

**START**

1815

**CASE**



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CASE

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part I.

-----o  
The People

vs.

GEORGE THOMAS  
-----c

Be f o r e :  
HON. CHARLES C. NOTT, JR., J.

**2261**

New York, January 15th, etc., 1914.

Indicted for grand larceny in the second degree.

Indictment filed December 23rd, 1913.

I N D E X .

Witnesses	Direct	Cross	Re-Direct	Re-Cross
John Kasulke.....	2	12	..	..
Isadore Mathanson.....	35	37	..	..
William F. Callahan.....	37	40	42	..
George M. Griffin.....	43	..	..	..

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

ASSISTANT DISTRICT ATTORNEY JAMES. E. SMITH,  
FOR THE PEOPLE.

JOHN T. LITTLE, ESQ., FOR THE DEFENSE.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,  
Official Stenographer.

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New York, January 15th, 1914.

(A jury was empaneled and sworn and the Court administered the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Friday, January 16th, 1914, at 12 o'clock noon.)

T R I A L   R E S U M E D .

New York, January 16th, 1914.

J O H N   K A S U L K E , of Milford, Delaware, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q Now, Mr. Kasulke, what was your business in December of last year?   A My business here in New York?

Q No, what did you do in Delaware?   A Farming.

Q And on the 19th of December, 1913, were you in the County of New York?   A Yes, sir.

Q Now, where had you been just prior to coming to this County; where did you come from?   A I come from Delaware.

MR. LITTLE: I would like to have the witness talk louder. His story may be interesting.

THE COURT: Yes, speak to that last gentleman in the jury box. Talk to him, and then every one will hear you.

BY MR. SMITH:

Q Had you been visiting any one in the City of New York?

A I had been visiting in Jamaica, Long Island.



Q Whom had you been visiting there? A My aunt and friends there.

Q And on the nineteenth of December, 1913, where was the first place you saw the defendant? A At Jersey City, in the Depot.

Q In what depot was it? A The Pennsylvania.

Q And when did you see the defendant, what time of day? A About ten o'clock in the morning.

Q And in what part of the depot did you see the defendant? A It was right near where I was to get my train for Philadelphia.

Q And what took place at that time, if anything? A Well, I was waiting for my train, and I was standing there, and this man come up behind me, and he wanted to know where I was going, and I told him where I was going, that I was going to Milford, Delaware. And he said, "Well, I'm going on the same train. I live in Delaware, and we have an hour to spare, and we had better see some of the City."

And we went over to the cigar stand and he bought three cigars and put two in his pocket and gave me one.

And he said, "We'll take a walk now and see what Jersey City is."

And we went to the freight yard, and walked about there, about ten minutes walk it was, and we come to a sort of a river like, where passengers had to go across, and like a row boat, the only way I seen to get across, and he said,

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"We don't want to go across there. The boat will upset and we'll both be drowned. Let's go back to the depot."

And we went back there, and we stood there, talking about farming, and one thing or another.

And then he suggested that we go across New York while we was waiting. He said we had just an hour to wait for the train and we could have a drink, he said, and we went across on the 23rd Street ferry, and went into a hotel across the way from the ferry, and had one drink.

And then he said he would take me down to see the Navy yard, to see the big battleships and so on and we could get back to Jersey City in less than half an hour; and, at first, I didn't want to go, but he kept at me to go and I said I would.

And so we started, and walked up a few blocks or so, when we met this unknown man, who come up and wanted to know a certain place in New York---I didn't just catch on to it, what it was---and while this man Thomas was talking to him about it, they got talking about some money he had lost, the unknown man; he had lost some money the night before, about ten or fifteen dollars, a woman took it from him, and he said, "I don't care about ten or fifteen dollars," and, out of his inside overcoat pocket, he pulled out what I thought was a roll of money, green and yellow bills. It was a big roll. And he said, "Here is eighteen hundred dollars; what do I care about ten or fifteen dollars?"

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And then he said he was sent up from Texas, with a car load of horses, by his father, and he sold them.

