

START

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CASE

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COURT OF GENERAL SESSIONS OF THE PEACE
IN AND FOR THE COUNTY OF NEW YORK
PART THREE.

3219

-----X
: THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e :
: :
: -against- : HON. JOHN F. McINTYRE, J.,
: :
: G E O R G E R O D R I Q U E Z. : And a Jury.
: :
-----X

New York, Tuesday, December 9, 1919.

THE DEFENDANT IS INDICTED FOR GRAND LARCENY IN THE
FIRST DEGREE AND RECEIVING IN THE FIRST DEGREE.

INDICTMENT FILED NOVEMBER 20, 1919.

A p p e a r a n c e s :

THOMAS I. SHERIDAN, Esq., Assistant District Attorney,
For the People.

JOHN J. MEARA, Esq.,
For the Defendant.

(A jury is duly impaneled and sworn.)

T H E P E O P L E ' S C A S E

(Mr. Sheridan opens the case to the jury on behalf
of the People.)

(Mr. Charles H. Lemon, Official Interpreter
of the Court of Special Sessions, is duly sworn to
act as Interpreter in this case.)

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C A R L O S D e l M A R, called as a witness on behalf
of the People, being first duly sworn and examined through
the Interpreter, Charles H. LeMon, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Where do you live? A 284 St. Nicholas Avenue, between
124th and 125th Streets.

Q Mr. Del Mar, how long are you in New York? A I arrived
o n the 5th of September.

Q Where did you come from, from what country? A From
Venezuela, South America.

Q When did you first meet the defendant? A On the 14th
of September.

Q Were you introduced to the defendant by anybody, or
did you meet him through some other means? A There was an ad-
vertisement in a Spanish newspaper "La Prensa" for two rooms
to be rented.

Q Then did you call to see the defendant or did he call
to see you? A I went to see him, through the newspaper.

Q And that was about the 14th of September? A Yes, sir.

Q Did you hire the rooms he had for rent? A No, sir, they
did not suit me.

Q Did you see the defendant thereafter? A Yes, sir, very
often.

Q And before the 6th day of September did you go, in
company with the defendant, to purchase a house, a rooming
house? A We went to see several, many, several of them.

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Q Well, did you enter into a contract for the purchase of any house? A Yes, sir.

Q And what was the purchase price of that house?

A You mean the one I made before this transaction?

Q The one you made before this transaction. A \$1100.

Q And did you pay that money? A Yes, sir.

Q Did you get your money back? A Yes, sir, afterwards.

Q Did you get all of it back? A Yes, I received part of it at first and afterwards the balance.

Q Do you know the name of the party from whom you purchased that house? A Yes, sir.

Q What was the name? A Mr. Amelio Gellas and Mrs. Louisa Gellas.

Q You didn't purchase that house, although you paid your money? A They stopped the business.

Q That business was stopped. When did you next have a conversation with the defendant with reference to your fourteen hundred dollars? A The 5th of November.

Q And what was that conversation? A An appointment which we had with a lady at 145 West 64th Street.

Q Was that in reference to the purchase of a rooming house or a furnished room house? A In order to buy the house on the 6th of November up until three o'clock in the afternoon.

Q And what did the defendant say to you about that transaction?

MR. MEARA: If the Court please, I object to that

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as incompetent, irrelevant and immaterial, not binding on this defendant.

THE COURT: This is a conversation had with the defendant concerning the transaction.

MR. MEARA: I don't see how a conversation involving the purchase of a boarding house has anything to do with the alleged larceny, and I object to it for that reason.

THE COURT: I will allow it.

MR. MEARA: I take an exception.

A The lady had said she was unable to sell, that she wouldn't sell.

Q On the 5th of November, you had a conversation with the defendant with reference to purchasing a certain rooming house from a certain lady for a certain amount of money?

A On the 5th was the day on which we had the conversation.

Q On the 6th of November at three o'clock in the afternoon, that was the time agreed when you were to see the party from whom you were to purchase the house? A Yes, sir, a gentleman came to see me in the house, in order to go and complete the purchase.

Q What I want to find out is what conversation did the defendant have with you on the 5th of November with reference to the purchasing of the boarding house? A We agreed that on the following day everything would be ready with the lady in order to complete the arrangements for \$2500, \$1400 on account and the balance to be paid later.

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Q Had you spoken to the lady that owned that house before the 6th day of November?

MR. MEARA: I object to the question, unless it is shown that the defendant was present at the time.

MR. SHERIDAN: I am only asking the question, "Yes," or "no."

THE COURT: That is all, just, "Yes," or "No." The nature of the conversation that which was said between them I will not allow, but he may just say "Yes," or "no," whether he spoke to her.

A Yes, sir.

Q When did you have the conversation? A I had spoken to her several times. He spoke to her. She went accompanying me as an interpreter.

Q When you say "he," do you mean that you, or do you mean that the defendant went to speak to this lady? A I went several times with him, he as interpreter, because the lady speaks English, and I do not understand English.

Q In answer to the last question, you stated that you had conversations with the lady before the 6th of November. Is that a fact? A Yes, sir, but I went with an interpreter to her.

Q How did you come to see this lady? Was it brought about through an advertisement, or did you go in company with anybody? A Through him (indicating the defendant.)

Q And when did you first go through him? A I do not

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remember.

