide gaps in the walls, other ruins loom upon the eye, as though the world of vice and misery had nothing else to show: hideous tenements which take their name from robbery and murder; all that is loathsome, drooping, and decayed is here.¹⁸⁹



A map of the Five Points district, 1855-1867, showing the intersection marked by a star and, on the left-hand side, the Tombs Prison. Digital Cartography by Maryland Mapping & Graphics Inc.



Mulberry Street, 1900. Library of Congress, Prints & Photographs Division, LC-D4-12683.

The Tombs was a part of this area, located only a short distance from the Five Points intersection. To reach the intersection from the Tombs one only needed to walk one block south on Centre Street, turn left onto Worth Street, and proceed one cross-town block.

Many of those who were incarcerated in the Tombs and

who looked to Mrs. Foster for assistance, and the families of those persons, came from this impoverished neighborhood. Thus, Mrs. Foster's work in the Tombs and her labor on behalf of the detained required that she frequent the neighborhood and its facilities on a daily basis. The groundbreaking publication of Jacob Riis's *How the Other Half Lives: Studies Among the Tenements of New York* in 1890, when Mrs. Foster was working there, shed unsparing light upon the harsh conditions of the area, which are visible today in Mr. Riis's surviving photographs, including of the inside of the Tombs.¹⁹⁰ The faces of many poor immigrants and others who lived in the Five Points neighborhood now stare out at us from the streets and buildings and rooms photographed by Mr. Riis, and the modern viewer can only wonder how these persons endured such conditions. But they did, and they continued to do so for some considerable time before the work of Mr. Riis, Theodore Roosevelt, and many others led to the elimination of the Five Points tenements.



Leonard Street Police Station. Jacob A. Riis / Museum of the City of New York, 90.13.4.233.



Tenement House Yard, circa 1890. Jacob A. Riis / Museum of the City of New York, 90.13.2.26.



Bottle Alley, Mulberry Bend, circa 1895. Jacob A. Riis / Museum of the City of New York, 90.13.1.33.

In working each day in the Tombs Prison, and walking the streets of the Five Points neighborhood on a daily basis, which almost no one else of her social station would have done or did, and doing her work in the wretched and dangerous tenements, saloons, and other establishments of the area, Mrs. Foster demonstrated clearly that she was a person of exceptional determination, dedication and courage.



Rear tenements in Mott Street, where it was said that an immigrant had murdered his wife, circa 1895. Jacob A. Riis / Museum of the City of New York, 90.13.



Mott Street Yard, circa 1890. Jacob A. Riis / Museum of the City of New York, 90.13.2.131.



Baxter Street Alley, 1895. Jacob A. Riis / Museum of the City of New York, 90.13.1.277.

10. How Mrs. Foster's Work Came to an End



The Park Avenue Hotel, circa 1900. Library of Congress, Prints & Photographs Division, LC-D4-18027.

At age 54, Mrs. Foster was in full stride pursuing her work when she died, suddenly and tragically, on February 22, 1902, in a hotel fire that damaged a portion of the Park Avenue Hotel on the southwest corner of Park Avenue South and 34th Street. At one time she reportedly had lived at 441 Park

Avenue at 30th Street, and the

understanding of the Foster family has been that she had lived at addresses on East 76th and East 78th Streets in earlier years,¹⁹¹ but in more recent times she had moved to the comfortable hotel, perhaps as a way to simplify her life after her daughters married. About 460 guests were in the hotel at the time of the conflagration. Seventeen persons, including Mrs. Foster, died in that fire. Two of the other victims were also members of the congregation of Calvary Church.

Fire, of course, was a great danger in New York City in those days given its many wooden structures. The Park Avenue Hotel, however, was large and modern (1878), with spacious quarters and accommodations for residents and guests, and was considered to be an advanced fireproof building. The fire appears to have been started by the transfer of burning embers from a fire that was in progress across Park Avenue South where the Seventy-First Regimental Armory was then located. The fire apparently raced up an elevator shaft in the hotel and many patrons trying to

escape by stairway were overcome by smoke that engulfed that stairway. It was reported that Mrs. Foster, after having escaped from her room, Room 612, had returned to assist an elderly hotel patron:



The Dining Room at the Park Avenue Hotel, circa 1901. Byron Company (New York, N.Y.) / Museum of the City of New York, 93.1.1.6447.



A Waiting Room at the Park Avenue Hotel, circa 1901. Byron Company (New York, N.Y.) / Museum of the City of New York, 93.1.1.6446.

[W]hen the fire started in the hotel, in which she lived, Mrs. Foster easily reached a place of safety. She was anxious about an invalid woman who was on one of the upper floors, and made repeated inquiries as to her safety. Lewis Edwards, who was in the hotel, said today that Mrs. Foster, on learning that the ill woman had not been accounted for, went back into the burning hotel and perished in her efforts to find the invalid, whom she sought to bring to a place of safety.¹⁹²

Mrs. Foster's untimely and sudden death came as a very great shock to many and, despite her aversion to publicity, was much reported on by the papers. Especially shocked and saddened by her death were the members of the local legal community -- Judges, prosecutors, attorneys, and prison wardens and officers -- and, of course, most poignantly, the prisoners and countless other unfortunates who had been the direct beneficiaries of her labors.



The interior of one of the rooms at the Park Avenue Hotel, circa 1901. Byron Company (New York, N.Y.) / Museum of the City of New York, 93.1.1.6436.



The interior of one of the rooms at the Park Avenue Hotel, circa 1901. Byron Company (New York, N.Y.) / Museum of the City of New York, 93.1.1.6435.

On February 23, 1902, the day before the funeral at Calvary Church, services were held in memory of Mrs. Foster at the Tombs, first in the women's ward and later in the men's ward.¹⁹³ "When it became known in the Tombs Prison that the 'Tombs Angel' had passed away there were some of the deepest expressions of grief that have ever invaded the walls of that forbidding structure."¹⁹⁴ A service in her memory was held at God's Providence Mission. It was reported that "Florence Burns ... sorely misses Mrs. Foster. The latter, until her untimely death, daily visited Miss Burns and steadily encouraged her. The prisoner was visibly affected at both services in the women's ward" in the Tombs.¹⁹⁵

The day of Mrs. Foster's funeral began with a simple service at the house of Mrs. William C. Bowers, Mrs. Foster's daughter Jeanette. She and Mrs. Foster's other daughter, Mrs. Francis S. Colt, and their three little children were the chief mourners, along with three of Mrs. Foster's sisters.¹⁹⁶

The opening of the courts that day was postponed to allow Judges and court staff to attend the funeral.¹⁹⁷ The funeral service was "[p]robably one of the most remarkable gatherings that was ever collected in a church of this city ..."¹⁹⁸ "No woman has been laid away with more loving hands and more widely expressed sorrow than Mrs. Rebecca Salome Foster, 'The Angel of the Tombs.' The funeral was a sight such as is seldom seen in Greater New York."¹⁹⁹ Those present included the District Attorney, many judges, and many attorneys, prosecutors, and prison staff, and those who had been helped by her. Indeed, said one press account, "[a]lmost in the same pews with the Judges who dispense the criminal laws in our courts sat men and women who had been reclaimed from lives of crime by the one to whose memory they had come to offer silent tribute."²⁰⁰

This account went on:

Prominent philanthropists and clergymen noted for their energy in many fields of charitable work mingled with turnkeys of the city prisons and attendants of the criminal courts. Children and young girls from the slums ... mingled with men and women prominent in social life who had given generous financial aid to Mrs. Foster in her charitable work. Hundreds stood at the rear of the church and in the side aisles.²⁰¹

Approximately 100 of the students from Mrs. Foster's sewing school were there,²⁰² as were numerous Episcopal officials and representatives of the Society for the Protection of Jewish Prisoners.²⁰³ Floral tributes were sent by the Society for the Prevention of Cruelty to Children and the judges of the Supreme Court.²⁰⁴ Throughout the service many women were noticed weeping silently in the rear of the church. Among those was Maria Barbella.²⁰⁵ She brought flowers as a tribute to "my friend."²⁰⁶ Florence Burns sent flowers, as did jointly prisoners from the Tombs.²⁰⁷

Peter Seaman, who had been a court officer in General Sessions for almost thirty years, and who, with a score or more other attendants of the Criminal Courts, was in the church, said after the services that he had recognized at least 100 men and women there who had been arraigned before the criminal bar for various crimes, ranging from murder to petty larceny.²⁰⁸

Another account also noted the heterogeneity of the mourners:

A common sorrow called together a throng of people of all nationalities and social classes yesterday morning, and men of affairs, women of position and outcasts of the street wept together by the bier of their friend, Mrs. Rebecca Salome Foster ...

The big auditorium was filled to the doors, while outside on the sidewalk a sad-faced group of unfortunates, too unfamiliar with churches and their ways to enter, paid their tribute of love in silent tears.²⁰⁹

After the funeral Mrs. Foster was buried alongside her husband and her children, Lomie and John, in the family plot in Woodlawn Cemetery in the Bronx.

The day before the fire, Mrs. Foster had been making her usual rounds and had come into contact with two women who had been picked up in the streets. She had taken them to lodgings in St. Barnabas House to provide them with shelter. She had asked that shoes be given to the women, and had said that she would pay for them the next day. She did not live to fulfill her promise, but her request was considered her dying wish and the women received the best shoes to be found in the place.²¹⁰

The *Annual Report of the Prison Association of New York* issued after Mrs. Foster's death noted that "the impression which her earnest, intelligent and self-sacrificing work for prisoners had made upon the court is seen in the remarkable tribute which was paid to her in the Court of Special Sessions, which on motion of the District Attorney, adjourned in respect to her memory."²¹¹ In making this motion, District Attorney Jerome said:

What she was to this court and the unfortunate people with whom it has had to deal is too well known to need statement. For many years she came and went among us with but a single purpose: "That men might rise on the stepping-stones of their dead selves to higher things."

There is a word which is seldom used. To us, who in administration of the criminal law are daily brought into contact with the misfortune and sin of humanity, it seems almost a lost word. It is the word "holy." In all that word means to English-speaking peoples, it seems to me it could be applied to her. She was indeed a "holy woman." It hardly becomes us to do aught else than to testify in holy, reverent silence of our love and respect.²¹²

Presiding Justice Holbrook, in granting the motion, said:

It is eminently proper that we should interrupt our regular proceeding and pause for a moment to plant a flower of remembrance evincing our regard for that noble and saintly woman -- Mrs. Foster -- not inaptly called and known as "The Tombs Angel" -- whose tragic and pathetic death has so greatly saddened our hearts. Mrs. Foster was known to and highly respected by all who frequent this court. Perhaps none knew her better than the

members of this bench, on whom she was wont to call almost daily in the performance of her benevolent work, and in the discharge of her duties as a probationary officer of this court.

It has been very truly and eloquently said of Mrs. Foster by the learned District Attorney, that to those in distress, and especially to those of her own sex, she was a good and true angel. To the erring and wayward, her large, generous, and womanly heart ever went out with sincere and deep sympathy. Her appearance at the dark and gloomy cell to the inmates was like a veritable sunbeam. Numberless lonely and weary hearts have been cheered, gladdened, and made even radiant by her ministrations and words of good cheer, and numberless, too, of those who have strayed from the straight and narrow way were brought back by her sweet influence to paths of rectitude and virtue. ...

We shall all miss her bright, charming face, and many, very many, alas! will miss her cheerful words of comfort and hope. As a slight token of our esteem, and as a perpetual reminder of her good works, the clerks will cause these proceedings to be entered upon the minutes of this court.²¹³

The Court of General Sessions and the Supreme Court also adjourned in her honor.²¹⁴

Mrs. Foster was eulogized by the Rector of Grace Church in these words:

“The Angel of the Tombs” men called her. A strange epithet, and to one who knew nothing of our city’s ways and woes an unintelligible one; but what it meant our Judges know, our prosecuting attorneys know, yes, best of all, those poor creatures know by whose suffrage this unique order of merit was created and conferred. It was they who named her “Angel,” they whose dwelling place was the Tombs, and into whose dark lives she came as a messenger of light.²¹⁵

A newspaper report days after her funeral gave an indication in concrete terms of the extent of the gap left by her death:

With the death of Mrs. Rebecca Salome Foster, the “Tombs Angel,” the work of the committee known as the Friends at Court is at an end, and the organization will disband. The balance in the treasury, which amounts to about \$1,300, will be returned to the subscribers, or, if they agree, will be used to continue some project dear to Mrs. Foster’s heart at the time of her death, and so serve as a memorial of

her useful life. Whether it will be employed to help one life or to extend some more general work is not yet decided.²¹⁶

In 1909, Commodore Elbridge T. Gerry, who was at various times the president of and counsel to the Society for the Prevention of Cruelty to Children, testified before a legislative commission examining the lower courts of the city. He took the occasion to describe Mrs. Foster as the most efficient “probation officer” the city had ever seen, a born friend of children and those in need of sympathy.²¹⁷

In the year of her death, a tablet in Mrs. Foster’s memory was unveiled in God’s Providence Mission on Broome Street, where she had run her sewing school for many years.²¹⁸

The Warden of the Tombs, reflecting after her death, said that he had never in his life seen another woman like Mrs. Foster and never expected to. “She was the kindest, the gentlest woman in the world ...”²¹⁹

Nobody can ever know the amount of good that woman did in the many years she worked in this prison.

