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I n d e x.

Direct. Cross. Redirect. Recross.

Vincenza Cammarota,	2	3	7	8
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CASE # 1520

#1806

COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York, Part IV.

----- x
THE PEOPLE OF THE STATE OF : Before:
NEW YORK :
 : HON. JAMES T. MALONE, J.,
against :
 : and a Jury.
HARRY KAUFMAN. :
----- x

New York, April 4, 1912.

Indicted for attempted grand larceny in the first degree.

Indictment filed September 8, 1911.

APPEARANCES:

For the People, ASSISTANT DISTRICT ATTORNEY COLLIGAN.

For the Defendant, PHILIP S. FEINBERG, ESQ.

A jury was duly impaneled and sworn.

James E. Lynch,
Official Stenographer.

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V I N C E N Z A C A M M A R O T A, called and duly sworn as a witness on behalf of the People, testified through Official Interpreter DeVille, as follows:

DIRECT-EXAMINATION BY MR. COLLIGAN:

Q Where do you live? A 342 East 11th street.

Q You are married? A Yes, sir.

Q And you are the mother of children? A Yes, sir.

Q On last July, Mrs Cammarota, on the 29th of the month, you were shopping, were you not, on First avenue? A Yes, sir.

Q You recall the day? A Yes.

Q This was about half past four in the afternoon? A Yes.

Q Did you see this man on that day (indicating defendant)?

A Yes, sir.

Q You were on First avenue in the city and county of New York? A On Second avenue.

Q On Second avenue, between what streets? A I have not a clear recollection of the spot exactly, I think it was between 10th and 11th.

Q Were you carrying anything? A Yes, my pocketbook.

Q On which arm? A Under the left arm.

Q Is that the pocketbook you are carrying now? A No, it was a larger one.

Q It was a little larger than that? A Yes.

Q How much larger? A It was about a foot long.

Q A bag, then? A Not as big as a bag, it was a handbag.

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Q And there was not small pocketbook contained inside?

A No.

Q You were carrying it on your left arm? A Yes, like this (indicating).

Q And you had got in the vicinity of 10th street or 11th street, and what happened? A I was about to enter a store, I stopped just for a second and looked at the window, and then I felt something and I turned around and saw my pocketbook, my handbag open, and I saw a hand coming out of it, and I turned around and at the same moment the officer grabbed the defendant.

Q That is all you know about it? Did you have any money in the bag? A Five dollars.

2 Q And you saw this man? A Yes.

Q And that is the man the officer grabbed? A Yes, sir, but he did not take the money.

CROSS-EXAMINATION BY MR. FEINBERG:

Q Were you alone that day?

THE COURT (interposing) Has she told us who the man was, Mr Colligan?

MR. COLLIGAN: She said the defendant is the man.

MR. FEINBERG: No, she said she saw the ^{officer} ~~defendant~~ grab the defendant.

THE COURT: Well, I do not know whether she said a man or the defendant. Go on.

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Q (Question repeated.) A There was a young woman with me, a young girl.

Q Is she related to you? A No.

Q Do you speak the English language? A (In English) No.

Q Did you understand my question just now? A (Through the interpreter) I understood you to say whether, you asked me whether I spoke English, and I said no.

Q But you understood the question? Did your companion speak English? A I cannot understand that question.

MR. FEINBERG: Well, put it, please, Mr Interpreter.

A (Through the interpreter) Yes, but she did not know the defendant put his hand in my bag.

Q What time of the day did you leave your house on the day in question, for the purpose of going out to shop, what time was it? A About an hour previous to this occurrence.

Q And where did you say this happened, on Second avenue?
A Yes.

Q Sure of that, are you? Sure it was not First avenue?
A I believe it was on Second avenue. That's my best impression.

Q At any rate, the spot where this occurred, there was quite a crowd, wasn't there, quite a crowded thoroughfare, wasn't it? A There were several people on the sidewalk at the time, certainly, but I saw the defendant close by me.

Q That point where this occurred is in the heart of the

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market, isn't it, there is a market in that vicinity? A I know that, but the defendant was the only person near me at the moment.

Q Well, why do you persist in saying so, my dear lady? Answer my question; is that point in the heart of the shopping district of that section? A Yes.

Q In fact, all the people of your race living in that vicinity use that point for shopping purposes, is that correct? A Yes, I saw several of them there.

Q When for the first time did you observe this defendant? A When I turned around and the police officer grabbed him, that was the first moment.

Q That was the first time you had seen this defendant, when the police officer had grabbed him, is that right? A Yes, I had never seen him before that moment.

Q Is it not a fact that he spoke to you before the police officer grabbed him? A He said some words, and at the same moment I saw the officer grab him.

Q That is it, the defendant had spoken to you before the officer grabbed him, is that right? A No, he had not spoken to me before, because I had not seen him before.

Q Where had you last purchased before this occurred? What had you bought and where did you buy it? A I had been into a notion store and had purchased some wool to mend socks, and the paper in which the wool was wrapped was protruding from my bag,

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and that's what caused me to turn around principally.

Q Was it in the bag? A Yes.

Q Well, was the bag closed or open then, at the time you left the store? A Yes, it was closed.

Q You are sure of that, are you? A Yes.

Q Did you test it? A I closed it myself and put it under my arm.

Q Well, now, you say the first that you knew with reference to this occurrence was that you felt a hand in your bag, is that right? A I saw the hand and at the very moment the defendant said "You no afraid," and at that same moment the officer grabbed him.

Q Did he speak to you in English? A Yes.

Q And he told you you need not be afraid, is that right? A Yes.

Q So he did speak to you, didn't he, before the detective grabbed him? A Only he said "You no afraid," and the officer grabbed him.

Q It was broad daylight, wasn't it, at the time? A Yes.

Q Did the detective ask you anything at the time he grabbed the defendant? A No, only afterwards he asked me where I resided.

Q Did he speak to you in the Italian language? A Yes.

Q Did he ask you whether or not you had seen the defendant put his hand in your bag? A He didn't ask me. I saw him my-

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self.

Q You saw the defendant put his hand in your bag, is that right? A Yes.

Q Did you see him in the act of inserting his hand in your bag, yes or no? A I saw his hand coming out of my bag.