Q Did the defendant have any conversation with you about the house, its location, the purchase price, or any other details in connection with the purchase of that house? A The only one who knew anything about the business was he.

Q What I want to find out is, did the defendant or did anybody take you to that house, or did you go to that house of your own accord, or did you go to the house through some means other than the defendant? A He alone was the one. He took me.

Q What conversation was there? What did he say to you about the house? A To make the business, because it was a very good house.

Q What bank did you have your money in? A In the National - the Universal Savings Bank (producing a blank check on the Universal Savings Bank.)

Q So then on the 6th day of November you went to this house in company with the defendant? A Yes, sir, at three o'clock in the afternoon.

Q Did you have a check with you, or did you have cash? A I carried the money in cash, in bank notes.

Q Did you have any conversation with the defendant about the money you had in your pocket? A Yes, sir.

Q What was the conversation? Tell us what he said and what you said to him? Don't merely give us conclusions. A When we went to the house and spoke to the lady, when we were going down the stairs, he asked me, "Have you got the money with

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you?" and I said to him, "Yes, sir," patting on my trousers, "I have the money here."

Q Did you tell him how much money you had? A The sum of which we had agreed, \$1400.

Q What happened after that? A He induced me to go, insisted upon my going to 57th Street, to see another house.

Q Before you left the house in 64th Street that you intended to purchase, did you see the defendant engage in conversation with anybody there? A Before going out, no.

Q Well, did you buy the house? A Which one?

Q The house that you went to purchase on the 6th day of November, 1919? A No, I did not, as the lady said she wouldn't sell.

THE COURT: We won't go any further this afternoon.

(To the Jury) Gentlemen, you may go until tomorrow morning at half past ten o'clock. Mean while do not speak of this case, permit no one to speak to you of it, do not make up your minds concerning the guilt or the innocence of this defendant until I have sent this case to you. Half past ten tomorrow morning.

(The Court then accordingly took a recess until tomorrow, Wednesday, December 10, 1919, at ten-thirty o'clock a. m.).

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The People, Etc., -vs- George Rodriguez.

New York, Wednesday, December 10, 1919

TRIAL CONTINUED

CARLOS Del MAR, resumes the stand (testifying through the Official Interpreter, Mr. Marc Mustaki.)

DIRECT EXAMINATION (continued) BY MR. SHERIDAN:

Q Where was this boarding house located? A 64th Street.

Q When you and this defendant left the house in 64th Street, where did you go? A He asked me to go to 57th Street, but I would not go.

Q Well, where did you go? A We took the route from under an elevated train, I do not know whether it is Eighth or Ninth Avenue. At 59th Street we met a man whom I did not know.

Q You walked from 64th Street to 59th Street? A Yes.

Q And you met a man at 59th Street? A Yes, sir.

Q What happened then? A This stranger who met us in 59th Street approached us and said, "Do you speak Spanish?" I said, "Yes, I am at your service. What is it? What can I do?" He asked me whether I could give him the address of the Church St. Vincent De Paul. I told him I did not know the country here, I am a stranger, and Mr. Rodriguez, the defendant, who has been here in New York a resident, he may tell him, that he can speak also in English, and he can give him the right information, and while we all three were walking we

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were conversing all the time. Then the conversation came where he said about a friend of his died, an uncle of his, and he was beginning to cry bitter tears. Then a fourth man came, he was much taller than the other one, he was reading a newspaper, and then he said, "Is this gentleman a Spanish gentlemen?", and I looked around and I said, "Yes;" he was reading his paper; I said, "yes, he is." He said, "If he is a Spaniard, ask him if he is one." I said, "No, I will not ask him." Then he insisted he said, "Ask him, because I have nobody to escort me or direct me; ask him whether he is a Spaniard." I said, "No, I will not."

MR. MEARA: If your Honor pleases, I don't know who he means by "him."

THE COURT: Ask him, when he uses the pronound, @him, "who he means.

THE WITNESS: Rodriquez. Rodriquez then pulled this fellow towards him who was reading the paper and asked him, "Are you a Spaniard?" and he said, "Yes, I am a Spaniard." Then Rodriquez said to this fellow who was reading the paper, "We better take care of this man, he is a stranger here, and he cannot find his way," and then this stranger who was crying said to the man who was reading the newspaper, "What happened;" and all the time the conversation was about his uncle having died and left him a big fortune here. Then he says, "We better go and get an address out of the telephone book

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where there is a telephone," and we entered into a saloon. Then we had a drink and we had also cigars. Then Rodriguez with the tall fellow went to the toilet together and they were talking there, and then when he came out this fellow started crying again and said that he came here to abide by the wishes of his uncle, and to not desert him as he is a stranger here, and to stick by him. He then offered us some money for our trouble to escort him and I said, "I wouldn't escort you, nor do I want any money. Let Rodriguez do it. He can attend to that."

MR. MEARA: Now, I ask again who that "he" is?

THE WITNESS: "Rodriguez will attend to that."

MR. MEARA: No, it was the stranger who was crying.

THE INTERPRETER: Yes, and told him he will give him money for the trouble of escorting him, and this complainant answered he will not take any money nor will he escort him, but let Rodriguez do it.

