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CASE # 1525

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

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

RAPHAEL DOZIAS and TRANK PARISI.

#1901

Before Hon.

WARREN V. DOSTER, J.

and a jury.

Indictment filed March 20th, 1912.

Indicted for robbery in the first degree etc.

New York, April 10th, 1912.

APPEARANCES:

For the People, ASSISTANT DISTRICT ATTORNEY

GEORGE E. BROTHERS.

For the defendants, MESSRS. LUKE O'REILLY and

P. J. GRECO.

Peter P. McLoughlin,
Official Stenographer.

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(Mr. Brothers opened the case on behalf of the People.)

MR. GRECO: I object to the opening of the District Attorney in reference to a preconceived scheme, that he knew a certain woman was to have so much money.

THE COURT: I shall instruct the jury not to regard the opening but to determine the case on the evidence. The object of an opening is to have the jury understand the connection between the evidence and the subject-matter of the charge.

R. O'REILLY: If the Court please I desire to move a dismissal of this indictment as against the defendant, Frank Parisi, upon the opening of the District Attorney.

THE COURT: I shall deny the motion. I will hear the evidence.

Exception.

MR. O'REILLY: For the reason, I might state, that the indictment does not charge the crime defined by the District Attorney in his opening.

ELLA B. NICHOLS, a witness called on behalf of the People, being duly sworn, testified as follows:
(The witness states that she lives at 28 Amsterdam Avenue.)

DIRECT EXAMINATION BY MR. BROTHERS:

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Q Where do you live? A 28 Amsterdam Avenue.

Q In this city? A Yes, sir.

Q By whom are you employed? A The Covering & Supply Company.

Q What business do they carry on? A They are contractors for steam pipes and boiler covers and engineer supplies.

Q Where is their place of business? A 232 and 234 West Street, New York City.

Q What is your position there? A Bookkeeper.

Q Was it part of your duty to go to the bank every Saturday morning to draw out money? A Yes, sir.

Q Did you do that for your employer? A Yes, sir.

Q On the 16th of March, 1912, that was Saturday morning, was it not? A Yes, sir.

Q Did you go to the bank? A Yes, sir.

Q To what bank? A The Germania Bank, Spring Street and Bowery.

Q In the City and County of New York? A Yes, sir.

Q Is that the bank that you went to every Saturday morning? A Yes, sir.

Q For how long a time has it been your custom to go Saturday mornings to that bank? A Well, I don't remember just the exact years, but it must be three or four years anyhow.

Q Now, on this 16th day of March, 1912, what time did you

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get to the bank as near as you can remember? A About 11 o'clock.

Q Did you draw out some money, if so how much? A I drew out \$27.08.

Q Did you put it in anything? A I put it in a leather bag.

Q Is this the bag (showing witness a bag)? A Yes, sir.

Q And what did you do? A Well, then when I got the money I put it in the bag and started down to Grand Street.

Q How did you carry the bag? A On my arm, with these two straps (indicating).

Q Now, at the time you put the money in-- will you show us whether the bag was in the condition that is now in, or whether it is different now? A Well, the straps are broken now.

Q How many straps were there? A There were two straps, this and the other one like this (indicating).

Q They were both fastened at each end? A Yes, sir.

Q To the bag? A Yes, sir.

Q Making two loops? A Yes, sir.

Q Do you say you had the two loops over your arm, you put your arm through the loops? A Yes, sir.

Q The bag hung suspended from both loops? A I didn't have time to do anything else with it.

Q Over which arm? A Over the right arm.

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Q Now, when you came out of the bank, tell the jury just what happened. A I stepped-- there were some steps on the bank entrance, I just stepped off the steps-- and the street is very narrow,-- there is in the middle a car track, and I usually carried the bag on my arm. I had not time to put it on my arm when Debiase, the young man with the light hair, came towards me and I supposed he was going up towards 3rd Avenue.

Q Which one is he?

MR. RECO: I object to that.

A The young man with the light hair.

Q That is this defendant (pointing to the defendant Debiase)? A Yes, sir. He came towards me and when he got up to me with both hands he grabbed the bottom of the bag and pulled it, with all his weight, the straps broke and he ran with it.

Q In which direction did he run? A He ran west on Spring Street, about a half a block, he dove in a doorway and after that I did not see him.

Q Now, did you see him again that day? A In the police court, headquarters.

Q Where did you go after this bag was taken from you?

A I stayed in the street, crying, and then a policeman came to me and told me I better come to police headquarters.

Q Is that where you saw the defendant? A Yes, sir,

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but I saw him on the street when he took the bag.

Q You saw him on the way there? A Yes, sir.

Q Did you see the bag again after that? A No, sir;
I did not see the bag again.

Q Not that day? A No, sir.

Q When did you again see it? A Well I haven't seen it;
I have seen it with the different detectives when they came in--

Q Did anybody show it to you that day after the arrest?

A I saw it in police headquarters.

Q With reference to the straps as to whether or not the
condition it is in now was the condition it was in then?

A Well there should be another strap on here (indicating).

Q When you saw it at police headquarters that day what
condition were the straps in?

MR. GHECO: I object to that as irrelevant, incom-
petent and immaterial. She doesn't know the condition
of the bag.

THE COURT Answer the question.

Exception.

A I saw the bag and it had one strap off and the other strap
still on my arm, which I gave to one of the policemen.

Q This strap which is on the bag was there as it is now?

A Yes, sir; it was there as it is now.

Q Fastened at one end? A Yes, sir; and the other
strap I did not see, I had my arm that way and it was caught

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in the coat (indicating).

Q In this the bank book which was in the bag?

A Yes, sir.

Q And there is some money? A An ink pad and a stamp.

Q Was it in money in the bag too? A Yes, sir.

Q Is that the stamp? A Yes, sir.

Q And a roll of coin? A Yes, sir; there is another roll.

Q What? A Yes, sir; and there is some 2 cents in change.

Q Now, would you like to offer the bag in evidence?

A No objection.

(The bag referred to is marked People's Exhibit 1 in evidence.)

MR. PROSECUTOR: With both straps. Will you correct me is the amount of money was that? \$37.03? But we are to have it for identification.

(Marked People's Exhibit 2.)

Q Now what is that amount? A \$37.03.

Q Now, did you see the other defendant, Perini, at any time? A No, sir.

Q You didn't see him at all? A No, sir.

Q Did you see him in police headquarters? A I saw him at the headquarters but not before that.

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CROSS EXAMINATION BY MR. GRECO:

Q Miss Nichols, when you came from the bank the first thing you noticed was the man who pulled the bag from your hand, is that right? A No, sir; the first thing I saw was Debiase coming towards me.

Q Well, did you know he was going to rob you? A No, sir; I did not know; I thought he was going on up 3rd Avenue.

Q Well then he pulled the bag from your hand, did he? A Yes, sir; he broke the bag off the straps, it took it from my arm.

Q You were carrying the bag in your arm? A Yes, sir.

Q The first thing you noticed somebody snatched it from your hand? A No, sir; he broke it with both his hands.

Q Before he broke it he snatched it, didn't he? A No, sir; he could not take it until he broke the strap.

Q The bag was given to you by the police officer, is that right? A Yes, sir-- no, sir, I haven't got the bag yet; they have had it all the time; they did not give it to me; I simply saw it in one of their hands.

B. MR. O'NEILLY:

Q After this bag had been snatched in this fashion that you have described you saw a young boy or man run away, did you? A Yes, sir.

Q You saw him run in the hallway? A Yes, sir.

Q About how far away was that from where you stood?

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A About half a block.

Q Did you follow with your eyes the man? A Yes, sir.

Q Did you have a clear view of him as he ran? A Yes, sir.

Q Did you see him as he ran away? A Yes, sir.

Q From the moment he left your presence until the time he reached the doorway you had a clear unobstructed view of him? A Yes, sir; of his back running.

Q You saw him disappear in the doorway? A Yes, sir.

Q Was there anybody between you and this boy as he ran, from your presence into this doorway? A Yes, sir; the minute he grabbed the bag I screamed and yelled "stop thief" and everybody began to run but I still kept my eye on him to see where he went.

Q Nobody got out before your vision so as to interrupt the view you had of him? A No, sir.

Q You could see him distinctly? A Yes, sir. I saw him all the time because he ran in the middle of the car track and I was in the car track.

Q You did not see Parisi there at all? A No, sir; I did not see Parisi.

Q What time of day was that? A That must have been about 5 or 10 minutes after 11.

Q When was that? A In the morning.

Q In the morning? A Yes, sir.

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Q Was it a bright day? A Very bright.

Q You could see clearly and distinctly? A Yes, sir.

Q Your eyesight is very good, is it? A Well I think so

Q Well you know it is, don't you? A Yes, sir; I am sure it is.

BY MR. BROTHERS:

Q I may not have asked you, Miss Nichols-- did the defendant get the bag from your possession with one pull or did he have to pull more than once? A With both his hands he pulled it; I heard the strap give, and he ran.

Q It did not slip off your hand? A No, sir; he broke it and then he ran.

DANIEL W. CLAIR, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

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

Q Attached to the detective bureau? A Yes, sir.

Q Were you so attached the 16th of last March? A Yes, sir.

Q On that day were you in the vicinity of Spring and the Bowery in the City and County of New York? A Yes, sir.

Q At 11 o'clock in the morning? A Yes, sir; I was.

Q Was there any other officers there? A Officers Reilly

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Hallinan, Oliver, Gavigan and Thompson.

Q Were they in uniform or in citizen's clothes? A In citizen's clothes.

Q You were too? A Yes, sir.

Q Where were you, what part of the street? A Well, I was standing on the east side of the Bowery, directly opposite the Germania Bank.

Q The Germania Bank is on the northwest corner, is it, of Spring Street? A Yes, sir.

Q Spring Street stops at the Bowery? A Yes, sir.

Q There is another street, what is the name of that, is it Livingston or Stanton? A No, sir; Kenmare Street.

Q Runs east from the Bowery? A Yes, sir.

Q Now, how long had you been there? A I was there about 25 minutes after 10.

Q What did you see while you were there? A I saw four young men, two defendants and two others, I saw the defendant Debiase and Parini standing at a haberdashery store which is on the southwest corner of Spring and the Bowery, opposite the bank.

Q How long did you see them standing there? A I only saw Parini standing there for about 15 minutes.

Q Was Debiase with him? A They were separated part of the time.

Q While they were standing close to each other, are you

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able to state whether or not they were in conversation?

A I did not see them in conversation.

Q You could not say? A No, sir.

Q What else did you see? A The next thing I was crossing the street from the west side of the Bowery to the east, and I seen--

Q Is that what you mean, from the west to the east, or from the east to the west? A The east to the west, rather. I seen a commotion and I seen Debiase run from Miss Nichols, he ran in the center of the street, and as he did I gave chase and he went through No. 6 Spring Street. He ran west --

Q He ran west through Spring Street? A Yes, sir, to No. 6. Parisi was in the front and then there was detective Reilly and then Debiase was in the front and then Detective Reilly and Parisi and then myself.

Q Now as you were running through Spring Street, and before they came to the place where they turned off, give us some idea how close you four were together? A Well I, at all times, was about 50 feet behind him.

Q You were 50 feet behind them? A Yes, sir.

Q How close was Reilly to Debiase? A Well, I should say 25 feet.

Q Then there was the other fellow, Parisi? A He was just in front of me, directly in front of me.

Q How close to you? A Well, he was blocking me all the

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way.

DEFENDANT'S COUNSEL: I object to that.

Stricken out by consent.

Q Just tell us exactly what he did, without characterizing it, tell us what he did so that the jury can tell whether he was blocking you. A He ran directly in front of me and kept hollering "Come on, there he goes."

Q What else did he do? A As he went through No. 6 Spring Street, then we came out into No. 87 Elizabeth Street.

Q Who ran through? A I beg pardon.

Q Was? A Detective Reilly, Debiase, Parisi and myself.

Q Ran through where? A No. 6 Spring Street.

Q What kind of a place is that? A Tenement house.

Q They entered the front door? A Yes, sir.

Q How close were you to Parisi at that time? A About 10 or 15 feet behind him.

Q Where did you go when you went into the tenement house?

A Directly through the yard, and through another yard which led out into Elizabeth Street, and then south on Elizabeth Street to Kenmare Street, through Kenmare Street to West Street, and through West Street to No. 365 and Detective Reilly and Debiase--

Q What is that? A 365 Broome Street, and Detective Reilly and Debiase had just passed through the doorway of

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No. 365. Parisi was then right in front of me and he hollered "The door is locked," and I grabbed him right in the vestibule.

Q Did you-- have you told us all that Parisi did?

A That is all I know that he done.

Q You used a word and counsel objected to it. You have not told us yet what you meant by that word "blocking".

Objected to.

Q Tell us what he did. A He interfered with my running.

DEFENDANT'S COUNSEL: I ask that that be stricken out.

THE COURT: Strike it out.

THE WITNESS: By crossing up directly in front of me so I could have run-- so I could not run fast.

Q Tell us what you did as you ran? A I am running after him and Detective Bailly and Debiane--

Q He let us get it. A This man keeps directly in front of me.

Q When you started to run were on the sidewalk or in the roadway? A In the roadway.

Q Of Spring Street? A Yes, sir; of Spring Street.

Q When you started to run how far away from you was Parisi? A About 25 feet.

Q Was he on the sidewalk? A He was on the roadway.

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Q Was he running? A He was running.

Q Now, as you ran after him did he stay in the roadway?

A He stayed in the roadway, went right through and turned into No. 6.

Q Did you get any closer to them on Spring Street than 25 feet? A No, sir; I rushed close to him and I landed in the doorway the same time he did.

Q When you landed in the doorway what did he do?

A He hollered "The doorway is locked."

Q At Spring Street? A He kept on going and hollering "Come on".