And Mr. Thomas said, "You don't know what New York is. People will take that money away from you, in a little while;" and he said, "Never mind about that. I intend to spend it all, whether it is my father's money or my own. I don't care for my father, because he married a Yankee, from Wilmington."

And they finished the conversation, and the unknown man started to walk away, after he had found out what he wanted, about that place that he mentioned. And we hadn't gone more than half a block before he came back again, and he grabbed ahold of me.

Q Was Thomas with you then? A Yes, sir; and he grabbed me by the arm and he says, "Give me your money, or I'll knock you down right away." And Thomas was standing right by me, he was on my left side and the other man was over here. And this Thomas put his hand in my overcoat pocket and took the money, and picked out my two dollars and my ticket.

Q Now, before you had met the defendant in the morning you had purchased a ticket? A Yes sir.

Q And you put it in your overcoat pocket? A Yes, sir.

Q And at that time did you put two one dollar bills in your overcoat pocket? A Yes, sir.

Q Now, I show you this ticket. (Indicating) Now, state

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when and where you first saw it? A I bought it right in New York here, at the ferry station.

Q At the 23rd Street Ferry? A Yes, sir.

Q And is that the ticket that the defendant took from your pocket at that time? A Yes, sir; that's the ticket.

MR. SMITH: I offer it in evidence.

THE COURT: Any objection?

MR. LITTLE: No, sir.

THE COURT: Received.

(It is admitted in evidence and marked People's Exhibit 1).

BY MR. SMITH:

Q And at that time did you have two one dollar bills in your possession? A Well, yes, sir; I had two one dollar bills right with my ticket.

Q Are these the two one dollar bills that you had at that time? (Showing bills to the witness) A There was one of them tore.

when.

Q Now, /you say, /xxx you saw the defendant take People's Exhibit 1 and two one dollar bills from your pocket, what, if anything, took place at that time? What did you do, if anything. A I asked him what he was doing.

Q Asked whom? A Mr. Thomas.

Q The defendant? A Yes, sir; the defendant. I asked him what he was doing and he said, "Leave it to me." And this other



man won't get your money, if you let me have it."

And then he started on a run, and the unknown man followed him. And so I run for a policeman as hard as I could, but I didn't see none around.

And I went over to the ferry station and got a policeman there, and he took me up a ways, about half a block, and we met another policeman, and he explained what happened, and he went back, and the second policeman I met went along with me to look for this man.

And, finally, we gave up the search, and he told me how to get back to Jamaica again, as I told him that's where I was going. I had fifteen cents left.

MR. LITTLE: Well, we object to all this conversation, if your Honor please.

THE COURT: Objection sustained.

BY MR. SMITH:

Q Now, leave out the conversation. What did you do after that? Where did you go? A I started back to the ferry. I was going back to the ferry and then I was going from there up to the bridge, to go back to Jamaica.

Q Which bridge do you refer to? A The Brooklyn Bridge.

Q Now, when you were on your way back to the 23rd Street ferry, what did you observe? A I met this man here, this man Thomas (indicating) and this unknown man, going towards

the ferry, and they were changing their overcoats.

Q Now, describe the manner in which you saw the man Thomas and the unknown man changing their overcoats? What they were doing? A They were walking towards the ferry.

Q Were they taking their overcoats off? A No, this man here, Thomas, was handing the unknown man his overcoat, and the unknown man was handing his overcoat to him; and I ran after them, and they didn't see me until I grabbed Thomas by the shoulder, and that was the first that he had saw me since he had taken my money; and I grabbed ahold of him, and said, "Where's my money and my ticket?" And the unknown man started to run, and he called to him and said, "Come back and settle with this fellow!", and he came back, and Thomas gave me the ticket and he gave me the two dollars.

Q You mean People's Exhibit 1? A Yes, sir. And then they started and ran back in the direction where they came from, and I ran after them. And this unknown man jumped on a trolley car and Thomas kept on running, and I was hollering for a policeman and hollering for him to stop, and he kept right on, and, finally, I caught up to him and the policeman took him.

Q And how far did you follow the defendant Thomas? A Why, it was about a block.