THE WITNESS: Then the conversation came, he asked me whether I was - we talked about religion. He asked me whether I was a Catholic. Of course, Rodriguez knew that I was a Catholic, and he said, "Yes." Then by that time we reached 64th Street. Then this fellow who was crying told me to escort him into the Church, where he wants to pray before the Saints, where he expects to be cured in two months more, and he has to go there and pray, while

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Rodriquez and the fellow who was reading the paper stayed outside. Then we got out from there and he said, "We will go and dine at the Hotel Astor. Rodriquez then suggested to have an automobile, that would be better. Then Rodriquez hailed a taxicab by raising his hand (witness indicating by raising his right hand,) and then all four of us went into this taxicab, and then the fellow who was crying in the taxicab said to me he had eight hundred dollars and that he wants to divide it among the four, and he chose me to divide this money, and I told him, "I will not undertake to divide these eight hundred dollars among the four; let Rodriquez do it," and he insisted that I should do it, because I had the looks of an honest man and I had an honest face; and then this fellow who was crying said to Rodriquez and the tall fellow, "Don't feel hurt or insulted because I want to give you the eight hundred dollars to divide it, but I want this man to do it, because he has got an honest-looking face." I insisted, and I said to this man who was crying, "No, I wish you would relieve me of this undertaking and let the others do it." And then he stated that he wanted to give this eight hundred dollars amongst some poor people, but the poor people must be Catholics. Then he asked me whether I needed any money for food or for living expenses. I told him

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"I am all right; I don't need any money or food; I have got enough of my own."

MR. MEARA: May I interrupt a moment and ask/who ^{again} that "he" is.

THE WITNESS: All the time this man who was crying.

MR. MEARA: Is that the first stranger that the complainant met, or the second?

THE COURT: I am sure I don't know. You will have to bring that out yourself.

THE WITNESS: All the time, all this conversation I have stated, was the first man we met, the man that was crying. The tall man with the newspaper said to the man who was crying, "Of course, this man has got money, of course he has got means. Show him. Show him that you have got means." I said, "Oh, I have got enough to live upon." I had then in my possession at the time \$1,400 that I had put in my pocket to transact some business with Rodriguez. Then the tall man said to the man that was crying, "He has got \$1,400; show it to him."

THE INTERPRETER: Then the witness states: "How did the tall man know I had \$1,400?" That is what this witness states now.

MR. MEARA: I ask that that be stricken out.

MR. SHERIDAN: I consent to it.

THE COURT: Strike it out.

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MR. MEARA: And the jury be instructed to disregard it.

THE COURT: Yes.

THE WITNESS: Rodriguez knew that I had in my possession \$1,400, because I had to transact this business with Rodriguez. Then he said, "Let us put all the money together," and this is the same package as it is now that he handed to me (witness produces handkerchief folded and tied up in a square.) The man that was crying placed it in himself in the inside of my right vest pocket (witness indicates right side of his vest pocket.) He said, "Put it there and leave it there, because there are so many bad people here, and you must be careful not to be robbed."

MR. MEARA: Now, I would like to get on the record an objection to all these conversations between this witness and these two unknown men and an objection as to the competency of any of it as being relevant to this inquiry, on the ground that what these unknown men did and these conversations between this complaining witness and these unknown men are not binding on this defendant, inasmuch as this defendant has not so far been connected in any way either directly or indirectly with any crime.

THE COURT: This defendant was there at the time,

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and the question for this jury to determine in respect to that is, were they at that time acting in collusion, were they acting in concert, for the purpose of perpetrating the larceny, by a trick and device? That will be the question for the jury to determine.

MR. MEARA: I take it that your Honor denies my motion?

THE COURT: Yes, sir.

MR. MEARA: The defendant excepts.

THE WITNESS: Then we were told to go over to a place called the Hotel Astor, and the man that was crying with the tall fellow said, "Now, you better go home with this money, so it will be safe," and I said, "I cannot find my way from here home." Then they answered me, "Rodriquez will escort you to your home." Then the man that was crying and the tall man said to Rodriquez, "Escort this man home, and then come back here again, and we will have dinner here;" so the tall man and the man that was crying went to this hotel supposed to be the Astor Hotel and I and Rodriquez went home. I then went to my wife and I said, "Here is this -"

MR. MEARA: That is objected to.

THE COURT: Was Rodriquez there?

THE WITNESS: No, he waited downstairs.

THE COURT: Was the tall man, the man who was crying, there?

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THE WITNESS: The tall man and the other man who was crying were waiting at the hotel, and I and Rodriguez went to the house, and he waited downstairs while I went upstairs to deliver this package to my wife.

THE COURT: Now, that which he said to his wife will be stricken out, and the jury are instructed to disregard it.

THE WITNESS: I then went downstairs, and on my way downstairs I searched my pockets, my left trousers pocket, for the eight dollars which I had there, and I couldn't find it, so I didn't want to be without any money, so I go back to my wife, and I said to her --

MR. MEARA: Just a moment. That is objected to.

THE COURT: Strike it out.