Q Did you stop at all? A No, sir.

Q You didn't get right up to him where you could put your hand on him? A No, sir.

Q Until you got to Broome Street? A Yes, sir; in the doorway.

Q Tell us what happened there? A Well I grabbed him and I said "You are under arrest."

Q What did he say? A Well he said "What do you want me for". I said "We can explain that to you, you know what you are arrested for. You have been blocking me all the time I have been running here." I told him I saw him over at the factory.

Q What if anything did he say as he was running from the factory back down to Broome Street? A Well he kept holler-

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ing "Come on".

Q Well as he yelled "Come on" in what way was he facing?

A He turned around once directly in front of my face.

Q You mean he looked ahead and then looked behind him?

A Yes, sir.

Q Only he said "Come on"? A Yes, sir; that is all.

Q That is all that you saw and all that you heard?

A Yes, sir; that is all that I saw and heard.

CROSS EXAMINATION BY MR. O'REILLY:

Q As he ran ahead of you he turned around, looked at you and said "Come on"; is that right? A I don't know as he directed his conversation to me.

Q But he looked at you, turned his head towards you, looked in your direction, and said "Come on, there he goes"?

A There was a crowd running at that time.

Q Was there a number of people running? A Yes, sir.

MR. O'REILLY: I ask to strike out the last answer as incompetent and irrelevant.

THE COURT: It is already answered.

MR. O'REILLY: I ask that it be stricken out.

Objection denied. Exception.

BY MR. O'REILLY:

Q In this chase Detective Reilly was at all times be-

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tween Debiase and Parisi? A Yes, sir.

Q That was the order of the running? A Yes, sir.

Q Debiase is first, then Reilly and Parisi, then you?

A Yes, sir.

Q When you got to Broome Street you all stopped and these two men were arrested, had any one else come there?

A Yes, sir; there were several, as many as two hundred people gathered around.

Q I want to specify-- did any officers come there?

A Yes, sir; other detectives just behind us.

Q What became of the other two men that you saw on the corner whom you said you saw-- the four men? A Yes, sir.

Q What became of those other two that day? A Well, in the excitement they must have got lost in the crowd.

Objected to.

Q They were not arrested? A No, sir; not until later on. They are under arrest now.

Q They were arrested later? A Yes, sir.

Q Did you participate in the arrest? A Lieutenant Craig and Savage.

Q Have you seen them in custody? A Yes, sir; identified the two as being on the Bowery that day.

Q Do you know what their names are? A One is named Pete the Burglar and the other's name is Pasculo.

BY MR. O'REILLY:

Q How far was Detective Reilly ahead of Parisi while they were running? A I could not give the exact distance.

Q Not exact, your best judgment. A It looked as though he had about 50 feet or more on Reilly to my knowledge. He was close behind.

Q I asked you how far Reilly was ahead of Parisi.

A Oh, he must have been fully 50 feet ahead of him.

Q Ahead of Parisi? A Yes, sir.

Q How far was Reilly behind Robinson? A As far as I could judge he was the same distance.

Q About 50 feet? A Yes, sir; there was excitement there at that time.

BY MR. GRIMO:

Q You did not see the larceny committed? A No, sir; I did not; I only saw them run from the direction of Miss Nichols.

BY A FAVOR:

Q Did you know these defendants prior to this arrest?

A Never saw them before.

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J O S E P H W. R E I L L Y, a witness called on behalf
of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q You are a member of the Police Force of the City of
New York? A Yes, sir, I am, sir.

Q Attached to the Detective Bureau? A Yes, sir.

Q Were you on the 16th of March, 1912, in the vicinity
of Spring street and the Bowery in this city? A Yes, sir.

Q About 11 in the morning? A Yes, sir.

Q Were you there by chance or by orders? A By order.

Q Who else was there, what other officers? A There was
Detective Watson and Detective Brogan.

Q Where were the two or three rather? A We were
in a haberdashery store corner of Spring and the Bowery,
the southeast corner.

Q While you were there did you see the defendants?
A I did, yes, sir.

Q These two fellows at the table? A Yes, sir.

Q Where were they? A Raphael Deblase was standing
directly in front of the window.

Q Which one is he? A The young man with the light hair
and the blue suit.

Q He was in front of the window? A Yes, sir; opposite
the bank.

Q Was he on the Spring street side? A Yes, sir.

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Frank Parisi came up afterwards with his hands in his back pocket, talked to him a few minutes and walked away.

Q You were inside the store? A Yes, sir; looking at them.

Q You could not hear what was said? A No, sir; I did not.

Q Was there anybody else there with him? A No, sir; he went up alone and talked to Debiase and walked away.

Q Well, how long were they there? A Well, Debiase was there about ten minutes or possibly fifteen minutes, and Parisi stood there about a minute and a half.

Q Then what happened? A The lady came out of the bank Miss Nichols.

Q Did you see her here today? A Yes, sir. She came directly south; she came down the bank steps, across Spring street, and south on the bowery and at the intersection of the street Debiase darted across the street and in the middle of the street grabbed the bag, ran down through Spring street. I ran out of the store after him. He went through No. 6 Spring street and into the back yard and out Elizabeth street. He dropped the bag in the yard at No. 7 Spring street.

Q Now, is this the bag? A Yes, sir.

Q People's Exhibit 1? A Yes, sir.

Q Did you pick it up? A No, sir.

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Q While you were running did you see Parisi at any time?

A No, sir.

Q You were looking after the other fellow? A Yes, sir.

Q Where did you chase him to? A I chased him down through Spring street and went into No. 6 through the back yard, out to Elizabeth street, down Elizabeth street to Kenmare street, to Mott street, down Mott street to Broome street he and ran into 365. I ran into 363, thinking he had gone into 363 and I could not find him. I heard footsteps going upstairs. I came out and I then ran into 365.

Q Were those stairs together? A Yes, sir.

Q Just a single partition between? A Yes, sir; I ran upstairs in 365 to the second floor and there detective Hallinan turned him over to me. I brought him downstairs.

Q When you got downstairs did you see anybody? A I seen Frank Parisi down there. Another detective had him, Detective Clair.

Q Now who was the detective that turned the defendant over to you, Debiase -- who turned him over to you, Hallinan?

A Yes, sir; Hallinan, I think you pronounce it.

Q What did Debiase say up there in Broome street?

A Well after he was caught?

Q Yes. A He didn't have anything to say. He said that he wanted to know what we had him for. I told him and after that he kept his mouth shut and did not say anything.

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Q While you were in the haberdashery store did you see anything of two other men with these two defendants?

Objected to as leading; objection overruled; exception.

Q Did you? A I seen one other man.

Q Do you know who he is? A Yes, sir.

Q What is his name? A It is hard to pronounce it, I think it is Rasalgo, an Italian name.

Q Has he got any other name? A Not that I know of.

Q Have you seen him since that day? A Yes, sir; I have.

Q Where? A Seen him at police Headquarters.

Objected to; objection overruled; exception.

CROSS EXAMINATION BY MR. O'REILLY:

Q What time did you arrive in the neighborhood of this bank that morning? A About ten minutes of eleven.

Q Are you attached to the Detective Bureau? A I am, yes sir.

Q Were you assigned to some particular duty that morning? A I was, yes, sir.

Q You were assigned then for this particular case, weren't you? A I was assigned there to --

Q I am asking you yes or no? A I was, yes, sir.

Q Do you know a policeman whose first name is Leo?

A Not that I can recollect, no, sir.

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Q Do you know a policeman whose first name is Al?

A No, sir.

Q Did Debiase tell you anything about a policeman named Leo, and another one named Al? A No, sir.

BY MR. GRECO:

Q Now, Officer Clair was the officer who just left the stand now? A Yes, sir.

Q Is that him? A He was called in here. I did not know whether on the stand or not.

Q You and officer Clair were standing where before Nichols came from the bank? A Officer Clair and I was not together. I was at Spring street and the Bowery, the southeast corner, is a haberdashery store.

Q In the store? A Yes, sir.

Q Where was officer Clair? A Officer Clair was on the opposite side of the Bowery, I think.

Q Where? A Opposite the bank, the intersection of Spring street.

Q Do you mean on the northeast corner of Spring and the Bowery? A Yes, sir; Spring starts at the Bowery.

Q And it was on the opposite side as I understand it?

A He might have changed his position since the time I saw him until the time the robbery took place.

Q Where were you standing? A Inside the store.

Q That is a dry goods store? A Yes, sir.

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Q Where were you standing inside this store? A I was sitting down on a roll of paper.

Q Inside the store? A Yes, sir; behind a shirt that was pasted in the window which hid me from view of the street.

Q So that when Miss Nichols came from the bank you could not see her at all? A I could see Miss Nichols and could also see Debiase.

Q You just said a shirt in the store and goods in the window obstructed your vision, what did you mean by that? A I meant just what I said, that it obstructed my vision from anybody else as I thought.

Q Then when Miss Nichols came from the bank you could not see her unless you stepped outside the store? A No, sir, all I had to do was to turn my head to one side.

Q When Miss Nichols came from the bank you turned your head one side? A Yes, sir.

Q You saw her? A Yes, sir.

Q You knew just when she was coming from the bank? A I did, yes, sir.

Q You knew just when Debiase was going to steal the bag from her? A I did not know just when he was going to do it; no, sir; I did not know it.

Q Well, what did Debiase do? A What did he do with it? Well, he ran in the middle of the street, across the street, the intersection of the street on the Bowery and

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Spring street tore the bag from Miss Nichols arm and ran down Spring street.

Q By tearing it you mean he snatched it and ran away?

A Broke the straps on the lady's arm.

Q Ran away? A Yes, sir.

Q Do you know officer Leo Lamherdolo. Isn't he employed by Deputy Commissioner Dougherty? A I do not know, sir.

Q Do you know officer Al Cava? A No, sir; I do not know them.

Q So you did not know that a larceny was to be committed or come off that day, officer? A Did I know? We had information that there was.

Q Was going to be a larceny committed? A Yes, sir.

Q At that place? A Yes, sir.

Q You were watching out? A Yes, sir, we were watching out.

Q And in order to watch out you stayed inside of a dry goods store? A Yes, sir.

DANIEL T. HALLINAN, a witness called on behalf of the people, being duly sworn, testified as follows:
(The witness states he is attached to the Detective Bureau)
DIRECT EXAMINATION BY MR. BROTHERS:

Q Are you a member of the Police Force of this city?

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A Yes, sir.

Q Were you on the 16th of March, 1912 at Spring street and the Bowery? A Very near, yes, sir, No. 4 Spring street.

Q In civilian clothes? A I was, yes, sir.

Q Whereabouts were you? A No. 4 Spring street in a store.

Q What side of the street is that? A On the south side, the second door as you leave the Bowery, or about the third.

Q What is on the corner -- a haberdashery store?

A Yes, sir.

Q That is the store beyond the one you were in? A Yes.

Q Was there anybody with you? A No, sir; I was alone.

Q How long were you there? A Well, I was in the store I guess about 5 minutes.

Q What did you see while you were in the store? A I saw--

Q I will withdraw that, and ask you whether while you were in that neighborhood if you saw either of these defendants?

A I did not, no, sir.

Q You did not see them? A No, sir.

Q What was the first thing you did see? A I saw the defendant Debiase run past the store and into the doorway of No. 6 Spring street.

Q Which would be right next to where you were? A Yes, sir.

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Q What did you do? A I followed Detective Watson and Reill and Oliver through the hallway after Debiase and through another hallway into Elizabeth street, down Elizabeth street to Kenmare street, through Kenmare street west to Mott street, south on Mott street to Broome street, and into No. 365 Broome street. I ran up the stairs of 365 Broome street, and on the landing, between the four and fifth floor, I arrested the defendant Debiase.

Q Now, tell us what happened, more particularly what happened in Spring street, No. 6. Did you see what happened there. Did you see any bag? A No, sir; I did not.

Q Did you not see the bag? A No, sir.

Q When you caught Debiase, as you call him, at Broome street, what did you do with him? A Well, I placed him under arrest.

Q Did you see Parisi there? A I saw Parisi in Spring street.

Q What was he doing on Spring street? A He walked past the store that I was in with his hands in his pocket like that (illustrating).

Q What way was he going at that time? A Going west.

Q Did you see him again? A Yes, sir; in Police Headquarters.

Q You didn't see him while you were chasing? A No, sir.

CROSS EXAMINATION BY MR. O'REILLY:

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Q You didn't see him while chasing who? A Parisi.

BY MR. GRECO:

Q Where were you, Officer, at 10 o'clock on March 16th?

A About 10 a. m. I was at 14th street and Second avenue.

Q You came down to Bowery and Spring street? A Yes, sir.

Q Where did you go? A I went to number, about , I think in
it was No. 10 or 12 Spring street at first and met Detective
Oliver. I went from there into No. 4.

Q 4 Spring street? A Yes, sir.

Q Did you see Officer Reilly? A No, sir; I did not;
I saw Officer Reilly following Debiase.

Q You did not see him before? A No, sir; I did not.

Q Where were you , in the store in No. 4 Spring street
was it? A Yes, sir.

Q What kind of a store? A It was, I believe it is a
paint shop, I think it is a paint store or something of
the description.

Q Don't you know what kind of a store you were in?
A I don't know exactly, no, sir.

Q Where were you, inside the store? A Yes, sir.

Q Seated inside? A No, sir; standing up, looking
out of the window.

Q How far away from the door? A Well, about a foot or
so-two feet.

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Q 4 Spring street is about in the middle of the block, isn't it? A It is not, no, sir.

Q Between the Bowery and Elizabeth? A No, sir; it is much nearer to the Bowery.

Q Just tell us what you saw, if anything.

A I saw Debiagi run by with officer Watson and Reilly and Oliver in pursuit of him. Watson, Reilly and Oliver came from the west -- followed Reilly and Watson through the hall and I followed them through the hall.

