

START

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001

PEOPLE vs BODNER.

2174

New York, December 19, 1913.

I N D E X

<u>People's Witnesses</u>	Dir.	Cr.	Re-d.	Re-c.
Alexander Olekosky,	5	22	41	43
Otto Ransburg,	44 92	50		
Samuel Meratchnik,	56	50		
Andy Samitto,	93	97		
 <u>Defence's Witnesses</u>				
Mary Prince,	63	65		
Dimitry Staszon,	74	78		
Mike Dudnitz,	80	82		
John Bodner,	83	86		
 Sentence,	 114			

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0013

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

-----X
THE PEOPLE OF THE STATE OF NEW YORK,

Complainants,

Before:

against

HON. JEREMIAH T. MAHONEY,
Justice

JOHN BODNER,

and a Jury.

Defendant.

-----X
New York, December 19, 1913.

Indicted for grand larceny in the second degree
and receiving.

Indictment filed December 11, 1913.

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

Robert E. Manley, Esq., Assistant District Attorney,
for the People.

M. E. Duffy, Esq., for the defendant.

A jury is empaneled and duly sworn.

MR. MANLEY: I may state, if it please Your Honor,
that the man who usually interprets in Polish cases will be
called by me as a witness. That being so, Mr. Duffy, do you
want to get another interpreter, or use him for the other
witnesses. I think probably if I do not use him I will have
to get a man who is a process server in our office.

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MR. DUFFY: We will soon find out if he interprets properly.

THE COURT: The only thing is he is going to be a witness in the case. Your client can probably tell whether or not he interprets properly. If you have any objection at any time during the trial, make your objection and I will exercise my discretion.

MR. DUFFY: If he interprets friendly with the complaining witness I will object anyhow.

MR. MANLEY: I do not know whether he is friendly or not. He was sent out to do some work on the case and I am going to call him. I will send upstairs for a man in our office, a Polish interpreter, and if he is available I will use him.

(Mr. Joseph Pell, Process Server in the District Attorney's office, of 110 Forsyth Street, is called into court to act as interpreter).

MR. MANLEY: This man is not the regular interpreter in this court.

MR. DUFFY: He is a disinterested party?

MR. MANLEY: I should say so. I should think both were.

If Your Honor please, I think we better bring up the defendants Stazson and Dudnitz so that they can be identified.

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MR. DUFFY: The District Attorney in this case proposes to show a conspiracy, and if there is a conspiracy he proposes to identify the other two defendants.

MR. MANLEY: This complaining witness does not know the names of the other two men. I want them here for identification.

MR. DUFFY: It is not a proper method of identification to bring two prisoners up and say, are those the two people.

THE COURT: It is unfortunate that they are prisoners, but he has a right to describe the prisoners, whoever they may be.

MR. DUFFY: I think the production of the other two prisoners will jeopardize the interests of this defendant.

THE COURT: I think after I instruct the jury as to how to regard this matter, the interests of your client will not be jeopardized at all. People in cases must be identified. In this case it is simply unfortunate that they happen to be prisoners. I will instruct the jury that the mere fact that they are prisoners, the mere fact that they have been indicted, even if they have been indicted, I will instruct the jury that that mere fact does not way against them.

MR. DUFFY: The question of a conspiracy is not

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involved in this case. If the District Attorney does prove a conspiracy, that does not make a case against the defendant. There must be larceny proven in this case.

THE COURT: If people participate in a crime, if they are not principals they may be accomplices.

MR. DUFFY: This defendant cannot be charged with the guilt of others. I object to the production of the two prisoners for identification by the complaining witness, because the case of this defendant may be prejudiced by the production of such defendants who are charged with a crime.

THE COURT: If either side wished to identify a person, that person will be brought into court for the purpose of being identified. We do not want people identified here as the long man or the short man. We want to be sure. You are entitled to compel a witness to identify a person positively; not leave it for the jury to speculate on.

MR. DUFFY: If this were a conspiracy, this court would be without jurisdiction; it would go to Special Sessions.

THE COURT: If we talk further I think the interests of the defendant may be jeopardized by this argument. We will dispense with further talk. My ruling is that the witnesses in this case may be brought here for the purpose of being identified.

MR. DUFFY: The defendant excepts to the ruling of the Court.

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Counsel for the People addressed the jury.

ALEXANDER OLEKOSKY, a witness for the prosecution, being first duly sworn, testified as follows:-

JOSEPH PELL of 110 Forsyth Street was duly sworn to act as interpreter of the Polish language.

DIRECT EXAMINATION BY MR. MANLEY:

Q Did you on the 9th day of November, on Sunday, arrive in the City and County of New York from Canada? A Yes, sir; in the morning.

Q When you first got here where did you go? A I went to Ludlow Street.

Q Did you know someone who was living there? A A friend of mine was in Ludlow Street.

Q Where was it you went on Ludlow Street? A I had an address on Ludlow Street. My friend lived there. When I came there I didn't find him.

Q Did you go there to see your friend or to get a room or why did you go there? A I expected that my friend lived there, and I will be able to room there; have a room.

Q Did you get a room there? A No, sir.

Q When you came to New York did you have any grip, any handbag? A Yes, I had.

Q When you found you could not get a room in Ludlow Street where did you leave your bag? A I left the valise in Ludlow Street.

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Q Now, when you came to New York that morning did you have any money with you? A Yes, I had.

Q What was that money, how much? A \$150.

Q In what kind of money? A Twelve ten dollar bills and six five dollar bills.

Q What kind of money, United States money, or Canada money? A Canadian.

MR. MANLEY: You are willing to concede that \$150. Canadian money is worth more than \$50. United States money, aren't you?

MR. DUFFY: If it is Canadian money it is worth more than \$50?

MR. MANLEY: Are you willing to concede that I am asking you to concede that if he did have \$150. in Canadian money it was worth more than \$50. in United States money. I am not asking you to concede that he had it.

THE COURT: Will you concede that \$150. Canadian money is worth at least \$50. of money of the United States of America? Are you willing to concede just that fact? He is not asking you to concede that the complaining witness had the money.

MR. DUFFY: The Canadian money he speaks about is not worth anything at all.

THE COURT: We are not asking at all about any money this witness had. We are simply asking this fact in

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respect to what the witness had. Will you concede that \$150.
in Canadian money is worth at least \$50. American money?

MR. DUFFY: I cannot concede it, because it isn't.
It isn't even legal tender. I couldn't say it was worth \$50.

Q Now, when you found you could not get a room in Lud-
low Street what did you do? A I walked out to Houston
Street.

Q Did you see anybody on Houston Street? A As I
turned around Houston Street, on the right hand, Andrew Smith
was standing there.

Q Had you ever seen him before? A No, sir.

Q When you say you saw Andrew Smith you mean Andy
Samitto? A Andy Samitto; yes, sir.

Q Is that the man who was tried and convicted in this
room about two weeks ago?

MR. DUFFY: I object to this line of evidence.

THE COURT: On what ground?

MR. DUFFY: It is not such evidence as is relevant
or proper under this indictment. Was this defendant present
at the time the transaction took place?

THE COURT: On that ground the objection is over-
ruled. Mr. Manley will leave out of his question any refer-
ence to any man by the name of Samitto being convicted.

MR. MANLEY: I am going to call him as a witness.

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THE COURT: At the present time we will let that fact be kept out of the record. I instruct the jury to disregard the fact that anyone by the name of Samitto had been convicted.

Q When you say Samitto you mean the man you saw in this court room two weeks ago?

MR. DUFFY: I object because this defendant knows nothing about this.

THE WITNESS: Yes, I mean the same man, Samitto.

Q Did you say anything to him?

MR. DUFFY: I object, as not connected with the case.

THE COURT: Objection overruled.

MR. DUFFY: Exception.

A Yes. Samitto was standing with another man and speaking the Polish language, so I asked him if they knew where I could get a room.

THE COURT: Mr. Duffy, in view of the objection you have made, if during the trial it develops that this testimony is not all connected with the defendant in the case, then of course upon your making the motion I will render a decision. It must all be connected with the defendant; otherwise it is incompetent. If it is not connected, your motion then will be passed upon.

MR. MANLEY: I want to state in advance my theory

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is there was a conspiracy between these four men. This defendant, Strazson, Dudnitz and Samitto. That being so, it is a rule of law that anything said by one conspirator in the absence of the other, up to the time of the consummation, is admissible.

THE COURT: It must be connected with this defendant.

MR. DUFFY: I object. He isn't to show conspiracy.

THE COURT: Objection overruled.

MR. DUFFY: Exception.

MR. MANLEY: I think my last question that you answered was why was it that you talked to them, said anything to them?

THE WITNESS: Because I was looking for a room to stay over night.

BY MR. MANLEY:

Q What did they say to you? A As I asked Samitto for a room, Samitto told me: "All right; you come to my house and I ask my wife."

Q What did you do then? A Then he took me into the room and Samitto asked his wife if she got a room for me and the wife said no.

Q Was that upstairs or on the ground floor? A Straight with the sidewalk.

Q Was it a front house or a rear house? A In the back.

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Q Now, when you got inside did you have some talk with Samitto? A Samitto told me I should wait in the house; he will go over to his brother in law and ask him if he could get a room for me.

Q What did you say to him when he said that? A I said "All right; I will wait."

Q Did he leave the house then? A And before Samitto went out from the house he asked me where I came from and what is my work, what I am working at.

Q Tell me all the conversation with Samitto along that line before you went out.

MR. DUFFY: I object to the question on the ground that it tends to show a conspiracy between the complaining witness and Samitto.

THE COURT: Objection overruled.

MR. DUFFY: Object to it as incompetent; irrelevant and immaterial.

THE COURT: If it is not connected later with this defendant it will be stricken out. Go ahead.

THE WITNESS: Before Samitto walked out from the room Samitto asked me where I come from; what I was working at, and if I have got money with me, and I said yes. I told him that I have got Canadian money, and Samitto told me "All right, you should let me see." I refused to show him, and Samitto told me, he says: "All right; show it to me; I

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want to see how the money looks, the Canadian money." I took out the money and showed him a ten dollar bill Canadian money, and he looked at it. After that Samitto asked me if I got a twenty dollar bill Canadian money. I told him "No, I haven't got it." He looked at the money and his wife looked at the money, and he turned the money over back to me and walked out to look for a room.

Q Was that money loose in a roll or was it in a pocket book? A It was loose, without a pocket book.

Q This ten dollar bill that you showed Samitto, what part of the roll was it, on top or down in the roll? A On the top.

Q Did it remain on the top when you put the roll back in your pocket? A Yes, sir.

Q Now, how long was it before Samitto came back after he went out? A Possibly an hour; probably less than an hour.

Q Did he come in alone? A The two men sitting there in the back came with him-- in the back of the room.

Q Sitting where back there? Near the police officer there.

MR. MANLEY: Will those two men stand up; are those the two men that stand up?

THE WITNESS: Yes, sir.

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(Dinitry Stazson and Mike Dudnitz stand up in the court room and are identified by the witness).

Q Which one is Dinitry Stazson? A The taller one.

MR. MANLEY: May we have that entered on the record?

THE COURT: Yes, put it on the record.

MR. DUFFY: I object.

Q Is that Mike Dudnitz? A Yes, sir.

(Witness identifies shorter one as Mike Dudnitz).

THE COURT: All right; let them go out of court.

Q Well, what happened when Samitto came in with the two men that you saw now in the back of the room? A As soon as he came in with the two men Samitto asked me for twenty cents to give him for beer.

Q Did you give it to him? A I gave to him \$5. and he brought me the change.

Q Did he go out and get some beer and come back and give you the change? A I give Samitto \$5. and he went out for the beer and brought me back \$4.50.

Q And the beer too? A Yes, sir.

Q When he went out for the beer did the two men, who you say are now in the back of the room, Stazson and Dudnitz, did they stay in Samitto's house? A Yes, sir. They remained with me in the house.

Q What happened after Samitto came back with the beer?

A There was another man inside with his wife at the time when

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Samitto came back with the beer.

Q With Samitto's wife? A Samitto and his wife and another person with his wife there.

Q Did you drink any of the beer? A Yes, I did.

Q How much did you drink of that beer that was first brought in? A I had two glasses of beer.

Q That is I do not mean during the entire afternoon, but how much of the beer did you drink out of the first beer that Samitto got? A Altogether I drank two glasses of beer.

Q What do you mean by "altogether"? A After I drink the beer Samitto said: "You remain here; I am going up again to my brother in law about that room."

Q Did he go out the second time, Samitto? A Yes, sir; he did.

Q Did he go out alone? A All alone.

Q Did he come back in a short time? A About in half an hour.

Q Did Stazson and Dudnitz stay in the house while Samitto went out this time? A Yes, they remained in the house.

Q Well, what happened next? A After, when Samitto came back, Samitto's wife gave him ten cents to bring another pint of beer.

Q Did he go out and get some more beer then? A Yes, he did.

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Q Well, what happened after that? A After the beer we were sitting down there. I have been reading a newspaper until about six o'clock. We were in Samitto's room. After, Samitto says to me: "You come along with me and I will go up to the brother in law and I will see about that room."

Q About what time was it when you got to Samitto's house? A In the morning.

Q About what time was it when you first came to Samitto's house? A About two o'clock.

Q In the afternoon? A Yes, sir.

Q Now, when Samitto said that, just tell us, did Stazson and Dudnitz say anything? A The two defendants from before told me that they live there in Samitto's brother in law's house.

Q When you say the two, do you mean the taller man and the shorter man in the back of the room? A Yes, sir.

Q What happened after that? A I walked out from the house and Samitto and the two other men, the tall fellow and the short one.