THE WITNESS: The package was opened by my wife, and these two newspapers were found in it, Spanish newspapers were found in it (producing newspaper.) This is all. And immediately I found out this robbery, I shouted, "Rodriquez, Rodriquez!," I said, "Rodriquez, what have I got here? Newspapers! Rodriquez, I have got newspapers!". I said to Rodriquez, "Let us go to the police, escort me to the police," and he was running, Rodriquez, so was I, and I said to Rodriquez, "Shout for the police," and he wouldn't do it, he wouldn't shout, and I saw him passing several policemen, but he didn't attract the attention of any of them. I then

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seized him by the arm, and I said, "Call the police; I tell you have got you here to help me. Call them." Then he stopped a policeman, and he told him something, and the policeman gave him a little slip of paper and told him to go to a certain department of the Police Department. And then we went upstairs to this police department. He tried to explain it, and I could see he couldn't speak English, Rodriquez could not, and I said to Rodriquez, "Why don't you get a detective who understands Spanish and English and let me have a Spanish detective?" and he said to me that there is no Spanish detectives, no detectives who can speak Spanish. And the more I insisted that he should tell the story the more he wouldn't do it, and he wouldn't tell the right story.

MR. MEARA: Now, I ask that that be stricken out, as calling for a conclusion.

THE COURT: Yes, strike it out.

MR. MEARA: And I ask that the jury be instructed to disregard it.

THE COURT: They are so instructed.

THE WITNESS: Then the defendant had another detective there who explained himself and gave us a piece of paper to have the man arrested when we see them, and he put the slips of paper in his pocket, and when we came out I asked him for the slip of paper, and he said, "Don't pay any attention to this. These detectives, they

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are no good, they never arrest anybody," and the detectives did not understand.

MR. SHERIDAN: Just a minute. I ask your Honor to kindly instruct the defendant to desist from making any remarks in contradiction of the statements made by this witness in the presence of this jury.

MR. MEARA: Now, I take issue with the District Attorney. The defendant is not making any remarks, and it is due to the youthfulness of the District Attorney and his inexperience that he makes a motion of this character.

THE COURT: The jury will disregard anything that is said by the defendant while sitting at the table. You will only pay attention to that which he might say when he becomes a witness in this case.

THE WITNESS: Then he said to me, "Now, don't worry; I will tell you what I will do," Rodriguez, the defendant said, "I will have for you a detective tomorrow, it will only cost you the small sum of \$100, and then I will bring you to the Venezuela Consul, and there they will work the case up." He told me not to upset myself, to go home and rest in peace, and those are little matters that should not upset my health. He said not to bother about the business transaction that we had to transact together, and for me to go back to Venezuela. Then he went over to his own house, and I went to my house, and

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then I went to my wife and I told her all about it. And then he came the next morning to my house and he made the acquaintance of my wife. Before Rodriguez arrived the following morning, I went over and found a friend of mine who could speak the English language and the Spanish language, and he in turn brought me to the proper authorities.

MR. MEARA: Now, I ask that that be stricken out, as calling for a conclusion.

THE COURT: I will allow that to stand.

MR. MEARA: I take an exception.

THE WITNESS: He brought me in the same apartment where Rodriguez had brought me before, but with a different interpreter and there we couldn't find the same detective who took an interest in the case the previous day and said that the detective was waiting there, because Rodriguez had told him that in the morning -

MR. MEARA: I move to strike that out.

THE COURT: Yes, strike it out as a conclusion.

MR. MEARA: I ask that the jury be instructed to disregard it.

THE COURT: Yes, they are so instructed.

THE WITNESS: Then the detective had said that he had informed Rodriguez -

MR. MEARA: I make the same objection.

THE COURT: Strike that out.

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MR. SHERIDAN: I think I had better ask a few questions.
He has practically told his story.

BY MR. SHERIDAN:

Q Mr. del Mar, the first stranger that you described as a short man, the man that was crying, that was the first stranger you met? A Yes, sir.

Q The second stranger you met you described as a tall man who spoke Spanish? A Yes, sir.

Q You say that the defendant was in conversation with the fourth man separate and apart from you and short man? A Yes, sir.

MR. MEARA: Just a minute. I don't know any fourth man here, your Honor. I don't know who the District Attorney refers to.

MR. SHERIDAN: The complainant, the defendant, the short man and the tall man.

MR. MEARA: Who is the fourth man?

MR. SHERIDAN: The tall man is the fourth man in the party.

Q The fourth stranger, that tall, Spanish-speaking man, told the short man that you had \$1400?

MR. MEARA: I object to that, if the Court please, on the ground it is not binding on this defendant, and, further, it is incompetent, irrelevant and immaterial.

THE COURT: As I understand it, the defendant was present at that time?

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MR. SHERIDAN: The defendant was present.

THE COURT: I will allow it.

MR. MEARA: I take an exception.

A Yes, sir.

Q Did you tell that tall man that you had \$1400?

MR. MEARA: I make the same objection, if the Court please.

THE COURT: The same ruling.

MR. MEARA: I take an exception.

A No, only Rodriguez knew it.

MR. MEARA: I ask that that be stricken out as calling for a conclusion.

THE COURT: Strike it out.

MR. MEARA: And the jury be instructed to disregard it.

THE COURT: Yes.

MR. SHERIDAN: That is all.

CROSS-EXAMINATION BY MR. MEARA:

Q I understpod you to say you met the defendant on or about September 14th, is that correct? A Yes, sir.

Q And the day on which you lost your money was on or about November 3d; is that correct? A On the 6th of November.

Q Now, you saw Mr. Rodriguez a good many times between those dates, did you not? A Yes, sir.