Q You saw them running right in front of you? A Yes, sir; they did.

Q You did not see what happened before they were running? A No, sir; I did not, because there was a wagon drawn up in front of No. 4.

Q Did you arrest either of the defendants, Debiase?

A I arrested Debiase, yes, sir.

Q Where? A In No. 365 Broome street.

Q Where did officer Reilly run? A Well officer Reilly ran into No. 365 Broome street.

Q Sure of that? A Yes, sir, I am sure, yes, sir.

Q Officer Reilly was right in front of you? A Yes, sir.

Q And Debiase was in front of Officer Reilly? A Yes, sir.

Q And officer Reilly was chasing Debiase? A Yes, sir.

Q You were chasing right behind Officer Reilly and Debiase

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is that right? A Yes, sir.

Q Right up to the building of 365? A Yes, sir.

Q Where did you catch him? A On the landing between the fourth and fifth floor of No. 365 Broome street.

Q Officer Reilly reached upstairs first? A No, sir; he did not; I ran upstairs first. Officer Reilly went out into the yard.

Did

Q Officer Reilly stop running at 365? A No, sir; he ran into 365 Broome street, through the hallway, out into the yard, and I ran upstairs.

Q He went into the yard and you went into the front building, is that what you mean? A We both entered No. 365 Broome street from the front entrance and when Reilly got into the hallway he went into the yard. I went upstairs. After I caught Debiase I met Reilly on the way upstairs, he was coming up and I was coming down.

Q When you went into the hallway of 365 Broome street you did not see Debiase anywhere? A No, sir; I did not, after he had entered the hall.

Q You saw officer Reilly? A Yes, sir.

Q Is that right? A Yes, sir.

Q How far ahead was Officer Reilly from you? A About 20 yards.

Q About 20 yards? A Yes, sir.

Q When you saw officer Reilly run through the yard from

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the hallway why didn't you follow officer Reilly if you had not seen Debiase? A Because I wanted to go upstairs, and to find out if Debiase went up that way.

Q You simply went up there? A Yes, sir, I did, yes, sir.

Q Was Debiase talking to a lady up there on the third floor? A Not that I know of, no, sir.

Q What was he doing? A He was running upstairs.

Q He was running? A Yes, sir.

Q How did you catch him? A Well, I called to him to stop and fired my revolver over his head.

Q Wasn't he talking to a woman there? A No, sir; he was not, that I know of.

Q When you put him under arrest you said, "Come along". A He stopped on the stairs after I had fired at him. I told him then he was under arrest and brought him downstairs. He was on the landing between the fourth and fifth floor. There were two women on the landing on the fourth floor.

Q While running upstairs you caught up to him? A Yes, sir.

Q How far away or ahead was Debiase from officer Reilly on the street? A Well, I am not sure about that, I think he may have been about fifteen or twenty yards, about twenty yards.

Q You were about twenty or twenty-five yards behind

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Officer Reilly? A Yes, sir.

Q So that there was a distance between you and the defendant and Debiase of about forty five or fifty yards?

A Yes, sir.

Q All the way through the chase? A Well until we got to Broome street.

Q When you got into the hallway of 365 Broome street you hesitated a moment as to which direction you would go? A No, sir.

Q To make up your mind whether going up the stairs or through the hall and follow Reilly? A I went right in the hall and right upstairs.

Q But Debiase had a lead on you of about 55 yards, didn't he? A Well, he had that in Kenmare street, but I closed up with him.

Q Where did you close up on him? A Between Kenmare and Broome street.

Q Between Kenmare and Broome street? A Between the middle of the block in Kenmare street-- between West and Elizabeth street I started to close up there.

Q How far did you close up to him? A About ten or fifteen yards.

Q When you got to the hallway of 365 Broome street you were almost on top of him? A No, sir; I was not.

Q What is that? A No, sir; I was not.

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Q. How far away was he from you then? A. He was then about thirty five yards, I guess.

Q. Then he gained some more headway on you again?

A. That I don't know; I am not sure of the number of yards.

Q. First he was forty five or fifty yards? A. Yes, sir.

Q. You closed up on him? A. Yes, sir; I think I did, about ten yards in running about a block and a half. I closed up about ten yards on him.

Q. When you went in the hallway of 365 Broome street you were almost on him? A. No, sir; I was not.

Q. How far away was he? A. About thirty five or thirty feet -- I mean about thirty yards or so.

Q. Ninety feet? A. About that.

Q. Then did he gain upon you before he got to the hallway?

A. No, sir; he did not.

Q. Then how do you know he was thirty yards ahead of you? A. I am not sure of the number of yards.

Q. You said before that you gained some on him then?

A. I think I did gain some on him from the time when he was going through Kenmare street until he got to the hallway.

Q. When you got to the hallway in order for you to catch him while running upstairs -- you were right behind him so that you caught him while running on the stairs, didn't you? A. When I got sight of him he was running from the fourth towards the fifth floor. I don't know whether he stopped or what he done but that is where I first saw him in

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the building.

Q You were almost behind Officer Reilly, weren't you?

A Yes, sir; I was, in running through the streets, yes, sir, I was.

Q So then when you were about ten yards away from the defendant how far away was officer Reilly from the defendant?

A That I don't know.

Q Well, couldn't you see him? A Yes, sir.

Q Can't you tell the jury just how much distance it was?

A I was paying more attention to my distance from Debiase.

Q Did Officer Reilly drop out? A No, sir; he did not.

Q He was ahead of you all the time? A Yes, sir; he was.

Q Now just tell us show the jury how much you mean by ten yards from where you are, how much you mean by ten yards from where you are, in your estimation? A About that railing there, the next railing (indicating).

Q Officer Reilly ran into 365 Broome street? A Officer O'Reilly, I believe ran into 365 Broome street.

Q Sure of that? A Yes, sir; he ran in this building ahead of me, yes, sir.

RE DIRECT EXAMINATION BY MR. BROTHERS:

Q You say just before you went to Spring street you came from 14th street? A Yes, sir.

Q Did you see the defendants on your way down? A Well,

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I saw five men but I could not positively identify these two men as two of the five because I only caught a glance at the five men in going through 14th street.

Q Had you gone to 14th street purposely? A Yes, sir; I had.

Q You saw five men and you followed them where?

A No, sir; I saw five men just as I got off the car and walked west on 14th street.

Q Didn't you see them after you saw them on 14th street?

A No, sir; I did not, because I waited in 14th street until nearly 11 o'clock before I went to Spring street.

Q Whereabouts in 14th street? A In the vicinity of Second avenue.

Q Do you know the number? A Well, between Second and First avenue, I think it was No. 320 or thereabouts.

Q What kind of a place was it? A A grocery store I was in.

Q You went down Third avenue? A No, sir; I went down on the subway over on a 14th street car and down on the subway.

Q And went to this number in Spring street? A Yes, sir.

CHARLES H. McKINNEY, a witness called on behalf of the people being duly sworn, testified as follows:

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(The witness states that he is attached to the Detective Bureau, Second District.)

DIRECT EXAMINATION BY MR. BROTHERS:

Q. You are a member of the Police Force, are you?

A. Yes, sir.

Q. In this City? A. Yes, sir.

Q. Captain? A. Acting captain, in command of the Second Division, Lieutenant by rank.

Q. Now, were you present on Spring street and the Bowery on the 16th of March? A. No, sir; I was not.

Q. Did you see any part of what took place there?

A. No, sir.

Q. Where did you first see the defendants, Raphael Debiase and Frank? A. In Police Headquarters; second deputy, commissioner's office.

Q. On what day? A. That was on March 16th.

Q. About what time? A. I should say about noon, or a little before noon.

Q. Did they on that day at any time make any statement in your hearing? A. They did.

Q. On the charge or matter on which they had been arrested? A. They did.

Q. Was that taken down by a stenographer? A. Yes, sir.

Q. What was his name? A. John O'Connell.

Q. Is he here? A. Yes, sir; he is.

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Q What was said to them and who said it? A I said it. I warned them that any statement that they made, or would make would be used against them; that it was not -- that they didn't have to talk if they didn't want to. They made their statement and then after that --

Q Was any promise made to them or any kind? A None at all.

Q I don't suppose that you remember the statements.
They have been reduced to writing? A Yes, sir.

did

Q When you first see the defendant Perisi? A About noon,
I think that was the time.

Q How long did you see him in your presence that day,
up to what time? A Why, I saw him until, I should say,
6 o'clock at night.

Q. When was it that this alleged statement that you speak of was made? A. Well, about half past five or six o'clock.

Q What method did you use to get this statement out of the defendant? A I don't understand your question.

Q. You understand English, don't you? A. Yes, sir, I do.

A vertical black and white photograph of a dark, rectangular object, possibly a book cover or a piece of wood, featuring a series of white, stylized, vertical markings or characters. The markings are arranged in a column and appear to be a form of ancient script or a decorative pattern. The object has a rough, textured surface.

Q What method did you use to get this statement out of this defendant? A Legal methods.

Q Legal? A Yes, sir.

Q Used a black jack, didn't you? A No, sir.

Q Beat this defendant Parisi in the head and in the face, didn't you, smash his teeth out, didn't you? A No, sir.

Q With a black jack? A No, sir.

Q Don't you know a policeman named O'Reilly there in your station house -- not O'Reilly but Reilly, a tall fellow?

A Yes, sir; Reilly; he was there.

Q Did you see him kick Parisi in the face before you got this statement? A I did not.

Q You did not see that? A No, sir; I was there.

Q You were there? A Yes, sir.

Q Who else was there? A Well,--

Q A little short fellow there too, a blond haired policeman, don't you remember? A There were several went in and out of there, nearly all the men --

Q Which one was it was kicking him in the stomach?

A Nobody kicked him in the stomach.

Q Nobody raised a hand to him, nobody every did?

A No, sir.

Q Nobody hit him with a black jack? A No, sir.

Q Nobody kicked him in the stomach? A No, sir.

Q Nobody kicked him in the face? A No, sir.



Q Positive about that, are you? A Yes, sir.

Q Did you hear a story about a policeman or two policemen who had originated this scheme to rob this girl?

A I read it in the paper.

Q Didn't you hear it in the station house? A No, sir.

Q Have you made any investigation of it? A I have.

Q Do you know the two policemen? A I do not.

Q Leo and Al? A No, sir.

Q You knew beforehand that this thing was going to take place -- you knew about it? A No, sir; I did not.

Q Well you know that the other officers who took part in the arrest knew about it in advance, didn't you? A No, sir; I don't know that they did.

Q Haven't you asked them? A They were sent out on the plant.

Q Haven't you asked them about it? A They did not know what was going to happen.

Q They did not know? A No, sir, not what was going to happen.

Q Don't you know they knew that there was to be an attempt to rob this young lady -- that they knew it in advance, they went down there purposely to arrest the men who might take a part in it? A They were sent there for some police duty.

Q Didn't you understand the question. This particular of-

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fense we have under investigation here now -- don't you know that the officers took part in the arrest of these two defendants knew, in advance that there was to be an assault or a larceny committed upon this young lady, don't you know that? A I would like to qualify my answer with an explanation.

Q I am asking you what your answer is to that question?

A I know that the officers anticipated a crime, but I don't know what crime they anticipated.

Q Have you discovered in your investigations as to who Officer Leo was or Al? A I have not.

Q You don't know any such officers? (No answer.)

Q Did you ask the officers where they got their information from? A Yes, sir; I did.

Q In advance? A Yes, sir; I asked them afterwards where they got their information.

Q And didn't you discover from them about this officer Al and Leo? A No, sir.

Q You did not? A No, sir.

RE DIRECT EXAMINATION BY MR. BROTHERS:

Q The first you heard of that was what you read in the newspaper? A Yes, sir.

Q This Detective Neilly who was there at the time the statement was taken, can you have him here tomorrow? A Yes,

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sir.

Q Will you do so? A Yes, sir.

(The Court then admonished the jury calling their attention to Section 415 of the Code of Criminal procedure and adjourned the further trial of the case until tomorrow morning, April 11th, 1912, at 11.30 a. m.)

New York, April 11, 1912.

TRIAL RESUMED.

D O M I N I C J. R E I L L Y, a witness called on behalf of the People being duly sworn, testified as follows:

(The witness states that he is attached to the Detective Bureau.)

DIRECT EXAMINATION BY MR. BROCHERS:

Q Now, Mr. Reilly, are you a member of the Police Force of the City of New York? A Yes, sir.

Q Attached to the Detective Bureau? A Yes, sir.

Q At present where are you assigned? A In the office of the Second Deputy Police Commissioner.

Q Who is he? A George S. Dougherty.

Q How long have you been on the Force? A About 16 years.

Q How long have you been a detective? A Twelve years.

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Q Now, on the 16th of March, 1912, did you see either of these defendants? A I did.

Q Who did you see? A Both of them.

Q Did you have any talk with either of them? A I did.

Q With both of them? A With the defendant Frank Santoro, the name he gave me at the time.

Q Which one is he? A The gentleman with the dark hair.

Q The dark hair? A Yes, sir.

Q Known here as Frank Parizi? A Yes, sir; I did not know that at that time.

Q He gave you the name of Frank Santoro? A Yes, sir.

Q Where did you talk with him? A I talked to them in the outer office of the second deputy police commissioner's room, 319, Police Headquarters, that is the room adjoining the office of the police commissioner, a swinging door.

Q An ante chamber? A Yes, sir.

Q Is that the room into which the public are admitted?

A Yes, sir; for officers and visitors calling on the second deputy commissioner -- they are admitted into that office.

Q More or less of a public place, isn't it? A Yes, sir.

Q While you talked to him was there anybody else present?

A Lieutenant McKinnis of the Detective Bureau and I think there was some officers, some uniformed officers and some detectives and citizens waiting to see the second deputy police commissioner at that time.