Q Did not the detective ask you whether or not you could identify this defendant as the person who had his hand in your bag? A No, he did not.

Q Did you identify this defendant in the police station after he was arrested? A Yes, sir.

Q Didn't you swear in the Police Court that this happened on First avenue, and not on Second avenue, yes or no? A I may have said that. I don't know the streets well, and I can't speak English, and I may have said that, but I am not sure I did.

BY THE COURT:

Q Well, are you now sure whether it was on First avenue or on Second avenue? A Second avenue.

REDIRECT-EXAMINATION BY MR. COLLIGAN:

Q Now, madam, isn't the avenue in which the elevated road runs at that point? A Yes.

Q Now, isn't it a fact that the elevated road runs into First avenue at that point?

MR. FREIDBERG: I object. Let the witness testify.

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THE COURT: I think you can easily prove that by a person who perhaps knows the geography better than this witness.

BY THE COURT:

Q That is the fact, that where it happened was the avenue where the elevated structure is? A Yes, sir.

RE-CROSS-EXAMINATION BY MR. FEINBERG:

Q The woman who was with you, didn't she observe this at all, didn't she observe this occurrence at all?

MR. COLLIGAN: I object to the question. It is impossible for this woman, although she has already stated that the other woman knew nothing about it--

THE COURT: Do you not think that is so? That that is a just criticism?

MR. FEINBERG: I want to ask her how she knows she did not see it.

THE COURT: Then you are getting hearsay testimony.

Q Well, that woman is not in court, is she, that was with you? A No, she is not here to-day.

R O C C O C A V O N E, called and duly sworn as a witness on behalf of the People, testified as follows:

DIRECT-EXAMINATION BY MR. COLLIGAN:

Q You are connected with the Detective Bureau of the Police

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Force of the City of New York? A Yes, sir.

Q Do you recall the 29th of July, 1911? A I do.

Q Did you see the complaining witness on that day?

A Yes, sir.

Q Did you see the defendant on that day? A Yes, sir.

Q At what time in the afternoon, or approximately what time of day? A I saw the defendant about half past three.

Q Where did you see him, talk loud so that the jury can all hear you? A I saw him on First avenue.

Q Between what streets? A Between 11th and 14th streets.

Q What did you see him do with respect to this complainant?

MR. FEINBERG: I object to that as entirely too broad.

THE COURT: Well, we must go by particular steps. This was at half past three?

MR. FEINBERG: I object to that as not connected with this witness.

THE COURT: What was the time here?

MR. FEINBERG: 4:30.

Q With respect to this defendant, what did you see him do, or the complainant, rather?

MR. FEINBERG: Objected to.

Objection overruled. Exception.

A About half past three I have noticed the defendant acting in a suspicious manner.

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MR. FEINBERG: I ask to strike that out.

THE COURT: Strike that out.

BY THE COURT:

Q Tell just what you saw the defendant do? A I saw him walking up First avenue from 10th street, or from 11th street, rather, following up women that carried handbags. Between 11th and 12th street I saw the defendant make two attempts on that one block to open the handbag of a woman. He failed to do so.

MR. FEINBERG: Just a moment. I ask your Honor to strike that out as not binding on the defendant, as entirely irrelevant to the issues of this case, not connected with the issues in this case, and I ask your Honor to direct the jury to disregard the testimony.

Motion denied. Exception.

A (Continuing) He failed to open the handbag, and let this woman go, and he kept on walking up First avenue. When he got near 12th street, there he met another woman with a handbag, and he made the same kind of attempt, trying to open the handbag, and he failed there.

MR. FEINBERG: The same motion with respect to this testimony.

Motion denied. Exception.

A (Continuing) He walked up as far as, on First avenue again from 12th street to about 13th and he turned back before he got to the corner, and he walked slowly, walking down

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again, and he met another woman, where he again tried to open her handbag and he had this handbag open but he looked in and he let the woman go about her business. I followed him around.

THE COURT: Strike that out.

BY THE COURT:

Q Go on and tell what you observed? A I followed him around for about five or ten minutes longer, when the complaining witness come along with another woman, coming down from, like going south on First avenue between 13th and 12th street, when I saw the defendant there quickly come alongside of the complaining witness, open the handbag first and look in, and as he walked a few steps, when he placed his hand in the bag, and as he did have his hand in the bag the woman lifts her arm up, and he lifts his arm up, and I grabbed him by the back of the neck and placed him under arrest.

Q Did you have any conversation with him at that time, officer? A No, sir.

Q You simply arrested him? A Simply arrested him.

CROSS-EXAMINATION BY MR. FEINBERG:

Q This defendant was such a skilful pickpocket that he could not open two handbags before he got to this complaining witness, is that right? A I can't answer that.

Q Well, you saw him make two attempts and not succeed?

A Yes.

Q And you finally saw him succeed in opening one before

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he got to this complaining witness, didn't you? A Yes.

Q Why didn't you arrest him right there and then? A Because I had not enough evidence on him.

Q What more evidence did you have in this case? A I thought he had the money in his hands at that time, when I saw him grab the money.

Q How close were you to him when you arrested him? A About a foot.

Q How close were you to him on the previous occasion when he opened the pocketbook? A About four or five feet.

Q And you were following him all this time? A Yes.

Q And you were four or five feet away from him? A Yes.

Q You said before that he acted suspiciously. I want you to tell the jury just how he acted suspiciously? A Well, that is the suspicion I meant, just as I testified to just now.

Q Well, what first attracted your attention to this defendant on that day? A His actions. The way he was going along the street.

Q Well, how was he going along the street? A Looking around to see whether women had handbags or not.

Q Looking at their arms to see whether they were carrying bags, is that right? A Yes.

Q At what point did you see him for the first time? A It must have been between 10th and 11th street.

Q Was he going south or north on First avenue? A He was

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going north.

Q Coming up from 10th and going towards 11th? A Yes.

Q On which side of the street? A On the west side of the street.

Q At that point there is a market, is that right, Mr Officer? A Yes, sir.

Q And at that hour of the day that thoroughfare is pretty well crowded, isn't it? A There is a number of people there, yes.