Q And you had only known him a short period, say two or three weeks, when you told Mr. Rodriguez that you wanted to go

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into some business of some kind; is that correct; is that so?
A No, it was him that made the proposition at first even
about taking a flat.

Q Did you at any time tell Mr. Rodriguez that you would
like to go into the furnished room business, or boarding
house business? A No, he would come and knock at my door every
day and make that proposition to me.

Q And you concluded that it was a good business venture;
is that so? "Yes," or "no." A Yes. He even gave me
the number and all about it, and I thought it was a very good
business.

Q And as a result you and Mr. Rodriguez went and looked
over several furnished-room houses and boarding houses?

A Yes, sir.

Q And you had made up your mind, had you not, to pur-
chase the house No. 153 West 64th Street and made a deposit
on same? A 61st Street?

Q No, sir, 64th Street. A 54th Street?

Q 64th Street. A Yes, before this happened, yes.

Q And you left a deposit on that house? A Yes, sir.

Q And you were waiting to close the deal for some weeks
when you were notified that the seller couldn't let you have
the house in question; isn't that so? A Yes, sir.

Q And you had some unpleasantness about getting the return
of your deposit; is that correct? A No, I had no difficulty,
and I gave this man a thousand dollars more, besides.

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Q What do you mean by you gave this man a thousand dollars more? A For a receipt for the furniture which was in the house.

Q And the deal fell through? A No.

Q Did you get the furniture in question? A No.

Q But you got your deposit back, didn't you, ultimately?

A Yes, sir.

Q And after that deal fell through you and Rodriquez went around and saw several other houses; is that correct?

A Yes, every day.

Q Every day, looking for houses? A Yes, sir.

Q Boarding houses, or rooming houses; is that correct?

A Only boarding houses.

Q Only boarding houses. Now, is this the first time you ever had any considerable sum of money in your pocket?

A Only once before, but that once before no one knew that I had that amount. This is the second time that they knew.

Q Now, on November 6th, you had an engagement with Mr. Rodriquez to visit the premises 141 West 64th Street; is that correct? A On the 5th we made the appointment to go and buy the house on the 6th at 3 o'clock in the afternoon.

Q And you visited the premises 141 West 64th Street in company with Mr. Rodriquez that afternoon; is that correct?

A He came to my house, took me, and we went there.

Q Now, you visited those premises 161 West 64th Street, did you, and saw the intended seller? A Yes, sir.

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Q And as a result of the talk between you and the intended seller the deal fell through; is that correct? A The defendant spoke with the wife. I didn't speak with the seller of the house, but the defendant spoke with the wife of the seller of the house, and the wife of the seller of the house said the house is not for sale.

Q And Mr. Rodriguez interpreted that to you in the Spanish language, did he? A He told me that the lady said that the house was not for sale.

Q Had you been in that house before that day? A Yes, sir.

Q And you had seen the intended seller, then, before the 6th day of November? A Only the lady.

Q And she at that time told you that she was thinking about selling the house, and there was some talk as to price, was there? A Yes, she said that she will sell it.

Q And the lady told you to return on the 6th day of November, at 3 o'clock, and the deal will be consummated? A Yes, sir, at 3 o'clock.

Q Then, when you went there on the 6th, this lady in question told you that she concluded she would not sell the house; is that correct? A That is what Rodriguez told me that the woman told him.

Q You were there at the time with Rodriguez, weren't you? A Yes, I was there.

Q And Rodriguez interpreted to you what this lady said at the time, did he not? A Yes, sir, that the lady will not

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Q Now, then, after leaving the lady's - I withdraw that question. Where did you live at that time, Mr. del Mar?

A In the same street as this lady, I lived at 155 West.

Q And that is four or five houses down from 141; is that correct? A Yes, sir.

Q Between Columbus Avenue and Amsterdam Avenue; is that correct? A Between Broadway and another street, I do not know the name.

Q Now, after leaving 141 West 64th Street, you went down to your house, did you not, at 155 West 64th Street? A I wanted to go to my house, but the defendant, Rodriguez, insisted to go through 57th Street, and I said to him, "Why do you want to go through 57th Street?" He said, "to go back to a house that we had seen on Monday; I said, "What is the good of going there? The lady there said she wouldn't sell."

MR. MEARA: I move that that all be stricken out as not responsive. I asked the witness, after leaving 141 West 64th Street, if he didn't go to 155 West 64th Street.

THE COURT: Tell him to answer the question.

THE WITNESS: No.

Q You are sure you didn't come back to 155 West 64th Street immediately after leaving 141 West 64th Street? A Positive. I went out with Rodriguez.

Q You then went in an easterly direction, as I understand it, along 64th Street, toward Broadway, did you; is that correct? A I went under the elevated train to go towards

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Ninth Avenue.

Q Ninth Avenue. And when you got up to Columbus Avenue, the Avenue that you now call Ninth Avenue, you turned to your right and walked down Columbus Avenue; is that correct?

A We went towards a street where there is a hospital, and that is where the short man was.

Q How many blocks did you walk south on 64th Street before you met the first stranger? A We came out of this house, and we went as far as 59th Street and that is where we met the short man. There is a hospital there.

Q What side of the street were you and the defendant walking on when you proceeded south on Columbus Avenue? A I was walking with Rodriguez, going towards Ninth Avenue.