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Q What talk did you have with Santo or Frank Perisi, as he is known?

MR. O'NEILL: Objected to, if the Court please. This recital of this witness's talk with the defendant Perisi after his arrest is not competent.

THE COURT: I will receive it as against Perisi. Exception.

Q What was it? A Perisi called me over while in the court office, room 218, and asked me if he could smoke. I said "yes, you can." Then I asked him how he came to come down to the bank, and he told me. He said on the night of March 18th at 11 P.M. he met in Jones's cigar store at 523 E. 1st street -- he was in company with a man by the name of Pete, a man by the name of Tom, and a man by the name of Whitey and one other man, whose name he did not know by any name. I asked him if he could tell me what Pete's name was or Pete's name and he said he did not know their name only the name of Pete and Tom. He said, Pete said he knew a woman who would be at the bank, Bowery Bank at Spring street or at the bank at Spring street and the Bowery who would have a thousand dollars or fifteen hundred dollars in a sack and sack, and Pete said who will snatch the bag this money will be in, and he said, that Whitey said he would snatch it.

Q When did he indicate by Whitey? A The other defendant sitting here.

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Q Known here as Dehase? A Yes, sir. He further stated they agreed upon the hour in the same street to meet the following morning, at 10 o'clock in the same cigar store. That the following morning he had left his home, went down to Jones' cigar store, and there he had met Whitey and met Pete and met Tom, and a man he didn't know by any name. That they met at Eighth street and Fourth avenue; they walked down to the bank where he was placed under arrest. That is all the conversation about I had with him.

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Q Were you present at the time when he was examined before a stenographer? A I was not. I was about the building but I was not at that place.

Q Were you in the outer room? A Yes, sir; all the time.

Q Is that all that occurred between you and either of the defendants? A Yes, sir.

Q Have you any memorandum of the conversation? A I have.

Q Have you it here? A Yes, sir.

Q When did you make it? A I made the memorandum just as I had the conversation with him on a piece of paper.

Q Will you produce it? A I will, sir.

MR. BROTHERS: I ask to have it marked for identification.

(Marked for identification.)

CROSS EXAMINATION BY MR. GRECO:

Q Are you an arresting officer? A I am.

Q How many arrests do you make a week? A That would be hard to say.

Q Don't you know how many arrests you made last week?

A I did not make any last week.

Q The week before that? A Well it would be very hard to say, I would have to have a memorandum with me, a record of

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my arrests.

Q Do you make a memorandum of each and every conversation you have with each and every prisoner you arrest? A I do.

Q You do? A Yes, sir.

Q You make a memorandum of all conversations you have with a prisoner when you arrest him, is that right? A If I have a conversation with a prisoner I generally make a memorandum of it, yes, sir.

Q Because you forget about what they speak, don't you?

A No, sir.

Q Well why do you make it? A My memory is very good.

Q Why make a memorandum? A The rules of the police department require you to make a memorandum - the rules require you to make a memorandum.

Q Now you make these memorandums on a book which you are given by the police department, isn't that it? A You make it on anything, on paper or a book.

Q But you are supposed to make them on a book given to you by the police department? A No, sir; not exactly.

Q Don't each and every officer carry a policeman's book? A He does.

Q Make notes of each and every arrest? A Yes, sir.

Q Whatever notes are essential? A He does.

Q Where is that book? A I don't carry such a book.

Q But you made a memorandum in this case on a piece of

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paper? A I did.

Q You were not the arresting officer? A I was not.

Q You know all the facts pertaining to the case before you asked him for any information, didn't you? A I did not, no, sir.

Q You didn't have anything at all? A No, sir; I did not know anything at all about it.

Q You didn't know Eebiasse? A No, sir.

Q. Or Paris? A. No, sir.

Q. You simply started to talk with him through curiosity?

A Ho, Sir; not through girl's life.

Q Then the moment he told you something you put it down?

A The moment he told me something?

Q As soon as he told you something you jotted it down?

A I asked him certain questions and wrote down what he said to them.

Q. Did you tell anybody about that, what you wrote down?

A Lieutenant McKinny was sitting alongside of me when I wrote it.

So he heard all the conversation? A He did.

Q Do you know an officer named Leo? A Leo?

Q An Italian officer? A I believe I do, I think I know an officer by the name of Greco, I think his first name is Leo.

Q Do you know an officer named Leo Zamberdolo? A I

This image shows a vertical column of hieroglyphic text from the tomb of Amenemhat III. The symbols are arranged vertically and include various signs such as lotus flowers, birds, and other standard hieroglyphs used in Old Kingdom inscriptions. The background is dark, making the lighter-colored hieroglyphs stand out.

do.

Q Where is he attached? A I have known him for three days.

Q He is now attached to the detective bureau? A Borough of Manhattan.

Q The same place where you are, isn't it, the same? A Well, no, sir, he is attached to the detective bureau.

Q In the same building, isn't it? A Well he may be attached to a precinct, I don't know just exactly where he is attached.

Q Do you know officer Cava? A I do, by sight.

Q He is attached to the same place, isn't he? A I think he is attached to the detective bureau.

Q You never had any conversation with these two officers?

A No, sir; never spoke to Cava in my life.

Q Do you remember the day you had this conversation?

A Yes, sir, the day I had this conversation with this man, the defendant, I do.

Q Which defendant was it? A With the gentleman with the dark hair, he gave me the name of Frank Santo.

Q The other defendant was not there? A He was there, yes, sir, but not while I had the conversation with him, he was in the commissioner's office. He was in room 220 of 340 Centre Street, and Frank Santo was in room 219.

Q Were you one of the officers who participated in the

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blackjacking of either one of these two defendants? A The man was not blackjacked; he was not assaulted.

Q You didn't see him being blackjacked? A No, sir, I did not.

Q You wouldn't do such a thing in that room, in that office, you don't know him? A I know it did not occur.

Q You didn't see it, did you, Officer? A Why, he was not assaulted or blackjacked in the office. It could not take place.

Q While you were there? A I was there all the time that man was in the office. Not only I was there but several citizens and several officers in uniform were waiting in the room where I questioned him.

Q Do you remember a little blond fellow being there with a blackjack in his hand? A I cannot recall who was in the office at the time but I should say there were at least nine people including police officers; there may have been lieutenants, sergeants, patrolmen and citizens.

Q Do you remember taking a blackjack from that man and using it upon the defendant Parisi? A In my whole history as a police officer I never carried a blackjack in my life.

Q You did not do that? A I don't carry one.

Q Why don't you answer my question yes or no? A I did not.

Q Did you see any one kick the defendant? A No, sir;

he was not kicked.

Q In no part of his body? A No, sir; he was not kicked.

Q Were you there when he was kicked? A Well, he was not kicked in that office, and nobody put their hand on him or ever assaulted him or blackjacked him or kicked him or anything else.

Q Don't you remember before you started striking the defendant the windows were closed and the shades were put down? A Counsel, I think it is awfully unfair of you to ask me that question in that manner. Do I remember that I struck him? I did not put my hand on that man.

Q Did anybody strike him? A And he was not struck in that office so I could not remember that.

BY MR. O'REILLY:

Q Now you say you had known Leo Lambredoli. How does he spell his name? A In the last three days I think there was a man named Leo Lambredoli who was a patrolman attached to the 6th Precinct, if I am not mistaken, and that man is now a member of the detective bureau.

Q The 6th Precinct, where is that? A Elizabeth Street that is.

Q Is that in the neighborhood where this alleged affair took place? A It is just south of that precinct.

Q Do you know how to spell that officer's name, Lam-

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bredoli ? A No, sir; I do not.

Q It sounds like Lambredoli? A Yes, sir, I think it is that.

Q This man Cava, where is he? A I may be wrong when I state to the jury about that man, I don't think that is the man I refer to. I don't believe I know this man.

Q Which man? A The first man you gave me. Cava I know by sight only to be an Italian officer. I know who you refer to, I don't know him. I am referring to another officer that was transferred in the last three days into the detective bureau, who has been a uniformed officer.

Q His name sounds like Lambredoli? A Yes, sir.

Q You don't know the officer? A No, sir.

Q And Cava, you know him? A Yes, sir; know him by sight, never spoke to the man in my life.

Q How long have you known him? A Seen him come in and out of the office, the office of the 2nd Deputy Commissioner, three or four times.

Q Have you talked with Assistant District Attorney Delahanty about this case? A No, sir.

Q Or with this gentleman conducting the case? A I have not until this morning.

Q Did you hear of the connection or alleged connection of Officers Lambredoli and Cava with this case? A I have not, sir.

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Q You have not? A No, sir.

Q You have not discussed it with anybody? A No, sir.

JOHN J. O'CONNELL, a witness called on behalf of the People, being duly sworn, testifies as follows:

(The witness states he is a detective sergeant.)

DIRECT EXAMINATION BY MR. BROTHERS:

Q What is your occupation? A Detective sergeant, first grade.

Q What is that? A A member of the force.

Q Are you a stenographer as well? A Yes, sir, I am.

Q You do stenographic work in the police department?

A I do.

Q Did you on the 16th of March, 1912, act as stenographer at a hearing before Lieutenant Charles McKinney?

A Yes, sir.

Q At the office of the 2nd Deputy Commissioner of Police in this city? A I did.

Q Did you take a statement? A I did.

Q Did you take the statement? Of Raffaele Debiase, the defendant in this case? A I did.

Q Have you transcribed your original notes into typewriting? A Yes, sir.

Q Is this the record which I show you? A Yes, sir.

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Q Is that a correct and true transcript of the original minutes which you took? A Yes, sir.

Q And the original minutes correctly recite what took place at that time, what was said by the defendant Rafael Debiase? A They do.

MR. BROTHERS I offer them in evidence.

MR. O'REILLY: I object to them on the ground that they are not competent as against the defendant Parisi.

MR. BROTHERS: It is an alleged conversation with the defendant Debiase. It is a stenographic record taken by this witness and he testifies that it is correct.

THE COURT: You may ask the witness.

BY MR. BROTHERS:

Q Have you the original minutes? A I have.

THE COURT: This document is not competent.

MR. O'REILLY: I object to it on the ground that it is not competent.

Q Have you the original minutes? A I have.

THE COURT: You may ask this witness if he heard the defendant speak touching this subject, and if so what he said. If he needs to refresh his memory he may do so.

Q You took the record and you have the original minutes here? A I have.

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Q Did you hear what the defendant Raffaele Debiase said on that occasion? A I did.

Q You put down what he said? A Yes, sir, I did.

Q Correctly? A Yes, sir.

Q And accurately? A Yes, sir.

Q Can you recite from memory all that he said? A Not all that he said, I could not recite from memory, no, sir.

Q Would referring to your minutes refresh your recollection? A Yes, sir, it would.

Q You may refresh your recollection from the minutes.

MR. O'REILLY: I object to any statement from this witness as to what was said.

THE COURT: He may tell us what was said.

MR. O'REILLY: I object to any statement as to what was said as alleged by the defendant Parisi on this alleged occasion on the ground that it is incompetent, not binding upon the defendant Parisi.

THE COURT: You may answer. It is only received as against the defendant Debiase, not against the co-defendant.

Q Proceed. A Frank Santoro, alias Parisi.

Q I want you to read what Debiase said. I asked about Debiase.

A (Witness reading) "I make the following statement of my own free will."

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MR. O'REILLY: I object to this witness testifying with reference to what the defendant Debiase said as not binding upon the defendant Parisi.

Objection overruled. Exception.

THE WITNESS: (reading) "I make the following statement of my own free will, understanding thoroughly that no promises have been made to me by any one and understanding that no promise of any kind would be fulfilled for my making any statement. That it is without duress or compulsion. I am twenty-one years of age and reside with my parents at 169 Mott street. My mother's name is Mary and my father's name is Antonio; I have been employed as a helper on an express wagon of Adams Express Company, but am unemployed at present. I have been arrested before in this city on suspicion of being implicated in a burglary on Grand Street. This arrest happened about a year ago, and I have also been confined in the New York Catholic Protectory for five months for truancy and then was transferred to the Brooklyn Truant School where I remained for six months. I know Frank Santo two weeks. I met him first in Arlington Hall at a dance. Subsequently I met him in Jones' cigar store at 323 East 14th street. I was in Jones' cigar store at 323 East 14th street, getting there about 9 o'clock last night and remaining there for some time. At about

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10 o'clock I met Frank Santo and a man named Pete who was called "Pete the Burglar". He is about 23 years, 5 feet 8 inches, 150 pounds, slender build, dark complexion, black hair and eyes. I also met two other fellows whose names I do not know but whom I ~~can~~ identify and describe as No. 1, 19 years, 5 feet, 120 pounds, dark complexion, is an Italian, black hair and eyes, slim built. No. 2 about 21 years, 5 feet 3 inches, 135 pounds, an Italian, light complexion, brown eyes and chestnut hair. We were talking in a general conversation and Pete said he knew a woman that carried about 1,000 or 1500 dollars in money from the bank every Saturday and he asked us if we would go in on a deal to rob her of the money. We all consented readily. It was planned that one of us rob the money, and the man about 21 years of age agreed to do this. I left the cigar store about five minutes after Frank Santo did. That was about 10.20 and went home, having understood and made an agreement to meet the others in the same cigar store at 328 East 14th Street at 10 o'clock Saturday morning, March 16th, 1912. I got up this morning about 9 o'clock and left home at 103 Mott Street and walked up the Bowery to 3rd Avenue, to 14th Street, and east on 14th Street to No. 328, Jones' cigar store, and there I met Pete and the other two men. Pete said, "Are you ready to do the job?" and we all answered

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wered "Yes". He said he would be down to the bank before eleven o'clock as the woman would come out at about that time. We left the cigar store at 328 East 14th Street and walked west to Third avenue and then down Third avenue to Eighth street, and west on Eighth Street to Lafayette, then south on Lafayette to Spring, and east on Spring to the Bowery, in front of the bank. The man whom I describe as being 21 years, light complexion and an Italian, then said he would not snatch the leather bag or pocketbook, and it was agreed that I should do the snatching or robbing of the money from the woman. The two men whom I described and whose names I do not know then walked west on Spring Street to Elizabeth and stood on the south side of the street. Frank Santo and Pete left me then and walked across the street to the east side of the Bowery where they stood. I remained in front of a gent's furnishing store at the southwest corner of Spring and the Bowery. I stood there about five minutes when Pete came over to me and pointed out the woman whom I was to rob. I remained in front of the gent's furnishing store on the Spring Street side until the woman came out of the bank which she entered. Pete returned to the east side of the Bowery and joined Santo again. Shortly afterwards the woman came and walked across the street and while she was in the gutter I walked on the sidewalk

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to her in the middle of the street and grabbed and snatch the leather bag which she held in her hand. I immediately ran west on Spring Street to Elizabeth and down Elizabeth to Canal, to Mott and then into a house on Broome Street. I knew that I was pursued but by whom I did not know. I heard some shots fired but thought they were firecrackers and did not look around. I was arrested by detectives on the third floor of a tenement house on Broome near Mott, which is the house I ran into trying to escape." That is all.