Q How many would you judge would be walking along the west side of First avenue at the time you first saw the defendant, in your judgment? A I judge about five or six hundred.

Q And notwithstanding that fact, although you were four or five feet away from him, you were still able to detect him opening a handbag, is that right? A Yes, sir.

Q And you want this jury to believe that? A Yes, sir, because my attention was only on him and no one else.

Q Out of four or five hundred people, you were able to cast your eyes through that throng and see this defendant opening the handbag? A I was behind him, about five feet at all times.

Q Was anybody between you and this defendant? A Sometimes.

Q How many about at one particular occasion? A I couldn't testify to that.

Q Now, you say at 3:30 you began to watch him? A Yes.

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Q And at 4:30 you saw him opening these women's bags?

A No, sir, it was sonner than that.

Q What time would you say it was? A Somewheres around four o'clock.

Q At four o'clock? A About four o'clock. I couldn't exactly tell.

Q Well, did you see him put his hand in the woman's bag?

A Yes, sir.

Q Did you see him abstract his hand from the bag? A Yes.

Q Did he have anything in the hand? A No.

Q Did you see him talking to this lady? A No, sir.

Q She testified he did? A He says "What's the matter, what's the matter?" I says "Come on, walk with me," and I got the lady's name and number, where she lives, and I--

Q (Interrupting) Why did you say a moment ago in answer to my question--why did you testify a moment ago in answer to my question that he had not spoken to her? A Who had not spoken to her?

Q I asked you a moment ago whether it was not a fact that the defendant had spoken to the woman before you arrested him and you said no. Then I asked you, I reminded you of the fact that she had testified he did? Is that what caused you to change your testimony? A I have not changed my testimony any.

Q Well, you now say he did talk to her? Which is correct? A He says to me "What's the matter, what's the matter?"

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when I placed him under arrest.

Q Oh, he talked to you? A Yes.

Q He did not talk to the complaining witness?

MR. COLLIGAN: He has not said that. I object.

THE COURT: Objection overruled.

Q He did not talk to the woman, did he? A No.

Q Sure of that? A I am quite sure he did not. He tried to say "I didn't do nothing". I believe he said that, "I didn't do nothing."

Q Well, what is refreshing your recollection as I go along?

A Well, this is some time ago. You are refreshing my mind as I go along.

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

Q Did you speak to the woman at the time you arrested the defendant? A Yes, sir.

Q What did you ask her? A I asked her what was her name, what was her address. I says "I will be over to see you later on."

Q You did not ask her whether this defendant had put his hand in her bag? A Yes, I did.

Q She says you did not? A Yes, I told her.

Q Which is correct? A I says "He had his hand in your bag, didn't he?" And she says yes.

Q You suggested to her, didn't you, Mr Officer, that this defendant had had his hand in her bag? A Well, I saw it my-

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self also.

Q You told her that you had seen him putting his hand in her bag? A Certainly, I told her that I had seen him too.

Q And she lied, didn't she, when she said that you had not spoken to her?

Objected to. Objection sustained.

Q When you saw the defendant put his hand in this woman's bag, how far behind were you, you say a foot? A About a foot, yes.

Q You did not attempt to arrest him then, did you? A Yes, that is when I did arrest him, when he had just taken out his hand from the bag.

Q You waited until he took his hand out of the bag before you locked him up? A Yes.

Q Did you search his palm to see whether he had anything in his hand? A Yes.

Q You found nothing? A Yes.

Q Did you search the bag? A Yes.

Q What did you find in the bag? A A five dollar bill in the bag.

Q Loose? A It was lying in the bag loose, yes.

Q What kind of bag was it, describe it to us? A It was a bag about a foot long.

Q How deep? A A regular ordinary handbag.

Q Can you tell us what was in the bag? Was there a parcel

in the bag? A No, there was a five dollar bill; a handkerchief, I remember the handkerchief well. There might have been something else in there, I don't know, keys or something.

Q She said there was a bundle in that bag? A Well, it might have been there. I didn't take notice to it, but I saw the five dollar bill there.

Q Did you observe the purse before the defendant put his hand in it? A Yes, sir.

Q You did? A Yes, sir.

Q Was it open or closed? A It was at first closed, and then he opened it.

Q You saw him in the act of opening it? A Yes.

Q Did he do it in the same way he tried to open the other purses? A Identically the same thing, yes, sir.

Q And this time he succeeded? A He succeeded in opening it.

Q On two occasions he failed? A Yes.

Q Did you ask the boy what he was doing there at the time?
A Ask him?

Q Yes. A No, sir.

Q Why didn't you? A Because I knew I had him for this act that he had committed.

Q Didn't you know it was your duty, and you should have asked him whether he he had committed a crime?

MR. COLLIGAN: I object to that.

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MR. FEINBERG: He may have gotten an admission from the defendant.

THE COURT: You may ask him if he did.

Q Did you ask the defendant whether he committed the crime?

A No, I didn't ask him that, but he started to cry.

Q Was he searched in the police station in your presence?

A Yes.

Q What was found on him? A I think he had a pencil, a card or something. I don't recollect any more, a handkerchief, and I don't know, but he had about twenty or thirty cents in his clothes.

Q Did you speak to the woman that was with the complaining witness? A The following day in court.

Q I say, did you speak to the woman who was with the complaining witness? A No, sir.

Q Did you ask her if she saw this? A No, sir.

Q You did not? Didn't you think it your duty to get as many witnesses as you could? A I didn't need witnesses because I had witnessed the crime.

Q You considered your own testimony sufficient? A Exactly, and with her testimony, because she saw him.

Q You did not ask the woman with her or the complaining witness whether either of them had seen his hand put into the bag? A The complaining witness saw it.

Q How do you know that? A Because the minute I placed

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this man under arrest she turned to him and she says "You big loafer".

Q Oh, this is something new, isn't it? She said "You big loafer" in English? A I don't recollect whether it was in English or Italian. That is when I had him in my grasp when she said that.

Q She said "You big loafer"? A Yes.

Q After you had told her he had put his hand in her bag? A No, right after she had seen the arm coming out of there, that I had placed him under arrest.

Q You are not certain whether it was in English or Italian? A I ain't certain.