Q Go right ahead; tell what happened? A They walked with me from Ludlow Street until about the second elevated.

Q Which one did you walk with; which one walked beside you? A With me walked the shorter fellow.

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Q The shorter fellow and what--- A The short fellow sitting right here.

MR. MANLEY: I told you that was Mike Dudnitz, I guess.

Q Go ahead. A The taller fellow walked with Samitto.

Q The one in the back side of the room just now?

A Yes.

Q Dinitry Stazson, that is right, go ahead. A Samitto with the other fellow walked ahead of us and I followed with the shorter fellow.

Q Go ahead. A And they came to a corner. Samitto threwed out the pocket book, he picked it up and told us to walk away on the side, and we walked away on the side. This man here came over to me, and he came over to me and told us that he lost the money.

Q What man? A The man who sits right there (Indicating the defendant).

Q How soon did he come over? A Probably two or three minutes.

Q What did he say when he came over? A He came over and said that he lost \$175. And this defendant said that he accused us, that we picked up the money, and this defendant instructed us to show who picked up the money, and who has got the money. Samitto showed them the pocket book which he picked up and there was a dollar bill inside. After the

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others had been showing money, then they told me I should show my money.

Q. What others showed money? A. The two men which have been here, the shorter and the taller.

Q. Stazson and Dudnitz. What happened next? A. Then I took out my pocket book from the pants pocket and showed my pocket book with the money; and Samitto told me, no, you show me the other money. I took out the other money from my pocket from inside.

Q. From the coat pocket? A. In the inside vest pocket. I took it out and showed it, and I kept the money in my hand and showed it to Samitto, and I showed the money to Samitto Dinitry and Dudnitz, and they told me to give the money to his hands.

Q. To whose hands? A. This man.

Q. The defendant's hands? A. Yes, sir.

Q. When you say Dinitry, is he the taller or the shorter of the two men in the back of the room? A. The taller one.

Q. That is Dinitry Stazson, go ahead. A. I refused to turn over the money to this defendant, but Samitto told me it was all right; "don't be afraid; give it to him". As soon as I turned and gave the money to this defendant the defendant turned away on the side and turned back and he gave me something in my hands.

Q. Go ahead. A. As I looked at that I see a ten on the

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top of that and I put it into my pocket. As I put the money back in my pocket Samitto instructed the tall fellow to take me away to a room.

Q You mean the taller of the two in the back of the room? A Yes.

Q That is Dinitry Tstazson; Samitto told him to take you where? A To a room.

Q Go ahead. A And Dinitry told them "All right; come on" and Dinitry and Samitto and this defendant walked away on the other way.

Q Who was it that went away with you? A Dinitry walked with me.

Q That is Dinitry Stazson? A Yes. And the shorter one and Samitto and this defendant walked away the other way.

Q The shorter one being Dudnitz? A Yes.

Q All right; go ahead. A And Dinitry walked with me to a corner and he told me to stay there and to remain and he will be back right away.

Q What did he do when he told you that? A I had been waiting for him---

Q What did he do; what did Dinitry do? A Walked away.

Q Where did he walk on the street or into a house or where? A He went back somewheres; I don't know where.

Q On the street? A Yes, sir.

Q What did you do? A And I had been waiting and I

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see he doesn't come back, and I took out the money, after this fellow Dinitry didn't come back, stuck my hand in my pocket and took out my money to see whether I have got it and I looked at it and I found out that the money which was rolled on top of the ten was no good money.

Q How long did you stay there waiting for Dinitry?

A About half an hour.

Q Did you look at your money before you left that spot or did you look at it after you had left? A As I started to walk away from that corner.

Q Let us get back to the spot where the money was taken. Do I understand you to say this defendant Bodner and Mike Dudnitz and Andy Samitto walked away together?

A Before taking the money?

Q After the money was taken, when you and Dinitry went in one direction, and as testified the other three went in another direction, did the other three walk side by side away? A The shorter fellow which came in before here.

Q That is Mike Dudnitz? A Walked away before that; and this defendant followed him, and then Smith in the back.

Q Samitto in the back? A Yes.

Q I show you this little bundle and ask you to look at it and tell me if you saw it before? A It was laying that way, inside, the ten dollar bill on top and the twenty dollars inside.

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Q Is that what you found you had in your pocket when you looked into it upon the street after Dinitry had left you? A Yes, sir.

MR. MANLEY: I ask that this be marked People's exhibit No. 1 for identification.

THE COURT: So marked.

marked People's exhibit No. 1 for identification.

Q Did you then go to the police station? A Yes, I did.

Q Did you see officer Ransburg there? A Yes, I did.

Q Did you tell him what happened, yes or no?

A Yes, I did.

Q Did you then go with him to the place where it happened? A Yes, I did.

Q And where was it that it happened; on what street do you think? A 275 Bowery.

Q Now, after you left the policeman that day did you go out looking for anybody? A Yes, I did.

Q Where did you go? A I had been walking through the street to see if I could find them.

Q Did you see any of them the next day?

A On the next day I saw Smith.

Q Whereabouts did you see Smith; is Smith in English the same as Samitto in Polish? A I cannot pronounce the name.

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Q Did you see Smith or Samitto, which? A Samitto.

Q Where was Samitto? Came out from his house.

Q That is what number? A East Houston Street, 291.

Q Then did you go to the officer and have him arrested?

A Yes, I did. I showed to the policeman that money.

Q Now, last week, I think it was on Tuesday, did you go over in that same locality with officer Ransburg and some other men? A Yes, I did.

Q Is that officer Ransburg that is sitting there?

(Officer Ransburg stands up).

A Yes, sir; that is the officer.

Q Do you see anybody else in the room that went there with you? A Yes.

Q That man there? A Yes, sir.

(Mr. Meratchnik stands up and is identified by the witness).

Q When you went over there did you also see a lady, Mrs. Samitto? A Yes, I did.

Q Did she also go around with you? A Yes, sir.

Q And where did she take you? A Mrs. Samitto pointed out the two men what have been here first.

Q That is Stazson and Dudnitz. When she pointed them out did you recognize them as the two men Samitto had brought into Samitto's house on the night this happened? A Yes, sir.

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Q Well, what happened after that that same night?

A They took him into the station house.

Q Did you see anybody else that night; anybody else arrested on that same night? A This defendant here.

Q Where was it that you saw the defendant here first that night when he was arrested? A I saw him at the time when he changed my money.

Q The same night he was arrested, where was he when you saw him first? A In the police station.

Q Did you see him in the house where they arrested him? A No, sir.

Q Didn't you go out to various houses with the policemen that night when these men were arrested? A No, sir; I didn't.

Q Did the policeman leave you in the station house until all three of them were arrested? A Yes, sir.

Q Well now, when you saw John Bodner, this defendant, in the station house, did you recognize him? A Yes, sir; I identified him immediately.

Q When you identified him did John Bodner say anything to you? A John Bodner said he don't know me at all.

Q Did you hear him say anything else besides that? A I did not hear.

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CROSS EXAMINATION BY MR. DUFFY:

Q What part of Canada do you come from? A Saskatche-
wan.

Q Where is that? A Saskatchewan Province.

Q Province of what? A Saskatchewan.

Q How long did you live there? A A year.

Q Where did you come from first? A From Russia.

Q What did you work at? A Laborer.

Q What was the name of your friend in Ludlow Street
that you went to see? A Udel Christen.

Q How did you come to know him? A I knew that man
from Europe. Been working together.

Q Did he work with you in Canada? A Udel he came to
New York, and I went to Canada.

Q How did you know he lived on Ludlow Street?

A Of course he sent me letters and I sent him answers.

Q In what part of the United States did you arrive at
in crossing the line? A I came to New York.

Q What part of New York did you arrive at in crossing
the border? A I cannot say; I do not know.

Q You landed down here at the Battery, didn't you?

THE COURT: You mean in coming from Canada did he
arrive at the Battery?

MR. DUFFY: I am asking him if he didn't arrive

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at the Battery in coming from Canada.

THE WITNESS: I cannot say that.

Q What was the name of the railroad you came on?

A C.P.R. Company.

Q What railroad did you arrive on from Canada to New York? A I know it that I paid to the C.P.R. Company for a ticket. I do not know the name of the train.

Q How long did it take you to come to New York?

A Five days.

Q Do you know where Hudson Bay is? A No.

Q For the five days coming to New York from Canada, did you walk any of the distance? A No, sir.

Q Do you know of any other part of Canada besides the place you have mentioned? A I was in Ellenboro; was in another place.

Q What kind of work do you do? A Laborer.

Q What kind of laboring? A I have been hitting stones with a sledge hammer.

Q Who bought you the ticket? A I bought it myself.

Q How much did you pay for the ticket? A \$48.10.

Q And you was riding five days and five nights here to New York, I understand? A Yes, sir.

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Q You say you had Canadian money with you? A Yes, I did.

Q What other kind of money have they got in Canada besides what you call Canadian money? A I do not know. I only know Canadian money; that is all.

Q You never saw any United States money there? A Yes, I did.

Q Could you distinguish between Canadian money and United States money? A Looks pretty near alike, the Canadian with the American.

Q You didn't come in on a sleeper, did you, sleeping car? A No, sir.

Q Was it a freight car you came on? A I came on a passenger train.

Q Now, you have seen different kinds of money in Canada, haven't you? A Yes, I did.

Q And you have been in the habit of seeing this kind of money here marked for identification, haven't you?

(Witness examines People's exhibit No. 1 for identification.)

A I didn't see such money.

Q Did you ever see that kind of money in Russia? A No, sir.

Q When was the first time you saw this kind of money?

A On a Sunday evening and on the 9th of November.

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Q Now, have you any idea what station in New York City you got off at? A I cannot say exactly. I don't know.

Q Did you have a label on your coat? A No, sir.

Q Who directed you to Ludlow Street? A I had the address to go to Ludlow Street, and I asked a man there where to go, and the man told me to go according to the address.

Q Do you understand any English? A Very very little.

Q What language do they talk in Canada? A English.

Q Where you was? A Yes, sir.

Q How did you come to reach Canada? A Of course I paid for a ticket and I went over to Canada.

Q Was you ever in Halifax? A No, only once that I came down from the steamer.

Q When you came from Russia to this country where did you land?

THE COURT: Is there any particular object in this examination; otherwise, I wish you would shorten it.

MR. DUFFY: All right. I don't think he ever was in Canada.

Q What time did you meet this man in Ludlow Street on the morning of November 9th? A About nine o'clock in the morning.

Q Did Samitto speak to you first? A (No answer).

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Q The man you met in Ludlow Street; what time did you meet that man?

MR. MANLEY: He didn't meet any man. He went there and went away.

Q What time of the day did you meet Samitto?

A About two o'clock in the afternoon.

Q You didn't find your friend in Ludlow Street?

A No, I didn't. My friend was in Jersey City.

Q Did you go to Jersey City? A I remained for a week around here in New York City; then after the week I found out that the man lived in Jersey City and I went to Jersey City.

Q How long did you stop in Jersey City?

MR. MANLEY: You mean a week afterwards?

MR. DUFFY: Any time.

THE WITNESS: I was down there until the time I was called to court.

Q When did you arrive in New York?

MR. MANLEY: Does that mean just before the money was taken or when he arrived in New York from Jersey City or what?

THE COURT: When did you arrive in New York from Canada?

THE WITNESS: On the 9th of November I came from Canada to New York.

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Q And when did you go to Jersey City? On the 16th.

Q Where had you stopped on the night of November 8th?

A I was in the train that time.

Q Who was the first one you spoke to in Ludlow Street about a room? A I do not know what you mean. Do you want me to tell you about Ludlow Street or Houston Street?

Q On Ludlow Street? A I spoke to a man by the name of Jacob Chamos.

Q Then you did know somebody else besides your friend in New York? A No, I didn't know him.

Q How did you know his name? A I had the address of Udell Christen; staying with a man Jacob Chamos.

Q On your trip from Canada of five days where did you carry the money consisting of twelve ten dollar bills and six five dollar bills? A I had it in the car and kept it my inside vest pocket.

Q Did you carry the pocket book besides? A Yes, sir. I had separate money in my pocket book.

Q During the trip on the train for five days did you take your clothes off? A I was sitting in my clothes during the five days.

Q I asked did you do any sleeping? A I was afraid to sleep; I didn't sleep during the night; I slept most during the day time.

Q Were there many people on this train that you came on?

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A To Montreal there were more passengers, and from Montreal to here less.

BY THE COURT:

Q How many days were you traveling before you reached Montreal? A Three days; three and a half days.

Q Then the balance of the time was taken in coming to New York from Montreal? A Yes, sir.

BY MR. DUFFY:

Q Then you went to Dinitry's house in Ludlow Street on the morning of the 9th, didn't you?

MR. MANLEY: Does that assume you are stating the evidence?

Q You went to Dinitry's house on November 9th-- or Samitto's house on November 9th? A Went over to Samitto's house. It was about two o'clock.

Q What time did you go to his house? A I was in Samitto's house at two o'clock.

Q What time was it when you first got there?

A About two o'clock in the afternoon.

Q Who took you from the street to Samitto's house?

A I walked to Houston street myself.

Q How did you come to arrive at Samitto's house?

A As I walked to Houston Street I stopped off and heard samitto with another man talking the Polish language, so I asked them if they can get me a room.

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Q When you went to Samitto's house you saw his wife?

A Yes, his wife and another man.

Q And you saw Dinitry there too? A No, sir.

Q Didn't you say the taller one of those men was there?

MR. MANLEY: You mean when he first got there?

MR. DUFFY: Yes.

THE WITNESS: As I went in with Samitto the first time in Samitto's room there was no Dinitry, no nobody except I and Samitto and his wife.