Q What side of the street were you walking on, on the right side, or the left side? A On the right side.

Q Now, as you approached 58th Street and Ninth Avenue, did you speak to anyone or anyone speak to you? A The short fellow spoke to me.

Q And after this short unknown man had spoken to you, you continued walking, did you? A Yes, we were walking.

Q And how far did you walk before you met the second unknown man? A About 40 metres.

Q How many blocks did you walk? A About one block. Before we just reached 58th Street.

Q Now, did Rodriguez join - did this defendant join in the conversation at any time between the time that you

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met the first man and the time you met the second man? A He did speak in the saloon with the short man, in the toilet.

Q That was after you had met the second man; isn't that so? A Yes, sir.

Q Now, do I understand you correctly that this defendant engaged in no conversation with you and this first unknown man between the time you met the first unknown man and the second unknown man; is that correct? A He spoke a little.

Q What did he say? A He was interrupting into the conversation, saying a few words, too, joining together in the conversation.

Q Then, your answer to my preceding question is not correct, is it? A What do you mean?

Q Didn't you tell me a moment ago that the first time that Rodriguez joined in the conversation was when you all were in the saloon? A I thought you asked me whether Rodriguez talked alone with the small man, and that is the reason I said the only time he talked alone he was in the toilet, but on the way going along we were all talking together.

Q Now, this small man was dressed like a Priest, was he not? A No, he -

Q That is all. Now, as you approached 58th Street this first unknown man was with you and Rodriguez; is that correct? A Yes.

Q And this second unknown man was walking ahead of you, on the same side of the street, is that correct? A Very

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slow, and reading his paper.

Q Now, this second unknown man was dressed like a Priest was he not? A No.

Q Didn't you testify in the Magistrate's Court that one of these two men was dressed in clerical robes? A No.

Q Well, now, who spoke to this second unknown man, you, or this first unknown man? A Rodriguez called him, pulled him towards where we were.

Q You were altogether, were you not? A Rodriguez took the tall man while passing and brought him to our group where we were together.

Q You were all walking down the avenue together, weren't you, going by this second man? A We were walking, but as soon as Rodriguez saw this tall man we stopped, and he seized him and brought him towards us, and then we continued the walk.

MR. MEARA: What did he say - he seized him?

THE INTERPRETER: He seized hold of him and pulled him towards us (witness indicating with his clenched hand.)

Q Did you tell Rodriguez to call this second unknown man?

A No; the little fellow told Rodriguez to call this tall man.

Q The little man - the first stranger said to the defendant, "Call that man," indicating the second unknown man?

A Yes, the small fellow told Rodriguez, "Go and call that fellow," and Rodriguez didn't want to do it. Then Rodriguez

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went there and seized hold of him and says, "Are you a Spaniard."

Q Did you hear the defendant say that, in Spanish, "Are you a Spaniard?" A I saw him catching hold of him, and I heard him ask him whether he was a Spaniard.

Q And this second unknown man then joined the party of three; is that correct? A Yes, were walking.

Q Did this defendant engage in conversation, or was the conversation between you and the two unknown men? A The small fellow was talking with me, and the tall fellow was addressing me.

Q And you were all there together, walking down the street? A Yes, sir.

Q Now, who was it that suggested you go to a saloon and have a drink, if anyone? A The small fellow.

Q And he invited you and this defendant to go with him and also the second unknown man, is that correct? A Yes, sir, he spoke in general, if we wanted to have a drink, refreshments.

Q How long were you in the saloon? A I cannot state the hour, because we drank and smoked and talked.

Q How long were you there in the saloon? A About three-quarters of an hour or an hour.

Q You four men together? A Yes, sir.

Q What did you have to drink? A I had a little beer, but under a different name, it was not beer, but I had beer.

Q Did you have anything stronger than beer? A No, I only

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had the beer and cigar.

Q After leaving the saloon you men proceeded up Columbus Avenue, did you not? A We all four crossed towards 64th Street again.

Q And you were invited as well as this defendant to accompany these unknown men to the Hotel Astor, were you not?

A Yes, sir, to escort him there.

Q What is that? A To escort him there. Those two strangers told me to escort him.

Q While you were in that saloon at the hour you referred to, did either one of these strangers address Rodriguez by his right name? A No.

Q Isn't it a fact that the conversation - isn't it a fact that there wasn't any conversation between the defendant and these two unknown men while they were in the saloon? A Yes, he spoke with the little fellow, in the toilet.

Q Were you in the toilet at the time? A No.

Q You were not. In other words, Rodriguez went to the toilet, did he? A With a small fellow together, yes.

Q Now, how long was he in the toilet? A A short time, a moment.

Q Did the defendant go in with this first unknown man, at the time, or did one follow the other? A The small man went in, and Rodriguez followed.

Q And they were only in there a minute or so; is that correct? A Five or ten minutes.

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Q Now, which is it, five minutes, or ten minutes? A I cannot precisely state that.

Q It may have been just a minyute; isn't that so? A No.

Q It might have been two minutes? A No. Maybe eight; maybe seven, but about that.

Q Now, when you got in the neighborhood of 64th Street and Columbus Avenue, after walking up from this saloon, some one suggested, did they not, that Rodriquez stop a cab; isn't that so? A Rodriquez suggested it, to go to the Hotel Astor.