Q One block? A Yes, sir. Over a block, I don't just remember.

Q And did you notice when the defendant ran up the block

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what he did? As he approached the avenue, whether he went in a house or continued on the street? A I didn't get around there at all. I was just in the middle of the block and the policeman was coming back around the corner with him.

Q Now, what did you say when the policeman brought the defendant up to where you were? A The defendant asked me, "What's the matter? Ain't you satisfied? Didn't you get your money and ticket back?" That's the first thing he said to me.

Q And what, if anything, did you say? A And I said, "No, I wasn't satisfied", just like that.

Q And was there any further conversation had at that time? A No, sir; not at that time.

Q And then did you go along with the policeman and the defendant to the station house? A yes, sir.

Q Now, did you have any conversation with the defendant from that point up until you reached the station house? A No.

Q In the station house did you have any conversation? A No.

Q And when was the next time you had any conversation with the defendant? A Going over to the Court House, in the patrol wagon.

Q And who was in the patrol wagon? A There was a detective and this defendant, and the policeman who caught him, and myself.

Q Now, in what part of the patrol wagon were you sitting

A Up in the front part.

Q And who was nearest to you? A Thomas.

Q The defendant? A Yes, sir; he was sitting right across from me, the defendant.

Q Now, did he speak to you on the way to the Court House?

A Yes, he spoke to me. He kept nudging me on the leg, and leaned over (illustrating) and he wanted to tell me something, and I didn't notice him and I turned my head the other way, and he kept at me, and he said, "When this is over, they will let you go. After Court is over, to-day, they will let you go, and, if they let you go and you don't appear against me, I will be down to your house when I get out of here, and give you six hundred dollars."

Q Now, did the defendant tell you what his business was, that day? A Yes; he said that he kept a produce house in Dover, Delaware, and he was going down on the same train with me, and he said wouldn't I get my father to let him have a trial shipment of our sweet potatoes, the produce of our farm.

Q And did he give you any memorandum? A Yes, sir; he wrote me out in Jersey City a paper.

Q And where did you first see this paper? (indicating)

A On Jersey City.

Q You saw that paper? A Yes, sir.



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Q Who wrote that memorandum on that paper? A The defendant Thomas.

Q In your presence? A Yes, sir.

MR. SMITH: I offer it in evidence.

MR. LITTLE: No objection.

(It is admitted and marked People's Exhibit 2)

MR. SMITH READS THE EXHIBIT TO THE JURY.

BY MR. SMITH:

Q Now, at the time you met this defendant and the unknown man, when they were going back to the ferry, as you say and you approached them, you say that the man unknown to you gave you two dollars? A Yes, sir.

Q I wish to show you these two one dollar bills and ask you to state whether or not you can identify those bills as the two dollar bills that were given to you by the unknown man, in the presence of the defendant? A I can identify them by one being tore that way. (Illustrating).

BY THE COURT:

Q What did you do with the bills that were given back to you? A I held them in my hand until I came to the policeman, and I handed the two dollars and the ticket right over to the policeman.

(They are marked People's Exhibit 3 for identification)

BY MR. SMITH:

Q And the officer to whom you gave these two one dollar bills was Officer Callahan, of the 18th Precinct? A Yes, sir.

Q Is that the officer to whom you gave the two one dollar bills? (Indicating) A Yes, sir.

MR. SMITH: You may examine.

CROSS EXAMINATION BY MR. LITTLE:

Q What do I understand your name is? A John Kasulke.

Q And you live where? A Milford, Delaware.

Q And how long had you been in Jamaica before the 19th of December? A Why, about a week.

Q Visiting your aunt there? A Yes, sir; and other relatives and friends.

Q And had you been over to New York during that time? A While I was visiting in Jamaica?

Q Yes? A No, sir.

Q And you used to live in Jamaica, did you not? A Yes, sir; I was born there.

Q And how long had you lived there before you went to Milford? A Why, I was about twelve years old when we went to Milford.

Q And how old are you now? A Twenty-one, last July, the tenth of July.