She had a genius for the work. She could talk five minutes with a prisoner and entirely win her confidence ... Hundreds, perhaps thousands of first offenders were saved by her from adopting a criminal career.²²⁰

THE FOSTER MEMORIAL

Not long after Mrs. Foster's death a campaign was organized to finance a fitting public tribute in her memory. The idea was suggested by the City Club, the trustees of which assigned the task of arranging the details and procuring the necessary funds to one of the Club's committees. Capt. F. Norton Goddard, the treasurer of the fund, issued a public appeal for subscriptions. He wrote to various noteworthy persons and solicited from them letters supporting the campaign and describing "the thorough excellence of [Mrs. Foster's] work, and the great beauty of her character."²²¹ In May 1902, the *New York Times* reported that the fund "is receiving replies that are quite encouraging. But a considerable sum is required to provide a dignified and beautiful work of art which shall fitly perpetuate the memory of Mrs. Foster."²²²

The *Times* described some of the responses received:

District Attorney Jerome, in forwarding a check, eulogizes Mrs. Foster and declares that any language approximately describing her work would seem extravagant. In addition he said: "In pursuit of the work to which she was devoted, I have known her to go on until from sheer exhaustion she fainted away ..."

In transmitting his check ex-District Attorney Philbin warmly commended the plan, and paid a high tribute to Mrs. Foster, saying among other things: "It was Mrs. Foster's practice to visit the prisons and the Tombs, and in a quiet, unaggressive manner appeal to the better feelings of the inmates. Although herself of high social standing, she was able to have a thorough sympathy not only for the unfortunate circumstances that caused imprisonment, but also as to the environment whence the prisoner came ... This great work of charity differed from any other that I have ever known in that, although a great volume of work was accomplished, practically no part of the funds furnished from time to time by Mrs. Foster's friends was used in the expenditure of salaries or other items, but the money supplied was used almost exclusively for the aid of the unfortunate."²²³

And this article contains this remarkable tribute by a former District Attorney:

In announcing his readiness to contribute to the fund ex-District Attorney W.M.K. Olcott said: "Mrs. Foster's deplorable death will be felt with more poignant sorrow and for a longer time and by more people than that of any one with whom I have ever come into contact. Her work was painstaking and thorough and tactful and inspired. Her memorial will not only commemorate herself and her good deeds, but will urge others to profit by some of the graces of her good example, and so your work will continue the beneficence of hers."²²⁴

In his efforts to secure endorsements for this project and to generate funding for it from the public, Goddard wrote to the Secretary to President Theodore Roosevelt. That letter bore fruit. President Roosevelt sent the following letter dated April 21, 1902:

My Dear Captain Goddard:

I gladly enclose my subscription to help erect a monument to Mrs. Rebecca Salome Foster, better known as the "Tombs Angel." It is a very real pleasure to testify even in so small a way to her work.

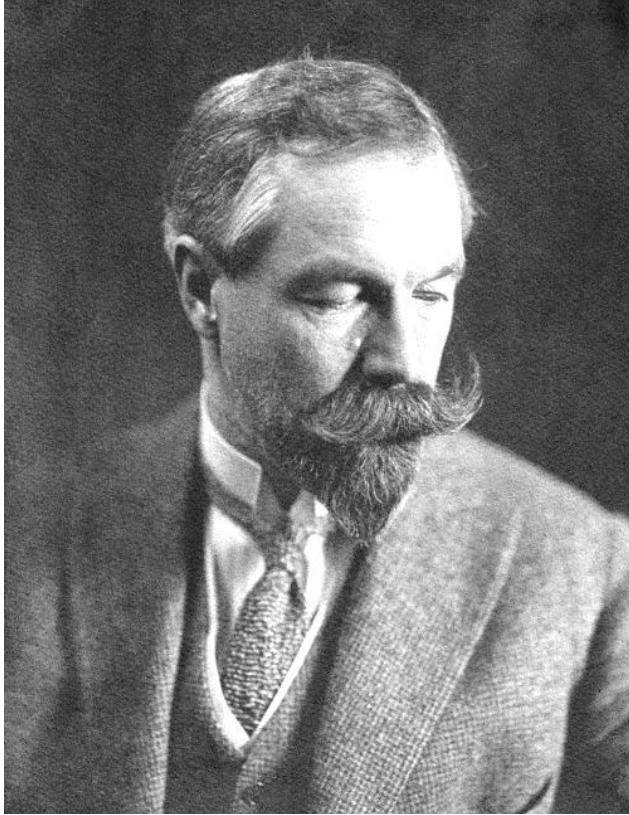
Faithfully yours,

Theodore Roosevelt²²⁵

We do not know whether President Roosevelt ever met Mrs. Foster. But Roosevelt had grown up in an atmosphere of concern for social improvement as a result of the activities of his beloved father. Theodore Senior, who had been deeply religious, had helped to create the Children's Aid Society to support the city's homeless children. He had been instrumental in the establishment of the Newsboys' Lodging House, which provided accommodations for several hundred stray boys nightly, and he spent part of every Sunday working with the boys there. He also helped to start the New York Orthopedic Dispensary and Hospital, which provided treatment for children with deformities.²²⁶ Theodore Junior was a prominent reformer active in Republican politics in New York City who, after an unsuccessful campaign to become Mayor of the City of New York, served as President of the Board of Commissioners of the New York City Police

Department, the headquarters of which were located at 300 Mulberry Street, between Houston and Bleecker Streets, not far from the center of the Five Points neighborhood, from 1895 to 1897, while Mrs. Foster was at work. He was a close personal friend of Jacob Riis, who wrote a biography of him in 1904, and was strongly influenced by Riis's work on the tenements of New York. As President of the Police Commissioners, Roosevelt would prowl the streets of the city in the dead of night and the early morning checking on the activity of his police officers, and Riis would sometimes accompany him. Roosevelt fought against and reduced politics, ethnic discrimination, and corruption in the police force.²²⁷ Roosevelt "personally brought about the closure of a hundred of the worst tenement slums seen on his famous night patrols."²²⁸ After he became Governor of New York, Roosevelt established a Tenement House Commission to address problems in those troubled areas so well documented by Riis. Thus, Roosevelt was very familiar with the Five Points, tenement life, crime in the city, the effects of poverty on the young and immigrants, and the needs of the poor, particularly the young, and so it is reasonable to conclude that he knew of Mrs. Foster and her work while serving as President of the Police Commissioners and afterward. Incidentally, the Roosevelt family home at 28 East 20th Street was only a block or so away from Calvary Church.

A number of articles about the progress of the public subscription appeared in the newspapers in the months that followed its initiation. In due course sufficient funds were raised to finance a suitable monument to Mrs. Foster. Karl Bitter was commissioned to create the work, and Charles R. Lamb (1860-1942) was chosen, perhaps by Bitter, to produce the metal frame.



Karl Bitter, circa 1905. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.

The selection of Karl Bitter for the commission was a reflection of the admiration felt for Mrs. Foster by the supporters of the campaign. Karl Bitter was one of the most celebrated and respected sculptors of his time. He was born in Austria in 1867 and studied in Vienna at the School of Applied Arts (1881-1884) attached to the Austrian Museum of Art and Industry, with the intention of becoming a landscape painter. Gradually, he became interested in sculpture. From 1885-1888, he studied at the Imperial Academy of Fine Arts.

During this period, he also worked as an assistant to established sculptors on the ornamentation of public buildings and he apprenticed as a stone carver. In pursuing an artistic life, Bitter acted in defiance of his father, who was a stern disciplinarian and wished his sons to become lawyers. Bitter came to America when he was 22, in 1889, while Mrs. Foster was working in the Tombs. As was true of so many immigrants before and has been true since, Bitter arrived with very little -- a bag weighed down with the tools of his profession, virtually no English, a German-English dictionary, no connections in America, no letters of introduction, and only a few dollars in his pocket. Bitter's education, experience, and talent saved him from the rigors of the tenement life that otherwise might have awaited him. Within days of his arrival in New York, good luck came to him and he chanced to find work modeling figures in clay for a firm of architectural decorators. Within a few weeks thereafter, his work came

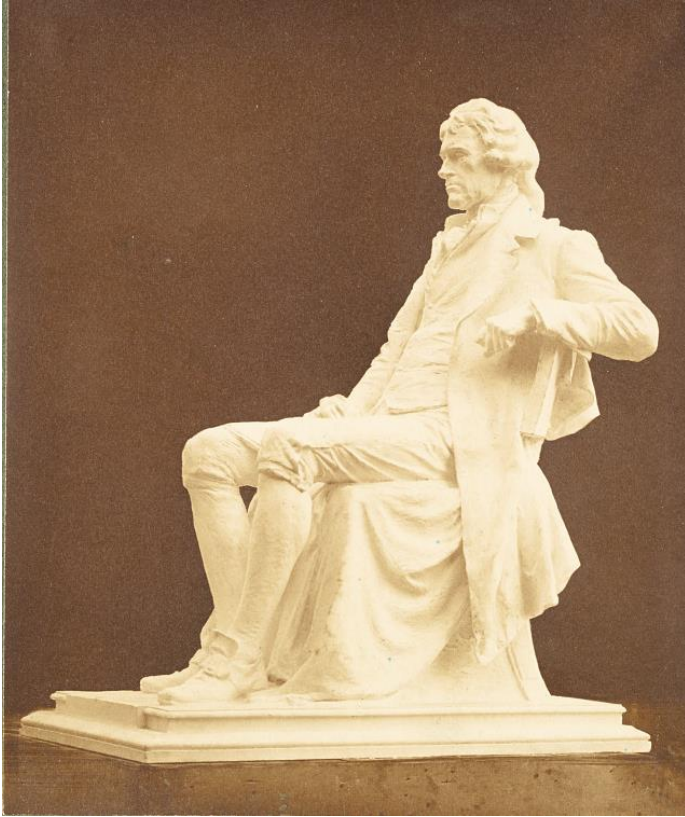
to the attention of Richard Morris Hunt, the firm's most important client and one of the most prominent architects in America. Hunt became a mentor to Bitter. He urged Bitter to leave his job and set up a studio of his own, which Bitter did, on East 13th Street, and Hunt referred much decorative work to him for projects Hunt had in progress. In this early period, Bitter learned about a prize competition for bronze doors for Trinity Church, Wall Street, in New York, for which John Jacob Astor had left money in his will. Bitter submitted a design and in 1891, when he had been in America only 16 months and was only 23 years old, he won the prize for the main door on Broadway. The door was created and installed, and this success, together with the support of Hunt,²²⁹ firmly set Bitter on his career.²³⁰

In the first stage of his career, Bitter did decorative sculpture. He did work for the Astor, Huntington and Goodyear residences, the Long Island home of William K. Vanderbilt, the Park Avenue mansion of Cornelius Vanderbilt II, and, later on, for the garden of Kykuit, the Rockefeller estate in Westchester County, New York. He provided decorative sculpture for the Vanderbilt mansion, the "Breakers," in Newport, Rhode Island,²³¹ as well as extensive work at Biltmore, the estate of George W. Vanderbilt in Asheville, North Carolina, the largest home in the United States.²³² These commissions gave Bitter financial security such that he was able, at only 28, to commission the construction of a home and studio for himself on the edge of the New Jersey Palisades in Weehawken, which was completed in 1897.²³³

By the beginning of the new century Bitter had turned from privately commissioned ornamental works and increasingly focused his energies on architectural sculpture, sculpture that sought to adorn and to enhance the beauty of buildings, of which a great many were being built in the ever-more-prosperous country. The creation of such sculpture was challenging because it had to be, of course, beautiful and of high quality, but also must be in harmony with the designs and

intentions of the architects. Among his architectural efforts were many works for the exterior of the Broad Street Station in Philadelphia, as well as a frieze 30 feet in length for the interior entitled “The Progress of Transportation” (1895);²³⁴ a medallion on the Custom House Building in lower Manhattan;²³⁵ a group for the exterior of the Appellate Division, First Department, in New York City (“Peace,” on top of the balustrade facing Madison Square) (1900); four figures on the exterior of the Metropolitan Museum of Art facing Fifth Avenue (1901);²³⁶ and a significant amount of work for the new Wisconsin State Capitol Building in Madison (1911).²³⁷

In addition, Bitter was also called upon to create portraits, sculptures of figures, reliefs, monuments, memorials, and other kinds of work. Among his impressive designs with historical themes were a monument commemorating the signing of the treaty effecting the Louisiana Purchase for the Missouri Historical Society and large-scale figures of Thomas Jefferson on three occasions, for the Jefferson Memorial at the Missouri Historical Society in St. Louis, the new Cuyahoga County Courthouse in Cleveland, Ohio (along with a flanking sculpture of Alexander Hamilton, also by Bitter), and at Jefferson’s university, the University of Virginia (a modified, smaller version of the Missouri work).²³⁸ Bitter is said to have been the first artist to have attempted a major portrait of Jefferson since his death in 1826.²³⁹ Bitter also created a sculpture of Henry Hudson now located in Henry Hudson Park, Bronx, New York.²⁴⁰



Sculpture of Thomas Jefferson by Karl Bitter, circa 1905. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.



Photo of Karl Bitter and the model for his sculpture of Alexander Hamilton. This sculpture and another by Bitter of Thomas Jefferson (1909-1911) flank the entrance to the Cuyahoga County Courthouse, Cleveland, Ohio. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.



The Villard Memorial (1904) by Karl Bitter at the cemetery at Sleepy Hollow, New York. Courtesy of Wikimedia Commons.



Sculpture of Dr. William Pepper (1896), Provost of the University of Pennsylvania and founder of the Free Library of Philadelphia, by Karl Bitter. Courtesy of Wikimedia Commons.