Q Didn't you arrange with Samitto's wife for a room?

A I asked them if they can give me a room.

Q And you only wanted the room for the night, didn't you? A I asked for a room until I find my friend.

Q How much did you agree to pay Samitto for the room?

A Samitto didn't ask me for a price, and I didn't ask him because he had no room for me.

Q Did you show your money at the time? A For the first time coming in I didn't show any money.

Q When did you first show your money? A That was while I was sitting in Samitto's room, and then Samitto wants to go to his brother in law. Before that he had asked me to show the money.

Q Did you tell Samitto that you had had money in your pocket? A No, sir; I didn't.

Q Didn't you tell Samitto that you had Canadian money

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in your pocket but it was no good? A. I said to Samitto that I have got Canadian good money, and Samitto bothered me to go with him and change it for American money.

Q. You went to Samitto's house at two o'clock in the afternoon of November 9th and then you first saw Stazson and Dudnitz, those two witnesses? A. And Samitto went away to his brother in law to see if I can get a room there. After Samitto came back with the two defendants.

Q. After these two came back, Stazson and Dudnitz, with Samitto, didn't you ask to send out for beer? A. Samitto asked me for twenty cents I should give him and he would bring beer.

Q. You gave Samitto a five dollar Canadian bill to go out and buy beer, didn't you? A. Yes, I did.

Q. And he came back with \$4.50 Canadian money, didn't he? A. Yes, American money.

Q. You gave him Canadian money and he came back with American money? A. Yes.

THE COURT: How much American money did he come back with?

THE WITNESS: \$4.50.

Q. That was the first time you saw American money?

A. The first time I have seen it in New York that time, but I have seen American money in Canada.

Q. Now, that money that you brought from Canada was

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American money? A No, sir; Canadian money.

Q Had you changed any while you were here? A No, sir.

Q Had you paid out any money while you were here?

A No, sir; to nobody.

Q How many pints of beer did you send for that day?

A Two times.

Q Only two pints?

MR. MANLEY: The point is how many times did you send out?

THE WITNESS: I only sent out once for twenty cents.

Q Did it come in a large pail or a keg? A The pint.

Q What size pint? A A small one.

Q How many were there drinking this pint? A Samitto and his wife and the three defendants and another man and his wife. After another girl came in.

Q How many altogether would you say? A About eight.

Q The defendant wasn't there, was he? A No, sir.

Q Was there seven glasses of beer all in one pint?

A They didn't drink all of it; there was eight.

Q And you had the extra glass; that is how you came to drink two glasses of beer? A Yes, sir.

Q And no more beer came in there that day? A After for ten cents.

Q But no more beer was brought in there after that

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first pint? A After for ten cents; was sent out again; his wife.

Q Who sent out for the beer? A The wife.

Q Did you see Dudnitz go out for the beer? A No, sir; he didn't.

Q Did Dudnitz drink any beer? A Yes, he did.

Q Did the little boy who was here did he drink any beer? A Yes, he did.

MR. MANLEY: Does that mean Dudnitz?

MR. DUFFY: Yes.

Q Didn't the boy tell you he wouldn't drink the beer?

A He did not say so.

Q How many glasses of beer did Dudnitz have? A Two.

Q And you had two? A Yes.

Q And Mrs. Samitto had two? A And Dinitry also two.

Q All had two; they had more beer too besides? A No, no more.

Q How many pints of beer was brought in that afternoon? A Two.

Q Didn't you say fourteen were brought in? A No.

Q How many bottles of wine were there? A None, only the beer, that's all.

Q How long did you remain before you ~~xx~~ started to walk around the corner? A I was in Samitto's room from two o'clock until about six.

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Q Four hours; and how many rooms were there in the apartment? A A room and a bed room.

Q How many girls were there besides Mrs. Samitto?

A One woman and another, a girl, came in.

Q Was there any dancing? A No, sir.

Q Any singing? A No, sir.

Q Only drinking? A That was only the two glasses of beer I had to drink. That's all.

Q How do you know it was 275 Bowery? A I took that number and wrote it down on a piece of paper.

Q At the time the money was taken away from you you say you made the note on the piece of paper? A And I came back then I noticed that number.

Q After you lost your money who did you first speak to about the loss of it? A I went back to Ludlow Street and they advised me to go to the police station.

Q You say that the money was taken at 275 Bowery?

A Yes, sir. I didn't say to anybody else that I lost the money at that number except to this officer.

Q And officer Ransburh told you it was 275 Bowery?

A No, I took the police officer over there to the number 275.

Q How far is that from 291 East Houston street where Samitto lived? A I cannot say exactly. 291 is from this side the second elevated.

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Q 291 Houston Street? A Yes.

Q What time of the night was this that the money was taken? A About half past six in the evening.

Q The amount of beer that you had that day did it in any way affect your head? A No, nobody was drunk.

Q And after the money was taken from you in the Bowery how far had you walked before you was told to stand still and remain? A The money was taken from me on the corner and the defendant walked with me to the other corner and left me there.

Q That was one block away, was it? A Yes, sir.

Q And walking up one block you said nothing to anybody about losing the money? A How could I say; I didn't know at that time that the money was taken.

Q How long did you remain alone on the corner?

A About half an hour.

Q Did Samitto and the other two walk away also?

A Samitto and the other two walked away also in another direction and this defendant took me over to the corner.

Q Who did you wait for at the corner for half an hour?

A I have been waiting for Dinitry. Dinitry told me to remain and he would be back right away.

MR. MANLEY: He said before the defendant took him.

THE WITNESS: The taller one.

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Q Dinitry told you to wait? A The taller one took me to the corner and he told me to wait there and he would be back.

Q Stazson told you that; and what did Dudnitz tell you?

A And the taller man took me away to the corner; the shorter fellow went away with Samitto, with the other two.

Q After you waited at the corner half an hour and Dinitry didn't come back did you go back to Samitto's house? A No, sir.

Q Where did you go? A I walked over to Ludlow Street and from Ludlow Street I went over to the police station.

Q Didn't you go in Samitto's house? A No, sir; I didn't go there that time.

Q What time did you arrive at the police station?

A I cannot say exactly. It was between seven and eight o'clock. I cannot say exactly.

Q Were there many people on the Bowery when this money was taken from you? A No, sir.

Q There was nobody on the Bowery that night, was there?

A Walking people, but they took me away to a place where the people wasn't walking so many.

Q You know the Bowery is a wide street, don't you; or do you? A Yes, sir. I know that the elevated runs on both sides.

Q Who told you you was on the Bowery? A I can read;

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I can see the name; that it is the Bowery.

THE COURT: Will you just hurry along the cross examination as rapidly as possible?

Q You say about twelve o'clock you went in the police station? A I said before that I have been between seven and eight at the police station.

Q What time was Samitto arrested? A Samitto was arrested the next morning.

Q Where did you stop that night, November 9th? A I stopped off at Ludlow Street; I laid down on the floor; laying all night.

Q In Samitto's house? A No, in Ludlow Street I was then; wasn't to Samitto's house.

Q Wasn't it the next day that you went to the police station? A I went to the police station right away, on the same evening.

Q Where was the station house? A On Fifth Street.

Q You were present when Samitto was arrested? A Yes, I was with the police officer.

Q What time of day was it? A About seven or eight o'clock, I cannot say exactly the minute.

Q Morning or night? A In the morning. Monday.

Q Monday morning, and he was arrested at his house? A On the street.

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Q Now, the other two that you have identified here as Stazon and Dudnitz were pointed out to you by Samitto, weren't they?

MR. MANLEY: You mean at the time of the arrest?

MR. DUFFY: Yes.

A Samitto's wife.

Q Samitto's wife pointed them out, and you were in Samitto's house at the time? A No, I wasn't; I was in the police station.

Q And it was the officer that pointed you out the defendant at the police station and the other man there that night?

MR. MANLEY: Meaning the defendant?

MR. DUFFY: Yes.

A I pointed him out in the station house myself; this is the defendant.

Q Didn't you see officer Ransburg in the station house, this officer? A Yes, sir.

Q Didn't the officer say to you he had arrested the other defendant? A No, this defendant came into the station house before, and the policeman has been following, and I pointed out right this man.

Q In the station house? A Yes.

Q In the police station? A Yes, sir.

Q And you then talked to the defendant, didn't you?

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A This defendant, when he came into the station house, and he told me what do you want of me. I don't know anything about it. I told the defendant never mind that you don't know; I know you.

Q Didn't you say to the defendant wasn't you there Sunday night? A Where?

Q Wasn't you there Sunday night? A Where?

Q Did you use those words; "Wasn't you there Sunday night? A No, I did not.

Q Did you ask the defendant if he knew anything about your money? A No, sir.

Q Didn't the defendant tell you, after you spoke to him, that he never saw you and didn't know anything about your money? A That was when I came into the station house; this defendant told me: "What do you want of me; I do not know anything about it." I told him: "All right; I know you very well; you are the man."

Q Was he dressed the same as he is dressed now?

A Yes, sir. At the time when he changed the money he was without an overcoat.

THE COURT: When you saw him in the station house was he then dressed as he is now?

THE WITNESS: Yes, Your Honor.

Q When you saw him on Sunday night you say he had no coat? A No, he had no overcoat on at all.

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Q The only time you saw this defendant on the night of November 9th was after you walked two blocks from Samitto's house and met him and walked a block with him and Samitto and the other two men? A I only knew him from the time, from Samitto, where we walked, and at the time that he took the money away from me, and it was light enough to see him.

Q How far away was the defendant from you when you first met him coming from Samitto's house? A At the time when we walked out from Samitto's house I didn't see this defendant at all, but at the time when the pocket book was thrown away this man came out.

Q That is the time you identified him as the one who was there on Sunday night; the moment he took your money out of your pocket book?

MR. MANLEY: I object to it as being vague. I do not see the point.

(Question withdrawn).

Q The only time that you saw this defendant on November 9th for the first time was the exact time and moment that you took your money out of your pocket? A I only knew this defendant from the time that my money was taken out from my pocket, and this man took the money in his hand. That is the only time I knew that man.

Q And just at that moment that you had seen the defendant, and you handed the money over, how long elapsed before

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the defendant had disappeared at the corner? A Five minutes.

THE COURT: Did you see the defendant for five minutes at this time when you say you passed your money over to him?

THE WITNESS: It was light enough, and I see him the five minutes I was with him or more at the time the money was given to him.

BY THE COURT:

Q At the time you gave the money to the defendant didn't the defendant walk right away? A As I gave the man the money he turned around immediately and then turned back and turned me over that money. (Indicating People's exhibit No. 1 for identification).

Q Then didn't he walk right away down to the corner?

A Right after that, that short fellow he walked away first, that man Samitto followed him and this defendant followed Samitto. All three went away.

Q Didn't you walk to the corner with the four???

A No, sir. I walked away only with the taller fellow what was here before, to the corner.

THE COURT: Any further questions?

MR. DUFFY: No, sir.

THE COURT: Mr. Manley, any questions you want to ask?

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RE-DIRECT EXAMINATION BY MR. MANLEY:

Q Why was it you came to New York from Canada?

A Through the newspapers I have read that I can buy some little farm and therefore I came here.

Q When was it that you last counted your canadian money before it was taken? A I counted my money at the train; also when I have been in Ludlow Street.

Q That is when you say you were in Ludlow Street the same day it was taken, is that it? A Yes, sir.

Q When you took out the money to show it to Samitto in Samitto's house, and showed him the ten dollar bill, was your money all right that time? A Yes, sir.

Q Is this Mrs. Samitto standing here that I am talking about? A Yes, sir.

(Witness identifies Mrs. Samitto).

Q Were you intoxicated on that day? A No, not at all.

MR. DUFFY: How long after you say the money was given to the defendant did you discover that other money was put in place of the good money?

MR. MANLEY: I do not understand that is a quotation of the testimony.

MR. DUFFY:

THE COURT: How long after you turned this money over to the defendant did you discover that you had obtained something else for the money; that is the idea?

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MR. DUFFY: Yes, sir.

THE COURT: He may ask.

MR. MANLEY: Translate it literally, just like that (Addressing the Interpreter)?

THE WITNESS: Half an hour.

BY THE COURT:

Q Where were you when you discovered your money was missing? A As I was left by the tall man to remain at the corner I waited for him and he didn't come, didn't appear, I took out my money and looked at it and found out the money isn't good.

Q Where did you carry this five dollar bill that you gave Samitto to change for you? A I had it in my pants pocket.

Q Where did you carry the other money that you say was stolen? A In my vest pocket.

Q Did you have any other money in your pocket besides this five dollar bill? A Only the five dollars.

BY MR. DUFFY:

Q Had you taken out the money from your inside pocket at any time after you arrived in New York? A I told you before that I took it out in Ludlow Street, saw the money, and then at a time when Samitto asked me what kind of money Canadian money is.

Q That was in Samitto's house? A Yes, sir.

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Q Then what was the next time you took it out?

A That was the second time-- was on the street when I took it out and showed it to them.

Q Then Samitto knew you had the money in your pocket?

A Yes, he did.

BY MR. MANLEY:

Q When you took your roll out of your pocket to show the ten dollar Canadian bill to Samitto, did you give him your whole roll or give him only the ten dollar bill?

A I kept the money in my hand and just showed him how it looked.

Q Did you keep it in your hand all the time when you showed it to him? A Yes, I did.

MR. MANLEY: That's all.

Adjourned for noon recess until 2.15 P.M.

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Trial resumed after noon recess at 2.15 P.M.

Present; Same parties as before.

OTTO RANSBURG, of the Detective Bureau, 15th Precinct, a witness for the prosecution, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. MANLEY:

Q You are a member of the police force of this city attached to the detective bureau 15th precinct? A Yes, sir.