Q Didn't you tell us a moment ago that these two strangers said they lived there and invited you to go down? A Yes, sir.

Q And had they invited you and this defendant to go with them to the Astor? A Yes, sir, but I told to Rodriquez to go and do it; I didn't want to go and escort him there.

Q Who was it that told Rodriquez to call a cab, if anyone? A I didn't hear anyone say it, except that Rodriquez made the offer that we should take an automobile to go over to the Astor at that moment, and then we should follow him, and he raised his hand and stopped an automobile.

Q And you all got in? A Yes, sir.

Q Now, when you got down to the Astor, these two unknown men got out, did they not? A Yes, we all got out of the taxicab.

Q And one of these unknown men told you that it was a little bit early for dinner, but he would like to have you come back in an hour or so and have dinner with him; isn't that so?

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A Yes, sir; and I said, "I cannot go alone there."

Q And did this unknown man then invite Rodriguez to accompany you? A Yes, told Rodriguez to escort me.

Q You didn't get out of the cab at that time, did you?

A Yes, I got out of the taxicab.

Q Isn't it a fact you remained in the taxicab and returned to your home in 64th Street? A Yes, we went in the taxicab, but only I and Rodriguez.

Q Only you and Rodriguez. And when you got in front of your home after leaving these two strangers at the Hotel Astor, you alighted and left Rodriguez in the cab; is that correct? A Yes, he was waiting in the taxicab in front of my house.

Q And you went upstairs and left this handkerchief, presumably full of money, in your house, is that correct? A Yes.

Q And did you give it to anyone? A To my wife.

Q To your wife. Was anyone else in the house at the time? A One lady.

Q One lady. Now, how many rooms do you occupy at 155 West 64th Street? A One room.

Q And you then left your home and came down to the street and got in this cab; is that correct? A I called Rodriguez, and he came in my house.

Q Just a minute. Are you sure you didn't go down into the street and get into the cab first? A I stated that I left

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the package with my wife, and on my way down stairs I discovered that I was short of change, and I went back to ask my wife to open the package to hand me a ten-dollar bill, and when she opened the package there was a newspaper.

Q And then you immediately went down to the street to where your friend was, the defendant? A I went down stairs and I shouted for Rodriguez, when I discovered all those newspapers.

Q Where were you when you shouted? A Immediately at the entrance of the door, I opened the door and said to him, "See here, these newspapers in my handkerchief!" and I went right into the taxicab.

Q And did Rodriguez then have a conversation with the taxicab driver, if you know? A I did not see him talk to him.

Q Did he say anything to the taxicab driver? A He did talk to him, I do not know what.

Q And the taxicab then went immediately out to Broadway with you and Rodriguez in it, did it not? A Yes, sir.

Q And as you approached Broadway you turned due south to your right; is that correct? A On the left side, we turned on the left side of Broadway.

Q You went due south on Broadway, didn't you? A Yes, sir.

Q And you went on your right side, did you not? A I was on the left with the taxicab on Broadway.

Q I am talking about the taxicab. Did it turn to its right as it went into Broadway? A Yes, sir.

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Q And you continued down Broadway several blocks before the cab came to a halt; is that correct? A Yes, sir.

Q And when the cab came to a halt there was a policeman standing there; is that correct? A Yes, sir.

Q And after a conversation between this policeman and this defendant the cab took you and the defendant to the West 47th Street Station House; is that right? A Yes, sir.

Q And there this defendant, speaking in English explained the alleged larceny to the lieutenant; is that right? A He spoke to him in English. I do not know what he said.

Q But you saw the policeman there behind the long desk, did you not? A Yes, sir.

Q Now, I ask you to describe to this jury again how this second stranger was dressed? A He had a fedora hat, a brown fedora hat, and an overcoat, a dark overcoat.

Q What kind of collar did he have on? A White.

Q Clerical collar? A Not like a Priest.

Q Did either one of these strangers on the day in question have the dress of a Priest? A No.

Q Did you at any time tell anyone that one of the strangers was dressed like a Catholic Priest? A No, I told somebody that one of these two was studying to be a Priest.

MR. MEARA: That is all.

REDIRECT EXAMINATION BY MR. SHERIDAN:

Q What day was it you took your money out of the bank, the 5th, or the 6th of November?

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MR. MEARA: There is no question, if the Court pleases, about the loss of the money. We will concede that to the jury.

MR. SHERIDAN: Thank you, but it is on another question.

A On the 6th of November.

Q The 6th of November you drew your money out of the bank. How much money did you have in the bank on the

6th? A \$1500.

Q And you drew out \$1400? A Yes, sir.

MR. SHERIDAN: That is all.

T H O M A S A. B R A D Y, police officer, shield
No. 536, attached to the 26th Precinct, Detective Bureau,
called as a witness on behalf of the People, being first
duly sworn; testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Officer Brady, you are a member of the police force of the City of New York? A Yes, sir.

Q How long have you been a member? A Six years and a half.

Q And on the 6th day of November, 1919, you were attached to the 26th Precinct? A Yes, sir.

Q As a detective? A Yes, sir.

Q How long have you been working as a detective? A About six years.

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Q And on the afternoon of that day did the defendant, George Rodriguez - Officer, do you recall on the afternoon of that day seeing the defendant George Rodriguez, and the complaining witness, Carlos Del Mar, at the station house where you were? A I do.