Q Yet every other detail is firmly impressed in your mind?

A What took place.

Q Just that thing you cannot remember? A Whether she said it in English or Italian?

Q Yes. A I couldn't recollect that.

Q How many arrests have you made since then? A Perhaps two or three hundred.

Q Notwithstanding the two or three hundred arrests, every little incident in this matter is firmly impressed in your mind with respect to him putting the hand into the bag? A Yes.

MR. COLLIGAN: The People rest.

MR. FEINBERG: I ask your Honor to direct an acquittal.

Motion denied. Exception.

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THE DEFENCE.

H A R R Y K A U F M A N, the defendant, called and duly sworn
as a witness on behalf of the defence, testified as follows:

DIRECT-EXAMINATION BY MR. FEINBERG:

Q Where do you live? A 324 Sixth street.

Q Where did you live last July? A Last July?

Q Yes. A When I was married?

Q Keep your voice up so the last juror can hear you.

Where did you live last July? A Last July I lived with my
people.

Q I do not hear you? A I lived with my parents.

Q Where? A 324 Sixth street.

Q How old are you? A I am 20 or 21.

Q What, I cannot hear you? A Twenty-one.

Q Are you married? A Yes.

Q You are the father of a child? A Yes.

Q How old is the baby? A One month.

Q Now, do you remember the day that this happened when you
were arrested? A Yes, sir.

Q What time did you leave home that day? A About half
past two.

Q What time? A About half past two.

Q Where did you go? A Went up to the application de-
partment, Metropolitan Railway Company.

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Q I cannot hear you? A Metropolitan Railway Company.

Q Keep up your voice so that every juror can hear you.

Where did you go there? A I went there to file an application for conductor.

Q Did you file your application? A I filled it out but I did not sign it.

Q What time did you leave the office of the company? A I left there, it was about half past three.

Q Were you in the company of anybody else? A I was with a friend I met over there.

Q When you left the office of the company where did you intend going? A I intended going home. The fellow lived on Second avenue, and he says I shall walk him up to Second avenue, he lives uptown, Second avenue and 100th street, and I live downtown, so I told him to take a walk, after sitting down waiting for the application, took him up to Second avenue, and I went on the train and I said good bye to him on the train.

Q You went on a southbound train? A And he went on the uptown train.

Q Where did you get off? A I got off at 14th street.

Q Why did you get off at 14th street? A I got off at 14th street to buy some crockery. My wife told me to buy some there.

Q Some what? A Crockery for the house, a few glasses.

Q Did you have any money in your pocket then? A I did.

Q How much? A Three dollars.

Q Now, when you got off at 14th street, what did you do?

A I got off at 14th street and I walked up until 11th street, and I stopped off there, I was looking on the pushcarts, there was some wagons with fruit.

Q And did you see this complaining witness, this lady there? A No, I never seen that woman.

Q Did you see this woman there, the complaining witness?

A I seen her on 11th street, yes.

Q What did you do? A I walked.

Q Tell us what happened from that point on? A I walked from 14th street, I walked up until 11th street. There was pushcart on the south side, and this here woman was walking with another woman, and I happened to walk that way too. Understand, I was on the other side of her, and she was on the other side, I was east and she was west, and I seen the woman's handbag open and I told her "Missus, your pocketbook is open." I didn't know, she got excited, kind of, I didn't know what she was looking at, but she got excited, she looked in her bag if anything was missing, and then the detective come right in back of me and grabbed hold of me.

Q Now, Kaufman, the detective has said that he saw you that day walking along First avenue and making attempts to open women's pocketbooks, is that right? A No, sir.

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BY THE COURT:

Q How did the officer put you under arrest? Where did he do it, what did he do? A The officer simply come in the back.

Q He came at your back? A Yes.

Q Then what did he do? A He grabbed hold of me.

Q Where did he grab you? A Here by the neck, I think.

(Indicating)

Q Where was your hand? Show the jury just how he did it?

A (Illustrating) He grabbed me here.

Q Where was your hand, how was your hand? A (Illustrating) Like that.

THE COURT: Go on.

BY MR. FEINEBERG:

Q Did the detective ask you whether you had tried to rob this woman or take her pocketbook? A What is that?

Q Did the detective ask you whether you had tried to take this woman's purse? A No, sir.

Q You were taken to the station house, were you? A Yes, he was talking something to her & didn't understand.

Q I cannot hear you. A He was speaking some language I didn't understand.

Q Kaufman, did you put your hand into this woman's pocketbook? A I did not put it in the pocketbook, but I simply pointed at her.

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BY THE COURT:

Q How did you do that? A I says "Lady, your pocket is open." I was near her, here was the lady right there and I saw her pocketbook, on this here side, and the pocketbook was open and I says "Lady, your pocketbook is open," and it was very close, my hand was to her.

BY MR. FEINBERG:

Q Kaufman, did you want to steal any money from this woman? A No, sir, I did not. *

CROSS EXAMINATION BY MR. COLLIGAN:

Q You say you left your home that day about 2:30, did you? A Yes, sir.

Q You went directly from Sixth street that time to where? A I went right over to the company.

Q Speak a little louder. A I went right over to the Metropolitan Company.

Q Where is the office of the Metropolitan Company? A 57th street.

Q On 57th street? A Yes.

Q How long did it take you to go from 6th street to 57th street? A I don't know, I was riding.

Q What? A I took the car.

Q How long did it take you? A It took me about twenty-five minutes.

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Q That would mean 3 o'clock? A Yes.

Q Now, you remember being asked some questions in the Magistrate's Court, don't you? You remember you were asked this question in the Magistrate's Court: "Where do you live and how long have you resided there?" And do you remember stating "127 Harrison avenue, Brooklyn"? A Well, I did live there but I was with my parents on 6th street at the time. You see, I was living with my wife with my parents.

Q How long had you been living in Brooklyn? A I was living in Brooklyn about three months.

Q You remember stating and putting your signature under it that you were there two weeks? A Two weeks?

Q Yes? (Handing) That is your signature, isn't it? Look at it. A Yes, sir.

MR. COLLIGAN: I offer that in evidence.

MR. FEINBERG: Objected to.