Q Did you on the evening of Sunday the 9th day of November of this year, did you see in the station house Alexander Olekofsky? A Yes, sir.

Q Did you have a talk with him, yes or no?

A Yes, sir.

Q Did he take you anywhere after your talk? A Yes, sir.

Q Where did he take you? A To the Bowery.

Q About what number? A 275 and 257.

Q Near what street? A Between Houston and Stanton.

Q What is in the City and County of New York?

A Yes, sir.

Q The next day in the station house of the 15th precinct did you see anyone there? A Yes, sir.

Q Who did you see? A Andrew Samitto and officer Potter.

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Q. Charles Potter of the 17th? A Yes, sir.

Q. Was Samitto under arrest at that time, under the custody of officer Charles Potter? A Yes, sir.

Q. Some time last week, I think it was Tuesday of last week, were you present at my office in this building, on the top floor? A Yes, sir.

Q. Do you recall who else was there? A Samitto and the interpreter sitting in court here.

Q. The gentleman sitting here? A Yes, sir.

Q. Did I at that time give you the names of any persons?

A Yes, sir.

Q. Is there anybody present in court now whose name I gave you? A Yes, sir.

Q. Who was it? A John Bodner.

Q. Did you at that time know John Bodner? A No, sir.

Q. Did you the same night go over to the east side?

A Yes, sir.

Q. Did you take anybody with you? A Yes, sir.

Q. Who did you take? A Meratchnik, the interpreter, from this building.

Q. Who did you take over on the east side with you?

A Meratchnik, the interpreter from this building.

Q. Did anyone else join that party? A Yes, sir.

Q. Who else? A Wunscher, Mrs. Samitto and Olekofsky.

Q. Is officer Wunscher attached to the 15th Precinct?

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A Yes, sir.

Q Did you take Samitto with you or did you leave him in the station house of the 15th precinct? A Left him in the station house of the 15th precinct.

Q Did you take along Alexander Olekofsky or did you leave him at the same station? A Left him at the station house.

Q You went along with the interpreter and who else?

A Mrs. Samitto.

Q Before you took Mrs. Samitto from the station house-- answer this yes or no-- did Andy Samitto and Mrs. Samitto have a talk with each other? A Yes, sir.

Q When you went out were you taken anywhere by Mrs. Samitto? A Yes, sir.

Q Where was it she first took you? A First to 6th Street between Avenues A and B in a saloon. I went across the way with the interpreter, the detective and I went I think to see---

Q There was nobody arrested at that point? A No, sir.

Q Where else did she take you? A 185 East 3d Street.

Q Was anybody arrested there? A Yes, sir.

Q Who was? A Dinitry Stazson.

Q From there where did Mrs. Samitto take you?

A 215 East 2d Street.

Q Was anybody arrested there? A Yes, sir.

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Q Who? A Mike Dudnitz.

Q Where were you next taken by Mrs. Samitto, if anywhere? A Went to the station house.

Q With the first two prisoners? A Yes, sir.

Q Stazson and Dudnitz? A Yes, sir.

Q Then you started out from the 15th precinct station house? A Yes, sir.

Q When you started out from the 15th precinct station house who did you take with you? A Samitto.

Q That is Andrew Samitto? A Yes, Dinitry Stazson, Detective Wunscher, the interpreter and myself.

Q Who was it that was leading or taking the party any where that time? A Stazson and Andy Samitto.

Q Who was leading this time, Andy Semitto and the defendant Stazson? A Yes, sir.

Q Where did they take you? A Stazson does the leading.

Q Where did he take you? A 327 East 23 Street.

Q What happened there; was anybody arrested? A Yes, sir. John Bodner.

Q What happened at the time of the arrest of Bodner; tell about going in and making the arrest of this defendant.

A There was a phonograph playing on the ground floor and Stazson says--

Q You can't say what he said except in the presence and hearing of the defendant. A We got into the ground floor,

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opened the door first, and I see a man standing up, and I got hold of him, and Stazson says: "That ain't the man; it is the man sitting down," and he pointed to John Bodner."

Q The defendant here? A Yes, sir.

Q Then what takes place? A I place John Bodner under arrest.

Q Did you tell him what he was charged with?

A Yes, sir.

Q Tell me the conversation that took place between you and anybody in the hearing of the defendant? A I told John Bodner he was arrested for stealing \$150. from a man by the name of Olekofsky. I asked him did he take the money and he says no. We all left then and went down to the station house. We got to the station house and Detective Wunscher goes in with John Bodner in his rear and as he got in the complainant, Alexander Olekofsky, identified John Bodner as the man who got his money.

Q Was Olekofsky all the time in the station house?

A Yes, sir.

Q On the way to the station house did you hear any conversation between John Bodner and anybody? A Yes, sir.

Q Tell what it was? A I could not understand.

Q Was it in Polish? A The interpreter talked Polish.

Q Was it in Polish? A Yes, sir.

Q All the conversation you heard on the way to the

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station between Bodner and anybody was in Polish?

A All I heard was in Polish, yes, sir.

Q After you got to the station house tell us what took place there? A I asked John Bodner did he know the complainant.

Q Olekofsky? A Yes, sir. Olekofsky says: "That is the man that stole my money."

Q When did Olekofsky say that? A Right as we brought him into the station house. We walked into the station house, and he says to John Bodner-- he come on the run and he says: "That is the man that took my money" before anybody had a chance to say a word.

THE COURT: Strike out the last part of the answer.

Q In what part of the station house was Olekofsky at that time? A In the detective room.

Q Someone took Bodner into the room where Olekofsky was? A Yes, sir.

Q Now, what is the very first thing that took place when you took Bodner into the room where Olekofsky was?

A Olekofsky says: "That is the man that stole my money."

Q And this was where? A To John Bodner.

Q Is that the very first conversation of any kind description that takes place when you take Bodner into the room where Olekofsky was? A Yes, sir.

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Q What did Bodner say, if anything, in reply to that?

A I asked John Bodner: "Do you know this man?"

Q Indicating who? A Olekofsky.

Q Yes. A He says no, sir.

Q Was there any other talk? A I asked him if he knew Andy Semitto and he said he did.

Q He did know him? A I asked if John Bodner knew Andy Semitto, and John Bodner answered he did.

Q Was Semitto there at that time? A Yes, sir.

Q Did Semitto say anything when Bodner said he didn't know Olekofsky? A Semitto said something in Polish. Then I asked John Bodner did he know Andy Semitto and he says "yes I was godfather for his child."

Q Did he say that in English? A Yes, sir.

CROSS EXAMINATION BY MR. DUFFY:

Q When do you say it was that you arrested Bodner?

A The 9th day of December.

Q That is a month after the occurrence? A November 9th.

Q This arrest for larceny? A A month after; yes, sir.

Q You say that you saw Olekofsky in the station house on November 10th? A I saw him on November 9th.

Q At what time? A Between eight and nine P.M.

Q Did you see him the following day, November 10th?

A Yes, sir.

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Q Had any arrest been made at that time? A Yes, sir.

Q Who was arrested? A Andy Samitto.

Q What time did you arrest Samitto? A At nine A.M.

Q You arrested him from 291 East Houston Street?

A No, sir; I placed him under arrest at the 15th precinct station house. He was brought into the 15th precinct station house.

Q He was brought there? A Yes.

Q When Olekofsky came to the station house on November 9th did you have any conversation with him? A Yes, sir.

Q Whom did he charge at that time with stealing his money?

A Four unknown men.

Q Didn't he know Samitto at the time? A He didn't tell me he knew him.

Q Didn't he tell you that he had been at Samitto's house? A He didn't know what house he was at.

Q Did he at any time, Olekofsky, mention to you or say to you that he was robbed on the Bowery? A No, sir.

Q Have you any idea how Olekofsky names the Bowery as the place where he was robbed? A I asked how he came to say the Bowery, said it was the second elevated over. First there is one elevated and then another.

Q Then you took him to the Bowery? A I didn't take him; he takes me.

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Q Then he brought you to 275 Bowery? A Yes, sir.

Q That is where he said it happened? A Between
257 and 275.

Q From November 10th until December 9th had any attempts
been made to arrest anybody else? A We were looking for
three unknown men.

Q And the first knowledge you received of any of these
unknown men was from Mr. Manley? A District Attorney Manley.

Q That was on December 9th? A No, I placed him
under arrest-- was that on the 9th-- yes, December 9th.

Q And the other two boys were arrested on the same
day? A Yes, sir.

Q When the defendant was brought into the station
house on December 9th Olekofsky was in a room inside?

A Yes, sir.

Q And when he came in the officer brought him right
into the room, the officer who arrested Bodner?

A Yes, sir.

Q Brought him right into the room? A Yes, sir.

Q And when he was in the room that is the time that
Olekofsky says: "That's the man"? A Just as John Bodner
entered the room he says: "That's the man that stole my money."

Q Olekofsky was waiting for this man to be brought in?

A We had Olekofsky there; yes, sir.

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Q. Waiting to see Bodner? A. He didn't know he was going to see Bodner.

Q. Had Olekofsky been waiting at the station house to see a man who would be arrested? A. We had Olekofsky at the station house to identify the man, to see if it was the right man; we were acting on the safe side.

Q. Olekofsky was there for that purpose? A. For the purpose of identifying the man.

Q. Then when the officer brought the defendant into the room where Olekofsky was, Olekofsky said: "That's the man"?

A. Yes, sir.

Q. How long after that was the other party brought in?

A. They were identified before that.

Q. When were they identified? Stazson and Dudnitz?

A. About seven o'clock they were arrested.

Q. The same day? A. The same day.

Q. And did you have Olekofsky in the station house waiting for them? A. Yes, sir.

Q. And Mrs. Samitto was there? A. Mrs. Samitto went with us, Detective Wunscher, the interpreter.

Q. Before you left the station house Mrs. Samitto and Olekofsky were there? A. Olekofsky didn't speak to Mrs. Samitto.

Q. They were at the station house? A. Of course they were.

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Q And talked between themselves? A Not Olekofsky.

Mrs. Samitto and her husband, Andy Samitto did.

Q Weren't they in the same room with Olekofsky?

A They were in the same room.

Q And they were talking their language? A Olekofsky could understand the language; yes, sir.

Q They were talking Polish? A Yes, sir.

Q And the three were in the room just before you started to make the arrest? A They were all in the room together, detectives and everybody else.

Q When the first two were brought to the station house Olekofsky identified them right in that room? A Yes, sir.

Q Said those were the men who were there? A Yes, sir.

Q And at nine o'clock this defendant was brought in and the same procedure was gone through? A At seven thirty P.M. this defendant was brought in.

Q And while the identification was made in the station house Mrs. Samitto was there? A No, sir.

Q Where was she? A She went home.

Q Wasn't she there when the defendant was brought in?

A No, sir.

Q She was only there at the time you made the arrest, or the arrest was made? A Mrs. Samitto left us on Avenue A and Second Street when I arrested Stazson and Rudnitz.

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Q She pointed them out? A Yes, sir.

Q And she pointed out this defendant? A What defendant?

Q This defendant? A No, sir.

Q Who pointed him out? A Stazson. Stazson said: "That is the man that got the money."

Q Were you there at the time? A Why, yes, sir.

Q Were you with Stazson? A Yes, sir. I had him and Andy Samitto. Stazson did the leading.

Q Where was Bodner? A Yes.

Q --e brought you to the place? A 327 East 23d Street, ground floor.

Q -And showed you Bodner? A When I went in the house I grabbed another man who was standing and he says: "That ain't the man; there he is sitting down; that's the man that got the money."

Q Stazson? A Stazson pointed him out.

Q You spoke to him and he told you he knew nothing about it? A Sure, that is what he said.

MR. LUFFY: That is all. Did the defendant tell you of any place he had been at the time?

THE WITNESS: No, sir.

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S A M U E L M E R A T C H N I K, a witness for the prosecution, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. MANLEY:

Q What is your business? A Interpreter.

Q And whereabouts are you interpreter? At the Court of Special Sessions, General Sessions; also called on the grand jury, when necessary.

Q Are you familiar with the Polish language? A I am.

Q Is that your native tongue? A Yes, sir.

Q Now, were you on the 9th of December of this year, that is last week, I think Tuesday, present in my office together with officer Ransburg and Andy Samitto? A I was.

Q Did you go over onto the east side that night?

A Yes.

Q Did you see Mrs. Samitto there too? A Yes, sir.

Q Also Alexander Olekofsky? A I did.

Q Accompanied by Mrs. Samitto and officer Ransburg were you present at the arrest of Stazon and Dudnitz?

A I was.

Q After they were arrested were they taken to the station house? A They were.

Q Had Olekofsky and Andy Samitto been left at the station house when those two persons were arrested? A They were.

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Q Did you leave the station house with certain individuals? A I did.

Q Who was in the party the second time? A Detective Ransburg, Mrs. Samitto and Stazson.

Q Anybody else? A A detective.

Q Wunscher? A Yes, sir.

Q Was Samitto along too? A He was.

Q Did Stazson take you anywhere? A Stazson took us up to 23d Street.

Q What took place there? A Before he said he didn't know anything, until the defendant Dudnitz was arrested.

Q Did Stazson take you into any house on 23d Street?

A Yes.

Q Did you go into the house? A I did.

Q Did you see anybody present inside the house whom you see here in court? A I did.

Q Who? A This defendant.

Q John Bodner? A Yes, sir.

Q What took place in the house when these individuals that you have mentioned went into the house where Bodner was; was anything said in the hearing of Bodner? A Detective Wunscher went in first immediately followed by Samitto and the other defendant, Stazson. Then detective Ransburg went in and I went in. There was someone there, a young woman, she interfered, and this detective Ransburg got hold of

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another man, but Samitto turned around and pointed out this defendant and says: "There is the man sitting fown here."