Q Now who was present at that time that this was said by the defendant Debiasi? A Lieutenant McKinny and Detective Reilly and another detective I believe.

Q Which Reilly? A Joseph Reilly.

Q Not Dominick Reilly? A No, sir.

Q Not the gray haired man? A No, sir, Detective Joseph Reilly.

Q Now, did you hear Frank Santo, alias Frank Parisi, make a statement on March 16th, 1912? A I did.

Q At this same place? A I did.

Q Did you make a stenographic record of that? A Yes, sir, I did.

Q Is your record correct as to what he said? A It is, yes, sir.

Q Do you recall what he said to you, or do you have to

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refer to your minutes to refresh your recollection? A I will have to refer to my minutes.

Q Will you do so? A I will.

MR. O'REILLY: I object to this on the ground that it is incompetent.

THE COURT: Answer the question.

MR. O'REILLY: I take an exception.

THE WITNESS (reading): "Frank Santo: I make this statement of my own free will and understand that no promise of immunity of any kind or any other have been made or will be fulfilled to me. It is without duress or compulsion. I am 22 years of age and reside at 66 Catherine Street with my parents. My father is M. Santo and my mother is Frances Santo. I have been arrested in 1904, in December, charged with petit larceny and was sent to the House of Refuge. I was in the Catholic Protectory being committed there for truancy. On December 10th, 1910, I was arrested in this city charged with assault and robbery and was discharged in the police court. On March 15th, 1912, at about 10 o'clock I was in the cigar store of William Jones at 328 East 14th Street. While there I met and conversed with a man known as "Pete the Bur-lar" and Rafael Debiase and with two other young men one of whom I know as Tom and the other man I can identify at any time I see them. Pete

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is about 23 years old, 5 feet 8 or 9 inches, 150 pounds, dark complexion, is an Italian, slim built, black hair and eyes. The other two men I describe one as 19 years, 5 feet in height, 120 pounds, dark complexion, is an Italian, black hair and eyes, and slim built. The other is 21 years, 5 feet 3 inches, 135 pounds, is an Italian, light complexion, dark eyes and chestnut hair. Pete said to us that he knew a woman who takes or carries a thousand or fifteen hundred dollars every Saturday from the bank at Spring and the Bowery and asked us if we would agree to go in a deal to snatch the money away from her. All of us to go in the deal to rob this woman. We all discussed the ways and means to commit the crime. One of the men whom I described as being 21 years of age, light complexion, said he would snatch the money in the pocket book from the woman. I was to be there as the lookout or trimmer and see that nothing went wrong in our arrangements and that nobody interfered and was to be in the split up of the money and get my share. We made an appointment for 10 a. m. Saturday morning March 16th to meet in Jones' cigar store, the same place, 328 East 14th Street. About a quarter to 10 on March 15th-- a quarter after 10 on March 15th I left Jones' cigar store at 328 East 14th Street and went home. On the morning of March 16th when on my way to keep the appointment made at the

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cigar store this morning and reached the corner of 8th Street and 4th Avenue, I met Whitey, Pete and two other men whom I have described, on the way down to commit this crime. I joined them. We proceeded to 4th Avenue, to Lafayette, to Spring and then went east on Spring to the Bowery. Pete said to me "You come with me". Pete and I went down the east side of the Bowery and watched.

Whitey, he stood on the corner right opposite the entrance to the Germania Savings Bank at Bowery and Spring at a gent's furnishing store and waited until the woman came out. The other two men whom I have described proceeded west on Spring to Elizabeth and watched there. Pete left me and went over to the entrance to the Germania Savings Bank, Bowery and Spring, and as soon as the woman came up, going into the bank, he pointed to her. Pete then went to Elizabeth and Spring and stood on the north side of the street at the corner. The other two men were on the south side. Shortly after Pete left Whitey left the woman came out of the bank and Whitey approached her and snatched the leather bag out of her hand and ran west on Spring Street to Elizabeth Street, through Elizabeth to Broome. I ran from the east side of the Bowery following in the direction that Whitey went. There was a crowd following and I was one of the crowd. I stopped running on Broome Street next to the fire house where

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there was a crowd and then I was arrested by detectives. I was taken to police headquarters. During the time I was following Whitey and the crowd I heard some pistol shots fired."

(No cross examination.)

MR. BROTHERS: It is conceded by counsel for the defendant that the corporation mentioned in the indictment is a corporation and the owner of the property.

MR. O'REILLY: I object to that. We don't concede that they were the owners of the property.

MR. BROTHERS: That the corporation mentioned in the indictment is a corporation.

MR. O'REILLY: We don't concede they were the owners of the property.

CHARLES HENRY, a witness for the People,
recalled.

BY MR. BROTHERS:

Q Captain, were you in the Magistrate's Court the 17th of March, 1912? A Yes, sir, I was.

Q When Rafael Debiase was examined by the Clerk and what is known as the formal examination? A I was.

Q Did you hear his answers? A I did.

Q Did you see Debiase, the defendant, write anything on the original paper? A I did.

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MR. GRECO: I object to that, to the admission of this evidence of what happened in the police court as incompetent, irrelevant and immaterial.

MR. BROTHERS Nothing has been offered.

MR. GRECO: I object and ask that the District Attorney refrain from asking this witness what happened in the police court. I ask your Honor to instruct the District Attorney not to examine the witness in reference to any question of what happened in the police court in reference to the defendant Debiase.

THE COURT: I don't understand that there is anything before the Court.

Q Now, Officer, without reading will you indicate what part of the paper Debiase wrote himself?

MR. GRECO: I object to that.

Objection overruled. Exception.

Q What is the answer to the last question? A The answer to the last question and the signature.

Q You saw Debiase write that himself? A I did.

Q Now who was the magistrate? A Magistrate Murphy.

MR. BROTHERS: We offer that in evidence.

MR. GRECO: I object to it as irrelevant, immaterial and not binding upon the defendant.

THE COURT: You saw him sign it?

THE WITNESS: Yes, sir, he wrote "I am guilty" him-

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self.

MR. BROTHERS: We offer in evidence the formal examination of the defendant Debiase before Magistrate Murphy.

THE COURT: I will receive it in evidence.

MR. GRECO: Before you receive it we object to it on the ground that it is incompetent, irrelevant and immaterial-- any proceeding had before the magistrate is not binding upon the defendant Debiase.

Objection overruled. Exception.

Mr. Brothers then reads the paper to the jury as follows:

"First Division: The defendant being duly examined before the undersigned according to law on the annexed charge and being informed it is his right to make a statement in relation to the charge against him, that the statement is designed to enable him, if he sees fit, to answer the charge and explain the facts that are alleged against him, and that he is at liberty to waive making any statement, and that his waiver cannot be used against him on the trial. Q What is your name? A Rafael Debiase. Q How old are you? A 21. Q Where were you born? A Italy. 15 years in the United States. Q Where do you live and how long have you resided there? A 169 Mott Street, 6 years. Q What is your business or pro-

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fession? A Clerk. Q Give any explanation you may think proper of the circumstances appearing in the testimony against you and state any fact that you may think will tend to your exculpation? A I am guilty."

And then as the officer says in his own handwriting "I am guilty, Rafael Debiase" taken before me this 17th day of March, 1912, D. Murphy, City Magistrate.

Q Were you also present when the formal examination of Frank Parisi, the other defendant, was taken? A Yes, sir; I was.

Q Did you hear the questions asked him and his answers to them? A I did.

Q Did he write any part of the paper which is shown to you in his own handwriting, and if so what?

Objected to as incompetent, immaterial and irrelevant. Objection overruled. Exception.

A Yes, sir; the nine lines beginning with the printed word
Ans.

Q That is in answer to the last question? A Yes, sir.

Q You saw him write that? A Yes, sir; I did.

Q Did you see him write his name? A Yes, sir, I did.

Q And the answer? A (No answer)

MR. BROTHERS: I offer it in evidence.

MR. O'REILLY: I object to it on the ground that it is immaterial, irrelevant and incompetent.

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Objection overruled. Exception.

MR. BROTHERS: The heading of it is exactly the same so it is unnecessary to read that. "What is your name?"
A Frank Parisi. Q How old are you? A 22. Q Where were you born? A United States. Q Where do you live and how long have you resided there? A 66 Catherine Street, one and a half years. Q What is your business or profession? A Fruit dealer. Q Give any explanation you may think proper of the circumstances appearing in the testimony against you and state any facts which you think will tend to your exculpation. A I made an appointment with these fellows and so I didn't want to go and so these fellows told me to come on, do not be afraid, so when I got to Spring Street I didn't want to do it any more and was going away when Whitey snatched the bag and I followed the crowd and was arrested at Spring" that is crossed out and then "Broome Street. Frank Parisi.
I am not guilty."

Q How did you hear anything that Parisi said before Judge Murphy with reference to this examination? A I did.

Q Will you state what Parisi said?

MR. O'REILLY: I object to that as incompetent, irrelevant and immaterial, what Parisi said before Judge Murphy.

MR. BROTHERS: Heard by this witness.

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THE COURT: Answer the question.

Exception.

THE WITNESS: He said "I am guilty." Judge Murphy asked him if he wanted to change his plea from not guilty, that he had pleaded not guilty on that paper and he said "Yes" to change it to guilty.

Q Well did Judge Murphy write anything on there then?

A He appeared to from his desk-- he announced that he was-- that he wanted--

Q And below Frank Perisi is written "Defendant then wanted his plea to be changed to guilty, D. T. Murphy, C. M." "Taken before me this 17th day of March, 1912. D. T. Murphy, City Magistrate."

CROSS EXAMINATION BY MR. O'REILLY:

Q Where was that written, what part of the court room?

A In the Complaint Clerk's office.

Q The Judge wasn't there, was he? A Not in the Complaint Clerk's office.

Q At the time you say he wrote this down on the paper?

A No, sir.

Q So it wasn't before Judge Murphy, was it, it wasn't before Judge Murphy, was it, yes or no? A Yes, sir; it was sworn to before him-- it was read to them by Judge Murphy.

Q I didn't ask you that. I asked you whether that was

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written before Judge Murphy or not. A No, sir; it was written in the complaint room.

Q Why don't you say so. You were in the complaint clerk's room at the time? A Yes, sir.

Q What did you do to induce this man to do this if he did it? A I didn't open my mouth. I was within about 6 feet of him, standing watching him do it.

Q You saw him write that he was not guilty? A Yes, sir.

Q You heard him say that when this thing was about to take place he felt he would not have anything to do with it. You heard him say that in the complaint clerk's room? A I saw him write that.

Q You saw him write it? A Yes, sir.

Q How long was it after he wrote that that he wrote this other thing that you say you saw him write, that he was guilty, how long a time elapsed? A I didn't say he wrote he was guilty.

Q What did you say about that? A I said he directed Magistrate Murphy to change his plea from not guilty to guilty.

Q How long was that after he had written this in the complaint clerk's room? A I should say between half an hour and an hour.

Q Where was he in the room? A He was in the custody of the court officers or the police.

Q What court officers? A In the 1st District Magis-

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trate's court.

Q Locked up? A Yes, sir.

Q In the pen? A Yes, sir; he and Debiase together.

Q There were no police officers in there? A No, sir; they could not converse with him.

Q When you say in the custody of the police officers you mean he was locked up in the pen with other prisoners? A I presume he was; he was in the custody of the court officers, I can't swear he was, I know he was over there where the pen is; I didn't see him.

Q You did not see him there? A No, sir.

Q You had not said anything to him to induce him to make this change? A No, sir; I did not see him that morning to speak to him in court during the entire proceeding.

BY MR. GRECO:

Q This one that Debiase signed was written when in the complaint clerk's office? A Yes, sir.

MR. GRECO: I move to strike out from the evidence the admission of the complaint in the police court on the ground that the words were written before the Clerk of the police court and are not binding upon this defendant.

Motion denied. Exception.

MR. GRECO: I move to strike out the evidence.

Motion denied. Exception.

MR. GRECO: I move to strike out the admission of the

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evidence in so far as this witness testified that the defendant Debiase said "I am guilty" before the clerk.

Motion denied. Exception.

JAMES A. WATSON, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q You are a member of the police force? A Yes, sir.

Q Were you present on March 16th, 1912, at Spring and the Bowery, at about 11 o'clock? A Yes, sir.

Q Did you see any part of what took place between the defendant and Miss Nichols? A Yes, sir.