Q Now, I understood you to say that you were standing in the Jersey City Station of the Pennsylvania Railroad, about to take a train? A Yes, sir.



Q And will you tell us what that station looked like over there? A What it looked like?

Q Yes? A I didn't take much notice for it. I was just there waiting for my train. I wasn't thinking of anything like this, that I would have to look at anything and describe it afterwards, what it looked like.

Q It was the Pennsylvania Station? A Why, it must have been, because I was taking my train there for Philadelphia.

Q Well, what were you doing with a Philadelphia & Reading ticket, in the Pennsylvania Station? A What's that?

Q What were you doing with a Philadelphia & Reading ticket, if you were in the Pennsylvania Station? A I was in the station at Jersey City, waiting for a train to Philadelphia.

Q But you said you were in the Pennsylvania Station. Don't you know the difference between the railroads? A I thought I did.

Q Now, if you were in the Pennsylvania Station, and you know the difference in the railroads, what were you doing with a Philadelphia & Reading ticket? A (No answer).

BY THE COURT:

Q What road were you going to Philadelphia on? Did you know? A No, sir; I went to the 23rd Street Ferry and bought my ticket and went across to Jersey City, and the man that was standing there calling ~~and~~ off the trains said---I



asked him when was the next train for Philadelphia and he told me in about an hour.

BY MR. LITTLE:

Q Didn't you say that you were in the Pennsylvania Railroad, Jersey City, when this man approached you? Didn't you say that? A I said I had bought my ticket for Philadelphia, and was waiting in Jersey City.

Q Didn't you say that you were in the Pennsylvania railroad Station in Jersey City? A Well, if I said it, I didn't know the difference between the stations.

Q Now then, you don't know the difference between the stations; is that it? A (No answer).

Q Well, do you or don't you? A Why, there is a sign up there, that is lit up at night, that it is the Pennsylvania Railroad.

Q Well, is that the depot that you went into in Jersey City, with the sign of the Pennsylvania on it? A Well, I have seen that when I was crossing the river on the ferry, but I didn't see no sign when I got in there.

Q Well, why were you so willing to swear that you were in the Pennsylvania Railroad Depot?

MR. SMITH: I object to the form of that question, if your Honor please. He said he saw the electric lights of the Pennsylvania Railroad Station.

THE COURT: Yes, he has sworn to that. And you



might ask him if the Philadelphia & Reading Railroad is not also an occupant of the same station.

BY MR. LITTLE:

Q Do you know where the Philadelphia & Reading Railroad Trains come in? A No, sir.

Q Don't you know that they come in at Communipaw, some distance south of the Pennsylvania Railroad Depot? A No, sir.

Q That they come in on the Jersey Central? A No, sir; I don't know nothing about railroads.

Q But this is the ticket of the Central Railroad of New Jersey and Philadelphia & Reading Railroad that you bought? A Yes, sir.

Q And you say that you were in the Pennsylvania Railroad Depot, you tell us, waiting for your train, is that right? A I was waiting for a train there, at Jersey City Station.

Q You were there an hour ahead, you say? A Yes, sir.

Q Now, are you sure that it was not a little more than an hour ahead of the train? A I ain't sure about that.

Q Well, I want you to be as sure and definite as you can. You have told us a long story about what occurred, with a great deal of detail. Now, about what time did you get over there to the Pennsylvania Depot? A Well, I couldn't say exactly, but I will say that it was between ten and eleven.

Q And what train did you start out to get? A No

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train in particular. I knew, if I got to Philadelphia at three o'clock, I would get my train for Milford, Delaware.

Q Now, what time did you leave Jamaica, that day? A About nine o'clock.

Q And you went directly over to Jersey City? A I come across from Jamaica, I come on the trolley, and then I come across the Brooklyn Bridge and then went down and took the 23rd Street ferry across. I bought my ticket before I went across on the ferry. I bought my ticket right at the 23rd Street ferry.

Q And you came from ~~Jamaica~~ Jamaica on the trolley and then came right from the Brooklyn Bridge to 23rd Street? A Yes, sir.