THE COURT: I will receive it. (Exception)

(Marked people's Exhibit 1)

A (Continuing) Well, since I am married I have lived about seven places. I couldn't remember exactly.

BY THE COURT:

Q You were asked questions, were you? A Yes, sir.

Q And you signed your name to that paper? A Yes, sir.

Q And that is your signature? A Yes, sir.

BY MR. COLLIGAN:

Q Now, tell us which place you did live in at the time?

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A I lived with my parents.

Q Well, that does not give us better opportunity to find out; where did your parents live? A 324 Sixth street.

Q And it is not a fact then that you lived in Brooklyn?

A I did live in Brooklyn.

Q Well, which place did you live when this thing was committed? A When it was committed I lived with my people.

Q Where? A 324 Sixth street.

Q And why did you say you lived in Brooklyn? A Well, I didn't live there at the time.

Q Oh, that is why you said so?

THE THIRD JUROR: Can I ask a question?

THE COURT: Yes.

BY THE THIRD JUROR:

Q Why didn't you live with your parents? A My wife could not stay there. She was afraid to live in Brooklyn. There was some robbery in the house and she was scared.

Q Were you married at the time? A Yes, sir.

THE COURT: Take up with this witness what he has been doing, what employment he had, if any, and where, and his home.

BY MR. COLLIGAN:

Q Now, where were you working at this time? A I was working in my father's place.

Q Where? A My father's place.

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Q In your father's place? A Yes.

Q Is your father here to-day? A Yes, sir.

Q Where was your father's place of business? A 324 Sixth street.

Q What is his name? A Kaufman.

Q What is his first name? A Louis Kaufman.

Q What is his business? A Upholstery.

Q Are you an upholsterer by trade? A Not by trade, but I know how to fix a lounge.

Q Have you ever worked for any one else with the exception of some one in your own family? A I did.

Q You did? A Yes.

Q When? A 133 Essex street.

Q For whom? A Fish Brothers.

Q In what line of business? A Vests.

Q Vests? A Yes.

Q How long did you work for them? A I worked there about eight months.

Q When did you begin to go to work for them? A Before, that is the first place I was working.

Q How long had you been working for your father when you were arrested? A When I was arrested?

Q Yes, how long had you been working up to that day, approximately, in months or weeks? A I don't know what you mean.

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Q How long -- you were working for your father, were you not? A Yes.

Q Well, why were you looking for a position on the elevated road if you were working for your father? A Well, I didn't make enough. I thought I could get a job/a few days ^{and} later they let you know if you can get the job.

Q Well, how long had you been working for your father? A Worked with my father about two years.

Q Two years? A Yes.

Q All the time up to this time? A All the time, yes.

Q Now, when did you work for the other people? A When I got out of school first.

Q When you got out of school? How old are you? A Now?

Q Yes? A 21.

Q 21? A 20 to 21.

Q How old are you now? A 20.

Q 20? A I am going to be 21.

Q You are just 20 now, and when you were arrested last July, you said you were 21, didn't you, at that time in the court? A (No answer)

Q Now, you are 20? Well, all right. A I couldn't remember.

Q What time did you leave school? How old were you when you left school? A I was over 19.

Q How old were you? A I think something like that.

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Q You were 18? A 19.

Q Up to last July you had worked for your father two years? A Yes.

Q Therefore you were 17 when you began working for your father? Now, you also said that you worked for some one else before you worked for your father? Whom else did you work for? A What do you mean? I don't know what you mean.

Q Who else did you work for before you worked for your father? A Fish Brothers.

Q How long had you worked for Fish Brothers? A Eight months.

Q All right, that is two years and eight months; and you got through school at 19?

BY THE COURT:

Q What school did you attend? A Public school 20.

Q Where is that? A That is on Rivington street.

Q How far had you progressed when you were 19 years of age? A 7 E.

BY MR. COLLIGAN:

Q 7 E? Now, had you worked for any one else before these eight months that you worked for Fish? A No, sir.

Q That was in the vest business? So that when you left school you went to work for Fish? A Yes.

Q You worked there in the vest business eight months?

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A Yes.

Q Then you worked for your father two years? A Yes, sir.
BY THE COURT:

Q How long had you been going to school, how many years had you been going to school? A When I started to go?

Q Yes? A Well, I am here 12 years in this country and I started to go a few months later, I started to go to school.

Q When you came to the country you were eight or nine years of age? A I was 12 years.

Q You were 12 years of age? A Yes.

Q Did you go right to school then? A Yes.

Q What school did you go to? A First I went to Ludlow street school.

Q You continued from that time up to the time you were 19 years of age, is that so? A 19 years of age? 12 years I was when I went to school.

Q You went to school about seven years, is that it?

A (No answer)

BY MR. COLLIGAN:

Q Now, don't you know how old you were, how many years you went to school? A (No answer)

Q Where is the office of the Metropolitan Road? A 57th street.

Q And you went there to make an application? A Yes.

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Q And you say you made application? A Yes.

Q But didn't you file it? A No, they said they would notify me. They didn't let me know, so I went over there to ask them.

Q But did you or not file application, did you place it there, make application, put your signature to it? A Signature, no.

Q You did not put your initials there or your name at all? A No.

Q Why not? That is not an application unless your signature is on? A Well, the first application, that was before yet, they told me they would notify me, but they did not.

Q Well now, did you make an application? Do you know what I mean? If not, say so? A I did make application but they did not --

Q What do you mean by making application? What does one do when one makes application for a position? A You wait there on the line until the man comes out and he gives you applications to fill them out.

Q That is afterwards to file? A Yes.

Q A paper to sign and some answers to make? A Yes.

Q Did you do that? A Yes.

Q What did you do with it? A I filled it up and gave it to the man by the desk.

Q Do you know who the man is you gave it to? A I know

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the man.

Q Have you been to see the man since you were arrested in this case? A Since I have been arrested?

Q Yes, have you been to see these parties to ask them to come down here and tell us that? A When I was arrested--

Q (Interrupting) Yes, since you have been arrested?

A Well, if I was arrested I couldn't go.

Q You have been on bail, haven't you? A Yes.