Q This defendant? A Yes. Then detective Ransburg went over and told him he was under arrest. He wanted to go inside to get his coat and hat, but the detective wouldn't allow him, so somebody brought out the coat and hat and he was taken out.

Q Did you hear Bodner say anything at the time he was arrested in the house? A Inside the house?

Q Yes. A No.

Q On the way to the station house did you hear Bodner say anything about this charge? A I did.

Q When he was questioned by Detective Ransburg was it in Polish or English? A In English. He told what he was accused of, taking \$150. in Canadian money from the man and he said he didn't know anything about it.

Q That is what Bodner said? A Bodner said.

Q Did he say that in Enhlish? A The same as the detective. With that the defendant Samitto said to him in Polish: "Why con't you tell; we are in; why don't you tell about it; you know you did it."

Q Was that said to Bodner? A To Bodner, yes.

Q What did Bodner then say, if anything? A Bodner said-- well, he didn't answer. Then he walked away a space.

What conversation there was between the detective and the

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defendant I didn't hear. Didn't hear any conversation until we were at the station house.

Q What took place when you got to the station house?

A At the station house, the complaining witness, Olekofsky, was there sitting in a room aside as you enter the station house; a little room called the detectives' room, and you passed by the Lieutenant as you went there where Olekofsky was sitting on the side. The defendant Bodner was brought in and Olekofsky immediately got up and says: "There is the man that got my money."

Q Pointing to whom? A This defendant here. The defendant says: "I do not know you; I don't know what you mean; I never saw you before." Then Stazson spoke to Samitto and they both spoke to the defendant: "Why don't you tell; we are all in."

Q Did they say that in English or Polish? A Polish. This defendant admitted that he---

Q Tell what he said.

THE COURT: Strike out "The defendant admitted". State the exact words he used.

THE WITNESS: The exact words was, question by the detective, "Do you know this man?" pointing to Samitto. He says, "Yes, I was his son's godfather."

Q That is what Bodner said in English or Polish?

A That was in English.

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Q What else? A Then the detective says: "Do you know this man?" pointing out the complaining witness, Olekofsky. He says: "Yes, I saw him, but I didn't take his money."

Q Bodner said that? A Yes, sir.

Q Did Bodner say anything else besides that? A Not within my hearing.

CROSS EXAMINATION BY MR. DUFFY:

Q Who was at the station house at the time Bodner was identified by Olekofsky? A Well, Dudnitz, Stazson, Olekofsky, Detective Pansburg and Detective Wunscher.

Q Was Samitto there? A Samitto was there; yes, sir.

Q Was Mrs. Samitto? A No, sir, she was not.

Q And Mrs. Samitto; you say Samitto was there?

A Yes, sir.

Q And not Mrs. Samitto? A Mrs. Samitto wasn't there.

Q At the station house, Mrs. Samitto had gone out when you made the identification? A She did.

Q And her husband was left in the station house?

A He was.

Q And her husband was left with Olekofsky in this detective room? A Her husband was locked in a cell by the officer there, the Lieutenant took him into a cell, and Olekofsky was waiting outside in the detective room.

Q Samittao was there at the time the defendant came

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back to the station house with the officer? A Yes, was there; they brought him out from the cell; Samitto was there.

Q At the time the defendant came in? A Yes, sir.

Q You have just heard the officer testify; haven't you?

A Yes.

Q You heard the officer testify? A I did.

Q You heard him testify that the defendant said he knew Samitto, didn't you? A I am speaking about the conversation in the same station house; I heard it, yes.

Q Did you hear the officer testify that the defendant said that he knew Samitto? A That he knew Samitto?

Q That the defendant knew Samitto? A I heard him say so, yes.

Q That is true? A Yes.

Q When the defendant was in the station house did you hear the officer testify that the defendant said he didn't know Olekofsky? A I did.

Q You heard some other conversation had there by the defendant when you say now the defendant said: "I saw him but I didn't take his money." What do you mean by "I saw him"?

A That's the words, exactly what he said. That's the words he used when Samitto told this defendant: "Why don't you say you know; we are all in." He turned around and looked at him and says: "Yes, I know him, but I didn't take his money."

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Q That was in Polish? A That was in Polish.

Q Who did he say that to? A To this detective.

Q Did he say it in Polish to the detective? A No.

He didn't say it in Polish to the detective. He turned around to Samitto and said it in Polish and the the detective answered in English.

Q The detective didn't understand the Polish language?

A I don't know whether he does or not.

Q That is all that was said then? A That is all within my hearing. There was probably something else said, I don't know.

MR. MANLEY:—I offer in evidence this People's exhibit No. 1 for identification.

THE COURT: Any objection?

MR. DUFFY: Yes, I object to it going in evidence.

THE COURT: Objection overruled.

Received in evidence and marked People's exhibit No. 1 in evidence, Dec. 19, 1913.

MR. DUFFY: If the Court please, I move that the indictment in this case be dismissed and the defendant discharged on the ground that the People have failed to make out a case. The only evidence in this case, as it stands now, is the evidence of this complaining witness, who testified that he identified this defendant---

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THE COURT: State the legal grounds for your motion for dismissal. We won't argue it.

MR. DUFFY: I think the People have failed to make out a case in that the complaining witness is in no way corroborated.

THE COURT: That is the ground of your motion?

MR. DUFFY: Yes, sir.

THE COURT: Any other ground?

MR. DUFFY: On the further ground that there has not been any proof here of any larceny whatsoever.

THE COURT: Any other ground?

MR. DUFFY: No.

THE COURT: Motion denied.

MR. DUFFY: Exception.

THE PROSECUTION RESTS.

COUNSEL FOR DEFENCE ADDRESSES THE JURY.

M A R Y P R I N C E, a witness for the defence, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DUFFY:

Q What do you work at? A I am living out; cooking.

Q Who do you work for? A Mrs. Everts.

Q Where do they keep? A 280 Garfield Place.

Q How long have you worked for that lady? A A year and about two months.

Q Do you know the defendant, John Bodner? A I knew

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him about three months.

Q And where did you become acquainted with him?

A At that lady's friend.

Q Samitto's? A Yes, sir.

Q At Mrs. Samitto's house? A Yes, sir.

Q 291 East Houston Street? A Yes, sir.

Q You became acquainted with him about three months ago? A I became acquainted with him about three months ago.

Since you became acquainted with him has he been visiting you, has he called to see you? A Yes, sir.

Q How long has he been calling to see you where you work at 280 Garfield Place, Brooklyn? A I do not know; I saw him about two Sundays, and this Sunday.

Q Every Sunday? A Every Sunday when I cannot go out he calls at my house.

Q Every Sunday except the last two Sundays? A My days that I am not off so he come to my house.

Q What time would he meet you on Sunday? A Always I am going out about four o'clock.

Q You went out at four o'clock and met him?

A Yes, sir.

Q Where would you usually go on Sunday? A Go to see my friends in Brooklyn.

Q What friend would you meet in Brooklyn with the

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defendant? A My lady friends; Mrs. Sheehan.

Q Where does she keep? A She lives in 4th Avenue at 14th Street.

Q Do you recollect Sunday, November 9th of this year?

A November 9th?

Q That was on Sunday? A Yes, sir.

Q Did the defendant meet you in Brooklyn on that day?

A Yes, sir; he met me.

Q What time of day did he see you on November 9, 1913, what time of day? A About four o'clock.

Q And where did you go that day with him? A I go to my friend, the lady in 4th Avenue at 14th Street.

Q Mrs. Sheehan's? A Mrs. Sheehan's.

Q What time did you leave on that day, November 9th?

A Went to the picture show; went home about half past eleven.

Q Have you seen Mrs. Samitto in the last two months?

A No, sir.

Q When was the last time you saw her? A A long time now. I cannot remember when I saw her the last time.

Q Have you seen her husband in the last couple of months?

A No, sir.

MR. DUFFY: Your witness.

CROSS EXAMINATION BY MR. MANLEY:

Q You say you have not seen Mrs. Samitto in a long time?

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A Yes, sir; I didn't see them because they were mad at me.

Q About how many months has it been since you have seen her?
A I cannot tell. I cannot think.

Q Three or four months? A About three months or so.

Q About three months ago? A Yes, sir.

Q You haven't seen her at all in three months?

A I didn't see her at all.

Q You say that you have known John Bodner how long?

A About three months; I met him there.

Q You met him at Mrs. Samitto's house 291 East Houston Street?
A Yes, sir.

Q Was Mr. Samitto there at the time? A I was there a couple of times and he wasn't in.

Q At the time when you met John Bodner was Mr. Samitto in the house? A He was not. He was out, and then she got him, brought him in that Sunday night she got--

Q Then he was there some time during the day you met Bodner there in Samitto's house? A I was there about two Sundays I think I met him.

Q Did you ever see Samitto and Bodner in Samitto's house at the same time? A He went with me over there when I went.

Q I guess you do not understand. Did you ever see John Bodner and Andy Samitto in Samitto's house when they

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were together at the same time? A At first then he comes there.

Q I am not asking about any particular day. I mean at any time? A Well, some time I might be over there.

Q Some time. I am not talking about any particular day. Did you ever on any day see Samitto and John Bodner in Samitto's house together? A It was only on Sunday night when I went a little while over there to meet my friend.

Q That was the first time you ever saw Bodner when you met him there? A Yes, sir.

Q Who introduced you to him, to John Bodner?

A He known to me?

Q Mrs. Samitto? A Yes, sir.

Q Had you ever been to Mrs. Samitto's house before that day? A No, sir.

Q On any other day? A No, sir; because I just come.

Q The first time you ever were in Samitto's house you met John Bodner? A Yes, sir.

Q And did you go there on that day and some other day, to Mrs. Samitto's house? A Went a couple of times after.

Q Did you see John Bodner there the other times?

A We met and go over there.

Q And John Bodner wasn't in the house when you went there? A Yes, sir.

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Q Was Mr. Samitto there on any of those days in Samitto's house; on any of those days that you saw John Bodner there?

A There was lots of times there he wasn't in.

Q I suppose that is so, but did you ever see samitto in samitto's house when John Bodner was there? A Yes, sir.

Q What month was it in when you met John Bodner?

THE COURT: This is the month of December. Last month was November. Now, just see if you can tell what the month was.

THE WITNESS: I can tell; sure. I didn't put it down.

Q You know the months of the year, don't you; can you tell the months of the year in English? A Yes, I can tell.

Q Supposing you give them to us; begin at January.

A How I know how long as three months ago.

Q Just tell me the months of the year; tell me what the names of the months of the year are?

(No answer).

Q Do you know the English names for the months of the year? A Yes, sir; I know.

Q Just give them to me; what is the first month in the year? (No answer).

Q What month is this now; what is the name of this

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month. Take your time. I am not going to hurry you.

SAMUEL MERATCHNIK is duly sworn as interpreter of the Polish language, and the examination is continued through the interpreter.

BY MR. MANLEY:

Q Can you tell me the months of the year, if you know, name them. A What?

Q I ask you now the names of the months of the year. If you know tell me what they are beginning with January.

THE INTERPRETER: She wants me to tell her how to tell.

Q What is the first month in the year; what is the name of it?

THE COURT: Probably she doesn't know. Start with January; ask her if she knows what the month after January is.

THE WITNESS: February.

THE COURT: Go right ahead.

THE WITNESS: February.

THE COURT: What is next?

THE WITNESS: January.

THE COURT: What comes after that?

(NO answer).

THE COURT: I am afraid she doesn't know, Mr. Manley.

What month comes after this month, do you know?

THE WITNESS: January.

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BY MR. MANLEY:

Q What month is this? (No answer)

Q What month was it when you met John Bodner?

A I don't think about the months.

Q Can you tell what month it was when you met the defendant, John Bodner? A I don't look when I am going out which date.

Q Can you tell what month it was when you met John Bodner? A No.

Q How long ago was it that you met John Bodner?

A Three months.

Q Did you meet him in the summer time or in the spring time? A In the summer time.

Q Can you tell me whether it was the first, the second the third or the fourth Sunday in the month? A I didn't look at the calendar. I don't know what Sunday it was.

Q How long was it after the first time that you saw him when you saw him next? A I always did see him; this is only two weeks last that I didn't see him; the two Sundays last.

Q Was it on Sunday that you first met him? A Yes, sir.

Q When was the next time after that, what day of the week, that you saw him the second time? A I saw him on Thursday.

Q When was the next time after that that you saw him?

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A Then he fcome to my house.

MR. MANLEY: Please put that through the Polish Interpreter. When was the next day after that that you saw him?

THE WITNESS: The second day I did not see him. The next Sunday he came to my house.

Q Did you see him-- when was the next time after that Sunday that you saw him again; what day of the week?

A Thursday and Sunday; the last Sunday and Thursday I saw him.

Q Did you see him every Thursday? A Not every Thursday; every Sunday I saw him because he come to my house, and we go out.

Q Did you see him every Thursday? A No, I didn't see him every Thursday.

Q Do you recall the particular days of the month, like the second, third, fourth, fifth; do you recall--- did you keep track of those days? A No.

Q How is it then that you know that you saw John Bodner on the 9th day of November, which is Sunday? A The Misses don't let me go out all the time. Sometimes I want to go out. When I do not go out my friend comes over to see me.

THE COURT: Strike out the answer.

THE WITNESS: Talk English. I cannot mix it up.

THE COURT: Did you understand Polish?

THE WITNESS: Yes, I understand better English.

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MR. MANLEY: Isn't Polish your native language?