Other noteworthy commissions are the full-scale relief of Dr. Henry Tappan, President of the University of Michigan, and full sculptures of Dr. William Pepper at the University of Pennsylvania and Dr. Andrew White at Cornell; the Villard Memorial in Sleepy Hollow, New York; the equestrian statue of Civil War General Franz Sigel on Riverside Drive and 106th Street in New York City (the monument committee for which included Carl Schurz, in whose home the group met);²⁴¹ and the Carl Schurz Memorial located at West 116th Street overlooking Morningside Park in New York City.²⁴² Bitter selected the impressive sites for both the Sigel and Schurz monuments, which he was not always able to do with his commissions. Bitter worked on the Dewey Triumphal Arch on Fifth Avenue at 24th Street in New York City in 1899 along with colleagues from the National Sculpture Society, including Charles Lamb, one of its founding members, who designed the arch.²⁴³ The Breckenridge Memorial by Bitter is a tablet at the United States Naval Academy commemorating an ensign lost at sea in the Spanish-American War. A number of Bitter's works are in the Metropolitan Museum, including the All Angels' church pulpit and choir rail (1900), which is on display in the great atrium of the Museum's singularly important American Wing.²⁴⁴

Bitter also spent much time in promoting sculpture at important expositions. He worked on sculpture groups at the Columbian Exposition in Chicago in 1893. His creativity and skill at the administration of large projects became well-known in the profession and, together with the general advancement of his career and accomplishments, led to leading roles at three subsequent expositions. He served as the director of sculpture at the Pan American Exposition in Buffalo, New York of 1901.²⁴⁵ He was chosen for this position by a unanimous vote of his peers at the National Sculpture Society, a high honor reflective of the respect in which he was held in the profession.²⁴⁶ The architects' plan for the exposition specified how much sculpture should be employed and the

relative size of the various groups, but it was left to Bitter to determine the subjects and designs for all of the many works that would be used. He decided not just the general themes for the sculpture, but the subjects for each subordinate group, and he contributed some work of his own as well.²⁴⁷

In 1904, Bitter again served as the director of the department of sculpture at the St. Louis Exposition, at which the Louisiana Purchase was celebrated, which position required him to design the sculpture theme for the exposition, assign the work to groups of sculptors, evaluate their performances, and supervise the enlargement and placement of each group. This was a massive undertaking since there were some 250 groups and over 1,500 single figures to be completed and installed, all within a matter of months. To do this work, Bitter established an enlarging shop in Weehawken and had shipped from there to St. Louis 54 railcar loads of full-scale sculpture in staff.²⁴⁸ He was also the director of sculpture for the 1915 Panama-Pacific International Exposition in San Francisco.



Karl Bitter, 1912. Published in Karl Bitter: A Biography by Ferdinand Schevill (1917).

Bitter had a serious interest in improving the artistic patrimony of the cityscape and rendering it more aesthetically pleasing for the benefit of all citizens, particularly as New York City grew in size and prosperity. This no doubt explains his service (without pay) beginning in 1912 on the Art Commission of the City of New York, which was established in 1898, and of which he was twice chosen a member. He wrote an extensive article on the subject of sculpture in urban settings, arguing that attention needed to be paid to the employment of suitable sculpture to enhance the public and aesthetic life of the city, including use, carefully planned, of “a definite

program or system which would bring about an aesthetic and harmonious development of [all large] public squares.”²⁴⁹ In the article, he discussed the potentialities of many leading public areas in the city, such as Battery Park and Washington Square Park, and the weaknesses of the current state of those spaces. One of the areas about which he was particularly concerned over many years was Fifth Avenue between 58th and 60th Streets and the entrance to Central Park. Inspired by the Place de la Concorde in Paris, he advocated that the entire area needed to be addressed by a comprehensive plan that would create an impressive space suited to the importance of the area and he sketched a design for the kind of thing he had in mind. He made a presentation on this subject to the National Sculpture Society, which appeared in print.²⁵⁰ His interest in the Plaza area led to his involvement in the planning for the Pulitzer Fountain outside the Plaza Hotel, so-named

because the funding for the project was left by Joseph Pulitzer in his will. Bitter was chosen to create the figure that stands atop the fountain, Pomona, the goddess of Abundance. The scale model of this figure was the last work touched by Bitter before his death.

Among the honors he received in his career were the silver medal of the Paris Exposition in 1900, the gold medal of the Pan-American Exposition of 1901, a gold medal at Philadelphia in 1902, and the gold medal of the St. Louis Exposition in 1904.²⁵¹

He was three times elected President of the National Sculpture Society;²⁵² was a member of the National Institute of Arts and Sciences, the National Academy of Design, the American Academy of Arts and Letters, the Players' Club, and the Century Club; and served as an officer of the Architectural League.²⁵³ His tenure on the Art Commission is interesting and ironic in that the Commission and its successor played important roles in the story of the Foster Memorial, as will be noted below.²⁵⁴

Bitter's Carl Schurz Memorial has a connection to Foley Square, 60 Centre Street, and the old Five Points neighborhood where Mrs. Foster worked, inasmuch as city planner and preservationist George McAneny (1869-1953), who is given great credit for the movement of the New York civic center north of Chambers Street, and the development of Foley Square and of 60 Centre Street itself, was a protégé of Carl Schurz, who, let us recall, had been an active supporter of Bitter's Franz Sigel equestrian statue. McAneny was a friend of Bitter, worked with him on the Schurz Memorial project, and spoke about him at the memorial given after his death. McAneny recalled "the pains, the infinite pains, that [Bitter] took with [the Schurz Memorial] and his feeling from the beginning that here was an opportunity to preserve every trace ... to give the form and features of the man who had meant so much to those who had, like [Bitter himself] had, come across the seas and found their opportunity in America ..."²⁵⁵ McAneny was certainly correct

about the pains that Bitter took with this project: the planning and execution of the Schurz monument occupied him over the course of five years.²⁵⁶

The movement of the civic center north of Chambers Street advocated by McAneny had as an aim the elimination of the blighted area of the Five Points and its replacement by what are today multiple state courthouses, including the Supreme Court, Civil Branch, New York County, and three Federal courthouses, as well as other state and Federal office buildings.²⁵⁷ When the Daniel Patrick Moynihan Federal Courthouse at 500 Pearl Street was being developed (it opened in 1996), an archaeological excavation was undertaken



The Criminal Courts Building, 1914. Irma and Paul Milstein Division of United States History, Local History and Genealogy, The New York Public Library.

by the General Services Administration. The basements of many tenements of the former Five Points neighborhood were located and over 850,000 19th century artifacts were uncovered, including everyday household items. After construction was completed, some of these artifacts were put on display in an exhibition in the new courthouse. The immigrants and other impoverished residents of the Five Points would surely have been amazed had they known that such an exhibition could ever take place. This coda to the history of the Five Points, once visited by Dickens, Jacob Riis, and other worthies, the center of much of the work of Theodore Roosevelt and his police officers and of Mrs. Foster, intersected with another critical moment in the history

of New York City: after the exhibition closed, the artifacts were moved for safekeeping to the basement of 6 World Trade Center and almost all of them (all but a few from some Irish tenements and a saloon that were on loan elsewhere) were there destroyed on September 11, 2001.²⁵⁸

The monument to honor the work and memory of Mrs. Foster that was produced by Bitter and Lamb was a wall mounting approximately seven feet high consisting of an elaborate, renaissance-style bronze frame, a marble medallion at the top bearing the likeness of Mrs. Foster, and, in the center, a large marble relief of an angel, the focal element to the composition and an allusion, of course, to Mrs. Foster's unofficial title, "the Tombs Angel," to which no express reference was made on the memorial. The winged angel supports a young boy in need by the shoulders from the rear and appears to be speaking words of hope and encouragement to him. Bitter created the medallion and the relief.²⁵⁹ He may have designed the frame as well since the model from his studio included the frame in plaster.²⁶⁰ The relief was signed by Bitter (in Latin, "Karl T.F. Bitter, Conceived and Executed 1903"). Not on the relief but underneath it on the frame were Mrs. Foster's name and dates and the words, very apt ones, "On Her Lips Was The Law of Kindness."²⁶¹



A close-up of the portrait of Mrs. Foster in the model for the Foster Memorial. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.



A photograph of the Angel relief for the Foster Memorial (circa 1903), from the studio files of Karl Bitter. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.



A photograph of the plaster model of the Foster Memorial (circa 1903), from the studio files of Karl Bitter. This photograph may be of the model on display at the Annual Exhibition at the Architectural League of New York in 1906. Karl Theodore Francis Bitter papers. Archives of American Art, Smithsonian Institution.

The Foster Memorial was publicly unveiled by Karl Bitter himself in a ceremony at the City Club on January 1, 1904 that was attended by Mrs. Foster's two daughters²⁶² and a photograph of the Memorial appeared in a newspaper around the same time.²⁶³ The installation of the monument took place in 1904 in the Criminal Courts Building, Court of Special Sessions, across Franklin Street from the site of the original Tombs Prison and that of its successor.²⁶⁴ The initial plan had been to install the tribute in one of the courtrooms, but at the suggestion of the judges it had been decided instead to place it in a heavily-trafficked hallway, no doubt so that the public could more readily see it.²⁶⁵ An installation ceremony was apparently held in April 1904,²⁶⁶ undoubtedly attended by Mrs. Foster's daughters, judges, members of the Bar, and the staff of the courts. In 1906, Bitter presented what evidently was a model or the drawings for the Foster Memorial at an annual exhibition of the Architectural League of New York.²⁶⁷

In the years after the installation of the Foster Memorial, the career of Karl Bitter continued to flourish and his influence within his profession continued to grow. But then, life linked him again to Mrs. Foster and her fate, in a different and tragic way.

In 1903, while Bitter may have been at work on the Memorial, he was traveling in a horse-drawn carriage in Manhattan when the horse bolted. The carriage overturned and he was thrown out in the street. Fortunately, he was unhurt.²⁶⁸

In April 1915, however, as he and his wife were leaving the old Metropolitan Opera House and crossing Broadway, he was hit by a swerving automobile. He died the next day. It was a sad irony that an artist who had once sculpted a paean to the progress of transportation should meet such an end. His wife, Marie, survived without serious injury because he had pushed her out of the way at the last instant. As had been the case with Mrs. Foster, his last thought in the accident that took his life was of someone else.²⁶⁹ He was only 47 years old.

WHAT HAPPENED TO THE MEMORIAL



The Tombs Angel Monument, as originally installed in 1904. Collection of the Public Design Commission.

Unfortunately, the Foster Memorial also endured a very sad fate, which forms a part of the larger record of neglect of the contributions of women in New York City.

The impressive tribute to Mrs. Foster remained in the Criminal Courts Building for more than three decades. At some point, it was decided that new court facilities were needed. The 1894 Criminal Courts Building was torn down and a new courthouse was erected in 1941. During the construction phase, the Foster monument was dismantled and eventually made its way into storage somewhere in the labyrinthian basement of the new court building at 100 Centre Street. In this process -- and it is extraordinarily disappointing to have to recount this -- the justice system and the courts for which Mrs. Foster had done so much during her lifetime proceeded to let her down: the monument was forgotten by those who ought to have protected it and restored it to public view. It is likely that court officials 40 years after her death did not have a clear idea what Mrs. Foster had done during her lifetime and did not bother to research the matter, did not consult with experts about the artistic importance of Karl Bitter's work, failed to accord that work and Mrs. Foster's memory the respect they deserved, and allowed themselves to be distracted by the press of daily obligations. The monument remained in storage as decades passed and was truly lost to the public during this time: a scholar writing about Karl Bitter's work in 1967 reported that the location of the monument was unknown and that it had probably been destroyed when the Criminal Courts Building came down.²⁷⁰ Appropriate measures for the security of the monument were either not taken or allowed to atrophy. During this time, the elaborate bronze frame and the marble medallion likeness of Mrs. Foster were stolen, lost, or discarded. Ironically, then, the woman who had devoted her life to helping those accused and those convicted of crime, as well as the courts, was victimized after her death by official neglect and perhaps by thievery. Probably the only reason the marble relief of the ministering angel was not stolen or cast aside into the trash was because it was too heavy (perhaps 900 pounds) to cart away. There comes inevitably to mind the question

whether, had the monument been in honor of a man instead of a woman, it would have been treated so shabbily.

In 1983, the Art Commission of the City of New York (now known as the New York City Public Design Commission), the group on which, as noted earlier, Karl Bitter had served, undertook a citywide survey of art owned by the City. It was during that survey that the Bitter marble relief of the angel was discovered in the basement of 100 Centre Street and the loss of the frame and the medallion was noted. When found, the relief was in a serious state of disrepair: a large corner piece had broken off and was lying on the ground adjacent to the rest of the relief, and, as significant or more so, the white marble was seriously stained by oil and grease.²⁷¹

An application to remove and repair the relief was submitted to the Art Commission in October 1988 for its approval.²⁷² The proposal recited that, because the memorial had been severely damaged and remain endangered at the courthouse at 100 Centre Street, the Art Commission, with the cooperation of the Department of General Services (now the Department of Citywide Administrative Services) and the Metropolitan Museum of Art, had had it transferred to the Museum. The Museum had agreed to undertake the cleaning and repair.

Attached to the application was a “treatment proposal” prepared by a conservator from the Metropolitan Museum.²⁷³ The conservator observed that, “[a]s has been noted by all who have seen it, the Foster Memorial [which was really, of course, only the surviving portion thereof] is presently in a severe state of disrepair. The chips and major breaks are significant but can ultimately be rectified. The greater problem lies with the extensive oil discoloration, the permanency of which will not be ascertainable until a course of cleaning is undertaken.” The conservator went on to describe the steps he recommended to conserve the relief, including applying various solutions and affixing the broken corner (with brass dowels and epoxy, etc.).

The application form indicated that the Department of General Services would be responsible for securing funding necessary for the construction of a new frame. By “new frame,” the writers meant a reproduction of, or something similar to, the original bronze frame as shown in photographs. There was no suggestion made as to reproducing the likeness of Mrs. Foster.