Q And how did you get over there to the 23rd Street Ferry? A I walked down to the Ferry, along by the Cortlandt Street Ferry.

Q Well, now, which is it, the 23rd Street or Cortlandt Street? A Well, all of them come in there together. I don't know one from the other.

Q But you know the difference between Cortlandt and 23rd Street don't you? A Well, they are both right there together.

Q Do you know the difference between this defendant and the other man that you were talking to? A Yes, sir.

Q Just about as much as you know the difference between



the Cortlandt and 23rd Street ferries? A I know this man here, and the unknown man; I know them both.

Q You know the difference between them as well as you know the difference between the Pennsylvania Railroad and the Philadelphia and Reading? A I know them better.

Q Now, describe the other man? A He was taller than Thomas and had a thin face and black hair and a derby hat. And Thomas has now that man's suit of clothes on, and the same kind of ~~face~~ vest, with a white stripe running through. That was the kind of suit the unknown man had on, and Thomas had a dark suit on.

Q So that you say Thomas now has the other man's clothes on? A The other man had the same kind of a suit on.

Q And the other man was taller than Thomas? A Yes, not much taller than him, about six inches.

Q And he was about six inches taller than the defendant? A Yes, sir.

Q Now, don't you know that he was six inches shorter than Thomas? A Oh, no, no, sir; I ~~am~~ sure of that.

Q And you are just as sure about that as you are about the rest that you have testified to?

MR. SMITH: Objected to.

MR. LITTLE: Question withdrawn.

BY MR. LITTLE:

Q Now, are you sure that your name is John Kasulke?

A August John Kasulke.

Q August? A Yes, sir.

Q And you are known as "Gus" are you not? A yes, most of them call me Gus.

Q Most people call you "Gus"? A yes, sir.

Q And you don't live in Milford Delaware either, do you?

A Yes, I do.

Q Sure? A Yes, sure.

Q Don't you live in Lincoln Delaware? A We live nearer to Lincoln than Milford, but we are in the Milford District.

Q But you really, actually, do live in Lincoln? A If you take it by the distance.

Q No, taking it by the town that you live in? A I told you that we lived in the Milford District.

Q And you live in the town of Lincoln? AA That's the nearest town to us.

Q That's the nearest town to you? A Yes, sir.

Q And how far away from Lincoln are you? A About a mile.

Q And you are about five miles from Milford? A Three miles. We live just on the outskirts of Milford.

BY THE COURT:

Q Do you mean like a township? A We have to go to Milford to vote, because we live on the opposite side of the

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road, and the people living on the other side of the road go to Lincoln to vote. That's how we are living in the Milford District.

BY MR. LITTLE:

Q Now then I understand from what you tell us that this man Thomas came up to you in the Jersey City Depot? A Yes sir.

Q And are you quite sure that it wasn't the other man?

A No, sir; just as sure as I am sitting here, it was this defendant here. What his name is I don't know.

Q What? A Because he said so many different names, I heard, that I don't know whether that is his name or not. But this is the defendant that I first met there in Jersey City?

Q Well, what are the different names that you have heard that he had? A I don't know of any different names, but I heard he had different names. What they was, I don't know.

Q Where did you hear that? A It was from the detective I heard it.

Q From the detective? A Yes, sir.

Q Now then, you came over to New York, and, as you say, with Thomas, from the Pennsylvania Depot, and you came over to 23rd Street, after going around Jersey City for a while, is that right? A Yes, sir.

Q And about how long were you walking around Jersey City? A About fifteen minutes.

Q About fifteen minutes? A Yes, sir.

Q And you came over on the ferry boat or in the tubes? A In the ferry boat.

Q And how long were you walking around 11th Avenue and 23rd Street? A We hadn't gone over a hundred yards from that saloon, before this other man come up behind me.

Q So which way were you going? Through 23rd Street or up Eleventh Avenue? A We were going right straight along the river front, down to the Navy Yard.

Q To the Navy Yard? A I don't know whether it was the Navy Yard or what it was, but that is where he was taking me, to see the battleships.

Q Well, you knew something about New York, didn't you? You were twelve years old when you went to Delaware, weren't you? A Yes, sir.