Q What did you see? A I saw about half-past 10 five men standing on the corner of Spring and the Bowery. Parisi and Debiase were among that five. I saw them separate and walk around at different times about 11 o'clock. I saw Parisi come around and stand against the gents furnishing store window on the southwest corner. I was inside the store. He had his back up against the window. I saw Parisi come and speak to him and walk away, walk down Spring Street west, and I saw Miss Nichols come out of the bank and Parisi walk over and meet her in the middle of the street.

Q Parisi? A No, sir, Debiase.

Q Which one do you mean, who do you designate as the one that went over? A Debiase, the light haired man.

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Parisi is the black haired man,-- and met her about the middle of the street. She had this bag over her arm.

Q Is this the bag, People's Exhibit 1? A Yes, sir; I marked it.

Q What happened? A He met her in the middle of the street as she was walking, face to face, tookhold of the bag with both his hands and jerked it down. When he done that I had been opening the door, ready to go out to meet him. I ran after him, he ran west on Spring Street, I about 10 feet behind him. He ran into 6 Spring Street and I was within about 10 feet behind him all the way, and in the yard of No. 6 Spring Street he dropped that bag and I stooped and picked the bag up.

Q You picked it up and turned it in to headquarters?

A After I picked it up I still kept on into and through the hall of 163 Elizabeth Street, down Elizabeth Street and was there about a minute--

Q What was in the bag when you opened it? A There was a bank book in it; there was a rubber stamp and pad of ink, and bills, \$97.08, I think. I had in my book exactly what was in it, I marked all the bills etc. with my name.

CROSS EXAMINATION BY MR. GRECO:

Q You were standing inside the gent's furnishing store that morning? A Yes, sir.

Q That is the store on the southwest corner, isn't it?

A Yes, sir.

Q Who else was in there with you? A Officer Reilly and Officer Garvan.

Q You and two other officers? A Yes, sir.

Q Officer Reilly and Officer Garvan? A Yes, sir.

Q Were you standing up? A I was standing up, yes, sir.

Q Where? A I was standing up leaning on a case with my head over--

Q Behind the window? A I was right opposite the door, there is a side door, two doors in this gent's furnishing store, three doors but only two in use-- one facing on Spring Street and one facing on the Bowery. I was facing the Spring Street door.

Q The Spring Street door? A Yes, sir.

Q What was Officer Reilly doing? A Officers Reilly and Garvan were sitting down behind the show window-- not behind-- right in front of the show window.

Q You could not see what was going on at the Germania Bank from where you were standing, could you, Officer?

A Yes, sir.

Q Why, aren't there stairs leading from the Germania Bank on the Bowery side? A No, sir-- yes, sir, there are on the corner, not on the Bowery side, they are separate like on the corner.

Q This door where you were in is about 100 feet away from

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the corner on the Bowery? A No, sir; about 4 or 5 feet away from the corner,-- well there might be, well about 12 feet, just right opposite the bank steps. The door looked out right opposite the bank steps and could not obstruct your view whatsoever.

Q You saw the defendant Parisi snatch the bag and run?

A Yes, sir.

Q Which way did he run? A He ran west, Spring Street-- no, Debiase.

Q I mean Debiase. A Yes, sir.

Q He ran through Spring Street? A Yes, sir; he ran west through Spring Street.

Q He ran right in front of you, didn't he, Officer?

A Yes, sir; he was in front.

Q He had to run right in front of you to get away from you? A No, sir; he started a little too quick for me; he had started a little before I had got even with him and he had got ahead of me about 10 feet and that is the distance we kept.

Q Officer Reilly was seated while you were in the store?

A Yes, sir; at that particular time he was seated.

Q You saw the defendant Debiase snatch the bag? A Yes, sir.

Q Is that right? A Yes, sir.

Q As soon as he snatched the bag you immediately ran out

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to catch him? A Yes, sir.

Q Is that right? A Yes, sir.

Q And the defendant Debiase ran right in front of you, is that right? A Ran right in front of me, that is, he passed me.

Q Then you ran after him after he had already passed you, is that what you mean? A Yes, sir.

Q You waited until he got away and you started to run?

A I was a little bit too late for to get him.

Q But you saw the direction he ran when he snatched the bag? A Yes, sir.

Q To the corner there? A Yes, sir.

Q Where did he snatch the bag, what part of the corner?

A Well I should say--

Q On the sidewalk, or the middle of the street? A About the middle of the street.

Q In the middle of the street? A Yes, sir; about the middle of the cartrack.

Q He ran right through the street, is that right?

A He ran right west on Spring Street.

Q On the sidewalk, or did he run through the Street?

A I think he was in the middle of the street.

Q In the middle of the street? A Yes, sir.

Q So all you had to do was to get out of the doorway and grab him? A If I was only fortunate enough to start a lit-

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the sooner but unfortunately I was a little too late.

Q Where was Officer Reilly at this time? A He started out of the store I suppose after me. I didn't watch Reilly.

Q Officer Reilly started after you, he was ahead of you, wasn't he, Officer? A He may have passed me, but I know there was two or three of us went into the hallway.

Q Officer Reilly was right behind Debiase all the time? A I could not tell you where he was; I didn't pay attention to it, I was watching Debiase.

Q You ran from the store before Reilly, didn't you? A We might have come out together, I could not tell you that.

Q How could you come out together? Officer Reilly was seated, you were near the doorway, you watched him snatch the bag? A Yes, sir.

Q You went out first? A Officer Reilly did the same thing.

Q You don't know what Officer Reilly saw but you were at the door and Officer Reilly was seated inside? A Yes, sir.

Q So you say Officer Reilly went out behind you? A Yes, sir.

Q And the defendant Debiase ran to where? A He ran west on Spring Street, in the hallway of No. 6, through the hallway of No. 6.

Q He ran right into No. 6 Spring Street? A Yes, sir.

Q You were right behind him? A Yes, sir.

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Q Where was Officer Reilly, behind you or before you?

A I did not look at him, he was I know near me, I seen him when we were in the yard. I stopped to pick the money up.

Q Where was Officer Clair, was he ahead of you or behind you? A I don't know where Clair was; I didn't pay attention to any other officers; kept my eye on Debiase all the time.

Q Debiase ran through Spring Street, No. 6, into that building there? A Yes, sir.

Q Which way did he go when he ran into the building?

A Which way did he go?

Q Up stairs or down stairs? A Through the hallway into the rear yard where he dropped the money, in the rear yard.

Q How far away were you from him? A I was about 10 feet.

Q 10 feet away? A Yes, sir.

Q Was Officer Reilly right near you at that time?

A Officer Reilly I presume was right near me. I did not look back. We were running together, two or three officers, I don't know which one, I know Reilly was one, I didn't pay any attention exactly to where Reilly was. I was watching Debiase.

Q That did not interest you at all? A No, sir; that did not interest me. The only thing that interested me was--

(The Court then admonished the jury calling their

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attention to Section 415 of the Code of Criminal Procedure and took a recess until 2 o'clock.)

AFTER RECESS

RICHARD OLIVER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BROTHERS:

Q Mr. Oliver, you are a member of the police force of this city? A Yes, sir; I am.

Q On the 16th of March, 1912, did you see these two defendants? A I did.

Q Where did you see them? A 14th Street between 2nd and 3rd Avenues, walking west.

Q Was there any one with them? A Yes, sir; three others.

Q Did you know either of those three? A Yes, sir; I did not know them at that time, no, sir.

Q You have since learned who the people are? A Yes, sir.

Q Who are they? A Two of them were locked up in the Magistrate's Court.

MR. GRECO: Just answer the question.

Q Who are they? A One of them is-- the two of them I know was with these fellows implicated in this robbery.

Q We want to know their names if you learned them.

A Yes, sir; Pietro Castulo and Rafaele Ravoglio.

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Q Tell us what you did when you saw the five men walking west on 14th Street between 1st and 2nd Avenues. Describe their movements. A I had a description of five men. I went up there with a description of five men, and seeing these men between 2nd and 3rd Avenues walking west on the downtown side of the street I followed them over to 3rd Avenue. The five men were in conversation walking along 3rd Avenue. I walked on the opposite side of the street. As they came up I stopped to get a look at them. I walked behind them, crossed to the other side of the street again until I came to 4th Avenue. Stood on the corner of 4th Avenue 10 minutes in conversation, the five of them before crossing over again to get another look at them so as to be sure, and stood about 20 feet away from them, looking at them, on 4th Avenue. I went up behind them again. They walked down 4th Avenue to the Bowery, all the way down the Bowery to the corner of Spring Street and the Bowery. The Germania Bank was on the northwest corner. They stood about five minutes in conversation and these two men here, they walked down across from the bank, that is on the southwest corner, and stood there. Whitey stood on the bank corner.

Q Who do you mean by Whitey? A Debiase.

Q Debiase? A Yes, sir.

Q The light haired fellow? A Yes, sir, he stood on the bank corner. This fellow is the one that grabbed the

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pocket book. I knew him as Whitey. The other two men stood across the street on the Bowery.

Q Where did Parisi the other man here stand? A He stood on the corner with Sway and the fellow who walked down with him-- walked ahead of the other three fellows. He stood on the corner with Sway, on the southwest corner, he and Sway stood there, and this Pete and "Fush", we know them by, that is Pasculo and Ravaglio, stood on the Bowery side. They stood in that position about five or ten minutes. I went down and I notified Officer Detective Thompson when I was to report to.

Q Don't state anything you said to Thompson. A I just told him the men were there and on the corner.

Q Did you see Dobiasse take the bag? A No, sir.

Q You have told us now all that you saw? A Yes, sir.

CROSS EXAMINATION BY MR. O'REILLY:

Q You reported to whom? A I reported to Officer Thomas and Officer Reilly telling him that they--

Q The men were there? A Yes, sir.

Q What men? A These men I had a description of.

Q Where did you get the descriptions? A Off Inspector Hughes.

Q What do they give you in the description? A Just told me there were five men who might come through 14th Street and if they looked suspicious in any way to follow them, which

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I did.

Q Is that all he told you? A Yes, sir.

Q He said five men that might come through 14th Street and if they looked suspicious to follow them? A Yes, sir.

Q Do you mean to tell me that is all he said to you?
A Yes, sir; to me, that is all.

Q On the strength of that you went to 14th Street?
A Yes, sir.

Q You saw five men? A Yes, sir; five men on the south side of the street.

Q Did Inspector Hughes tell you they would be on the south side of the street? A No, sir; he did not say. He said come through 14th Street and probably walk west.

Q What is that? A They would go west.

Q He told you that in addition to the other thing you just told us? A Yes, sir.

Q Is that all he told you? A Yes, sir.

Q When did he tell you that? A In the morning, about half-past 8 that morning.

Q Did he tell you what time to get to 14th Street?
A Yes, sir; he sent me up there.

Q Told you what time to get to 14th Street? A Why, I left his office, and I went right up there, about 9.45 I got up there.

Q Did he tell you what time to expect the men? A I

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didn't hear you.

Q Did he tell you what time to expect the men, these five men? A No, sir; he told me to go right up there.

Q Tell you how long to stay? A Yes, sir.

Q How long did he tell you to stay? A 11 o'clock.

Q Told you to stay there till 11? A Yes, sir.

Q You say you saw the men before 11? A Yes, sir.

Q Now, did he tell you who would be with them? A Five men. Gave me a description of them.

Q A description of their clothing, height, or what?

A Their makeup, height and everything.

Q Did he tell you the names of any of them? A Yes, sir, nicknames only.

Q Did he tell you there would be policemen with them?

A No, sir.

Q Sure about that? A Positive.

Q You did not see policemen with them? A No, sir.

Q What is that? A No, sir.

Q Positive about that? A Yes, sir.

Q Now give me the names of the five men that you saw.

A Do you want their nicknames which I got?

Q I mean the names that you know them by. A At that time?

Q Or now, or any other time. A I got the nicknames I knew them by.

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Q Tell us the names you know them by now. A Well, Debiase.

Q That is this man with the blond hair? A Yes, sir; and Parisi and Pasculo.

Q How long do you know him? A Well, I don't know him at all, only from seeing him up there.

Q Seeing him come there on that one occasion? A That is all.

Q The only time you ever saw him in your lifetime? A Yes, sir.

Q You know his name to be Pasculo? A Yes, sir.

Q When did you learn that? A After they were arrested.

Q And Raviglio was not arrested, was he? A Yes, sir; Raviglio was arrested in the Magistrate's Court.

Q Who else was arrested besides these two defendants?

A Pasculo and Raviglio were arrested in the Magistrate's Court.

Q The other man was not arrested, was he? A No, sir.

Q Now, you know who the other man was, don't you?

A Yes, sir.

Q He was a policeman, wasn't he? A No, sir.

Q Are you positive about that? A Positive, his name is Sway.

Q Sway is a nickname? A Yes, sir.

Q How do you spell it? A S-w-a-y.

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Q What is his business? A I don't know.

Q How did you learn his name was Sway? A I had the nickname that morning.

Q You were told? A I seen him that morning.

Q Before you went there to identify a man named Sway there
A Yes, sir.

Q Were you told Parisi would be there? A No, sir; I did not have his name Parisi that morning. He had the name of Sway? A Yes, sir.

Q Did you have the name of any other besides Sway?
A Yes, sir.

Q Before you went there? A Yes, sir.

Q What names were given to you? A Pete and this Pietro Raviglio and "Push", that is Rafael Passulo and Whitey and Sway and this man here, I think he went under the name of Nicolo, or something like that, a nickname, I didn't know his right name.

Q What nationality was Sway? A An Italian.

Q Sure? A Yes, sir, positive.

Q Do you know a policeman whose first name is Leo?
A No, sir.

Q Do you know a policeman whose name sounds like Lammecolo? A No, sir.

Q Did you hear his name mentioned in connection with this case? A Never.

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Q Has there been any investigation in police headquarters about policemen having been concerned in this alleged robbery?

A Not that I know of.

Q Haven't heard of that? A No, sir.

Q Do you know a policeman named Cava? A No, sir.