As to a proposed location for the relief once the conservation of it had been completed, the preparers of the form wrote that “[s]everal specific site options in the lobby of [the Supreme Court of the State of New York, Civil Branch, New York County Courthouse,] 60 Centre Street will be discussed with the Art Commission,” and several possible sites in the lobby were listed, including the one that was eventually settled on many years later, as we describe hereafter. Of course, in order for the relief to be placed in the lobby, some means would be required to display it securely and in an artistically suitable manner.

The Commission approved the request in November 1988. The approval given was “preliminary,” and was “subject to a committee review of a frame, which is appropriate and reminiscent of the original.” Approval was given with the understanding that the relief would be placed in the main vestibule of the Supreme Court at 60 Centre Street.²⁷⁴ The restoration work was performed at the Metropolitan Museum.

It appears that no funds were ever collected to cover the cost of a frame. In any event, no frame, whether a reproduction of the original or a purely functional stand, was created at this time.

THE FOSTER FAMILY AND A HOME FOR THE MARBLE RELIEF



The monument in 2021. Photographed by John F. Werner.

When the marble relief was delivered to the 60 Centre Street courthouse upon the completion of the Metropolitan Museum's conservation work, it was covered in cloth and placed upright on a wooden dolly. The dolly was consigned, for what was intended to be a modest period, to a storage area

off the Courthouse's grand rotunda in one of 60 Centre Street's converted elevator shafts. No action was taken to follow up on the Art Commission's requirement that a frame be reviewed by a committee. The relief presented a serious challenge for the court as, lacking a stand or frame, it could not be safely and respectfully exhibited. Significant intervention was required to remedy the situation, but there were no funds on hand at the courthouse to pay for what it would take to do so and little experience on the part of the court with the displaying of heavy art objects. The surviving piece of the tribute to Mrs. Foster thus remained where it had been placed for almost the next 30 years, amidst podiums, sound speakers, maintenance equipment, and such pedestrian fare.

The Foster family had certainly never forgotten about Mrs. Foster and the memorial. One of Mrs. Foster's sisters, Lila Elizabeth Elliott (Mrs. Charles R. Duff), for instance, had assembled (circa 1904) a formidable scrapbook of newspaper clippings about her sister and her work. Lila's

granddaughter, thus Mrs. Foster's grandniece, Jeremy Ann Brown, had been fascinated as a child by the contents of the scrapbook, which eventually came into her custody, and by the story of her great aunt reflected in that scrapbook.

By the early 2000's, Ms. Brown was wondering what had ever happened to the monument and undertook some informal investigations to try to discover its fate and where it might be located if it had survived.

Jeremy had been the victim of an attack by an individual who had been paroled from the Pennsylvania prison system. (It is a sad irony indeed that such a thing should have happened to a relative of a woman who, a century before, had so devoted herself to helping and rehabilitating detainees of the original Tombs prison.)²⁷⁵ Subsequently, Governor George Pataki appointed Jeremy to the New York State Commission on Judicial Conduct, which weighs complaints against judges. While on the Commission, she asked Gerald Stern, Esq., then-Administrator of the Commission on Judicial Conduct, and Robert Tembeckjian, Esq., then-Clerk or Counsel to the Commission, whom she might approach to inquire about what had become of the tribute to her great aunt. Stern and Tembeckjian referred her to the Honorable Norman Goodman, the long-serving County Clerk of New York County, since they knew that he had familiarity with the courts in Manhattan. Stern, Tembeckjian, and Jeremy were entirely unaware at this time where the monument might be. Jeremy contacted Mr. Goodman and met with him in his office at the New York County Courthouse in or about 2006. A representative of the Public Design Commission was also in attendance. It was Mr. Goodman who informed Jeremy that only a portion of the original monument was in existence, i.e., the marble relief by Karl Bitter, and that the surviving portion was in storage in the very building in which they were meeting, 60 Centre Street.

John Werner, who had been employed at 60 Centre Street since 1970 and who became the Chief Clerk of the Supreme Court, Civil Branch in 1989, was at some point informed that the Bitter relief was at 60 Centre Street in storage, but he was not advised of the history of the monument to Mrs. Foster, nor the work and the life that it had been created to honor. One day in or about 2008, more than 100 years after the Foster Memorial had first been unveiled, Mr. Werner paid a visit to the office of Mr. Goodman, and chanced upon a meeting that was underway the subject of which was the monument to Mrs. Foster. Included among the group present were representatives of the Department of Citywide Administrative Services, the



The monument in 2021. Photographed by John F. Werner.

Municipal Art Society, and the Public Design Commission, and a person Mr. Werner understood to be a grandniece of Mrs. Foster. Mr. Werner had not been invited to the meeting, but the subject was of interest to him, so he simply joined the meeting, an action with which he knew that Mr. Goodman would be comfortable. At the conclusion of the meeting, the group toured the rotunda and the entrance lobby of the courthouse and the consensus of the group was that, if the tribute could be restored to public view, it should be placed in a niche in the entrance lobby on the right-hand side, one of the sites recommended, unbeknownst to the group, so many years before. Of course, these difficult questions remained: How could the relief be displayed safely, effectively, and in a manner that would be artistically appropriate? How could a frame or support be created

(which obviously is not a subject with which a court normally deals)? And how would the display be paid for?

Mr. Werner made no notes at the meeting inasmuch as he had just happened by. All who attended that meeting went their separate ways to address the many tasks facing them. There was no further discussion for years thereafter of restoring the tribute to Mrs. Foster to public view. In April of 2014, Mr. Werner, wondering what had become of Mrs. Foster's grandniece and her interest in the surviving portion of the monument to her great aunt, asked Mr. Goodman if he had the name of Mrs. Foster's grandniece, which Mr. Werner did not recall (if he had ever been informed of it at the time of the meeting), and contact information for her. Mr. Goodman said he did not have any contact information, but he seemed to remember that her surname was "Brown." Twenty or so years before, that would have been the end of the search, but Mr. Werner then googled "Brown" and "Tombs Angel" and a posting from some years earlier came up with an e-mail address for "Jeremy Brown." Mr. Werner then sent an e-mail to that address inquiring whether any information was available about the relative of Mrs. Foster who had visited 60 Centre Street years before inquiring about the 1904 tribute. It had not occurred to Mr. Werner that "Jeremy Brown" might be a woman! Within the day, Mr. Werner received an e-mail reply from Jeremy, who identified herself as the person who had participated in the meeting in Mr. Goodman's office in 2008. From the day of those e-mail exchanges onward, Jeremy Brown and Mr. Werner worked together in an effort to return the tribute to Mrs. Foster to public view at 60 Centre Street.



The New York County Courthouse, 60 Centre Street (1927). Photographed by John F. Werner, 2021.

The effort to restore the Bitter relief to public view was a lengthy and complicated process. It was also, however, a collaborative process, among the Public Design Commission's Keri Butler; the Municipal Art Society's Phyllis Cohen; Lana Kim of the Department of Citywide

Administrative Services ("DCAS"); Ottavino Stone Corp.'s Kate Ottavino; the Supreme Court, Civil Branch, New York County; and, of course, Jeremy Ann Brown on behalf of the Foster family. Substantial effort was put into investigating and considering the relative merits, including the practicality, of the options that might be available to display in a secure and appropriately dignified manner the large and very heavy carving. Eventually, it was decided that a stand that could accommodate the weight of the relief and that would be designed in such a way as not to distract the viewer's attention from the artwork would be crafted by the Ottavino Stone Corporation. Ottavino would also perform some further restoration work funded by DCAS. The Municipal Art Society was able to obtain funding for the stand for the marble relief through a generous grant from the Porzelt Foundation.

The relief was moved from the courthouse to the Ottavino firm. The restoration work was conducted under the direction of conservator Kate Ottavino and consisted of cleaning the piece and replacing some of the fills/patches in cracks that had deteriorated with the passage of time.²⁷⁶

The stand was built and delivered to the Supreme Court at 60 Centre Street in 2019. It was then installed in the niche in the vestibule that had been selected previously. The relief was returned to the courthouse and placed on the stand, a challenging process that, because of the great weight of the carving, involved the use of hoists and scaffolding.

Not long afterward, in June 2019, the relief was rededicated in a public ceremony in the beautiful and historic rotunda of the Supreme Court building at 60 Centre, a program that celebrated Mrs. Foster, her decades of work on behalf of the poor and imprisoned, and Karl Bitter, while expressing gratitude to the Public Design Commission, DCAS, the Municipal Art Society, and the Porzelt Foundation for the critical assistance they had provided. The installation and rededication of the long-lost relief were the subject of a number of articles in various publications,²⁷⁷ including one on the first page of the “Arts” section of the New York



The Tombs Angel Monument, as installed in 2019. A rededication ceremony was held on June 25, 2019, and is available for viewing on the Historical Society of the New York Courts’ website (history.nycourts.gov). Photo courtesy of the authors.

Times that included a large and lovely photograph of the relief.²⁷⁸ A very large crowd, standing room only, attended the ceremony. Jeremy Ann Brown, her grandmother’s scrapbook in hand, spoke at the event and members of her family were in attendance to witness, finally, after 115 years and such sad misfortune, the return to public view of the surviving portion of the monument. (Thanks to the generosity of Jeremy Brown and the Foster family, the scrapbook has now been

donated to the archives of the Public Design Commission.) Two scholars gave presentations that provided important and interesting context. Professor Jon Ritter of New York University presented an appreciation of the marble relief and discussed Karl Bitter and his artistic importance.²⁷⁹ Robert Pigott, Esq., an author with a scholarly interest in the history of New York City and its buildings, described, including through the use of period photographs, the original Tombs and its immediate successor, the courts of the period, and the surroundings in which Mrs. Foster went about her work.²⁸⁰ Given Mrs. Foster's long connection to the church and the central role it had played in her life, it was fitting that the current rector of Calvary Church, the Rev. Jacob Smith, and its archivist, Eric Stedfeld, were in attendance as well.²⁸¹

Karl Bitter had the capacity, through his skill and the creativity of his designs, to infuse much emotional power into his sculpture. This is evident, for example, in his moving Villard Memorial in Sleepy Hollow, as well as in the Crane Tablet, which may have been inspired by the Foster carving.²⁸² Although unfortunately we cannot today feel the full impact of the Foster Memorial as it was when Bitter created it, the surviving portion exhibits that emotional power, especially when one knows the story of the Tombs Angel and why the carving depicts an angel helping a young person in trouble. As one writer at the time who knew Bitter wrote, “[t]here is much sentiment . . . in such a work as his tablet in recognition of the self-sacrificing life among the unfortunates and erring of Mrs. Rebecca Foster, ‘The Tombs Angel,’ for the Criminal Courts Building, New York.”²⁸³



The landmark Tweed Courthouse, 52 Chambers Street (completed 1881). The building is two blocks south of today's Foley Square and several blocks from the site of the original Tombs Prison. Photographed by John F. Werner, 2021.



This landmark building (1895), on Lafayette Street at White Street, was the firehouse of Engine Company 31. The building was situated across Lafayette from the old Criminal Courts Building (1894), a short distance from the original Tombs Prison. Photographed by John F. Werner, 2021.



A view of part of today's Manhattan Detention Complex, located on White Street near the site of the original Tombs Prison. The Complex is still referred to informally as "the Tombs." Photographed by John F. Werner, 2021.



A photograph of the Five Points intersection as it looks today. The view is taken from Baxter Street looking at Worth Street to the south and at the Worth Street entrance to the Daniel Patrick Moynihan United States Federal Courthouse. Located only feet away to the right of this courthouse is the New York County Courthouse, 60 Centre Street. Photographed by John F. Werner, 2021.



A view of the west side of Centre Street looking to the north showing today's Collect Pond Park on the site of which was located the original Tombs Prison. To the left in this photo can be seen the New York Family Court on Lafayette Street and, to the right, the New York City Civil Court Building at 111 Centre Street. The old Criminal Courts Building was located where the latter is today. Photographed by John F. Werner, 2021.



A photograph of the Five Points intersection as it looks today. The view is taken from Worth Street looking up Baxter Street to the north. Photographed by John F. Werner, 2021.



This landmark building, 346 Broadway (between Catherine Lane and Leonard Street), was formerly the New York Life Insurance Company Building (completed 1894-99). The rear of the building is on the west side of Lafayette Street catty-corner from the site of the original Tombs Prison. Photographed by John F. Werner, 2021.



An entrance to Collect Pond Park on Centre Street. The New York Life Building and the Family Court can be seen across the park. Photographed by John F. Werner, 2021.



The Manhattan Criminal Courts Building, 100 Centre Street (completed 1941), located across Centre Street from the site of the original Tombs Prison. Photographed by John F. Werner, 2021.



An interior view of Collect Pond Park. Photographed by John F. Werner, 2021.

It is said that timing is everything, and so it sometimes appears. During the two years or so before the rededication of the Foster memorial, the *New York Times* had run a series of articles and op-ed columns about the dearth of tributes in New York City and beyond to women deserving of recognition, in contrast with the countless monuments to deserving, and not so deserving, men.²⁸⁴ Thus, the timing of the restoration to public view of the surviving portion of the Foster Memorial could not have been more appropriate. Here we have a marble relief, a work of art that is impressive on its own terms, from a very rare historical monument to a woman, one who, during an important and difficult period in New York City's history, through her extraordinary energy and dedication and the power of her compassion, made great contributions to the City, the system of justice, the development of the values they hold dear, and the City's inhabitants, especially prisoners, their families, immigrants and the poorest and most abandoned, and who, by her actions, offered a pathway, in many ways a visionary and groundbreaking one, by which society might reclaim to a decent and productive life those who have fallen afoul of its laws. Finally, after so much trouble, the surviving portion of the memorial to the Tombs Angel had found a permanent home. It can be hoped that, today and far into the future, many will view the surviving relief of the ministering angel and admire it for its beauty and the depth of feeling it conveys through the fine hand of Karl Bitter, will remember the life and work of the Tombs Angel, as had been the intention of all those who donated in 1902 to make the memorial possible, and will perhaps even be inspired to go forth and put into practice in their own ways the law of kindness by which Mrs. Foster lived.