Q Now, as a matter of fact, you never went back, did you, to the Railroad people? A Why didn't I?

Q Well, did you? A They did not accept me, so I didn't go back any more.

Q Did they tell you why they did not accept you? A I did not fill the application right.

Q You did not fill it out right? Well, didn't they give you an opportunity to fill it out right after that?

A They didn't give me another one.

Q Well, they said they did not want you? A That's all they said.

Q Near what avenue is this railroad? A Seventh avenue.

Q Now, let us see, you left your house? Which house did you live on, what street and in what city? A When I left the house?

Q Yes, where was the house and what city, what street or what number? A Sixth street.

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Q Sixth street in the Borough of Manhattan, you went from 6th street to 57th street; it took you half an hour or an hour; then what did you do when you left the Railroad office? How many men were on line that day? A About 30 people.

Q Were you at the head of the line or the foot or where? A When I got in the line was there, I should be last.

Q You were about last? A Yes.

Q How long approximately were you there? Do you know how long you were there? You ought to remember the facts on this day quite well? Can't you remember how long you were in that place? You say you were at the end of the line? A About three quarters of an hour, something like that, or half an hour.

Q Half an hour? Well, all right. You left your house at 2:30, and it took you half an hour to get up there; that was 3 o'clock, and you were there half an hour, that is half past three. Now, where did you go when you left there in the vicinity of 3:30? A I met a friend in the line, above me, in front of me.

Q Was he there that day? A He was.

Q Is he here to-day? A No, sir, he don't know, I didn't want him to know about the charge.

Q You didn't want him to know you were to be arrested?

A Sure.

Q You knew you were going to be tried to-day and you knew

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you were going to be asked everything that happened that day, and you didn't ask him to come here to-day? A He was living in the house with me too.

Q Was this friend before or after you in the line?

A Before me.

Q Before you? A Yes.

Q And you told him to wait for you until you got through?

A No, he told me to wait for him. He was ahead of me.

Q He was ahead of you, and he told you to wait for him? You didn't tell him to wait for you?

MR. FEINBERG: Objected to.

Q Now, you both left together, both left the Metropolitan office together? A Yes.

Q What is his name? A Joe.

Q What? A Joe.

Q Joe what? A Joe Hartman.

Q Where does he live? A Hartman.

Q Where does he live? A He didn't live, he is out of town.

Q He did not live? A He didn't live in New York. He ain't got no parents.

Q Had you known him before this day, before the day you were on line to get a job on the elevated road, had you known this Joe before then? A Yes.

Q How long had you known him? A I knew him a long time.

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Q A long time? A Yes.

Q Where did he work? A He didn't work. He went to school with me already.

Q Well, he was about your age, wasn't he? A Yes.

Q And he left school with you? A Well, I don't know if he left school. I left before him.

Q Well, did he live near you? A No, he didn't live near me. He lived by a friend in Second street.

Q All right. Now, how did you come downtown from the Metropolitan after you waited for Joe or Joe waited for you?

A After he filled the application, he filled the application.

Q You both filled applications? A He signed the application. I did not sign it, for notary.

Q Well, after you left the building what did you do, the Metropolitan building? A I walked up until Second avenue with him.

Q You walked to Second avenue from Seventh avenue?

A Straight up to Second avenue.

Q On what street? A On 57th street.

Q From Seventh to Second avenue? A Yes.

Q You left there about 3:00? A Something like that.

Q Where did you go? A I was going to go home.

Q Where did you go when you left there? A I went right home.

Q You left at half past three, you say at Seventh avenue

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and 57th street, and went down 57th street east until you reached Second avenue? Now, was he with you? A When?

Q Was he with you walking down 57th street? A On 57th street?

Q And Second avenue? A Yes.

Q What did you do when you reached there? A When I reached there I said a few words to him. He says "Where can I meet you?" And I gave him the address where I lived.

Q Did he tell you where he lived then? A Yes.

Q Then he left you? A He left me and he said good by, he walked on the other station.

Q How long did it take you to walk from Seventh avenue to Second avenue? You were talking some? A Yes.

Q You did not walk fast, did you? A Well, about fifteen minutes.

Q So that you make it a quarter to four when you reached the corner of Second avenue and 57th street? A Yes.

Q Then what did you do? A From there?

Q You left him there? A Yes, we went on the train. I got off at 14th street.

Q We got on the train with you? A No, he went on the other side. He went uptown.

Q And you came downtown to 14th street? A Yes.

Q How long did it take you to come to 14th street? You left there at a quarter to four? A It took me about ten

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minutes.

Q You left there about five minutes to four then, then what did you do? A From there I walked down, I come down 14th street, I stopped.

Q What did you do at 14th street? A Stopped at the 14th street station.

Q How long, to change for another car? A No, to come home. I lived in 6th street that time.

Q But you did not go home? A I did go home.

Q Why didn't you get off at 8th street station? A 8th street? They ain't push carts over there. You have to walk up until 14th street.

Q Well, you were arrested very much in the vicinity of push carts, where there were a lot of push carts around; did you want to avoid them? A I don't understand.

Q Why didn't you ride to 8th street if you lived at 6th? A Well, 8th street is the crosstown car, and you can't buy any crockery there, I don't think so.

Q Well, I thought you were going home? A Yes, I was.

Q You left 14th street and then you started out some place to buy some crockery? A Then I walked from 14th to 8th street.

Q How long were you? A I stopped in 11th street to buy some crockery.

Q Did you buy the crockery? A I didn't buy it. I was

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just about to buy when I seen this here woman.

Q You were just about to buy when you saw that woman?

A yes.

Q Didn't you testify on direct examination, I may be mistaken, didn't you testify on direct examination that you purchased some crockery that day?

MR. FEINBERG: You had better retract that. You are mistaken.

Q Didn't you tell your lawyer on direct examination that you had purchased some crockery that day? A I was going to buy.

Q You were just going to buy? A I did not buy.

Q How much money did you have in your pocket when you were going to buy? A \$3.

Q So that you did not purchase the crockery and just at that moment you were arrested and you say you had \$3 in your pocket? A Yes.