Q Al Cava? A No, sir.

Q Are you connected with headquarters? A I am.

Q You have not heard anything about any policemen?

A Only what I read in the paper.

Q That is all you heard about it? A No, sir.

Q You never heard it discussed at headquarters?

A No, sir.

Q As far as you know you have never seen any of these policemen who were mentioned in connection with it? A No, sir.

BY MR. GRECO:

Q Don't you know Officer Cava? A No, sir; I do not.

Q Isn't he connected with the same department as you?

A Not that I know of.

Q Don't you see every officer there? A No, sir; I don't know them individually. We are all split up into different precincts and don't see each other.

Q Are not the detectives lined up every morning? A No, sir; no more.

Q How long is that? A I guess they haven't been lined up there for pretty near a year.

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Q How long? A 9 months or so.

Q 9 months? A Yes, sir; about that.

Q You know Leo, don't you? A No, sir; I do not.

Q Never heard of an officer by the name of Leo Lambredoli?

A No, sir; never heard of him. He might be an officer but I don't know him.

Q When you went to 14th Street you went to a cigar store there, didn't you? A No, sir.

Q Where did you go? A As I was getting off the car I seen these five men pass by in company with Officer Hallinan.

Q Didn't Inspector Hughes tell you to go to a cigar store on 14th Street and you would meet the five men there? A No, sir.

Q Sure of that? A Positive.

Q Isn't Inspector Hughes in court? A Not that I know of.

Q You didn't see any officer? A No, sir; I did not see him.

Q So you only acted upon a supposition and you followed them? A I went up there, he gave us a description of the five men, and that they were to come through 14th Street between 2nd and 3rd Avenues.

Q You came down to the Bowery and Spring Street? A As I was getting off the car these five men passed and Hallinan called my attention to them.

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Q You followed them to the corner of the Bowery and Spring Street after that? A Yes, sir; followed them all the way down.

Q How long did you remain there? A I remained there until the robbery was committed.

Q You saw it, the larceny committed, didn't you? A No, sir; I was in a barber shop at that time.

Q You remained there until the robbery was committed. What did you mean by that? A I did. I ran after them. I went first in the hallway.

Q Where did you stay? A I stayed in the barber shop, I think it was No. 12. Just as the robbery was committed a wagon pulled in front of the door there, but I heard a yell.

Q So the wagon obstructed your view? A Yes, sir.

Q So you could not see what was done? A No, sir; not just at that moment.

Q When you heard the yell what did you do? A I ran out

Q Where did you run? A I ran out to the street.

Q Where? A I seen this man Whitey run in with the pocketbook in his hand. I ran after him, behind Officer Watson, to No. 6 Spring Street.

Q In which direction did Debiase run? A He ran through to No. 6 Spring Street. I am pretty sure that is the number.

Q From the corner of Bowery and Spring Street? A Yes, sir; No. 6.

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Q He ran from the corner of Bowery and Spring Street?

A Yes, sir.

Q To No. 6 Spring Street? A Yes, sir.

Q That is directly opposite where you were standing?

A No, sir.

Q In the barber shop? A No, sir; not directly opposite, No. 12 is in the middle of the block or so.

Q Just a few doors away? A It is more than a few doors away.

Q So the defendant Debiase had to run in front of you?

A No, sir.

Q Didn't he run in front of you to get to No. 6?

A Yes, sir; he had to run in front of me but not as you understand it so I could see it.

Q Did you see Officer Watson run? A I did.

Q Was Officer Watson first? A Yes, sir; I believe he was; I was right behind him.

Q Don't you think it is important? The jury ought to know whether he was first or not. A Officer Watson was right in front of me until we got into this yard.

Q Where was Officer Reilly? A He was there too.

Q Where? A I seen him in the yard. He must have been ahead of Officer Watson.

Q He must have been? A Yes, sir.

Q But you don't know? A No, sir; there was a half

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a dozen ran at the time and I was trying to keep my eye on him. I wasn't taking chances.

Q You and Officer Reilly and Officer Watson and Officer Clair and other officers were standing around that corner before you arrived there? A Yes, sir.

Q All waiting for this alleged robbery to be committed? A Yes, sir; I suppose so.

Q Is that right? A I suppose so.

Q Did you run through the building 6 Spring Street? A I did.

Q Did you run after Officer Watson or before him? A Yes, sir; after him.

Q After him? A Yes, sir.

Q What did you do, stop in 6 Spring Street? A No, sir; I went right through, came out at Elizabeth Street and to Kenmare, and west on Kenmare Street to Mott Street, and south into Broome Street.

Q Did you go into Broome Street? A To No. 365, I think the number was, I was right after them, I guess about 9 yards behind them. I ran in the hallway.

Q How far ahead was Officer Watson?

MR. BROTHERS: I object to that.

A I was ahead of him.

THE COURT: I think you have had all of this. You have had it. There is no dispute about it.

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MR. BROTHERS: No dispute that this man was caught.

MR. GRECO: We want to show the credibility of each one of these officers on these different material points. These are material for the consideration of the jury to see whether the stories are credible or not.

THE COURT: Have you discovered any discrepancy up to date?

MR. GRECO: I have discovered a discrepancy between two officers, directly contradicting each other.

THE COURT: See if you cannot abbreviate somewhat this long case.

MR. BROTHERS: We offer in evidence the bank book which was in the bag.

Received in evidence and marked People's Exhibit 6.

MR. BROTHERS: The People rest.

MR. O'REILLY: I move the Court to dismiss the indictment and direct the jury to acquit the defendant Parisi upon the ground that the prosecution has failed to prove facts sufficient to constitute any of the crimes charged in the indictment.

Motion denied. Exception.

MR. O'REILLY: I ask your Honor to take from the consideration of the jury the count in the indictment charging knowingly receiving stolen goods.

THE COURT: I suppose you do not want to submit that,

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Mr. District Attorney?

MR. BROTHERS: We will withdraw that count.

MR. O'REILLY: I ask your Honor to take from the jury the consideration of the count in the indictment charging robbery.

THE COURT: Motion denied.

MR. O'REILLY: I take an exception to your Honor's refusal.

MR. GRECO: I renew the motion made by my associate as to the defendant Debiase and I ask your Honor to take from the consideration the first count in the indictment.

THE COURT: I have ruled to it. I suppose the motion was made as to both defendants. It may apply to both defendants and you may note an exception.

MR. GRECO: We rest.

MR. O'REILLY: I rest also. I now renew the motions made at the end of the People's case.

MR. GRECO: And the same with respect to the defendant Debiase.

THE COURT: Yes. Motions denied. Exceptions.

Mr. O'Reilly closed the case on behalf of the defendant Parisi.

Mr. Greco closed the case on behalf of the defendant Debiase.

During the summing up of Mr. Brothers, Assistant Dis-

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trict Attorney, Mr. O'Reilly said, "I object to any reference to any taxicab robbery which may have been read about in the papers."

THE COURT: Yes. Do not refer to it.

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THE COURT'S CHARGE.

FOSTER, J.-

Gentlemen of the jury: It is my habit, as perhaps you have observed, in charging the jury to use plain and homely language and not too much of it and attempt to use so little of it that you, at least can carry all the ideas in your minds to the jury room where, I hope you permit that to guide and control you in your deliberations.

It is your duty to accept the law as the Court, that is the Judge, declares it, no matter whether you agree with it or not, and no matter whether you have other ideas than those stated by the Judge or not. You are bound to accept the law just as the Judge declares it, and then, as I have said before, to be guided by it and to be controlled by it; but on the facts you, gentlemen, are supreme. You are the exclusive judges of all questions of fact. It is for you to find the facts from the testimony.

It is contended here that at the time and place in question the complaining witness went to the bank, got the money, put it in her reticule which was hanging on

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her arm, and that these defendants, acting in concert, the one aiding and abetting the other, jerked away or tore away the bag or reticule with its contents from her arm, with the intention of depriving her of the money in her possession and appropriating it to their, the defendants', own use and benefit.

The People claim that these facts show, first, robbery in the first degree against these defendants, or, secondly, grand larceny in the second degree. I do not think it necessary, and I shall not, unless the District Attorney requests it, submit to you the charge of assault. You do not want that charged, Mr. District Attorney?

MR. BROTHERS: No, sir.

THE COURT: I shall, however, submit to you the two crimes, first robbery, and second larceny.

It is not necessary for you to find the defendants guilty of both those crimes. If one crime has been proved against these defendants convict them of that one crime, considering and determining first the question of robbery.

Robbery is the unlawful taking of personal property from the person of another by force or violence.

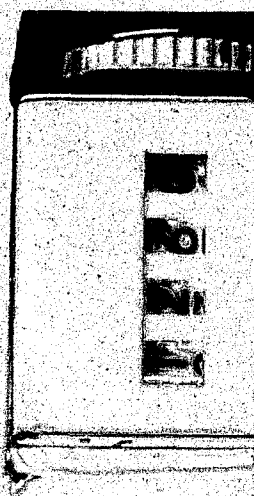
To constitute robbery the force must be employed either to obtain possession of the property or to prevent or overcome resistance to the taking. When force is

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employed in either of the ways that I have mentioned the degree of force is immaterial.

It is contended here that these defendants forcibly tore this reticule from the arm of the complaining witness and stole the money. If they did that they are guilty of robbery. If there was more than one person so that each one was aided by a confederate or accomplice, actually present, the crime is robbery in its first degree. Determine, therefore, first of all whether the defendants were both present, the one aiding and abetting the other, the one being the accomplice of the other. If so, then there was robbery and that is robbery in its first degree. Then determine whether the property in question was unlawfully taken by force from the person of the complaining witness. If so, and the force was used to obtain the possession of the stolen property it does not matter very much how much force was used under the law which I have read to you, and you may then find the defendants guilty of robbery in the first degree. Of course, you may find either defendant guilty or acquit either defendant. You may find them both guilty or you may acquit both, depending upon the evidence. Remember always that you have taken an oath a true verdict to find in accordance with the evidence.



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You are bound under the law and under the oath which each of you took to find a true verdict in accordance with the evidence.

If you entertain any reasonable doubt give the defendants the benefit of that reasonable doubt.

It is claimed by the People that the defendants confessed their guilt. Give that the weight you think it ought to have. It is for you to determine whether that proves or tends to prove their guilt. In weighing it weigh it in connection with the other facts which have been proved in the case.

The second count of the indictment charges grand larceny in the second degree and that means stealing from the person in the day time. If money was taken from the person, not amounting to robbery, because force was not used to obtain the possession of the property, the crime is grand larceny in its second degree.

It is for you now to take the case, weigh the evidence pro and contra and determine whether the evidence adduced against these defendants justifies and requires their conviction of crime. If so convict them; if not acquit them.

MR. O'REILLY: I ask your Honor to charge the jury that this paper submitted by the Prosecution and said to

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have been signed by the defendant Parisi before Judge Murphy, or Magistrate Murphy, cannot be considered by them as a plea of guilty to either of the counts in this indictment.

THE COURT: No, gentlemen, it is not a plea of guilty. If there was a plea of guilty there would be no trial. So far as this case is concerned the defendants deny their guilt, but in weighing and determining their guilt, whatever Paresi has said, whatever he has signed, maybe considered by you as against him, but not as against his co-defendant.

MR. GRECO: I ask your Honor to charge the jury that the mere fact that the defendants have not taken the stand in their own behalf should not be used against them.

THE COURT: Yes, that is but another form of saying what I have said to you that you must determine the case from the evidence in the case and not speculate as to what the evidence might have been if others had taken the stand.

MR. GRECO: I ask your Honor to charge the jury that before the jury can find them guilty they must come to the conclusion that there was a criminal intent to commit a crime.

THE COURT: If the defendants snatched this bag from

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the arm of the complaining witness, and took it away you may, if you think the evidence justifies it, infer that their intent was criminal; but you cannot convict them if you think that their intent was innocent and not criminal.

MR. GRECO: Will your Honor charge that they are presumed to be innocent until the evidence satisfies the jury beyond a reasonable doubt?

THE COURT: Yes. They are presumed to be innocent. The People must prove their guilt by the evidence.

The jury retired at 3 p. m.

The jury return to court at 3.50 p.m.

DEFENDANT'S COUNSEL: I want to say on the part of the attorney for the defendant that he neglected to except to your Honor's charge, and I want an opportunity at this time to have an exception noted on the record.

THE COURT: I shall not permit an exception now for the reason that if your exception seemed to me of merit I could then have cured it. You cannot come in now sleeping on your exception. However, if I had known there was objection to any portion of my charge, and I deemed it wise to do so I could have then amended the charge. I cannot do it now.

DEFENDANT'S COUNSEL: I appreciate your Honor's

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permission to have the purpose entered on the record,
I want to have it noted upon the record --

THE COURT: What is the particular objection to the
charge?

DEFENDANT'S COUNSEL: In the first place a general
exception to the charge and more particularly to that
part of the charge in which your Honor undertook to
define the crime of robbery as defined by the Penal
Code.

THE COURT: I shall not permit that. What I said
touching that crime I read from the Penal Code. I
shall adhere to my ruling and not permit an exception.

DEFENDANT'S COUNSEL. Your Honor, we want to protect
whatever rights the defendants have as to the rendition
of the verdict and so forth.

The jury returned a verdict convicting both
defendants of robbery in the first degree.

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New York, April 22nd, 1912.

The defendants Rafael Debiase and Frank Parisi, being arraigned for sentence before Hon. Warren W. Foster, J.

DEFENDANTS COUNSEL: I have several motions to make with reference to the defendant Parisi, if your Honor shall conclude to pronounce judgment upon him which, I take it, is your Honor's intention.