Q And didn't you know anything about the Navy Yard when you left for Delaware? A No, sir; I haven't been to New York many times. I always lived in Brooklyn.

Q Now, the other man showed you a roll of bills in which he said there was eighteen hundred dollars? A Yes, sir; that's what he said.

Q And then you stood there, talking, for a while? A Yes, sir.

Q And did you go in and have another drink? A No, sir.



Q And how long did you stand there, talking, about the eighteen hundred dollars and his father, down in Texas? A About fifteen or twenty minutes altogether.

Q Do you remember how long it took you to cross on the ferry? A I don't just remember. It wasn't long, though. It seemed about fifteen minutes, something like that.

Q So that by the time he got through telling you about the eighteen hundred dollars and his father's horses, and that he didn't care anything for his father, it was pretty near time to go back to your train? A Yes, sir.

Q And you didn't go back to get your train; did you? A No, sir. I believed that this defendant was telling me the truth, and he has me so interested in the talk that I forgot the time.

Q Talk about what? A About horses and things like that.

Q I thought it was the other man that talked about horses? A Well, they was talking about horses together, and Thomas was talking about farming and the like of that, on the way over the ferry, and how we produced our stuff, and so on.

Q And you were not in a hurry to get back to Milford, were you? A Well, I knew if I left Jersey City by one o'clock, I could get home---I could make the 3:12 train at Philadelphia for Milford.

Q And so you were willing to talk about horses and one

thing or another, as long as they entertained you; is that right? A Yes, sir.

Q And how long did you stand there talking about horses before this other man left? A Why, we was talking about fifteen or twenty minutes.

Q And then how long was it before the other man came back again? A Why, he hadn't got down the street far, when he came back again.

Q He turned around and came back again at once? A Yes, sir.

Q Just as though he had forgotten something? A Yes, and he come up and asked me---said to me, "You give me your money or I'll knock you down."

Q With your friend Thomas there, he said he was going to knock you down? A Yes, Thomas wasn't---

Q He said, "You give me your money or I'll knock you down, while you were standing there with another man? A Yes, sir.

Q Were there any other people around? A None that I noticed, none right there. There was some, further down ~~the~~ the street.

Q And about what time do you suppose this was? A It was between eleven and twelve I should judge, somewhere along there.

Q And then, following that he didn't carry out his

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threat, but this defendant put his hand in your left hand overcoat pocket, is that right? A Yes, sir. When I looked around his hand was coming from my pocket, with these two dollars and the ticket.

Q And what else did you carry in your left hand overcoat pocket? A I had a silk handkerchief.

Q A silk handkerchief? A Yes, sir.

Q And have you got that silk handkerchief now? A No, sir.

Q Where is it? A I didn't see no more of it, but I didn't see him take the handkerchief, I didn't see him take the silk handkerchief out of my pocket.

Q You didn't see him take it? A No, sir; but it was missing.

Q Now, are you in the habit of carrying your money and your railroad ticket in your overcoat pocket? A I put it in that pocket, and after I was going to put it back in my pocketbook again.

Q When did you take it out of your pocket? A When I bought the ticket, when I went up to buy my ticket, I took this money out of my pocketbook then.

Q When you bought your ticket, how much money did you have? A I had around five dollars.

Q Five dollars? A Yes, sir.

Q In one bill or several bills? A Well, I don't re-

member just how it was now.

Q You don't remember? A No, sir.

Q And you don't remember when you bought the tickets, whether you got a five dollar bill changed or not? A I am sure I didn't have no five dollar bill changed.

Q Well, in what change was your money, if you remember?

A In bills.

Q Were they all ones? A Yes, I think there was fifty cents in silver, and two quarters, I think it was, but I couldn't swear to it.

Q Now, you knew what your ticket was for Philadelphia, didn't you? A Yes, sir.

Q How much? A Two dollars and twenty-five cents.

Q So, when you went to buy your ticket did you take all of the bills out of your pocket book or just two dollars in bills and the change? A I took it all out.