Q Don't you know as a matter of fact that there are no railroad offices at Seventh avenue and 57th street? A I tell you now --

Q (Interrupting) Don't you know as a matter of fact that the office of the Metropolitan is at 50th street and Eighth avenue? A JUROR: 50th street and Seventh avenue.

Q 50th street and Seventh avenue? A There is two sta--

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tions. There is one on Third avenue. I thought it was at 59th street.

Q You know that the Third avenue one is at 66th street on Third avenue too, don't you? A I know my brother worked on Second avenue elevated, 96th street.

Q But you know where you were that day? A Yes, sir, I know where I was.

Q You were walking through 57th street? A (No answer)

FANNIE KAUFMAN, called and duly sworn as a witness on behalf of the defendant, testified through official interpreter Fischer, as follows:

DIRECT EXAMINATION BY MR. FEINBERG:

(Residence 324 Sixth street.)

Q Mrs. Kaufman, you are the mother of the boy? A Yes.

Q Was your son confined to an insane asylum previous to this date?

MR. COLLIGAN: I object to this.

THE COURT: There is no defense of insanity?

MR. FEINBERG: I do not claim insanity, your Honor, at this date.

THE COURT: Well, what is the purpose of it?

MR. FEINBERG: To show that the boy has been subject to nightmares ever since he was an infant, subject to bad spells. He has not been able to account for himself for

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a long time, and at this date he is in the same condition. I claim that the boy is incapable, and I ask your honor to admit this testimony for the purpose of explaining the boy's attitude on the witness stand to-day in combating with the astute District Attorney.

MR. COLLIGAN: I object to it.

Objection sustained. Exception.

Q Mrs. Kaufman, was your son at Central Islip for six months, two years ago?

Objected to. Objection sustained. Exception.

Q Mrs. Kaufman, has your son been subject to nightmares and to bad weeping spells for a long period of time?

MR. COLLIGAN: I object to that.

THE COURT: Now, Counsel, you have two exceptions, and be content with them.

MR. FEINBERG: Well, all right, your Honor, then I am through with this witness.

(No cross examination)

A N N A K A U F M A N, called and duly sworn as a witness on behalf of the defendant, testified as follows:

(Residence 214 Third street)

DIRECT EXAMINATION BY MR. FEINBERG:

Q Mrs. Kaufman, are you the wife of the defendant? A Yes.

Q How long have you been married to him? A A year and

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five months.

Q There is a child as a result of your union? A Yes.

Q How old is the child? A Four weeks.

Q Mrs. Kaufman, do you recall the day your husband was arrested? A Yes.

Q And what time he left his home that day? A Half past two.

Q Did he tell you where he was going? A Yes.

Q Where did he tell you he was going? A Up to the Metropolitan Company.

Q Did he tell you why he was going there? A Yes.

Q Why? A To get a job there because he was working for his father and he didn't get enough money for it.

Q Do you know how much he was earning that time with his father? A Yes.

Q How much was he getting per week? A \$7.

Q And with that he was supporting you and himself?

A Well, I kept boarders too.

Q Did you ever live at 127 Harrison avenue? A Yes.

Q That is all.

MR. COLLIGAN: No cross examination.

MR. REINBERG: The defense rests.

Mr. Reinberg closed the case on behalf of the defense.

Mr. Colligan closed the case on behalf of the people.

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The People, etc.,
against
HARRY HAWKMAN.

THE COURT'S CHARGE.

JAMES T. MALONE, J.

Gentlemen of the Jury:

You will either find the defendant at the bar "Not Guilty" or "Guilty" of an Attempt to commit the crime of Grand Larceny in the Second Degree. He is charged with an Attempt to commit the crime of Grand Larceny in the First Degree, but, in view of the proof as to the time of day at which the defendant was arrested, you could not find him guilty of an Attempt to commit the crime of Grand Larceny in the First Degree, but, if the evidence justified it, your verdict would be an Attempt to commit the crime of Grand Larceny in the Second Degree, a lower degree of larceny.

Any person who feloniously takes another person's property without that person's consent, intending to appropriate it to his own use, steals it, and if he takes it from the person of another he commits the crime of Grand Larceny in the Second Degree. If that crime be committed in the night time, the crime is more grave; it becomes Grand Larceny in the First Degree.

This defendant here is not charged with the consummated offense, but he is charged with an attempt to commit the crime, which is itself an offense, but which diminishes the gravity of it, in the language of the layman, fifty

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per cent; it reduces it one-half in its consequences.

An attempt to commit crime is defined in this way by the Legislature:

"An act, done with intent to commit a crime, and tending but failing to effect its commission, is 'an attempt to commit that crime'".

That is what is charged against the defendant here, that on the 29th day of July of last year, in the County of New York, he attempted to steal personal property in and on the person of Vincenza Cammarota. He has interposed a plea of not guilty to the charge, and you will say by the verdict that you render here, what the merits of the case are and where they lie. The State charges the defendant with this crime and must prove it, and prove it to your satisfaction; prove it so that you are clear in mind that the defendant is guilty. You must not have a question about it. The State must make a clear case against the defendant and prove its case by unequivocal evidence. It cannot be based upon any conjecture of circumstances or any inferences. It must make it a clear, strong case. If it does not, and there rests in the minds of the jury a doubt of guilt, that doubt makes for acquittal and constrains you to find the defendant not guilty; but if you have no doubt of his guilt from the evidence that you have heard here, you will find him guilty

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of an Attempt to commit the crime of Grand Larceny in the Second Degree.

Some appeals have been made to you by the learned counsel as to the great responsibility which you carry in the determination of this case. That is true. Your duties are responsible and you are responsible for a faithful, disinterested, honorable discharge of them. You must not lean either way, but you must determine the merits, fairly, intelligently and conscientiously, having in your keeping and in your consideration the interests of the State of New York, just as you have the interests of the defendant at the Bar. If a jury should permit itself to be withdrawn from the merits of a case by foreign considerations, prejudices or sympathies, prejudices either in the interest of the public or sympathy for defendants, the law would not be administered in the spirit that is desired, equally and impartially to both sides. You must, therefore, do your duty to both parties here. The plain and rigid rules of justice and truth should guide and direct the verdict that you will reach here. There should be no excitation from sympathetic motives, nor zeal for the public service. The consequences of your finding should not oppress you or direct you away from your duty. You are not responsible for any of the consequences that may follow a righteous and proper verdict. You

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have nothing to do with any of the matters or things leading up to this prosecution. You have merely to do with the discharge of your responsibilities to both of these parties, to fairly sift this evidence, analyze it with care, and then firmly and properly decide it.