Q About what time of day was it? A It was about 5:30 p.m.

Q And did you have a conversation with the defendant? A I did.

Q And at that conversation the complaining witness, Carlos DelMar, was present? A Yes, sir.

Q What did the defendant say to you? A The defendant came in and reported at the Detective Bureau that his friend, Mr. DelMar, had met two men at 64th Street and Broadway, where they engaged in a conversation, and they engaged a taxicab, and they rode south on Broadway. When they got to about 54th Street and Broadway, Mr. DelMar was advised to put his money in a handkerchief and the other two unknown men demonstrated how he should carry it and be careful so he wouldn't lose it or be robbed. He wrapped it up in a handkerchief and showed him how to carry it on the inside of his shirt. So, while this unknown man put the handkerchief with the money on the inside of his shirt he pulled another handkerchief out and put it in Mr. DelMar's shirt and told him not to look at it until he got home, and when he got home he discovered he had a couple of newspapers wrapped up in a handkerchief.

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BY THE COURT:

Q This was the story as told to you by the defendant on that day at about 5:30 p.m. in the presence of the complaining witness? A Yes, sir.

Q Then what did you say to the defendant? A I asked the defendant how he came to meet these unknown men. He said they were standing up there and he came over and started to cry, and both the defendant and Mr. DelMar had a conversation with him.

BY MR. SHERIDAN: _____

Q What else? Did you ask the defendant any other further conversation with reference to these two men? A I did.

Q What did he say? A I asked the defendant how long he had known Mr. Del Mar, and he says, "A couple of months." I says, "What was the idea of Mr. Del Mar carrying such a large quantity of money with him?" He says, "Going out to buy a boarding house." I asked him if he was connected with any real estate business. He said, "No." I then asked him his occupation. He said he was a laborer. I said, "How long is it since you have worked?" He says, "About three or four months."

Q Did he say where he worked when he did work? A He worked at some bakery.

Q And then what did you tell him? Did you make any appointment with reference to the following day? A I did.

Q What did you tell him? A I told him I wanted him and Mr. DelMar to meet me at Police Headquarters the following morning at half past nine.

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Q Did you tell him what you were going to do at Police Headquarters? A I did.

Q What did you tell him? A I told him I wanted him to look over the pictures in the gallery, for the purposes of having him identify pictures there which might resemble the other two unknown men. I then wrote on a slip of paper the address of Police Headquarters, gave him directions how to get down there by train, and I told him I would be there waiting for him, so I waited -

Q The next morning you waited at Police Headquarters?

A Yes, sir.

Q Did you see the complainant or the defendant on the 7th of November? A No, sir.

Q When thereafter did you see the complaining witness?

A I seen the complaining witness the following night, at the 26th Precinct Detective Bureau.

Q And the defendant was not present? A No, sir.

Q But the complainant was accompanied by some other Spaniard who spoke English? A Yes, sir.

Q Did you have any conversation with the defendant after that night, after the 7th of November? A I had a conversation with him on the night of November the 7th.

Q With this man? A Yes, sir.

Q What was the conversation? A I asked him the reason why he didn't come down to Police Headquarters, and he says Mr. DelMar was asleep and wouldn't get up. I said, "How do you

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know he was asleep?" He said, "I was over to his house." Then I told him about seeing Mr. DelMar, and Mr. DelMar telling me about the defendant going over to his house and advising his wife to tell him to leave the country, that the Police would do nothing for him, that these were two bad men, and they might do some harm, and they might kill him, and to go back to his own country, go back to work again and save up some more money.

Q Is this a conversation that you told this defendant?

A I did.

MR. MEARA: I don't see the materiality of that.

THE COURT: Why?

MR. MEARA: What he told this defendant. He could tell him anything, as far as that is concerned. I don't see the relevancy of it.

THE COURT: It is relevant. It is a conversation had with the defendant concerning the alleged crime, held the following day, wherein this defendant suggested to the complaining witness to leave the country. The jury may regard that as an intimidating circumstance. In other words, suggestion to a man who had made a complaint against another for larceny to leave the jurisdiction.

MR. MEARA: I respectfully except to your Honor's ruling.

Q What did he say when you questioned him concerning his - or concerning the complainant's statement that he had

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been advised to leave the country by the defendant? What did the defendant say? A The defendant told me, he said he felt sorry for Mr. Del Mar, and that he lost such a large quantity of money; that he thought it was best for him to go back to his own country and start to work again and save some more money, where he could get more help.

MR. SHERIDAN: That is all.

CROSS-EXAMINATION BY MR. MEARA:

Q You told this defendant what some one else had told you? A Yes, sir.

Q That is what you were addressing to this defendant, what some one else had told you? A Yes, sir.

Q Didn't this defendant say to you that what he had said to the complainant's wife was, "After all the trouble you have had you would have been better off if you had stayed in your own country?" A No, sir.

Q Did anyone else tell you the defendant said that? A No.

Q To either the complainant or his wife? A No, sir.

Q You remember the defendant accompanying the complainant over to the station house, do you not? A I do.

Q And he was very frank in all his statements to you that day, was he not? A Yes, sir.

Q He answered every question? A Yes, sir.

Q And he explained to you in minute detail just how the whole thing happened, isn't that correct? A Well, when I heard the other story the following night, on November 7th,

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