Q You took it all out? A Yes, sir.

Q And you bought your ticket, and you put both the money and the ticket in your left hand overcoat pocket? A yes, sir.

Q Right there at the window, is that right? A yes, sir.

Q And then went over to Jersey City? A Yes, sir.

Q Either on the Cortlandt or Twenty-third Street Ferry, you don't know which; is that right? A Eh?

Q Either from Cortlandt or Twenty-third Streets? A I

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don't know which I went across from.

Q But you went across with the tickets and the money in your overcoat pocket, all the money you had left after buying the ticket? A I had fifteen cents in my right side pants pocket.

Q And your two dollars and your ticket, you had in your left hand outside overcoat pocket, is that right? A Yes, sir.

Q Well, now, from the time that you put that money in and your overcoat pocket, you say you saw the defendant's hand coming out of that pocket, did you take that money or that ticket out at all? A No, sir.

Q What? A No, sir.

Q You hadn't had it out of your pocket? A Before I seen him?

Q Or the time that you saw him? A Coming back across on the ferry---

Q (Question repeated) A I had the ticket out.

Q Why did you have it out? A He asked me how long was my ticket good for, and was it good for a first class passage, and I said, yes, the ticket was allright as far as I knew; that I bought it and put it in my pocket, and I said, "Here is my ticket" and he looked at it and he said, "Yes, that's good for a first class passage."

Q Did you take your money out at any time? A No, sir, just the ticket.

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Q Now, isn't it a fact that you did have your money out, and you and the defendant here were trying to match with the other man, and get his eighteen hundred dollars away from him? A Trying to match him? How do you mean?

Q You know how I mean? Trying to match pennies and quarters? A No, sir.

Q Are you sure about that? A I am sure about that.

Q And wasn't that what you were doing on the corner, for an hour or more? A No, sir, I wasn't gambling in any kind of a way, and don't know how to gamble and don't know what gambling is.

Q Wasn't you told how to match, to get this eighteen hundred dollars away from the other fellow? A Told by who?

Q By the defendant here? A No, sir.

Q What? A No, sir. Told by no one.

Q Isn't it a fact that you two were putting up a job on the other man, to get his eighteen hundred dollars away from him? A There wasn't a thing said to me. Neither one of them said a word to me, about gambling.

Q Why, that eighteen hundred dollars looked pretty good to you, didn't it? A Yes, pretty fine.

Q And you didn't want any of it, did you? A Why, if I wanted any of the money I would have asked him for it; not gambled for it.

Q And after you saw the defendant's hands coming out



of your pocket, with the money and the ticket, they both ran away? A Yes, sir.

Q And you lost sight of them? A Yes, sir.

Q And they had your money and your ticket, having taken it out of your pocket? A Yes, sir.

Q Then do you want us to believe that they came back again to the very same spot where you were? A No, sir.

Q I understood you to say that. Won't you tell me where I am wrong. A Not to the same spot where they took it. I met them further down.

Q Well, not far from it, was it? A No, not very far.

Q Well, how far was it? A Well, I should judge about two blocks.

Q What? A About two blocks in my judgment.

Q Now, let us see where that was? Where was the place? Where was it they took the two dollars, where this defendant took the two dollars and the ticket out of your pocket? A That was about two blocks from where we got off the ferry, at 23rd Street.

Q I understood you to say that it was down the Avenue, alongside of the ferry house, down 11th Avenue; is that right?

A No, sir; when we come out of the saloon, we turned to our right and started walking up. The saloon sits right across from the ferry.

Q It is right on the corner of 11th Avenue and 23rd Street?

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A Yes, sir.

Q And which door did you go out? The door that faces the ferry? A Yes, and then we turned to the right.

Q And then you must have walked uptown on 11th Avenue, is that right? Didn't you walk on the side where all the shipping and all the boats are? A Yes, sir.

Q And you walked a couple of blocks, you say? A Yes, sir.

BY THE COURT:

Q Was that when you were going to the Navy Yard? A Yes, sir.