THE COURT: No, I am not going to pass judgment this morning. I am going to put the case over. I am going to give these defendants one chance more to help the police. This is a very serious case. They should aid the administration of justice by helping the police. I am told that Parisi has not only not helped the police but is standing in the way of their getting information. If he thinks he will gain anything by that let him proceed. This offense is punishable by 20 years in State Prison and I will find some way of seeing that justice is meted out to these defendants. The case will go over for one week.

DEFENDANTS COUNSEL: I will ask your Honor before making an adjudication on that--

THE COURT: I am not making any adjudication. I am adjourning it for one week.

DEFENDANTS COUNSEL: For the purpose of the record I

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want to have it noted that the defendant objects to any further adjournment and demands that your Honor make some disposition of the motions that counsel is about to make, and upon the Court's denial of any such motion that sentence be imposed.

THE COURT: If you are about to make a motion make it. If you want to make a motion make it and I will decide it.

DEFENDANTS COUNSEL: I fail to see the necessity of making any motion if your Honor has determined to defer sentence. If your Honor has--

THE COURT: If you have any motion to make make it.

DEFENDANTS COUNSEL: We want to have an exception noted upon the record.

THE COURT: If you have any motion to make you may make your motion. I do not know what it is.

DEFENDANTS COUNSEL: Well I want to know what your Honor's determination is.

THE COURT: I am not under examination. If you have any motion to make make it.

DEFENDANTS COUNSEL: Your Honor is to defer sentence?

THE COURT: Have you any motion to make?

DEFENDANTS COUNSEL: Yes, sir, I have.

THE COURT: Make it.

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DEFENDANTS COUNSEL: I move for a dismissal as to the defendant Parisi,-- for a dismissal of the indictment and the discharge of the defendant Parisi, and in arrest of judgment, upon the ground that the judgment fails to set forth facts sufficient in law to constitute the crime of robbery in the first degree or in any degree or any crime whatever. And upon the further ground that the indictment in this case is not in accordance with or in conformity with the provisions of Sections 275 and 276 of the Code of Criminal Procedure. Third that the evidence adduced upon the trial does not establish the commission by the defendant Parisi of the crime of robbery in the first degree or in any degree whatever, and, lastly, upon the ground that the People have failed to prove or establish the corpus delicti. I want your Honor's ruling upon that.

THE COURT: Anything else?

DEFENDANTS COUNSEL: I move that your Honor set aside the verdict of the jury as to the defendant Parisi and ask your Honor for a new trial upon the ground that the conviction of this defendant, Parisi, of the crime of robbery in the first degree, is clearly against the weight of the evidence and contrary to law, and upon the further ground that the Court erred in the construction and application of the law in respect to the crime whereof the defendant stands convicted-- and upon all the grounds re-

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ferred to in Section 465 of the Code of Criminal Procedure.

Now I am not going to enter upon a detailed or extended discussion of the law involved in this case, but I do want to say this, if your Honor please, that aside from the question of the sufficiency or insufficiency of the indictment in this case that I question your Honor's authority, under the law, to impose any sentence or to pronounce judgment upon this defendant. I respectfully maintain that the moment the jury came into this court room with their verdict of guilty, by which they found him guilty of robbery in the first degree that your Honor then and there became divested of jurisdiction for all purposes except for the purpose of entertaining a motion for a new trial, and I will demonstrate to your Honor the correctness of that position.

THE COURT: You are making the motion before me. If I have no authority to pass on them why do you make them? If I have no authority to entertain those motions why do you make them?

DEFENDANTS COUNSEL: Your Honor has the inherent power under the Code to entertain a motion in arrest of judgment and a motion for a new trial. I say this, that your Honor has lost jurisdiction over the person of this defendant to impose sentence or to pronounce judgment in

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obedience to or in pursuance to the verdict of the jury.

THE COURT: That is a very novel point. I never heard it raised.

DEFENDANTS COUNSEL: It is not novel. It is elementary. It is merely a question of construing the law of robbery as defined in the penal law. The courts have uniformly held this-- that to establish a conviction for that crime it is incumbent upon the People to aver in the indictment, and prove upon the trial beyond a reasonable doubt that the defendant did unlawfully and wilfully and feloniously and knowingly take, steal and carry away property which may be the subject of larceny from the person of one robbed, without his consent or against his will by the added element of force and violence. Now that is elementary and there cannot be any discussion upon that proposition. Now, that being so it is clearly apparent that to sustain a conviction in this case of the defendant it must appear from the record of this case that these men in committing the larceny in question-- because after all robbery is an aggravated form of larceny-- that in committing the larceny of this pocket book or hand bag from the complaining witness that he not only did it, animo furandi, that he did it wilfully, with intent to appropriate it to his own use, and that he did it without her consent, against her will, and that the asportation

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of the bag was effected by the wrongful use of force or violence, because, after all, the main elements, the essential ingredients in the offense of robbery, the predominant element, if your Honor please, is the wrongful use of force or violence. The condition was such that by reason of it we cannot spell out the element of force and violence. I challenge my friend here to refer your Honor to a single line of testimony in the record of this case, or to a word of testimony which shows that or tends to show it or even suggest the idea that in taking the possession of this pocket book that this defendant, these defendants or either of them-- or that this defendant Parisi used the force and violence contemplated by the Code. I say to your Honor that there is not a scintilla of evidence in the entire record in this case that shows that at the time they obtained possession of the property that a scuffle ensued or that she in any way resisted the efforts of this defendant, or that her resistance was overcome by the use of force or violence. The only testimony, the only evidence that we have in this case upon this subject is the evidence of the complaining witness who testifies--

THE COURT: I recall it distinctly.

DEFENDANTS COUNSEL: Your Honor recalls that?

THE COURT: I left that question to the jury.

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DEFENDANT'S COUNSEL: Without any warning of any kind, without being in imminent fear or without expecting that a larceny was about to be committed upon her person some one, apparently the associate of the defendant, snatched the hand bag from her wrist. Now I say, if your Honor please, that the Legislature in defining what should constitute robbery, what degree of force and violence is necessary, did not contemplate a mere simple assault--

THE COURT: I have decided that once, I now deny your motion in all respects and the clerk will so note. I give the defendants warning that when I take up the consideration of the case and impose sentence, one week from today, I shall know whether or not they have aided the police or whether they have refused so to aid the police.

DEFENDANTS COUNSEL: Your Honor denies the motion in arrest of judgment?

THE COURT: Yes.

Exception.

DEFENDANTS COUNSEL: Your Honor has denied counsel's motion for a new trial?

THE COURT: Yes.

Exception.

DEFENDANT'S COUNSEL: Will you defer the sentence for a week?

THE COURT: Yes.

DEFENDANTS COUNSEL: Against the protest of this defendant, who demands that your Honor impose sentence and that is, of course, without acquiescing in your Honor's jurisdiction in the premises.

(Defendants remanded.)

CASE # 1525

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

New York, April 29, 1912.

The defendants Debiase and Parisi being arraigned
for sentence.

BEFORE: HON WARREN W. FOSTER, J.

MR. MOSES A. SACHS appears for the defendants.

MR. SACHS: May I make a motion for a new trial in
this case, with the facts of which your Honor is familiar?

THE COURT: These motions have been made once and
denied.

MR. SACHS: A motion was made and denied only on
behalf of Parisi, as I understand it.

THE COURT: Very well. We will deem them made
and denied as to Debiase. You may note that they have
been made as to both defendants so that there may be no
question about it.

MR. SACHS: Your Honor I did not hear your instruc-
tions to Mr. Cowing.

THE COURT: To make a note of the making and denial
of the motions as to each defendant.

MR. SACHS: I should like to add a bit to the mo-
tion, if your Honor will hear me.

THE COURT: I shall deny it. I remember the facts
of the case. It was tried before me.

MR. SACHS: I desire to call your Honor's attention

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to the case of the People against McClusky.

THE COURT: What is the precise point of that case?

MR. SACHS: In that case the defendant McClusky was charged with the crime of robbery. It is a case cited in the Penal Code. In that case the defendant threw his arms about the person, on the throat of the person robbed. The Court in that case said, "No more force was used than sufficient to pull the money out of the pocket. He made no resistance (meaning the People's witness) and yielded neither to force nor fear. The annotation at the head of the case says "That the mere snatching of a thing from the person of another is not robbery."

THE COURT: I do not care for the head line, the syllabus or annotation. That is made by some reporter. The law says that it is immaterial what amount of force is used. I shall plant myself squarely upon the Penal Law and if the Appellate Tribunal wishes to split hairs and turn these defendants loose they may do so. I shall deny your motion.

MR. SACHS: The force relates to the means by which fear is induced. It does not relate to the force with which the property is taken.

THE COURT: You want to persuade the Appellate Courts.

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Public opinion has been aroused over the recognition of these hair splitting technicalities by our Appellate Courts. As far as I am concerned I will dispose of this case now, denying your motion and giving you an exception.

MR. SACHS: I respectfully except to your Honor's denial of my motion. I ask your Honor to permit me to file with the stenographer, so that we may protect the interests of the defendants, my motion for a new trial.

THE COURT: Well I don't want any motion on record that I don't know anything about.

MR. SACHS: It is on the usual grounds.

THE COURT: Show it to the District Attorney if it is in the usual form I, of course, will allow it. I wish to protect your every right, but I don't wish to have a motion of which I am ignorant on the record.

Now, Parisi, your case is different from that of your co-defendant, Deblase, because you come before the Court as a convicted felon. You have previously been convicted of crime and there remains now nothing for the

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Court to do but to pronounce sentence. In imposing that sentence the Court is bound to remember the fact that you get commutation. Whatever sentence I impose may be reduced by your good behavior in prison. Your crime was cleverly contrived. A number of you young men found that a messenger, a young lady, was to be at a bank to draw money. You surrounded her and snatched the money away as soon as she got it. It was cleverly contrived, boldly executed and affected the safety of the entire community. The law provides for a punishment of twenty years for your crime, but I am not going to give you the maximum. The sentence of the court in your case, Parisi, is that you be imprisoned in the State Prison for ten years.

Now, your case, Debiase is different. The Indeterminate sentence Law applies to your case. I shall send you to State Prison for so long a time as will perhaps be a sufficient warning to you that crime does not pay. I am going to give you one chance. If you make a clean breast of this affair, if you tell the police all about it and aid an administration of justice I shall consider that when I come to sentence you. If you don't I shall consider you bold and defiant and still evincing that depravity of mind that the Criminal Law seeks to

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reach and to punish. You understand? Therefore I shall put your case over until Wednesday morning, and then determine your sentence. I repeat if you aid the police I shall consider that in disposing of your case.

MR. DELEHANTY: I have examined the counsel's motion, and I see no reason why it should not go on record, except that counsel has added "to which misdirections the defendant duly accepted". We cannot consent to that general statement.

THE COURT: Strike that out. If he did except the record will show it.

MR. DELEHANTY: I have stricken that out in two places.

(Motion denied. Excuse me.)

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The defendant respectfully moves for a new trial on the following grounds:

First. that the verdict was contrary to the law clearly, against the evidence and the weight of evidence.

Second, on the ground that this Honorable Court misdirected the jury in matters of law.

Third, on the ground that the Court refused to instruct the jury as requested by the defendants.

Fourth. On the ground that no crime of robbery in any of its degrees was proven by the People, and in arrest of judgment for errors apparant upon the face of the record.

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COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART 1.

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-----X
THE PEOPLE OF THE STATE OF NEW YORK,

vs.

Indictment filed
March 23, 1912.

RAPHAEL D e BLASE, impleaded with
FRANK PARISI.

-----X
BEFORE: CARROLL V. POSTER, J., New York, May 2, 1912.
Indicted for robbery in the first degree.

(The defendant DeBlase being a raigned for sentence.)

THE COURT: Well, Mr. District Attorney, is there
an advantage to be gained in holding this case over?

MR. BROTHERS: None whatever, your Honor.

MR. DELEHANTY: The latest effort which we made to
get this man to talk was a complete failure.

THE COURT: Well DeBlase, you have determined to
take your medicine, have you? You are not going to
help the police in getting at the truth about this robbery?
Do you think you can trick the Court and do it successfully?

MR. SAGHS: The defendant states that he has told
all the truth if your Honor please.

THE COURT: Well maybe you have, but I doubt it,
and will give him none benefit of that doubt. This is
your last chance to help the People. If you want to help
the people in this case I will give you one chance, if
not, you will help them by breaking stone in Sing Sing
for a long period. Shall I dispose of this case or
later on DeBlase?

THE DEFENDANT: I would like your Honor to dispose

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of it now.

THE COURT: You understand do you? If you are disposed to help the People to get evidence that will enable them to punish those guilty in this case I shall consider that as a ground for leniency, do you understand that?

THE DEFENDANT: Yes, sir.

THE COURT: Shall I sentence you now or postpone the case?

THE DEFENDANT: Well I would like to have my sentence.

THE COURT: The Indeterminate sentence Law applies in your case. Parist, your co-defendant, has ten years in State Prison, and ten years in State Prison means six and one half years because he gets commutation and you will get none. Therefore I shall sentence you to not less than seven years and not more than ten years, thus making your sentence about the same as his. It would have been very much less if you had aided the People.

MR. SACKE: Will your Honor withhold execution in this case until Monday?

THE COURT: Why?

MR. SACKE: Well, I desire to consult with the defendant in reference to certain matters and prepare

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certain papers on a motion.

THE COURT: What motion do you want to make?

MR. SACHS: Well I am considering the question of asking for a certificate.

THE COURT: Upon what grounds?

MR. SACHS: Well upon certain grounds shown in the record, if your Honor please, and particularly upon the ground that the crime of which the defendant was convicted was not proven by the evidence.

THE COURT: Well, Mr. District Attorney, step up here please.

You may have until Tuesday.

MR. SACHS: Thank you.

I hereby certify that the foregoing is a correct transcript of the minutes taken by me on the trial of the above entitled case.

Patricia P. Cunningham
Official stenographer

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