ABOUT THE AUTHORS

John F. Werner, Esq. was the Chief Clerk and Executive Officer (1989-2019) of the Supreme Court, Civil Branch, New York County. Robert C. Meade, Jr., Esq. served as his deputy. A much-abbreviated version of this article appeared in *Judicial Notice*, the journal of the Historical Society of the New York State Courts (No. 16, 2021), and is posted on the Society's website.²⁸⁵

¹ Until 2020, the only statues in the parks and public squares of New York City honoring historical women were of these five figures: Joan of Arc, Harriet Tubman, Eleanor Roosevelt, Gertrude Stein, and Golda Meir. Allison Meier, "The Only Five Public Statues of Historic Women in NYC," July 31, 2015, *accessible at* <https://hyperallergic.com/226186/the-only-five-public-statues-of-historic-women-in-nyc/>. In August 2020, on the 100th anniversary of the 19th amendment, a statue was erected in Central Park honoring the suffragists Sojourner Truth, Elizabeth Cady Stanton, and Susan B. Anthony, the first statue of historical women in the park. Nora McGreevy, "Why the First Monument of Real Women in Central Park Matters – and Why It's Controversial" (Aug. 26, 2020), *accessible at* www.smithsonianmag.com/smart-news/monument-controversy-women-pioneer-central-park-180975662/. *See also* Katie Honan, "Statue of Italian-American Saint Mother Cabrini Unveiled," *Wall Street Journal*, Oct. 13, 2020, p. A10A (statue unveiled in Battery Park).

² Rev. John B. Devins, "The Angel of the Tombs," *The Missionary Review of the World* 419 (June 1902).

³ The location of the family in these years is shown in Schedule I of several census reports that list inhabitants by county and date.

⁴ Obituary of Dr. Joel Foster, *The Sun*, June 30, 1884, p. 1.

⁵ During that siege, prior to the arrival of his regiment, Foster had occasion to deal with regiments of Black troops during assaults by them on the Confederate works. In January 1864, he wrote a letter to another officer praising the bravery and dedication of those soldiers that he had witnessed at this time. George Washington Williams, *A History of the Negro Troops in the War of the Rebellion, 1861-1865* pp. 323-24 (Harper & Bros. 1888); George Washington Williams, *History of the Negro Race in America from 1619 to 1880*, Vol. II, pp. 426-27 (G.P. Putnam 1883).

⁶ "The Civil War in the East: 175th New York Infantry Regiment," at civilwarintheeast.com/us-regiments-batteries/new-york-infantry/175th-new-york/.

⁷ An Army document called a "Post Return" for the month of February 1865 shows commissioned officers present and absent. It lists Foster as having been detached from the 175th New York pursuant to order in January 1864 and indicates by abbreviations that he had been assigned to the War Department, Judge Advocate General's Office, Washington, D.C.

⁸ United States Army, Judge Advocate General's Corps, *The Army Lawyer: A History of the Judge Advocate General's Corps, 1775-1975* (1975), *accessible at* www.loc.gov/rr/frd/Military_Law/pdf/lawyer.pdf.

⁹ Doubleday served under the commander, Major Robert Anderson, at Fort Sumter, and fired the first cannon shot in defense of the fort. He was at a later time determined to have been the founder of the game of baseball while attending West Point, although some historians have since questioned that finding. "Abner Doubleday," at www.nps.gov/abner-doubleday.htm. Col. Foster is shown in a photograph with the members of the commission, but one cannot tell from it whether Foster was a member of the tribunal or, as is perhaps more likely, the prosecutor. There is at least one photograph that was taken of the military commission that presided over the trial of the Lincoln conspirators in which the lead prosecutor and a colonel who was acting as the assistant prosecutor in that case (named below) were included with the members of the tribunal.

¹⁰ William C. Edwards & Edward Steers Jr. (eds.), *The Lincoln Assassination – The Evidence* pp. xxii-xxiii (Univ. Ill. Press 2009).

¹¹ For example, the Headquarters Provost Marshal General of the Defences South of Potomac in Alexandria, Virginia sent Foster a message 12 days after the assassination of Mr. Lincoln reporting that a certain Parker, who was a proprietor of a theater there in which Mr. Ford of Washington had an interest, was in his custody and asking

whether Colonel Foster wished to have him. Message of Capt. Winship to John A. Foster, April 26, 1865, Headquarters Provost Marshal General, Defences South of Potomac, Alexandria, Va.

¹² William C. Edwards & Edward Steers Jr., *supra* note 10, at pp. xxii-xxiii.

¹³ Reports by Col. Foster and his lists of evidence provided can be found in William C. Edwards & Edward Steers Jr., *supra* note 10, at pp. 532-558, reproducing the content of the original documents, which are located in Bureau of Military Justice files in the National Archives.

¹⁴ At various times after the war, Burnett practiced law in New York City, where perhaps he had occasion to encounter General Foster, the Bar in those days being much smaller than it is today. Burnett was appointed by President McKinley as the United States Attorney for the Southern District of New York and was reappointed by President Roosevelt, serving eight years in the position. He was succeeded by Henry L. Stimson.

¹⁵ “The Civil War in the East,” *supra* note 6; “175th Infantry Regiment,” New York State Military Museum and Veterans Research Center, dmna.ny.gov/historic/reghist/civil/infantry/175thInf/175thInfMain.htm#photos.

¹⁶ “Local Politics,” *New York Times*, Sept. 25, 1866, p. 8; “Miscellaneous Local Politics,” *New York Times*, Nov. 4, 1870, p. 5; “Plain Facts About the ‘Troubles,’” *New York Times*, Oct. 7, 1871, p. 6; “New York City,” *New York Daily Herald*, Feb. 20, 1875, p. 10 (all mentioning John A. Foster).

¹⁷ “An Office Chair His Deathbed,” *The Sun*, Feb. 12, 1890, p. 2; “John A. Foster Dead,” *New York Times*, Feb. 12, 1890, p. 8.

¹⁸ Marie Louise married Francis S. Colt on Jan. 5, 1892. *New York Times*, Jan. 6, 1892, p. 2; *The Evening Telegram*, Jan. 5, 1892, p. 5. Jeanette married William C. Bowers on Jan. 18, 1893. *New-York Daily Tribune*, Jan. 19, 1893, p. 7.

¹⁹ “The Willing Aid Society,” *New York Herald*, Dec. 10, 1878, p. 8.

²⁰ *See* note 158.

²¹ *See* the sources cited in note 18.

²² Charles H. Brent, *A Master Builder: Being the Life and Letters of Henry Yates Satterlee, First Bishop of Washington* 85 (Longmans, Green & Co. New York 1916).

²³ An article reported that Mrs. Foster had presented the main booth at a charitable event, which was entitled “In Memoriam” in memory of her son. “The Willing Aid Society,” *New York Herald*, Dec. 10, 1878, p. 8.

²⁴ Charles H. Brent, *supra* note 22, at 86.

²⁵ *Id.* at 86-87.

²⁶ “‘Tombs Angel’ Talks to Men,” *New York Times*, April 1, 1901, p. 6.

²⁷ *Id.*

²⁸ “An Office Chair,” *supra* note 17.

²⁹ “John A. Foster,” *supra* note 17.

³⁰ *See* sources cited in note 17.

³¹ “An Office Chair,” *supra* note 17.

³² “John A. Foster,” *supra* note 17.

³³ The National Archives contain records of pensions awarded Union soldiers. The Foster record is Application No. 445010, filed September 1890.

³⁴ U.S. Department of Commerce, Bureau of the Census, *Population of States and Counties of the United States: 1790-1990* (1996), Part II, “Population of the United States and Each State: 1790-1990,” p. 4, *accessible at* www.census.gov/population/www/censusdata/PopulationofStatesandCountiesoftheUnitedStates1790-1990.pdf.

³⁵ *Id.*, Part III, “Population of Counties, Earliest Census to 1990 – New York,” at p. 113. New York City in 1800 was coterminous with New York County and had substantially the same area as present-day New York County. *Id.* at p. 114, n. 12.

³⁶ *Id.* at p. 113.

³⁷ *Population of the United States in 1860; Compiled from the Original Returns of the Eighth Census* (Govt. Printing Office 1864), “Recapitulation, Nativity of the Population of the City of New York, New York,” p. 609, *accessible at* www2.census.gov/library/publications/decennial/1860/population/1860a-46.pdf?#.

³⁸ U.S. Department of Commerce, Bureau of the Census, *supra* note 34 at p. 112.

³⁹ U.S. Department of Commerce and Labor, Bureau of the Census, *1900 Census: Volume 1, Population, Part 1* (1901), Table 34, “Foreign Born Population, Distributed According to Country of Birth, By Counties, 1900,” at p. 772, *accessible at* www2.census.gov/library/publications/decennial/1900/volume-1/volume-1-p13.pdf. New York County was larger in 1900 than it is today; certain areas were separated in 1912 and became Bronx County. In 1900, the population of the present-day area of New York County was 1,850,093. U.S. Department of Commerce, Bureau of the Census, *supra* note 34, Part III, “Population of Counties, Earliest Census to 1990 – New York,” at p. 114, n. 12.

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- ⁴⁰ “Seneca Falls Convention,” History.com (Nov. 20, 2019), <http://www.history.com/topics/womens-rights/seneca-falls-convention>.
- ⁴¹ Erin M. Masson, *The Woman’s Christian Temperance Union, 1874-1898: Combatting Domestic Violence*, 3 Wm. & Mary J. Women & L. 163 (1997). Although the Union began with promotion of temperance, its concern spread to other social issues as well, such as domestic violence, prostitution, and suffrage for women.
- ⁴² Ferki Ferati, “The Rise and Decline of the Chautauqua Movement and Its Lessons for 21st Century Civic Adult Education” (2017) (unpublished Ph.D. dissertation, University of Pittsburgh School of Education), <http://d-scholarship.pitt.edu/32427/1/Ferki%20ETD%20dissertation%20SD%20July%2027%20%281%29%208.21.17.pdf>.
- ⁴³ Department of Commerce and Labor, Bureau of the Census, *Statistics of Women at Work*, “General Statistics,” p. 9 (1907) (based on data from the 12th Census, 1900), *accessible at* www2.census.gov/library/publications/decennial/1900/women-at-work/women-at-work-p2.pdf.
- ⁴⁴ *Id.*
- ⁴⁵ A report in 1899 seeking donations for Mrs. Foster’s work recited that she had by then been engaged in the work for 15 years. *The Calvary Evangel*, Calvary Church Bulletin, Vol. XI, No. 4, p. 55 (Feb. 1899).
- ⁴⁶ “‘Tombs Angel’ Talks to Men,” *New York Times*, April 1, 1901, p. 6; “Helping the Prisoner,” *New-York Daily Tribune*, April 26, 1901, p. 5; “Mrs. Foster’s First Case,” *New-York Daily Tribune*, March 17, 1902, p. 5.
- ⁴⁷ John Josiah Munro, *The New York Tombs -- Inside and Out* 250 (Brooklyn 1909).
- ⁴⁸ Arthur Henry, “The Tombs Angel,” *The Outlook* 164 (Sept. 20, 1902). Among other things, Judge Jerome, while District Attorney, personally prosecuted Harry Thaw for the murder of Stanford White. *National Cyclopaedia of American Biography* pp. 234-35 (Supp. I) (New York: James T. White & Co. 1910).
- ⁴⁹ Arthur Henry, *supra* note 48, at 164.
- ⁵⁰ *Id.* at 165.
- ⁵¹ Rev. John B. Devins, *supra* note 2, at 420.
- ⁵² “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ⁵³ Arthur Henry, *supra* note 48, at 165.
- ⁵⁴ The Legal Aid Society, “History” for 1876 and 1896, at www.legalaidnyc.org. The Society began as the German Legal Aid Society. It changed its name to its present name in 1896.
- ⁵⁵ See C. Lindner & M. Savarese, “The Evolution of Probation: The Historical Contributions of the Volunteer,” *Federal Probation*, Vol. 48, No. 2 (June 1984) (citing the work of Mrs. Foster).
- ⁵⁶ Letter of Sarah Renee Martin to the Editor, *The Calvary Evangel*, Calvary Church Bulletin, Vol. X, No. 8, p. 117 (June 1898).
- ⁵⁷ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ⁵⁸ *59th Annual Report of the Prison Association of New York for the Year 1903* 90-91 (1904).
- ⁵⁹ “Befriends the Women Prisoners: Mrs. Foster and Her Work in the City Police Courts,” *The Sun*, Dec. 11, 1891, p. 3.
- ⁶⁰ “Society Girls Watch Justice and Mercy in a New York Court,” *The World*, Feb. 5, 1898, p. 5.
- ⁶¹ “Will Lead Better Lives,” *The Evening World*, Sept. 25, 1894, p. 6.
- ⁶² “Clara Marks in a Reformatory,” *The Sun*, Sept. 25, 1900, p. 7.
- ⁶³ “‘Tombs Angel’ Overcome,” *New York Times*, Jan. 19, 1901, p. 16.
- ⁶⁴ “Helping the Prisoner,” *New-York Daily Tribune*, April 26, 1901, p. 5 (summarizing an address by Mrs. Foster).
- ⁶⁵ “Befriends the Women Prisoners: Mrs. Foster and Her Work in the City Police Courts,” *The Sun*, Dec. 11, 1891, p. 3. See also “Work of the Tombs School,” *New York Times*, Feb. 11, 1899, p. 10 (Mrs. Foster took part in a public discussion and described her work).
- ⁶⁶ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ⁶⁷ “Helping the Prisoner,” *New-York Daily Tribune*, April 26, 1901, p. 5.
- ⁶⁸ John Josiah Munro, *supra* note 47, at 249.
- ⁶⁹ “Befriends the Women Prisoners: Mrs. Foster and Her Work in the City Police Courts,” *The Sun*, Dec. 11, 1891, p. 3.
- ⁷⁰ *Id.*
- ⁷¹ John Josiah Munro, *supra* note 47, at 252.
- ⁷² “Clothing for the Poor,” *New-York Daily Tribune*, Nov. 27, 1900, p. 7 (Mrs. Foster spoke of her work before the Needlework Guild, which had donated clothing to her efforts).
- ⁷³ *The Calvary Evangel*, Calvary Church Bulletin, Vol. XIV, No. 5 (March 1902), p. 73.
- ⁷⁴ Arthur Henry, *supra* note 48, at p. 165.
- ⁷⁵ “The Angels of the Tombs,” *The Sun*, Jan. 26, 1896, p. 31.
- ⁷⁶ Rev. John B. Devins, *supra* note 2, at 419.