THE WITNESS: No, I am Slavish; talk better English.

I am here fourteen years in this country.

BY MR. MANLEY:

Q How do you know the 9th day of November was Sunday that you saw Bodner? A Because he go there with me to my friend's house.

Q Where did he go with you? A He come to meet me and then go to a lady friend's house.

Q Where did he meet you? A Then we went to the picture show.

Q Where was your friend's house; what place was it you went to? A On 4th Avenue.

Q What street? A Between 14th Street.

Q The Sunday before that, which would be the 2d of November, where was it you saw John Bodner that Sunday?

A When, before that Sunday?

Q Yes, the 2d of November, the Sunday before that one?

A I remember on Thursday and Sunday that I saw him. I saw John two weeks-- last Sunday-- the two weeks I never saw him at all.

Q Then tell me, on the 9th of November, which was Sunday, you saw John Bodner and went with him to 4th Avenue and 14th Street?

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Q How was it that you came to find out; how do you remember that one Sunday; the Sunday before do you remember where you went with him? A To the picture show.

Q The Sunday before that? A Yes, sir.

Q To the picture show? A Yes, sir.

Q Where was that? A On 5th Avenue.

Q The Sunday after the 9th of November, the 16th of November, where did you go with him that day? A On that day he come to my house.

Q On the 16th? A He always come to my house; on Sunday I go out; another Sunday he comes up to see me.

Q Can you remember one Sunday from another?

(No answer).

MR. ANLEY: That is all.

BY MR. DUFFY:-

Q How many Sundays altogether since you became acquainted with Bodner have you seen him? A That I see him?

Q Yes. A Well, I don't think that how many Sundays it was. I know him about three months ago; that's all.

Q Every Sunday for three months?

THE COURT: Do not repeat the answers of the witness, Mr. Duffy.

Q You know this is the month of December, don't you?

MR. ANLEY: Object to it as leading.

A Yes, sir.

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THE COURT: Don't lead the witness now, Mr. Duffy.

Q When did you first hear Bodner was arrested? A When I hear it?

BY THE COURT:

Q When did you first hear Bodner had been arrested?

A Somebody called me up and told me.

Q When? A This week; a week ago; somebody called me up and told me he was arrested.

D I N - I T R Y S T A S Z O N, a witness for the defence, being first duly sworn, (through Samuel Meratchnik, duly sworn as Polish interpreter) testified as follows:-

DIRECT EXAMINATION BY MR. DUFFY:

Q Where do you live? A Third Street.

Q What number? A 185 East Third Street.

Q Who do you live with? A My sister.

Q Do you know the name of the other boy who was arrested with you? A Duonitz, yes.

Q Does he live with you too? A Yes.

Q Do you know Olekofsky? A I do not know. If I see him I would recognize him.

THE COURT: Do you want to bring Olekofsky here to be identified? Better bring Olekofsky in and let him see him.

Q Do you know Mamette? A Yes.

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Q How long have you known sametto? A Don't know him very long; know him a couple of months.

Q Do you know his wife? A She is my countrywoman.

Q On the 9th day of November you were at Sametto's house? A Yes.

Q At 291 East Houston Street? A Yes.

Q And who was there when you went there? A Sametto, his wife, and some girls. There were some men in there unknown to me.

Q What time did you go in? A Five o'clock in the afternoon.

Q Was there any drinking done? A Whiskey on the table, beer on the table; they give me to drink; I drank with them.

Q Did you see anybody go out and bring in beer? A Yes.

Q How was it brought in? A With a pint. This man that was there ~~was~~ sent out to get twenty cents worth of beer.

Q Did it come in in a pail? A Yes, they brought in this one pint; there was a lot of beer there; brought in about fourteen pints.

Q How many glasses in each pint? A About twelve glasses.

Q What was the size of the can; can you give us any idea of the size of the can? A A big one. A foot high.

Q And there was fourteen of these cans of beer brought in? A Yes.

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Q How much of that beer did this big man who sent out for the drink have? A He drank a lot of beer; he was drunk.

Q Did he drink more than two glasses? A More than twelve.

Q Did he drink of the wine or whiskey? A Yes, he drank whiskey.

Q At what time did you leave? A About half past six or seven o'clock.

Q Who did you go out with? A With my friend that is in here; we went to a wedding.

Q Where was the wedding? A 10th Street and Avenue C.

Q And after the wedding where did you go? A I went home to sleep at one o'clock in the morning.

Q While you was in Sametto's house did you see this man who sent out for the beer show any money? A He showed some money. Whether this was American money or some other money I don't know. I didn't pay any attention to it. Looked at my own.

Q Who did he show the money to? A Sametto.

Q Did you see him give Sametto a five dollar bill?

A Yes.

Q And did you see Sametto give him back any money in change? A I didn't see.

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Q Who paid for all the beer? A This strange man sent out for beer and was drinking, then I sent out for some, then I went home.

Q Was anything else done in the house besides drinking?

A This strange man that was in the house was going around hollering; said he wants to get married.

Q Did he say anything about coming here to buy a farm?

A No.

Q Did he say anything about coming from Canada?

A No. I do not know where he came from.

Q When you and Dudnitz left did you leave him behind?

A Andy Sametto was left with this stranger and me and my friend went over to the wedding.

Q Do you recollect the day you were arrested, December 9th? A Yes. I know some day last week. I do not remember the date exactly.

Q Where was you arrested from? A From the house.

Q Do you recall being taken to the station house?

A Yes.

Q And did you see sametto at the station house? A Yes

Q Did you see this strange man there? A Yes.

Q Did you have any talk at the station house with the strange man? A No.

MR. LUFFY: That's all.

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CROSS EXAMINATION BY MR. MANLEY:

Q On the night when you were arrested did you take the officer to the house of John Bodner? A They asked me for them; then I took them over there.

Q Did Dudnitz say to you: "Go ahead and tell everything, I will tell everything" on the night when you were arrested?

MR. DUFFY: I object to it.

THE COURT: This was in the presence of the defendant?

MR. MANLEY: No. It goes to the credibility of the witness. The witness testified he wasn't there at the time the money was taken. Knows nothing about it. He went away to a wedding.

THE COURT: Overruled.

MR. DUFFY: Exception.

A Yes, he said to me "say everything" and I said to him: "I will tell everything I know."

Q Did Dudnitz say to you: "We are in it; we are in it; let's tell it all"?

MR. DUFFY: I object.

THE COURT: same ruling.

MR. DUFFY: Exception.

A No.

Q Did you then say to them-- they were there, the officer and this gentleman who is now interpreting-- I will

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take you to where John Bodner lives? A Because you asked me, that's why I called you and took you there.

THE COURT: Better ask for a more direct answer. That is not as responsive as it might be.

(Question repeated by the stenographer).

THE COURT: Did you say that?

THE WITNESS: Yes.

MR. MANLEY: That's all.

BY MR. DUFFY:

Q When you said you would tell all you meant you would tell all you have told here? A Yes.

MR. MANLEY: You don't know how this money was taken from Olekofsky, do you?

THE WITNESS: No.

THE COURT: Is Olekofsky here to be identified by this witness?

(Alexander Olekofsky is presented before the witness and identified by him).

MR. MANLEY: Is that the man you speak of having seen in the house of Cametto that night?

THE WITNESS: A man like him; looked like him; whether he is the same or not, I do not know; I only saw him once.

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MIKE DUDNITZ, a witness for the defence, being first duly sworn, (through Samuel Meratchnik, duly sworn as Polish interpreter) testified as follows:-

DIRECT EXAMINATION BY MR. DUFFY:

Q Where do you live? A 185 East Third Street.

Q You live with the former witness at the house of his mother or wife? A Yes.

Q On November 9, 1913, were you at the house of Sametto?

A Yes.

Q At 291 East Houston Street? A Yes, I was.

Q And was you there with the former witness, Staszon?

A Yes.

Q You didn't see the defendant there?

MR. HANLEY: I object to it as leading.

Q Did you see the defendant there? A No.

Q What time did you go to Sametto's house?

A Five o'clock in the afternoon.

Q Who did you find there? A A tall man sitting there behind the table. I find Sametto's wife. She is my country-woman.

Q Who else? A A girl was there, and then afterwards two girls came. In there then were three girls.

Q How many were there altogether? A Eight.

Q What were you all doing? A When I come in there I found on the table a pint of beer and whiskey; a pint of

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beer for twenty cents. This tall man then was sitting there at the table, and he said to me, come on and have a glass of whiskey, but I did not drink the whiskey.

Q Did you drink any of the beer and whiskey that night?

A He asked me to drink whiskey, but I do not drink whiskey. He gave me a glass of beer and then I sent out for a pint of beer.

Q How big a can was it brought in? A A pint for twenty cents; fill it up full.

Q How many glasses would be in one of those pints?

A I cannot tell you.

Q How many times was the can sent out to be filled?

A To my knowledge fourteen pints of beer, after which I don't know.

Q Did this strange man, Olekofsky, drink beer while you were there? A He did.

Q How much beer did he drink? A I didn't count them; I didn't watch them.

Q How many hours was he drinking the beer? A From seven to half past seven.

Q How did this strange man act after drinking all this beer? A We said that he came here to get married, and he was talking about different things. Showed some money, but I don't know what kind of money.

Q Did he show any money to Sametto? A I didn't see.

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Q Who brought in the beer? A Andy Sametto.

Q What time did you leave? A Half past seven.

Q Who did you leave with? A Alone.

Q And where did you go to? A To a wedding.

Q And where was that? A 10th Street and Avenue C.

Q Was Staszon with you? A He came afterwards.

Q To the wedding? A Yes.

Q And how long did you remain at the wedding?

A Until twelve o'clock; then I went home; everybody went home.

Q Did you go with Staszon? A Yes.

Q When were you arrested? A Tuesday last.

CROSS EXAMINATION BY MR. MANLEY:

Q What time was it when you got to Sametto's house that Sunday? A Five o'clock.

Q You went away at half past seven? A Yes.

Q Did Sametto leave before you did? A At the time when I was there, I give for the beer, I went out to get it.

Q When you left the house to go to the wedding was Sametto still in the house? A Everybody left; the girls left too.

Q Did Sametto leave at the same time you did? A No.

Q Did he leave before you did? A We went out altogether. I suppose Sametto went away with this strange man, but I went away to the wedding. They were drunk, every one

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of them. Some Jew in there they kicked with his feet and called him a Jew bastard.

MR. MANLEY: I ask that be stricken out.

THE COURT: Strike it out.

Q During the time you were there they sent out for fourteen times for beer? A Yes.

Q Did you count the number of times they sent out?

A Yes.

Q You are sure it wasn't twelve times? A No.

Q Couldn't it have been thirteen times? A No.

Q You are positive it was fourteen times? A Yes.

Q And that was from five o'clock until half past seven?

A Yes, sir.

Q How high was that can in which they put this beer?

(Witness indicates 15 or 16 inches).

Q When the beer came in the can was filled each time right up to the brim? A It was full.

MR. MANLEY: That's all.

JOHN BODNER, a witness for the defence, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DUFFY:

Q Where do you live? A 327 East 23 Street.

Q What is your business? A Waiter.

Q How long have you been working at that business?

A About six or seven years.

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Q Do you recollect November 9, 1913? A Yes, sir.

Q The Sunday that it is charged here you were on the Bowery at No. 279? A I wasn't there at all.

Q Do you know this young lady? A Yes, sir.

Q Miss Prince? A Yes, sir; I do.

Q How long have you known her? A About three months.

Q Where did you become acquainted with her? A I met her on Houston Street.

Q Where on Houston Street? A On Houston Street in Sametto's. I was godfather to his child.

Q That is No. 291? A Yes, sir.

Q Do you know Andy Sametto? A I have known him since I was a boy; was godfather to his son.

Q How long have you known him? A About five years.

Q And did you meet this young lady at that house, you said? A Yes, sir.

Q And since you met that young lady had you been calling on her; since you met Miss Prince you had been calling on her at her Brooklyn address? A Yes, sir.

Q Where had you been calling on her? A Was there every Sunday; sometimes Thursday in the middle of the week.

Q What month would you say it was you met her at Sametto's house? A It was long ago; over two months ago; about three months-- not quite three months.

Q Would you say it was in August or September?

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A I think it was in August.

Q What day? A I do not know the date.

Q Since you became acquainted with her what time of day would you meet her at her residence? A What time?

Q What time of the day? A Most four o'clock; half past four in the afternoon.

Q What arrangements had you made with her to meet her?

A On the 4th Avenue corner 13th Street, Brooklyn.

Q What time? A Half past four, mostly.

Q Every Sunday? A Every Sunday, sometimes in the middle of the week, Thursday.

Q Since you became acquainted with her you went most every Sunday except the last two? A These last two.

Q You haven't been over for the last two? A I haven't been over for the last two.

Q How many times altogether have you been to her address 280 Garfield Place? A I do not remember. Haven't counted them.

Q About how many times, would you say? A Might be twelve times; I don't know. Never counted them.

Q On the night of November 9, 1913, were you at the residence of Andy Samitto? A No, sir.

Q What time would you return from Brooklyn after seeing Miss Prince? A I left Brooklyn about twelve o'clock; when I reached home it was about two o'clock. When I left Brooklyn

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maybe it was a quarter past eleven or more. When I reached home in New York it was about two o'clock.

Q Where would you go with her when you were going to see her? A We used to go over to see some people.

Q What is the name? A Sheehans.

Q Where did she live? A On 13th Street, No. 204.

Q What avenue? A 4th Avenue, corner 4th Avenue and 13th Street.

Q What floor? A Second floor.