If the defendant is not guilty he should be promptly acquitted. If he is guilty from this evidence there are grave public considerations which constrain his conviction.

Larceny from the person in the day or night time is a serious offense against the People of the State of New York, and you will take up your last labors here with an adequate appreciation of the duty which your oaths put upon you.

The prosecuting witness, Vincenza Cammarota, has testified that while shopping with another person she felt a tugging at a hand bag that she carried, containing a parcel and some five dollars in money; that she turned and saw a hand coming out of her bag, and at that moment the defendant in the possession and custody of Officer Cavone. Officer Cavone, a detective connected with our Police Department, said that he had this defendant under observation from half-past three, on First Avenue, between Eleventh and Fourteenth Streets; that he followed him, observed his movements and his actions and conduct. He tells you that he saw the defendant put his hand in the bag

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of the prosecuting witness, Vincenza Cammarota, and that he clasped it as he was withdrawing it from her bag.

The defendant has gone upon the witness stand and has given you an account of his movements, and denies that he is guilty of this offense; that he, while innocently on First Avenue, was arrested and charged without foundation with the crime that is now laid against him.

Well, there is no room for charity. There is no question of mistake. Did Officer Cavone see the defendant do what he has testified he did? Did Vincenza Cammarota see the defendant put his hand in her bag on the 29th day of July, 1911 -- for they both said that he did make the attempt; or that he did that which in law makes him guilty of an Attempt to commit the crime of Grand Larceny in the Second Degree. He positively states that he did not do these things. Is this a case of fabrication on the part of the prosecuting witness Vincenza Cammarota and the detective? Has it no foundation except a foundation in malice? That is the argument of the learned counsel for the State. The defense argues that it is a case of manufacture and one of trumpery. That the consistent tenor of the defendant's life repels belief in the charge against him.

It is in your equity to say, gentlemen.

There is some statement as to the condition of the

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defendant prior to this time. That, of course, you will give no consideration to. You will take this case with its evidence and weigh it impartially and then see where it brings you. I leave the entire matter to you, impressing upon you the responsibility that you have to perform justice to the State of New York and the defendant at bar.

Is there anything that you would like to have me charge the jury?

MR. FEINBERG: Yes, Your Honor, I ask you to charge the jury that before they can find that the defendant made an attempt to put his hand into the purse of the complaining witness, they must find that he committed an overt act.

THE COURT: Yes. That is any act done by the defendant which tends to accomplish it but fails, and one done intending to do it, a conscious, intentional act.

MR. FEINBERG: I ask your Honor to charge the jury that they must find, before they can find the defendant guilty, that this defendant put his hand into the purse of the complaining witness with the intent to abstract therefrom money.

THE COURT: Yes, if you find that he did, Gentlemen, you will consider what he intended to do; if you find that that was done, whether it was done

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with larcenous purpose or whether it was an innocent purpose.

MR. FEINBERG: Otherwise the jury cannot find the defendant guilty until they find that he intended to abstract money from this defendant.

THE COURT: There is no doubt of that. The intention, Gentlemen, of course is the operation of your mind, that you must infer from all the surrounding circumstances.

MR. FEINBERG: I ask Your Honor to charge the jury that they must assume that this defendant is of good moral character, there being no evidence to the contrary.

THE COURT: Well, reputation is matter that is susceptible of proof. There is no proof one way or the other here. The defendant is presumed to be innocent until and unless this evidence satisfies you that he is guilty, beyond reasonable doubt. Does that cover the point, Counsel?

MR. FEINBERG: Yes, Your Honor.

THE COURT: You may retire, Gentlemen, to the consideration of your verdict.

(The jury retired at 3:55 o'clock P. M. and returned at 4:40 o'clock P. M.)

THE CLERK: Gentlemen of the Jury, have you agreed upon a verdict?

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THE FOREMAN: We cannot agree.

THE COURT: I have this communication from you, Mr. Foreman: "Is it possible to have the police present a record of how much money was actually found on his person or is the detective's testimony the actual record?"

You have all the testimony that you can have. The case is through. If there is any portion of this testimony that you would like to have read, I will ask the reporter to read it to you, but there can be no other evidence now adduced. You may retire to the consideration of your verdict.

(The jury again retired at 4:43 o'clock P. M. and returned at 5:07 o'clock P. M.)

THE CLERK: Gentlemen of the Jury, have you agreed upon a verdict?

THE FOREMAN: We have not.

THE COURT: Mr. Foreman, I have this communication from your jury: "Can we have the testimony of the complainant and also of the detective read to us?"

Mr. Reporter, will you find that testimony and read it?

(The stenographer reads the testimony of the complaining witness and the police officer to the jury).

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THE COURT: Gentlemen, you may now retire and consider on your verdict.

(The jury again returned to the court room at 5:30 P. M. and rendered the following verdict: "We find the defendant guilty of Attempted Grand Larceny in the Second Degree, with a recommendation if possible to the Court for mercy."

MR. FEINBERG: I ask your Honor to set aside the verdict of the jury as contrary to the evidence and contrary to the law.

THE COURT: Motion denied.

MR. FEINBERG: I respectfully ask Your Honor, as I am firmly of the opinion that while this defendant is not legally insane, I do think he is mentally irresponsible, and I ask Your Honor to commit him for observation before you impose sentence upon him. I do not think he appreciates the nature of this act. I could not advise with him, your Honor, in preparing for trial.

THE COURT: When do you desire me to dispose of the matter, Counsel? You may have a week, if you think it is necessary.

MR. FEINBERG: Yes, sir.

THE COURT: You may have one week, and you may send to me anything that you may be able to get in

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the interest of the defendant and submit it to the Probation Officer, Mr. Conway, and I will also ask the State to furnish to me on the part of the State any information they may be able to get possession of as to the history of this defendant. In a week from today I will dispose of it.

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