⁷⁷ *Id.* at p. 420.

⁷⁸ Letter of Sarah Renee Martin, *supra* note 56, at 116.

⁷⁹ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8 (quoting Justice E.B. Hinsdale).

⁸⁰ *Id.*

⁸¹ “Befriends the Women Prisoners: Mrs. Foster and Her Work in the City Police Courts,” *The Sun*, Dec. 11, 1891, p. 3.

⁸² Rev. John B. Devins, *supra* note 2, at 420. Another reporter told an inquiring colleague that “I wouldn’t say much about her in the paper. She wouldn’t like it.” Arthur Henry, *supra* note 48, at 164.

⁸³ Rev. John B. Devins, *supra* note 2, at 420.

⁸⁴ “Mrs. Foster’s Memorial – Tablet to be Unveiled at City Club,” *New York Daily Tribune*, Dec. 24, 1903, p. 5. *See also* Rev. John B. Devins, *supra* note 2, at 420.

⁸⁵ Arthur Henry, *supra* note 48, at 166. Located adjacent to Calvary Church was the Church Missions Building. This edifice was opened in 1894, during the period of Mrs. Foster’s activity. The building, which still stands today, was the headquarters of the mission work of the Episcopal Church. The area nearby it was informally referred to as “charities row” because of the many charitable organizations located there.

⁸⁶ *Id.*

⁸⁷ *Id.* at 167.

⁸⁸ Charles H. Brent, *supra* note 22, at 86, 89.

⁸⁹ John Josiah Munro, *supra* note 47, at 249.

⁹⁰ Arthur Henry, *supra* note 48, at 164.

⁹¹ “A Tribute to Mrs. Foster’s Memory,” Letter to the Editor of Dr. E.W. Hoeber, *New York Times*, March 9, 1902, p. 14.

⁹² Arthur Henry, *supra* note 48, at 166.

⁹³ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.

⁹⁴ “Befriends the Women Prisoners: Mrs. Foster and Her Work in the City Police Courts,” *The Sun*, Dec. 11, 1891, p. 3.

⁹⁵ *Id.*

⁹⁶ Arthur Henry, *supra* note 48, at pp. 165-66.

⁹⁷ *Id.* at p. 164.

⁹⁸ *Id.* at p. 165.

⁹⁹ “The Angels of the Tombs,” *The Sun*, Jan. 26, 1896, p. 31.

¹⁰⁰ Arthur Henry, *supra* note 48, at 166.

¹⁰¹ “The Angels of the Tombs,” *The Sun*, Jan. 26, 1896, p. 31. *See also* “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8 (noting her regular attire).

¹⁰² “One Day’s Work,” in *The Calvary Evangel*, Calvary Church Bulletin, Vol. XIV, No. 1, pp. 38-39 (Nov. 1901). During the time when Mrs. Foster was working, the term “cadet” as used in the quotation in the text referred to a pimp or a procurer who kept a supply of women for immoral purposes through entrapment, threats, fraud, etc. Emma Goldman, “The Traffic in Women,” 13 *Hastings Women’s L.J.* 9, 9-10 n. 3 (2002), originally published in Emma Goldman, *Anarchism and Other Essays* 177 (1910); Scott Marques, “A History of Prostitution in New York City from the American Revolution to the Bad Old Days of the 1970s and 1980s” (Aug. 30, 2019), *accessible at* www.archives.nyc/blog/2019/8/29/a-history-of-prostitution-in-new-york-city-from-the-american-revolution-to-the-bad-old-days-of-the-1970-and-1980s (citing a report of the “Committee of Fourteen” formed in the early 1900’s to combat prostitution in the City).

¹⁰³ *The Calvary Evangel*, Calvary Church Bulletin, Vo. IX, No. 2, p. 22 (Dec. 1896).

¹⁰⁴ *Id.*

¹⁰⁵ Letter of Sarah Renee Martin, *supra* note 56, at 116.

¹⁰⁶ *The Calvary Evangel*, Calvary Church Bulletin, Vol. XI, No. 4, p. 55 (Feb. 1899); “Helping the ‘Tombs Angel,’” *New York Times*, Jan. 11, 1899, p. 9.

¹⁰⁷ Arthur Henry, *supra* note 48, at 165.

¹⁰⁸ Multiple issues of *The Calvary Evangel* cited in these notes reflect this. In one of these (cited in note 106), we find a former Assistant District Attorney speaking at a meeting about Mrs. Foster’s work and urging that funds be donated to support it. (As noted elsewhere in this article, District Attorneys and their staff members viewed Mrs. Foster’s work with considerable favor.) The goal at that time was to raise \$ 2,000 annually to assist that work. The ADA stated that before Mrs. Foster began her work, the People were often compelled to seek to send girls to prison upon their conviction of a first offense, but “[n]ow this good woman takes them into her care.”

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- ¹⁰⁹ Charles H. Brent, *supra* note 22, at 89; “To Help the ‘Tombs Angel,’” *New-York Daily Tribune*, Jan. 21, 1901, p. 4 (reporting that the Friends were seeking funds to help Mrs. Foster in her work).
- ¹¹⁰ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ¹¹¹ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ¹¹² “Little Stories of the ‘Tombs Angel,’” *New York Times*, March 2, 1902, p. 26.
- ¹¹³ E.g., “Christmas Sale in Pelham Hall,” *New York Times*, Dec. 19, 1895, p. 9 (a Christmas sale and entertainment to benefit the Pelham Hall Shelter); “For the ‘Tombs Angel,’” *The World*, March 29, 1899, p. 6 (a subscription dance at Delmonico’s to aid Mrs. Foster; during Lent the Helping Hand Club met to sew “for the prisoners and the poor under Mrs. Foster’s care”); “Clothing for the Poor,” *New-York Daily Tribune*, Nov. 27, 1900, p. 7 (meeting of the Needlework Guild of America at which Mrs. Foster spoke); “Mrs. Foster’s Prison Work,” *New York Times*, Feb. 5, 1899, p. 4; “Helping the Prisoner,” *New-York Daily Tribune*, April 26, 1901, p. 5.
- ¹¹⁴ “Helping the ‘Tombs Angel,’” *New York Times*, Jan. 11, 1899, p. 9.
- ¹¹⁵ *The Calvary Evangel*, Calvary Church Bulletin, Vol. XIII, No. 3, p. 44 (January 1901).
- ¹¹⁶ Report by Mrs. Foster at a meeting of the Archdeaconry Committee of Calvary Church, Nov. 4, 1896, printed in *The Calvary Evangel*, Calvary Church Bulletin, Vol. 9, No. 2, p. 21-22 (Dec. 1896).
- ¹¹⁷ *Id.* at p. 21.
- ¹¹⁸ Seabury was an energetic opponent of Tammany Hall. He became a Justice of the Supreme Court, New York County, and, with the support of the Progressive Party, won election to the New York State Court of Appeals, where he served from 1914 to 1916. In a previous joint campaign for the court, he ran as a Progressive candidate along with Learned Hand. Seabury resigned from the Court to run for Governor of New York in 1916, but was unsuccessful at the polls. He led several significant investigations into corruption in New York City government in the 1930’s, one result of which was the resignation of Mayor Jimmy Walker. Seabury was a major supporter of Fiorello LaGuardia in his campaign for Mayor (the new Mayor was sworn in in Seabury’s home). For more on Seabury’s life, see the biography posted at the site of the Historical Society of the New York State Courts. <https://history.nycourts.gov/biography/samuel-seabury>.
- ¹¹⁹ Herbert Mitgang, *The Man Who Rode the Tiger -- The Life of Judge Samuel Seabury and the Story of the Greatest Investigation of City Corruption in this Century* 36 (Viking 1970).
- ¹²⁰ *Id.* at 37.
- ¹²¹ *Id.*
- ¹²² Report by Mrs. Foster, *supra* note 116, at 22. Not every dealing with members of the Bar proved fruitful, however. Mrs. Foster once said that one of the hardest things she had to contend with was “the work of the so-called ‘shyster’ lawyers.” On one occasion when she had prevented one such attorney from fleecing a poor German girl who had been in the city only four days, the lawyer shook his fist in Mrs. Foster’s face and threatened to “wipe up the floor” with her. “Mrs. Foster’s Prison Work,” *New York Times*, Feb. 5, 1899, p. 4.
- ¹²³ Barbella was called by other names in the press and elsewhere. On appeal before the Court of Appeals, she was referred to as Marie Barberi (*People v. Barberi*, 149 N.Y. 256 (1896)), but her mother told a reporter that her real name was Maria Barbella. “Maria Barbella To Die,” *New York Times*, July 19, 1895, p. 2. The story of Maria Barbella is told in Idanna Pucci, *The Trials of Maria Barbella* (Four Walls 1996). The book recounts Mrs. Foster’s assistance to Barbella. See also Joanna Molloy, *Maria Barbella and Her Date with the Electric Chair*, Chicago Tribune, March 7, 1996.
- ¹²⁴ *People v. Barberi*, 149 N.Y. at 262-66.
- ¹²⁵ “Maria Barbella To Die,” *New York Times*, July 19, 1895, p. 2; “Maria Barberi Doomed to Die,” *The Evening World*, July 18, 1895, p. 1; “Maria Barberi’s Doom,” *The Sun*, July 19, 1895, p.1.
- ¹²⁶ “Maria Barberi Doomed to Die,” *The Evening World*, July 18, 1895, p. 1.
- ¹²⁷ Chaplain Munro describes Mrs. Foster’s actions on behalf of Barbella. John Josiah Munro, *supra* note 47, at 251. This incident is reported as well in Idanna Pucci, *supra* note 123, at 117-21, and by Mrs. Foster herself in “Tombs Angel Tells of Her Work,” *The Sun*, April 1, 1901, p. 2. See also “Maria Barberi’s Doom,” *The Sun*, July 19, 1895, p.1; “Maria’s Life in Sing Sing,” *The Sun*, July 21, 1895, p. 18.
- ¹²⁸ The countess was Clara Slocomb di Brazzà Savorgnan. After reading about the case in an Italian newspaper, Countess di Brazzà traveled to New York from Italy to assist Barbella. Her presence at the sentencing was noted in “Maria Barbella To Die,” *New York Times*, July 19, 1895, p. 2. The book cited in note 123, which was written by her great granddaughter and was based in good part on a memoir by Count di Brazzà, recounts in detail the extensive efforts of the Countess on Barbella’s behalf.
- ¹²⁹ Idanna Pucci, *supra* note 123, at 92-97, 134-39.
- ¹³⁰ *Id.* at 189.
- ¹³¹ 149 N.Y. at 267-79.