Q When was the first time you saw Olekofsky, the complaining witness? A At the station, the detective was with me. He says: "Here's the man" and he looked at me and says: "I guess that's him." That's what he said.

Q Where were you arrested from? A From home, from 23d Street.

Q Is that the first knowledge you ever received of this larceny? A Yes, sir.

Q What did you tell the officer when he arrested you? A I told him I didn't know the man; never saw him before; he told me "Yes, you did."

MR. DUFFY: Your witness.

CROSS EXAMINATION BY MR. MANLEY:

Q Have you ever been convicted of a crime? A Never here.

Q What? A No, sir.

Q I am not asking you where it was. Where was it

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that you were convicted of a crime? A I was arrested here about five years ago for being suspicious.

Q Weren't you convicted in the State of Minnesota, in St. Paul? A Yes.

Q Why did you say you weren't ever convicted? A Not here, I said.

Q I don't care where it was; were you convicted at St. Paul, Minnesota, on the 8th day of November, 1908, if your answer is yes? A Yes, sir.

Q What was the crime of which you were convicted?

A I don't know.

Q You don't know the name of the crime of which you were convicted? A I don't know. Grand larceny, I guess.

Q You got four years in the Minnesota State Reformatory? A Yes.

Q What was it that you stole? A I didn't steal nothing.

Q Were you innocent? A They told me I robbed a man out of \$80.

Q Were you innocent of the crime? A I was.

Q You were tried, weren't you, before a jury? A There was no jury.

Q Did you plead guilty? A I did, because I didn't have no friends.

Q Did you plead guilty? A They told me I must do it.

Q Did you plead guilty? A I did.

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They kept me four months; I had to do it.

Q Did you plead guilty to something you hadn't done at all? A I didn't want to.

Q Did you plead guilty to something you hadn't done? A No.

Q Well, you pleaded guilty? A Because they make me do it.

Q Did you plead guilty; what is what I am getting after?

THE COURT: Just answer the question; did you plead guilty; yes or no.

THE WITNESS: I did. They compelled me to do it.

Q What was it that you pleaded guilty of doing?

A Because I didn't have any help at all.

Q What was the name of the crime or the thing you did to which you pleaded guilty? A Grand larceny.

Q They said you stole what? A Some money.

Q How much? A I don't know.

Q About how much did they say? A \$40. something like that.

Q \$40. in money. Did you stay four years in the Minnesota State Reformatory? A Yes.

Q And you got out in the year 1912, didn't you?

Yes, sir.

Q How long have you known Sametto? A Have known him

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since I was godfather to his son.

Q Do you know when that was; how long? A Four or five years, maybe over.

Q Did you know him before you went to jail in Minnesota? A I knew him from Europe; not from here.

Q Then you knew him before you went to Minnesota? A I do not know him from New York; I know him from Europe. He was born in the same town I was born in; only a few houses from my house.

Q When was it that you came to New York after you got out from Minnesota? A When was it?

Q Yes. A Last winter.

Q Was it this year, this same year, 1913? A I don't think so. It was in the winter; that's all I know.

Q How long have you known John Maliachak? A I do not know that name; never heard that name before.

Q You never knew John Maliachak? A No, sir.

Q Didn't you live at 216 East 3d Street? A No, sir.

Q You were in the City of New York in March this year, weren't you? A I don't remember whether I was here in February or March.

Q Weren't you in the house at 291 East Houston Street on the 4th day of March with a man named John Maliachak? A No, sir.

Q Wait, I haven't told you all. A I say, no, sir.

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I wasn't there.

Q (Continuing) And didn't a man come into the house who said he was a gas man, and didn't the gas man go out and come back and say he had lost his pocket book, and didn't you state to everybody sitting there to show their money, and didn't a man named Andy Vesa show his money, and didn't John Malia-chak in your presence grab it and run away? A No, sir.

Q You say you didn't see Andy Samitto on the 9th day of November this year? A No, sir.

Q Where had you seen him last before that day, that Sunday we are talking about? A Last before?

Q Yes. A The last time I saw him was in the house, and that woman was there and me.

Q When was that; how long? A About three months.

Q You haven't been in Samitto's house for the last three months? A No, sir.

Q You weren't on the street anywhere on the 9th day of November of this year and you didn't say to anybody that you lost any money? A I couldn't be there; I was in Brooklyn.

Q If you were in Brooklyn, you weren't there? A I was in Brooklyn.

Q You didn't see Alexander Blakofsky that day? A No, sir.

Q You didn't see him on the street anywhere else?

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A I left New York about three o'clock.

Q The day you were arrested, do you remember Staszon came into the house, you were there last week on Tuesday night? A Yes, sir.

Q Did you see Sametto come into the house? A Yes, sir.

Q Did either of these men point to you? A They did.

Q Did Sametto point to you? A I don't know who did.

Q Did Sametto say anything when he pointed to you?

A I didn't hear if he said anything or not.

Q Did you tell the officers you didn't know Sametto?

A I did.

Q Why did you tell them that? A I didn't know who he means.

Q The officer didn't make it plain who Sametto was?

A Not Sametto. I do not know how many there were. I won't deny Sametto, because I knew him from Europe.

Q Did you tell anybody in the house when you were arrested that you didn't know Sametto? A They didn't ask me in the house if I knew him or not.

Q Did they ask you anywhere else, do you remember, if you knew him? A Never asked me.

Q Did you say on that night of your arrest that you didn't know Sametto? A They asked me in police court.

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I said I do know him.

Q You are sure; they asked you if you knew him and you said you did? A I said I did.

Q Did they ask you if you had ever seen Alexander Olekofsky and did you say at first that you hadn't ever seen him? A No, sir.

Q Did you say afterwards that you had seen him, that you had been with him, but you didn't take his money?

A No, sir.

MR. DUFFY: Defendant rests.

O T T O R A N S B U R G, a witness for the prosecution, recalled, testified as follows:-

DIRECT EXAMINATION BY MR. DANLEY:

Q Now, officer, you have already testified, I think that upon the 9th day of November you saw Olekofsky and it was between eight and nine o'clock? A Yes, sir.

Q In the station house? A The 15th Precinct station house.

Q Was he intoxicated? A No, sir.

Q Were there any signs of intoxication upon him?

No, sir.

MR. DANLEY: That is all.

As I understand, under the ruling, you are taking

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judicial notice of the amount; that can be done at any time; not merely during the time the evidence is taken, but any time, but I think probably in order to be safe we might do it now, and I ask Your Honor to take judicial notice of the fact that \$150. Canadian money is worth more than \$50. United States money. Will you concede it is?

MR. DUFFY: No, sir. I cannot, because Canadian money isn't worth anything except in the Province where it is issued.

THE COURT: Very well. I will take judicial notice of it.

A N D Y S A M I T T O, a witness for the prosecution, of 291 East Houston Street, being first duly sworn, (through Samuel Meratchnik, duly sworn as Polish interpreter) testified as follows:-

DIRECT EXAMINATION BY MR. MAWLEY:

Q Your name is Andy Samitto? A Yes, sir.

Q And you have been convicted of doing certain acts with regard to taking money or assisting the taking of money from a man named Olekofsky, is that right? A Yes, sir.

Q Now, some day last week, about Tuesday of last week, did you come to my office in this building? A Yes, sir.

Q And did you there give me certain names? A I did.

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Q Did you give me the name of this defendant? A Yes, sir.

Q Did you give me the names of anybody else? A Yes, sir.

Q What names did you give me? A Dinitry and Mike.

Q Did you at that time know their last names? A Mike Kistolink.

Q Did I make to you any promise of any kind if you would give me the names of anybody connected with this transaction; do you understand that? A Yes, sir.

Q Did I promise you anything if you would give me these names? A No, sir.

Q That same day did you go anywhere with the police officer and this officer Ransburg; did you go anywhere with him? A Yes, sir.

Q Where did he take you first? A Take me to the station house.

Q Did you see your wife there that night? A Yes, sir.

Q Did you see the interpreter standing there that night? A Yes, sir.

Q Just answer this question yes or no. Did you say anything to your wife before your wife left the station house with the men? A I did.

Q Now, some time later on that night did you see the officers bring in anybody to the station house? A I did.

Q Who did they bring in first? A Dinitry and Mike.

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Q. Did you after that go with the officer anywhere?

A. I did.

Q. Where did you go? A. 23d Street.

Q. When you got to 23d Street did you see this defendant, Bodner, anywhere? A. In the house.

Q. In the house on 23d Street? A. Yes, sir.

Q. Did you do anything; point him out to anyone?

A. I did.

Q. And then did everybody go back to the station house?

A. Yes, sir.

Q. Now, up to the 9th day of November did you see Alexander Olekofsky on the street; on Houston Street? A. Yes, sir.

Q. Did he go with you into your house? A. Yes, sir.

MR. DUFFY: I object to this as leading.

THE COURT: Overruled.

Q. Who was it that you afterwards saw in your house that same day besides Olekofsky; on that Sunday night, the 9th of November? A. Dudnitz and Stazon.

Q. At some time later in the day did you and Olekofsky and Dinitry and Mike leave your house? A. Yes.

Q. Where did you go when you left your house? A. Wanted to go on 6th Street to my brother-in-law.

Q. To your brother in law? A. Dinitry.

Q. And on the way out ^{on} the street did anything happen;

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yes or no to that. A When we came on 12th Street, where there used to be an old cemetery, an Italian cemetery, John Bodner lost his pocket book. I picked it up.

Q What do you mean-- John Bodner lost his pocket book?

A I picked it up.

Q What did Bodner do? A He said he lost from his pocket.

Q When was it that you first saw Bodner in the street; where did he come from? A He followed us.

Q Did you see him following you on the street?

A Yes.

Q Near what street was it that you first saw him following you? A Eleventh Street.

Q Where was it that Bodner dropped the pocket book?

A Twelfth Street, near the old Italian cemetery.

Q What did you do then? A I picked it up.

Q What happened next? A Bodner said he lost \$300.

Q Who did he say that to? A To everyone of us; the four of us.

Q What happened next? A Well, we showed him the money, and four of us showed him the money and Olekofsky; all four of us showed him money there.

Q To whom? A To John Bodner.

Q What did Olekofsky do? A We showed his money to him.

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Q. When Olekofsky showed the money to Bodner what did Bodner do? A. He gives to Bodner money, Canadian money.

Q. What did Bodner do? A. Bodner had the money in his hand.

Q. Yes. A. And he changed; he snitched the other money to Dinitry.

Q. Tell us how he did that; tell us how Bodner did that? A. We had had money in his right hand and he turns around-- had a handkerchief in his right and the money and that money he give to Olekofsky.

Q. What happened after that? A. After that John Bodner got away and Dinitry took Olekofsky on the side and we all split up.

Q. Who went away with Olekofsky? A. Dinitry.

Q. How long have you known John Bodner? A. He came with me from the old country.

Q. How many years have you known him? A. From childhood.

CROSS EXAMINATION BY MR. DUFFY:

Q. Previous to your last conviction, December 5, 1913, how many other times have you been convicted of a crime?

A. Once.

Q. And how long have you been out of prison? A. Thirteen months.

Q. And what were you convicted of? A. Assault.

Q. And for the information you have given the District

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Attorney you expect immunity, do you not?

MR. MANLEY: Explain that to him.

(Interpreter explains to witness).

A I did not ask him for anything.

Q But you expect it, don't you? A I don't know whether he will give me or not; I didn't ask for anything.

Q But for the information you have given you expect the Court will be merciful? A I do not ask for anything. If the Court will grant me mercy, it will be well; if it don't, I can't help it.

Q You are not friendly with Bogner? A No, sir.

Q You haven't been friendly for some time? A No, sir.

Q The last time you were arrested you asked him to get you out on bail and he refused to do it? A No, I didn't ask him.

Q Do you know that Miss Prince who was in court a while ago?

THE COURT: Do you know Miss Prince; did Miss Prince ever call at your home?

THE WITNESS: Perhaps, if I would see her face.

Q Do you know the girl who works at 280 Garfield Place, Brooklyn; she is related to your wife? A Yes, I know her.

Q Her name is Mary Prince? A No, sir.

Q What is her name; do you know that woman? A Yes, sir. (Indicating Mary Prince).

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THE COURT: Has she ever called at your home?

THE WITNESS: Yes, sir.

Q What relation is she to your wife? A We and her brother are married to two sisters.

Q And at the time you were arrested did you ask Bodner to go and get you out on bail? A No, sir.

Q Never did? A No.

Q Did you ever ask the assistance of this girl at the time you were arrested? A No, sir.

Q When is the last time she was at your house? A About two months ago.

Q It was at your house that Bodner made her acquaintance? A Yes.

Q And since that time has he been calling on her every Sunday? I do not know whether he goes to her or not.

Q You have not seen her in the past two or three months though? A Yes, sir.

Q When was the last time you saw her? A About two months ago; do not remember it well.

Q Where did you see Bodner drop this pocket book?

A On Twelfth Street.

Q Twelfth Street in front of the Italian cemetery?

A In front of the cemetery.

Q How far is that away from the Bowery? A This is far away from the Bowery.

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Q How many blocks? A 1st Avenue, Second Avenue,
Third Avenue.

Q Then the cemetery? A Then the cemetery.

Q Four blocks away, isn't it? A The cemetery is near
First Avenue.

Q That is three blocks away from the Bowery? A Yes.

Q Bodner didn't drop this pocket book in front of 279
Bowery, did he? A No.

Q And Olekofsky was not over on the Bowery the night
of November 9, 1913? A Perhaps he was afterwards, I don't
know.

Q But at the time you say you four were-- it wasn't
on the Bowery that that happened? A No, that was on 12th
Street.

Q After the pocket book was dropped the defendant and
you picked it up? A I did.

