with the purpose of arresting him there may be no conviction, but that when "the genesis of the idea, or the real origin of the criminal act springs from the defendant and not from the officers" the defense does not exist. The difficulty here, however, as in other fields, arises in the application of these principles.

The question has arisen constantly in prosecutions for the violation of the liquor laws. It has been uniformly held that in a purchase of intoxicating liquor made for the purpose of entrapping and prosecuting the seller, when the seller acted voluntarily and independently of outside influence, there is no defense of entrapment. *People v. Christiansen,* 220 Mich. 506, 190 N. W. 236; *Bird v. State,* 96 Tex. Crim. R. 117, 256 S. W. 277. Where the authorities have reasonable grounds to suspect the defendants of violation of the law and one of the officers joined with defendants for the purpose of detecting their crime, there is no entrapment in the absence of suggestion and inducement by the officer. *Billingsley v. U. S.,* 274 F. 86.

The fact that an opportunity is furnished or the accused is aided in the commission of the crime in order to secure evidence is no defense. *People v. Gardner,* 144 N. Y. 119, 30 N. E. 1003; *State v. Dregle,* 21 Ohio Dec. 557. In *People v. Lanzit,* 70 Cal. App. 498, 233 Pac. 1816, the defendant, charged with attempt to commit murder, acted with and was encouraged by one who was cooperating with officers. The court held this no defense where the defendant originally conceived the criminal act and did the overt acts necessary to the completion of the offense.

The locus of the origin of the criminal design and the fact that an officer had suggested the commission of the crime are not conclusive of the availability of the defense of entrapment. The evidence must negative volition and willing compliance by the defendant in carrying out a criminal purpose of his own. *Ex parte Moore,* 233 Pac. 805 (Cal. App.); *State v. Wong Hip Chung,* 74 Mont. 523, 241 Pac. 620.

Where officers of the law incite and lure defendant to the commission of the crime for the purpose of arresting him there may be no conviction. *Sam Yick v. U. S.,* 240 F. 60, 13 S. C. C. A. 96. *State v. Mantes,* 32 Idaho 724, 187 Pac. 268. Thus in *Butts v. U. S.,* 273 F. 35, 18 A. L. R. 143, the defense of entrapment was held available where the defendant, charged with the unlawful sale of morphine, never had been a dealer in the drug, had none, and had never before sold any nor conceived any intention to do so. He was induced by an acquaintance, who knew he had become addicted to its use, to procure a quantity from a third person, the whole transaction being a device of internal revenue agents. In *Shouquette v. State,* 219 Pac. 727 (Okl.) it was held that the defense would exist where a detective, to entrap others to commit a contemplated robbery, induced them to join, planned the robbery, and was the chief actor in the forcible taking of the property which would not have been taken without such inducement. Nor may the government prosecute when by its own conduct, through its agents, it misleads the defendant into believing the act was lawful, *Voves v. U. S.,* 279 F. 191, 161 C. C. A. 227.

In *State v. Driscoll,* 119 Kan. 473, 239 Pac. 1105, it was held that the fact that an officer, in order to prosecute the accused, persuaded him to obtain and to sell liquor to the officer was no defense. In *Bauer v. Commonwealth,* 138 Va. 463, 115 S. E. 514, it was held that initiative on the part of one violating the liquor laws not being essential to charge him with criminal responsibility, it is no defense that the accused was induced to violate such laws for the sole purpose of prosecuting him. These cases, however, do not represent the general ruling, with which the principal case is in accord. S. E., '30.

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EVIDENCE—SHOP BOOK RULE.—Plaintiff and defendant entered into a contract by which defendant was to manufacture plaintiff's cloth into shirts. Plaintiff sued defendant for breach of this contract. Defendant filed a counterclaim, al-

leging that some shirts had been delivered for which he claimed judgment. To support his counterclaim defendant offered his business books kept by a clerk to show defendant's manufacture and shipment of the goods. The clerk testified that she had accurately made all entries, but that she had no actual knowledge of the manufacture and shipment. The trial court admitted the book in evidence, but was reversed by the upper court. *Maryanov v. Janowitch,* 222 App. Div. 494, 226 N. Y. S. 570 (1928).

Under the common law, the books of a party in order to be admissible, must have been kept by a clerk or other disinterested person; and if the entries were made by the party himself, they were inadmissible. 10 R. C. L. 1184, and cases there cited; *Burr v. Byers,* 10 Ark. 398; *DeLand Mining and Milling Co. v. Hanna,* 112 Md. 528; *Mitchell v. Belknap,* 23 Me. 475. This common law rule was based on the familiar doctrine that one cannot make his own evidence.

Necessity in America, however, has forced the courts to deviate from the strict application of this rule, and now, in most jurisdictions, a person may introduce his own books, even though he kept them himself. The modern American shop book rule divides itself into two lines of authority: the New York rule and the New England rule.

The New York rule allows the party to a suit to produce his own books if he lays the proper foundation, i.e., by proving that he had no clerk, that some of the articles had been delivered, that the books produced are the books of the party, and that he kept fair and honest accounts. *Case v. Potters,* 8 Johns (N. Y.) 211; *Vosburgh v. Thayer,* 12 Johns (N. Y.) 461; *Smith v. Smith,* 163 N. Y. 166.

The New England rule allows a party to introduce books kept by himself on the taking of a suppletory oath. *Union Bank v. Knapp,* 3 Pick. 96; *Mo. Pac. Ry. Co. v. Johnson,* 7 S. W. 838 (Tex. 1888).

Hence if books kept by a party to the suit are admissible, surely they are admissible if kept by a clerk as at common law. 10 R. C. L. 1184, *supra.*

Ordinarily and broadly speaking, the knowledge of the facts on the part of the one who made the entry is necessary. 2 Wigmore, Ev., 1555. However, if, the entrant made the entries upon reports of another who had personal knowledge of the transaction (as in the principal case), he need only testify as to the accuracy of his copying. The person having actual knowledge should be produced if available. If he is unavailable, e.g., dead, insane, or out of the jurisdiction, or if the organization is of large personnel, nevertheless the book is admissible as an exception to the hearsay rule, namely, entries made in the regular course of business or duty. *Price v. Earl of Torrington,* 2 Lord Raymond 873; *Augusta v. Maine,* 19 Me. 317; *Nicholls v. Webb,* 8 Wheat. 326.

The report of the principal case is silent as to the availablity of the persons from whom the witness derived her information, but the unavailability is to be presumed, as no small concern could manufacture 15,000 dozen shirts at over 1,000 dozen per week as was called for by the contract in the case.

The facts present a large business and books kept by a clerk who testified as to her accuracy from reports of unavailable persons, made in the regular course of business and duty—a perfect set up for admitting the books.

Hence the case is clearly contrary to the weight of modern authority and contrary to the trend of modern law, which is to admit all books and records kept in business contemporaneous with each happening. S. M. W., '29.

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LIMITATION OF ACTIONS—COMMENCEMENT OF PERIOD IN CASES OF WRONGFUL DEATH.—Plaintiff's intestate suffered injuries as result of defendant's negligence. Deceased brought action for injuries within the two-year statutory limit. While this action was pending and five years after the date of the injury, plaintiff's intestate died. Plaintiff as administratrix then brought an action for wrongful death, and the question was raised as to whether the action was barred because