- ¹³² “Maria Barbella’s Second Trial,” *New York Times*, Nov. 17, 1896, p. 3 (reporting the commencement of the re-trial the day before).
- ¹³³ Idanna Pucci, *supra* note 123, at 219.
- ¹³⁴ “Marie Barberi Acquitted,” *New York Times*, Dec. 11, 1896, p. 9.
- ¹³⁵ “In Defence of Her Life,” *The Sun*, March 16, 1894, p. 3.
- ¹³⁶ “Turmoil in a Court Room,” *The Evening World*, Feb. 16, 1895, p. 1.
- ¹³⁷ John Josiah Munro, *supra* note 47, at 253.
- ¹³⁸ “Florence Burns in Court,” *New York Times*, Feb. 19, 1902, p. 2. Burns was eventually released, although she remained under a cloud of suspicion. For more on the case, see Virginia McConnell, *The Belle of Bedford Avenue: The Sensational Brooks-Burns Murder in Turn-of-the-Century New York* (2019).
- ¹³⁹ John Josiah Munro, *supra* note 47, at 253.
- ¹⁴⁰ Letter of Sarah Renee Martin, *supra* note 56, at 116.
- ¹⁴¹ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ¹⁴² Arthur Henry, *supra* note 48, at 166-67 (quoting the sexton of Calvary Church).
- ¹⁴³ “Tombs Angel Tells of Her Work,” *The Sun*, April 1, 1901, p. 2.
- ¹⁴⁴ *Id.*
- ¹⁴⁵ *Id.*
- ¹⁴⁶ “Lizzie Hoffman Has Gone Mad,” *The Sun*, Nov. 22, 1897, p. 3.
- ¹⁴⁷ “News of the Courts In Brief,” *New York Times*, June 12, 1895, p. 14.
- ¹⁴⁸ “Merciful to a Dying Woman,” *The Sun*, May 13, 1898, p. 7.
- ¹⁴⁹ “Glad Now That She Failed,” *The Sun*, Jan. 31, 1891, p. 5.
- ¹⁵⁰ “Baumgart’s Unhappy Life,” *The Evening World*, Aug. 24, 1894, p. 2.
- ¹⁵¹ “She Was Ticketed,” *The Evening World*, Aug. 19, 1895, p. 2; “Prayed in Washington Square,” *The Sun*, Aug. 20, 1895, p. 7.
- ¹⁵² “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ¹⁵³ “Helping the ‘Tombs Angel,’” *New York Times*, Jan. 11, 1899, p. 9.
- ¹⁵⁴ “Pelham Hall Shelter,” at Historic Pelham, by Blake A. Bell, *accessible at* <http://historicpelham.blogspot.com/2017/09/pelham-hall-shelter-for-erring-girls.html>, p. 2, quoting from Charity Organization Society of the City of New York, *New York Charities Directory* (1897). See also the newspaper article set out in this web post (“Good is Their Aim,” *New York Letter, The Daily Chronicle* (DeKalb, Ill.), April 11, 1896, p. 4, cols. 4-5), which discusses the work of Mrs. Foster.
- ¹⁵⁵ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8. Still operating today is the Bowery Mission, which was inspired by the McAuley Mission, 316 Water Street, founded in 1872. www.bowery.org.
- ¹⁵⁶ “Tombs Angel Tells of Her Work,” *The Sun*, April 1, 1901, p. 2.
- ¹⁵⁷ “‘Tombs Angel’ Talks to Men,” *New York Times*, April 1, 1901, p. 6.
- ¹⁵⁸ The settlement house movement began in England and the United States in the 1880’s. The first institution of this kind was Toynbee Hall in London, opened in 1884. The movement promoted social reform and improvement through the interaction of different social classes, with the focus in the United States on the alleviation of wretched living conditions in city slums. “Settlement houses” were established by a variety of groups, religious and secular, in poor urban areas heavily populated by immigrants. Volunteer middle-class workers resided in these houses as friends and neighbors (hence the term “settlement”) and provided information, skills and resources to the poor residents of the area to give them a foundation by which they could overcome and escape the poverty of the neighborhood and the limitations such poverty imposed on their lives. Well-known figures in the movement included Jane Addams, the founder of Hull House in Chicago, Lillian Wald, founder of the Henry Street Settlement in New York City, Florence Kelley, and Frances Perkins. Margaret E. Berry, *The Settlement Movement 1886-1986 – One Hundred Years on Urban Frontiers* (1986), *accessible at* <https://socialwelfare.library.vcu.edu/settlement-houses/settlement-movement-1886-1986>.
- ¹⁵⁹ “Sailed Up North River,” *New York Times*, Aug. 2, 1890, p. 3.
- ¹⁶⁰ “Tablet to Mrs. Foster’s Memory,” *New York Daily Tribune*, Nov. 19, 1902, p. 6. See also Rev. John B. Devins, *supra* note 2, at 419.
- ¹⁶¹ “Sailed Up North River,” *New York Times*, Aug. 2, 1890, p. 3.
- ¹⁶² Rev. John B. Devins, *supra* note 2, at 421.
- ¹⁶³ New York City Department of Correction Historical Society, *A Tale of the Tombs*, p. 1, *accessible at* www.correctionhistory.org/html/chronicl/nycdoc/html/histry3a.html. The Court of Special Sessions and the Court of General Sessions are mentioned at various points in the text. The former tried misdemeanor cases and the latter

tried felonies. See <https://history.nycourts.gov/court/court-general-sessions>; Ch. 697 of the Laws of the State of New York (1962).

¹⁶⁴ “Collect Pond Park,” *accessible at* www.nycgovparks.org/parks/collect-pond-park/history.

¹⁶⁵ *A Tale of the Tombs*, *supra* note 163, at p. 1; Robert Pigott, Esq., *From Pond to Park: The History of the Collect Pond Site*, Dec. 10, 2015, *accessible at* www.gothamcenter.org/blog/from-pond-to-park-the-history-of-the-collect-pond-site. The draining of the pond required that a 40-foot-wide canal be created. This became Canal Street.

“Collect Pond Park,” *supra* note 164.

¹⁶⁶ *A Tale of the Tombs*, *supra* note 163, at p. 1.

¹⁶⁷ *History of the Department of Correction of the City of New York*, at p. 3, excerpt from the Department’s Annual Report (1946), *accessible at* www.correctionhistory.org/html/chronicl/1946rpt/1946rpt.html.

¹⁶⁸ *A Tale of the Tombs*, *supra*, note 163, at p. 2.

¹⁶⁹ Rev. John B. Devins, *supra* note 2, at 418.

¹⁷⁰ *American Notes for General Circulation* Ch. VI (1842), in *Collected Works* (Scribner’s 1926), p. 287.

¹⁷¹ *Id.* at p. 297.

¹⁷² *Id.* at p. 290.

¹⁷³ *Bartleby the Scrivener: A Story of Wall Street* (1853).

¹⁷⁴ *Report of a Committee of the Prison Association Appointed to Inspect the Penal Institutions of New York City*, in *Fifty-First Annual Report of the Prison Association of New York for the Year 1895* at p. 71 (transmitted to the Legislature April 1896).

¹⁷⁵ *Id.* at 76-77.

¹⁷⁶ *Id.* at 79.

¹⁷⁷ *Id.* at 77.

¹⁷⁸ *Id.*

¹⁷⁹ *Id.* at 77-78.

¹⁸⁰ *Id.* at 78.

¹⁸¹ *Id.* at 79.

¹⁸² *Id.*

¹⁸³ *Id.* at 78-79.

¹⁸⁴ *Id.* at 79.

¹⁸⁵ *Id.*

¹⁸⁶ *Id.* at 82.

¹⁸⁷ *A Tale of the Tombs*, *supra* note 163, at p. 4. The original Tombs was a replacement for the colonial-era Bridewell Prison, which was located on the site of today’s City Hall Park and was demolished in 1838. The second Tombs was in operation from 1902 to 1941. The third iteration of the Tombs was the Manhattan House of Detention, which functioned from 1941 to 1974 on Centre Street across from the site of the original Tombs. Due to conditions in the prison and overcrowding, a Federal lawsuit was brought by the Legal Aid Society on behalf of pre-trial detainees. The prison was closed in 1974. The current Tombs is the Manhattan Detention Complex, which was opened in 1983. The City indicated an intention recently to close the Complex. There has also been considerable controversy in recent years surrounding conditions in and operations at the facilities at Rikers Island. Mayor Bill de Blasio proposed closing Rikers within a few years.

¹⁸⁸ Tyler Anbinder, *Five Points* 1 (Free Press 2001) (footnote omitted). In 1855-67, the Five Points intersection was formed by streets then called Park, Worth, and Baxter Streets. The intersecting streets had different names in earlier times. Maryland Mapping & Graphics Inc., Map of the Five Points Neighborhood, 1855-67, *accessible at* <https://shc.ashp.cuny.edu/items/show/832>.

¹⁸⁹ *American Notes*, Ch. VI, *supra* note 170, at pp. 293-95.

¹⁹⁰ One of Riis’s photographs shows “Murderers’ Row” inside the Tombs in 1890 (https://nygeschichte.blogspot.com/2014_06_01_archive.html), when Mrs. Foster was working there. One can see in this photo the layout of the prison described by the committee of the Prison Association.

¹⁹¹ This is noted in the scrapbook assembled by Mrs. Foster’s sister Lila that we describe hereafter.

¹⁹² “Her Life a Sacrifice,” *The Sun* (Baltimore, Md.), Feb. 26, 1902, p. 8 (special dispatch). *See also* “Seventeen Dead in Hotel Horror,” *N.Y. Times*, Feb. 23, 1902. “The last person who saw her alive says she lost her life trying to get back through the flames to a sick woman who was too ill to walk.” Rev. John B. Devins, *supra* note 2, at p. 420. A similar report appeared in “Mrs. Foster’s Memorial,” *New-York Daily Tribune*, Dec. 24, 1903, p. 5. This was as well the understanding of her fate that was held at Calvary Church. Samuel H. Shoemaker, *Calvary Church Yesterday and Today -- A Centennial History 178-79* (F.H. Revell Co. 1936).

¹⁹³ “Tributes to Mrs. Foster,” *New York Times*, Feb. 24, 1902, p. 9.

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- ¹⁹⁴ “The Tombs Angel’s Fate,” *New York Times*, Feb. 23, 1902, p. 2.
- ¹⁹⁵ “Weep Over Mrs. Foster’s Death,” *New-York Daily Tribune*, Feb. 24, 1902 p. 5.
- ¹⁹⁶ “Funeral of Mrs. Foster,” *New-York Daily Tribune*, Feb. 26, 1902, p. 9. Mrs. Foster’s daughter, Jeanette Foster Bowers, lived in Cooperstown, New York and in Florida. She helped found and was the president of the Hispanic Institute of Florida, an organization formed in 1933 to promote good will between North and South America through Hispanic studies and culture. As part of this work, she assembled a library of books, mostly in Spanish, which were made available to libraries in Florida. She received a Decoration of Honor from Rollins College in 1942. She died in 1958. She had two children, Stewart W. Bowers and Joel Foster Bowers. Joel Foster was the Publisher and General Manager of the *New York Law Journal*. Mrs. Foster’s other daughter, Marie Louise, lived in Manhattan with her husband, Francis S. Colt.
- ¹⁹⁷ *The Calvary Evangel*, Calvary Church Bulletin, Vol. XIV, No. 5 (March 1902), p. 74.
- ¹⁹⁸ “Funeral of ‘Tombs Angel,’” *New York Times*, Feb. 26, 1902, p. 16.
- ¹⁹⁹ “The Burial of the ‘Angel of the Tombs,’” *The Standard Union* (Brooklyn), Feb. 25, 1902, p. 12.
- ²⁰⁰ “Funeral of ‘Tombs Angel,’” *New York Times*, Feb. 26, 1902, p. 16.
- ²⁰¹ *Id.*
- ²⁰² “At the Tombs Angel’s Bier,” *The Sun*, Feb. 26, 1902, p. 11.
- ²⁰³ “Funeral of Mrs. Foster,” *New-York Daily Tribune*, Feb. 26, 1902, p. 9.
- ²⁰⁴ “Her Life a Sacrifice,” *The Sun* (Baltimore, Md.), Feb. 26, 1902, p. 8 (special dispatch).
- ²⁰⁵ “Funeral of ‘Tombs Angel,’” *New York Times*, Feb. 26, 1902, p. 16.
- ²⁰⁶ Rev. John B. Devins, *supra* note 2, at 421.
- ²⁰⁷ “At the Tombs Angel’s Bier,” *The Sun*, Feb. 26, 1902, p. 11.
- ²⁰⁸ “Funeral of ‘Tombs Angel,’” *New York Times*, Feb. 26, 1902, p. 16.
- ²⁰⁹ “Funeral of Mrs. Foster,” *New-York Daily Tribune*, Feb. 26, 1902, p. 9.
- ²¹⁰ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ²¹¹ *Annual Report*, *supra* note 58, at 91.
- ²¹² “Courts Honor a Woman,” *New-York Daily Tribune*, Feb. 25, 1902, p. 5.
- ²¹³ *Id.*
- ²¹⁴ *Id.*
- ²¹⁵ Eulogy of Rev. William R. Huntington, *New York Sun*, Feb. 24, 1902, reprinted in part in *The Calvary Evangel*, Calvary Church Bulletin, Vol. XIV, No. 5 (March 1902), p. 66.
- ²¹⁶ “Everybody’s Friend: Incidents in the Life of the ‘Tombs Angel,’” *New-York Daily Tribune*, March 2, 1902, p. 8.
- ²¹⁷ “High Tribute To ‘Tombs Angel’ by Commodore Gerry,” *The Evening Telegram-New York*, April 12, 1909, p. 5.
- ²¹⁸ “Tablet to Mrs. Foster’s Memory,” *New-York Daily Tribune*, Nov. 19, 1902, p. 6.
- ²¹⁹ “Prisoners in Tears for ‘Tombs Angel,’” *Morning World*, Feb. 24, 1902.
- ²²⁰ *Id.*
- ²²¹ Letter of F. Norton Goddard to Hon. William T. Jerome, April 18, 1902, p. 2.
- ²²² “A Monument to Mrs. Foster,” *The New York Times*, May 4, 1902, p. 5.
- ²²³ *Id.*
- ²²⁴ *Id.*
- ²²⁵ Letter of President Roosevelt to F. Norton Goddard, April 21, 1902.
- ²²⁶ David McCullough, *Mornings on Horseback* 28-29 (Simon & Schuster 2001). Theodore Senior, with Joseph Choate, Pierpont Morgan, and others, also founded the Metropolitan Museum of Art and the American Museum of Natural History. The original charter for the latter was approved in the front parlor of the Roosevelt family home in 1869. *Id.* at 29.
- ²²⁷ Edmund Morris, *The Rise of Theodore Roosevelt* 494-587 (Modern Library 2001).
- ²²⁸ *Id.* at 585. Not far from the Five Points intersection, at 19 Elizabeth Street, was the location of the Sixth Precinct. This building, which was opened in 1882, remains the home of the Fifth Precinct today. Given the proximity of the precinct to the Five Points, it seems more than likely that Mrs. Foster had occasion to go there in the course of her work, perhaps to visit prisoners in holding cells. Undoubtedly, Commissioner Roosevelt visited the precinct with some frequency, whether on his nighttime patrols or otherwise. A number of photographs of men and women inside the precinct were taken by Jacob Riis and survive today and one is included in the text of this article.
- ²²⁹ “Karl Bitter Dies After Saving Wife From Auto,” *The Sun*, April 11, 1915, p. 14.
- ²³⁰ Ferdinand Schevill, *Karl Bitter: A Biography* 11-20, 22-24 (Univ. Chicago Press 1917) [hereinafter cited as “Schevill”]; James M. Dennis, *Karl Bitter: Architectural Sculptor 1867-1915* 15-20 (Univ. Wisc. Madison 1967) [hereinafter cited as “Dennis”]; Edward H. Brush, “Karl Bitter: An Appreciation,” in *Art and Progress*, Vol. 6, No. 9, at 296-97 (July 1915); “Broadway a Miles-Long Art Gallery for Those Who Seek,” *The Sun*, July 4, 1915, p.