Q Did you see Rudnitz and Stazon take out some money?
A Yes.

Q And who did they give it to? A John Bodner.

Q Did they give him the money? A No, sir.

Q Did Olekofsky take out his money? A Yes, sir.

Q Who did he give it to? A Bodner.

Q Where did Olekofsky go to? A Goes to the corner.

Q How far did he walk? A He walked about half a block
down on Avenue A.

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Q And where did you go? A I go to Mike Dudnitz.

Q Did you leave Olekofsky on the corner? A Mike Dudnitz.

Q Did you go away alone? A I go with Mike.

Q Where did you go then? A Going home.

Q Where did Bodner go then? A Bodner go home.

Q Where did the other fellow go, Staszon? A He go with Olekofsky.

BY THE COURT:

Q Did Bodner ask Olekofsky for the money? A Everybody showed him that.

Q Did Bodner ask Olekofsky for the money? A He says: "Show us your money" and everybody showed.

Q Who says "Show us"? A Bodner.

Q Had you arranged before; had it been arranged before between you and Bodner that Bodner was to drop the pocket book? A No, he take the handkerchief, no.

Q Had you seen Bodner any time that day before the pocket book was dropped? A Yes.

Q When? A When I went for the beer.

BY MR. DUFFY:

Q You didn't see Bodner at all until the pocket book was dropped, did you? A Sure, I did.

Q Just at the time he dropped the pocket book did you see him? A Yes.

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Q How far away from Olekofsky was the pocket book when Bodner dropped it? A We were four walking together.

Q Where were you four walking? A To Dinitry, the brother in law.

Q And Dinitry's brother in law lived over there near the Italian cemetery, doesn't he? A No, lives on 16th Street.

Q How far away from the Bowery? A He isn't living there now; now he lives on 3d Street.

Q At that time he lived on 16th Street. How far away from the Bowery is that? A I do not know. I was never there in his house.

Q How far away from 291 East Houston Street had you gone before the pocket book was dropped? A We went right straight up to Twelfth Street.

Q And what street did you go up? A We walked from the park, from Avenue A through the Park to Avenue B.

Q Over east you walked? A Yes.

Q And how far is this house of yours, 291 East Houston Street, from the Bowery? A This is far away.

Q Five blocks away? A More.

Q How much further east had you walked than the five blocks from your house? A We went to Twelfth Street; about to go to Sixteenth Street.

Q And at the time you were walking you were at least

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five blocks away from the Bowery? A This is First Avenue, Second Avenue, and Third Avenue.

Q Three blocks away? A Yes.

Q Did you see Bodner after he left you at Twelfth Street and the Italian cemetery? A I did not.

Q Was this money divided at the corner of Twelfth Street at the cemetery? A John went with the money home.

Q And what became of Olekofsky? A Olekofsky went to Avenue A and Dinitry left him there.

A JUROP: What do you mean by splitting the money?

THE COURT: The juror wants to know what he means by splitting the money; took the good money and gave him bad money? Put the question to him. When you used the word "split" you meant "snitched" as you call it?

THE WITNESS: Snitched.

Q Who took the money away? A John Bodner.

Q Did you know Olekofsky had this money? A I knew.

Q And when did you first know that? A When he showed me the ten dollar Canadian bill.

Q How many pints of beer were brought to your house?

A About eleven pints.

Q Did Olekofsky drink some of it? A He drinks just the same as we were.

Q How big was the can; show us how large the can was?

A Ten cent cans.

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Q What was the size of it? A About that high (Indicating)

Q How many glasses did it hold? A Six glasses.

Q What did it cost to fill the can? A Ten cents.

Q And you did bring some beer? A And another fellow bring some beer.

Q Did you meet Olekofsky on Houston Street? A Yes, I did.

Q What did he ask you about? A He asked for a room to board.

Q And you brought him to your house? A He come over; yes, sir.

Q What time was that? A Was about half past twelve.

Q And how long did he remain? A Stayed there until half past five.

Q When you went to your house with Olekofsky did you find Staszon and Dudnitz there, or did they come in afterwards? A One man come in first and then another.

Q Did you send for them? A No, sir.

Q What time did they leave? A They leave the same time.

Q Did you all leave at the same time? A Half past five.

Q Did you hear Staszon and Dudnitz talking about going around the corner to a wedding? A did not.

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Q. Was there no mention of it at all? A. No, sir.

Q. What time would you say that Dudnitz and Staszon left your house? A. Half past five.

Q. At what time was this pocket book dropped, as you say? A. Twenty five or thirty minutes to seven.

Q. You left at five? A. Positive.

Q. You left your house about five and walked four or five blocks; what did you do in the meantime to pass away the time from five until seven? A. We left at half past five; in about ten or fifteen minutes; around there, this happened.

Q. Then it must have been later than five when you left the house? A. About half past five or six o'clock.

Q. Was it dark when the pocket book was dropped?

A. No.

Q. How many glasses of beer did I understand you to say Olekofsky drank? A. Two.

Q. Two out of eleven drinks? A. He says that he only had two glasses of beer, but I didn't count them; I didn't watch how much he drank.

Q. Did you and everyone drink in there that afternoon? A. Yes.

Q. How many people were there altogether? A. Seven.

Q. Did Olekofsky show you his money in your house?

THE COURT: You have gone over that.

MR. MANLEY: Before you came over to my office and

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gave me the names of these men did you send your wife over to see me and say you wanted to talk with me?

THE WITNESS: I did.

MR. MANLEY: That's all. I'm through. That's all.

MR. DUFFY: That's all. Defence rests.

Counsel for the defence summed up.

Counsel for the prosecution summed up.

The Court charged the jury as follows:

THE COURT: Gentlemen of the jury, this defendant has been indicted for the crime of grand larceny in the second degree. There was a count in the indictment for the crime of criminally receiving stolen property. The second count in the indictment, for the crime of criminally receiving stolen property is withdrawn altogether from your consideration, and the only count in this indictment and the only crime you are to consider at all is the crime of grand larceny in the second degree. You are to determine whether or not this defendant is guilty of the crime of larceny as charged. A person who, with the intent to deprive or defraud the true owner of his property, or of the use and benefit thereof, or to appropriate the same to himself, the taker, or of any other person, takes from the possession of the true owner, or any other person, any money, personal property, thing in action or article of value, and steals such property, and is guilty of larceny. That is the general de-

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definition of larceny, the crime with which the defendant is charged. There are several degrees of the crime of larceny. There is the crime of grand larceny in the first degree.

If the article stolen is of the value of over \$500. and a larceny has been committed, then the defendant, who committed the larceny, where the value of the article stolen was over \$500., has committed the crime of grand larceny in the first degree. Where the article stolen or the property stolen, however, is of the value of more than \$50. but less than \$500. then that would constitute grand larceny in the second degree. Other larcenies are called petit larceny.

Now, therefore, it is your duty to determine first of all whether or not this defendant has committed a larceny, and if you make that finding, that he has committed a larceny, then has he committed the crime, the specific crime with which he has been charged, namely, the crime of grand larceny in the second degree. If you come to the conclusion that he has committed a larceny and that the property stolen was of the value of more than \$50. then, of course, you could find him guilty of grand larceny in the second degree. If on the other hand you conclude that the property stolen was not of the value of more than \$50. then, of course, he could only be convicted of petit larceny.

The property in this case alleged to have been stolen was the sum of \$100. Georgia money. I take judicial

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notice of the fact that that property, \$150. in Canadian money, is worth more than \$50. United States money. Consequently I charge you that if it is a fact, and if you should find, that the defendant committed larceny, then I charge you, if you find he did steal \$150. in Canadian bills, then I charge you that that property was worth more than \$50. And if you find he did commit the larceny as described, then you will be justified in bringing in a verdict of grand larceny in the second degree.

The defence in this case is what is called an alibi in law. The defendant says he was not present at the time when the crime is alleged to have been committed. Of course the first thing you are to consider, therefore, is, was the defendant present at the time he is charged with having committed the crime of larceny. If you find that he was not there then there is nothing further in this case to be considered by you, and I instruct you you must bring in a verdict of acquittal, if you find this defendant was not present at the time the crime is alleged to have been committed and did not participate in that crime. If the alibi, therefore, is proven, and you find it is a fact that the defendant was not there and did not participate in the commission of the crime, then, of course, you must acquit him.

In considering this case there are other principles of law that must be applied and that I have frequently

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instructed you on, and I must do so in every case. That is the reason why I must repeat such principles of law as the presumption of innocence and the necessity of proving the crime beyond a reasonable doubt. Although you undoubtedly understand the law on these subjects thoroughly, because you are all intelligent men, and I believe you understand what I have repeatedly said, still it is my duty every time a case is submitted to you to instruct you as to these principles, and that is the reason why I repeat them.

The defendant in every criminal case is presumed to be innocent; and that presumption remains with him throughout the entire trial and is with him until you come to your final conclusion in the case. The mere fact that he has been arrested, has been arraigned before a magistrate, has been indicted, must not be considered against him at all. It must not weigh against him at all. An indictment in law is a mere accusation and is not in itself evidence of guilt. Moreover, the burden is on the District Attorney of proving every element of the crime beyond a reasonable doubt. If the District Attorney fails in proving any element of the crime of larceny beyond a reasonable doubt, then I instruct that you must acquit the defendant. This burden is on the District Attorney at all times and never shifts from him.

You are also the judges of the credibility of the witnesses. The burden is given to the witnesses in this case. You are the judges of the credibility of the witnesses. You are the judges of the credibility of the witnesses.

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defence or for the prosecution may have said something about the facts of the case at variance with your recollection, but what they have said must not control. As to the facts you are to make up your mind. Your recollection is to be the test as to what the facts actually are. You, therefore, will make up from your recollection of the facts your conclusion. You are to determine what the facts are. You have seen the witnesses on the stand. You have heard certain things put in evidence. You have seen the witnesses on both sides. You want to take everything into consideration that occurred throughout the trial in determining how much you should believe any witness. If you believe any witness has wilfully testified falsely as to any material fact, then I instruct you you are authorized to disregard the entire testimony of such witness.

Those are in substance all the principles of law and statutory definitions of law applicable to such a crime as that of which the defendant is charged.

Review the facts, and review the law, and come to such conclusion as you believe will do justice to all.

Any further charges?

MR. STANLEY: Yes, sir.

MR. DUFFY: No.

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The jury retired for deliberation.

The jury returned and rendered a verdict of guilty of grand larceny in the second degree.

The pedigree of the defendant was taken.

Adjourned to December 29, 1913, for sentence.

Prisoner remanded.

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

-----X
THE PEOPLE OF THE STATE OF NEW YORK, :
Complainants, :
against :
JOHN BODNER, :
Defendant. :

-----X
New York, December 31, 1913.

Indictment filed December 11, 1913.

The defendant is arraigned before:

HON. JEREMIAH T. MAHONEY, Judge.

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

Robert E. Manley, Esq., Assistant District Attor-
ney, for the People,

M. E. Duffy, Esq., for the Defendant.

MR. DUFFY: If the Court please, in this case I
move to set aside the verdict as against the law and against
the evidence, and upon all the exceptions taken in the course
of the trial, and on the further ground, first, that the evi-
dence of the self confessed accomplices is wholly uncorrobo-
rated. It is a well known principle of law that the evi-
dence of an accomplice is ~~not~~ not to be believed unless it is
corroborated. In this case the accomplices--

THE COURT: Just state the grounds of your motion.

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MR. DUFFY: That is the ~~second~~ ground.

THE COURT: Any further ground?

MR. DUFFY: On the further ground that this defendant was convicted upon the evidence of two illiterate, ignorant and drunken witnesses. On the third ground that there is a fatal variance between the indictment and the proof. A very fatal variance. In fact the evidence is so strong in that respect that the indictment states 279 Bowery, whereas the evidence shows---

MR. MANLEY: That isn't in the indictment.

THE COURT: Any further ground?

MR. DUFFY: The fourth ground is that there is no evidence of any larceny being committed or any evidence of the value of the larceny. A fifth ground is on newly discovered evidence, and I have affidavits here, and can produce two other affidavits to the effect that this defendant on November 9th was not in the City of New York. That he was over in Brooklyn on November 9th, and on that evening, about half past seven, he was at the moving picture show with the girl who testified here on the trial and another girl; and the evidence of man at whose house he stopped with this girl who testified on the trial and his wife that he was in Brooklyn on that night and went to the moving picture show and returned----

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THE COURT: Any further ground?

MR. DUFFY: That is the last ground.

THE COURT: Motion denied.

MR. DUFFY: Exception.

THE COURT: Have you anything to say in mitigation of the punishment about to be meted out to the defendant?

MR. DUFFY: I wish to say that the defendant claims that this case has all been manufactured by Samitto whereby Samitto made an attempt to punish him because he did not supply him with bail at the time Samitto was in trouble one time before. He claims that Samitto had great prejudice and spite and had a motive to frame the case up against him; that he is totally ignorant of the entire transaction of the larceny of any money that was taken away from the complaining witness in this case.

THE COURT: All right. I will give full consideration to what you have said; I will take into consideration the evidence at the trial, also the past record of this defendant. You probably know that he has before been convicted, and I believe he served a term of four years. He had a very able, painstaking, kind hearted and capable jury to pass upon the evidence presented. The jury found a verdict of guilty. Therefore I say to you that he was guilty. The evidence clearly pointed to his guilt. The sentence of

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the Court therefore is two years in State's prison.

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*I hereby certify that the foregoing is a true & correct copy of the minutes of the trial of People vs. Jno. Bodner
Stewart Liddell
off. Steno*

2/2/1914

Stewart Liddell, (per C.H.S.)
Official Stenographer.