38. Ferdinand Schevill was a historian. He took his Ph.D. in Freiburg in 1892 and thereafter taught at the University of Chicago for 45 years. He was the author of many works of history, including a textbook on the history of Western Europe from 1500 which was first issued in 1898 and was revised and republished in many new editions thereafter. He was the brother-in-law of Karl Bitter. University of Chicago Library, Guide to the Ferdinand Schevill Papers, "Biographical Note," accessible at

www.lib.uchicago.edu/e/scrc/findingaids/view.php?eadid=ICU.SPCL.SCHEVILL.

²³¹ "Whitney-Vanderbilt," *The Sun*, Aug. 26, 1896, p. 1.

²³² Dennis at 20-33. See Denise Kiernan, *The Last Castle* 66, 67, 126, and 142 (2017).

²³³ Dennis at 33.

²³⁴ *Id.* at 56-63. See the appreciation for the "Progress," which the author describes as "magnificent," by Willard Spiegelman, "A Prophetic Paean to Progress," *Wall Street Journal*, March 1, 2019.

²³⁵ "The New Custom House," *New York Times*, Nov. 8, 1903, p. 9; "To Adorn New Custom House at Bowling Green," *New-York Tribune Illustrated Supplement*, Jan. 17, 1904, p. 36.

²³⁶ "New Sculpture in the Park," *New-York Tribune*, Nov. 16, 1900, p. 45.

²³⁷ Dennis at 132-148.

²³⁸ A photograph of the Virginia sculpture appears at *New York Times*, Feb. 6, 1916, p. 65.

²³⁹ Dennis at 183.

²⁴⁰ www.nycgovparks.org/parks/henry-hudson-park/highlights/11789.

²⁴¹ Dennis at 99-103.

²⁴² Photographs of a number of these works and others can be found in the memorial issue of *Art and Progress*, Vol. 6, No. 9, at 295-312 (July 1915) and in Susan Rather, "Toward a New Language of Form: Karl Bitter and the Beginnings of Archaism in American Sculpture," *Winterthur Portfolio*, Vol. 25, No. 1, 1-19 (U. Chic. Press Spring 1990). The many photographs of Bitter's work in Dennis, *supra* note 230, come from his studio's files. There are also photographs in Schevill, *supra* note 230.

²⁴³ Dennis at 73-77; "Big Crowds Watch Work on Dewey Arch," *The World*, Sept. 18, 1899, p. 2. The arch was built to honor Admiral George Dewey upon his return from his naval victory over the Spanish fleet at Manila Bay in 1898. The arch was a temporary construction. Much of the sculpture was created out of staff, which is chiefly made of powdered gypsum or plaster of Paris, mixed with a little cement and other materials to form a temporary, artificial stone. Staff was also used in expositions, described below, in which Bitter was involved. Thus, Bitter's sculptural work on the arch and at the expositions was transitory and was quickly destroyed after the events. However, a high relief in staff that he created for the St. Louis exposition on the signing of the treaty that brought about the Louisiana Purchase was later included, in slightly modified form and cast in bronze, in the building housing his Jefferson Monument in Missouri. Dennis at 184 and Fig. 82. A second casting of the relief was done in the 1920's and is located near the Fountain of the Centaurs on the grounds of the Missouri State Capitol in Jefferson City, Missouri.

²⁴⁴ Photographs of the choir rail and pulpit in place in All Angels' Church on Street 80th Street in Manhattan and of a detail from the model from 1900 are in Dennis at 91-92, Figs. 36 and 37.

²⁴⁵ Karl Bitter, "Sculpture at the Buffalo Exposition," *Criterion*, p. 14 (May 1901).

²⁴⁶ Dennis at 105.

²⁴⁷ *Id.* at 104-110. The success of Bitter's efforts was somewhat shadowed by the shooting of President William McKinley in the Temple of Music at the Exposition on September 6, 1901, which resulted in his death eight days later.

²⁴⁸ Dennis at 111. A photo of Bitter overseeing the loading of statuary for the Exposition on rail cars is in "Big Statuary Shipped," *New-York Tribune*, April 8, 1903, p. 1.

²⁴⁹ "Municipal Sculpture," *Municipal Affairs*, Vol. II, No. 1, at 73, 94 (March 1898). Charles R. Lamb had an article in the same issue, which was a publication of the Reform Club. See Dennis at 221-29.

²⁵⁰ The National Sculpture Society put on a symposium on improvements to many areas of the city suggested by Society members and this symposium was published. National Sculpture Society, "From Battery to Harlem," *Municipal Affairs*, Vol. III, at 616 (Dec. 1899). Bitter's discussion of the Plaza area and the reforms needed there is at p. 632 and following. Again, Charles R. Lamb made an appearance at this symposium. See Dennis at 230-44.

²⁵¹ "Karl Bitter Dies After Saving Wife From Auto," *The Sun*, April 11, 1915, p. 14.

²⁵² Dennis at 5; "Plans for St. Gaudens Exercises," *New-York Daily Tribune*, Dec. 30, 1907, p. 7.

²⁵³ See Dennis at 5; Smithsonian "Biographical Note," Archives of American Art, available at www.aaa.si.edu/collections/karl-theodore-francis-bitter-papers-8889/biographical-note. Bitter's papers and various photographs are at the Archives of American Art at the Smithsonian.

²⁵⁴ Professor Schevill recounted a story that reveals something about Bitter's skills, his determination, and his love of creating with his hands. Bitter had a beloved family cottage on an island in Raquette Lake in the Adirondacks.

One year on the night of July 4th, the cottage burned down, almost claiming the lives of his children. Thereafter, Bitter rebuilt the cottage and added a boathouse and a studio and did so himself by hand, with only minimal assistance from the occasional contractor. Schevill at 62-63.

²⁵⁵ George McAneny, "Karl Bitter: Citizen," in *Art and Progress*, Vol. 6, No. 9, at 308 (July 1915).

²⁵⁶ Schevill at 50.

²⁵⁷ Condemning property along Broadway would also have been more expensive than doing so in the Five Points neighborhood. See Charles Starks, *New York's Forgotten Master Planner: Rediscovering the Legacy of George McAneny* (New York Preservation Archive Project 2016). Public service and municipal improvement were causes that ran deep in the McAneny family: his daughter was a longtime President of the Municipal Art Society.

²⁵⁸ Colleen P. Popson, "Cultural Loss in Lower Manhattan," *Archaeology*, June 19, 2002, accessible at <https://archive.archaeology.org/online/features/wtcartifacts>. See www.gsa.gov/fivepoints and <https://r2.gsa.gov/fivept/fphome.htm>. See also Rebecca Yamin, *New York's Mythic Slum* (1997), accessible at the former gsa page.

²⁵⁹ Michele Cohen, Director, Sculpture Survey, Art Commission of the City of New York, "Karl Bitter's Foster Memorial Rediscovered," in *New Discoveries in American Art* (J. Kuchna, ed.), *American Art Journal*, Vol. 18, No. 2, p. 78 n. 10 (Spring 1986). A photograph of the model for the Foster Memorial in plaster is in Dennis at 12, Fig. 3.

²⁶⁰ Dennis, at 12, Fig. 3 (a photograph of the model).

²⁶¹ Bitter's brother-in-law gave the following interpretation of the relief in his biography: "The marble plaque in medium relief shows a winged angel who has come from behind unawares and is whispering the message of hope and charity to a boy fallen by the wayside. At the words the mask of evil which the boy has worn falls as by magic from his face. The upturned eyes see for the first time and the half-open, innocent lips proclaim that the mouth, stubbornly closed so long, has been unsealed by the warm touch of love." Schevill at 41. Professor Schevill wrote that the realistic medallion portrait of Mrs. Foster was a concession by Bitter to "some of the too literal friends of the brave woman who certainly showed that she was anything but literal in her championship of the youthful victims of the disorders of our cities." *Id.* at 41-42. Bitter, Schevill suggested, would have preferred a more idealistic monument in full. Perhaps Schevill had in mind the contrasting approach taken by Bitter in 1904, the year in which the Foster Monument was unveiled, in the case of the Villard Memorial at the grave of Henry Villard in Sleepy Hollow, which is entirely allegorical. Bitter persuaded the Villard family to commemorate the idea that had dominated the life of Villard rather than to portray the deceased with rigorous realism. Schevill at 40.

²⁶² "New City Club Opened," *New-York Daily Tribune*, Jan. 2, 1904, p. 2; "City Club's New Home," *New York Times*, Jan. 2, 1904, p. 8.

²⁶³ "Mrs. Foster's Memorial," *New-York Daily Tribune*, Dec. 24, 1903, p. 5.

²⁶⁴ *The City Record*, April 18, 1905, p. 3133.

²⁶⁵ Michele Cohen, *supra* note 259, at p. 78 n. 10 (noting that the Art Commission had recommended moving the situs of the memorial in response to the request of the judges).

²⁶⁶ *Id.*

²⁶⁷ "The Architectural League," *New York Times*, Feb. 3, 1906, p. 8.

²⁶⁸ "Karl Bitter Escapes Narrowly in Runaway," *New York Times*, Feb. 26, 1903, p. 1.

²⁶⁹ "Karl Bitter Dies After Saving Wife From Auto," *The Sun*, April 11, 1915, p. 14. The unveiling of Bitter's third sculpture of Thomas Jefferson, in Virginia, took place three days after the accident. He had planned to be present. Schevill at 53.

²⁷⁰ Dennis, at 12, Fig 3.

²⁷¹ Michele Cohen, *supra* note 259, at pp. 76-77.

²⁷² *A Proposition for the Removal, Relocation or Alteration of a Work of Art* (Rec'd Oct. 31, 1988).

²⁷³ *Conservation Treatment Proposal*, by William L. Hickman.

²⁷⁴ Resolution of the Art Commission, adopted Nov. 14, 1988.

²⁷⁵ The assault on Jeremy Ann Brown was the subject of a radio program, www.thisamericanlife.org/604/20-years-later.

²⁷⁶ Kate Burns Ottavino, A. Ottavino Corp., Final Treatment Report for the Foster Memorial, May 4, 2017.

²⁷⁷ See, e.g., Meilan Solly, "Long-Forgotten Monument to Prison Reformer Will Be Reinstalled in New York Courthouse" (June 17, 2019), accessible at <https://smithsonianmag.com/smart-news/long-forgotten-monument-nyc-prison-reformer-will-be-reinstalled-state-courthouse-180972432/>; David Handschuh, "1904 Monument to 'Tombs Angel' Rededicated at Court," *New York Law Journal* (June 26, 2019), www.law.com/newyorklawjournal/2019/06.

²⁷⁸ Peter Libbey, "An Angel of the City, Regaining Her Glow," *N.Y. Times*, p. C1 (June 17, 2019).

²⁷⁹ For a discussion of the "city beautiful" and the importance of civic centers to urban life, see Jon Ritter, "The Expression of Civic Life: Civic Centers and the City Beautiful in New York City," in M. McGowan & E. Macaulay-

Lewis (Eds.), *Classical New York: Greece and Rome in New York City's Art and Architecture, 1830-1940* (New York: Fordham Univ. Press 2018).

²⁸⁰ Mr. Pigott is the author of *New York's Legal Landmarks: A Guide to Legal Edifices, Institutions, Lore, History and Curiosities on the City's Streets* (2d ed. 2018). Mr. Pigott has also written for various publications, including online. See, e.g., note 165 above.

²⁸¹ The entirety of the ceremony can be found on the website of the Historical Society of the New York State Courts at the following address: <https://history.nycourts.gov/rebecca-salome-foster-the-tombs-angel-1848-1902/>.

²⁸² Edward H. Brush, *supra* note 230, at p. 298; photographs of the Crane piece are at John G. Milburn, "Karl Bitter: Exposition Builder," *Art and Progress*, Vol. 6, No. 9, at 307 (July 1915), and in Dennis at 10, Fig. 2.

²⁸³ Edward H. Brush, *supra* note 230, at p. 298.

²⁸⁴ Julia Baird, "Putting Women on Pedestals," Sept. 4, 2017, A21, col. 1; Thomas Furse, "In London, Female Statue Nears Reality," Sept. 21, 2017, A6, col. 1; Julia Jacobs, "City Will Add 4 Statues of Women, Noting a Gender Gap And Starting to Fix It," March 7, 2019, A18, col. 1; Gail Collins, "Where the Girls Aren't," March 30, 2019, A27, col. 5; Julian Steinhauer, "Chisholm Monument Finds Its Designers," April 24, 2019, C1, col. 3. See also Erin L. Thompson, *Smashing Statues: The Rise and Fall of America's Public Monuments* (2022).

²⁸⁵ The authors express their gratitude to Allison M. Morey, Programs Director, the Historical Society of the New York Courts, for her characteristically excellent help in the preparation of this article.