Q And you walked a couple of blocks up this way? (Illustrating) before this man left you, or did he leave you as soon as you came out of the saloon? A We hadn't met this other man until after we came out of the saloon.

Q Now, where did he leave you? A Where did he leave us?

Q Yes? A About the middle of the next block from that saloon there.

Q And then he went away, about half a block away from you? A Well, I don't know just how far away he went, but he was only gone about two minutes, and, when I looked around he was still walking away from us, and we hadn't got any more than up to the next corner, when he came up behind me and grabbed me.



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Q He came running up, did he? Walking or running? A  
I didn't know he was there until he grabbed ahold of me by the  
arm. I don't know whether he walked or ran up behind me.

Q And he grabbed you from the back? A Yes, sir.

Q And demanded your money or he would---A He would  
knock me down.

Q And that was about two blocks from the saloon---is  
that right? A As near as I can judge; I don't remember the  
blocks or nothing, but I would say about three blocks.

Q And so it was right there, at that time, that the de-  
fendant put his hand in your overcoat pocket? A Yes, sir;  
right after this other man wanted to knock me down.

Q And then the two of them left you? A Thomas left  
first.

Q In which direction did he go? A He turned to the  
right, straight uptown like, turned to the right, and this  
unknown man followed him, and they were both on a run, and  
then I run for a policeman.

Q He turned to the right and went through the street?  
A No, on the sidewalk.

Q But turned to the right from where you were standing?  
A Yes, sir.

Q Two blocks from 23rd Street, where the saloon was? A  
Yes, sir.

Q And which way did you go? A I turned back the way I

come and went across on the other side. There were so many people going back and forth on that side of the street I couldn't see whether there was a policeman or not, and I ran down on the other side of the street to look for a policeman.

Q And how far did you go on the other side of the street? A I couldn't say. It wasn't very far though.

Q You were still on the same street that you were on when you came out of the saloon? A Yes, sir.

Q And don't you know that there is only one side to that street and that the other side of the street is taken up with docks and shipping? A Well, that's where I went, on the other side, and got this policeman.

Q Well, was he near the Terry house when you got him? A No, sir; he wasn't quite down to the Terry house. And the policeman and I came back and followed the way the defendant went, where I told him the defendant went.

Q What policeman was it? A I don't know. And then we hadn't got far when we met another policeman and the first policeman told the second policeman what had happened, what I had told him, and then the second policeman went with me.

Q Did the policeman who was with you first---is he here, to-day? A Yes, sir.

Q And the second one too; is that right? A The second policeman, yes. He is here to-day.

Q Now then, you didn't see any track of Thomas, after



he put his hand in your pocket and ran away? A Not till I came back towards the ferry. I knew, after I got to the ferry I could find my way to the bridge.

Q And it was right near the ferry house that these two men came back to you? A No, they was up ahead of me, and while I was going in that direction, right across from the ferry house, this man Thomas and the unknown man were just going along, changing overcoats, and I was half a block away when I seen them. They was right in the middle of the street when I seen them, and I ran after them.

Q Where were they at the time? What street was it? A Where this thing happened.

Q And then they came back to you? A No. I ran up to them and grabbed Thomas by the shoulder and asked him where my money and my ticket was, and the unknown man started on the run and Thomas said, "Come back here and square up with him now." And Thomas give me the money back and he gave me the ticket and then they started to run, and turned the corner, where the policeman was standing.

Q And was that the corner of the saloon where you had the drink? A I didn't notice that.

Q Do you know what street they went up? A No, sir; I didn't look to see what street it was, or anything. I only run after them, bent on catching them both.

Q Now, you say that this Thomas took two dollars and a

railroad ticket and a silk handkerchief; is that right? A I don't know about the silk handkerchief, but I had it in my pocket, but I seen him take the two dollars and the ticket from my pocket.

Q Will you look at that paper and tell me if that is your signature? (Indicating the police court paper) A Yes, sir.

Q And you signed and swore to the statement there before the City Magistrate, didn't you? A Well, I couldn't say. I haven't read it yet to see what it is.

Q Well then, read it. Did you swear to that before the Magistrate? A I signed my name there, yes.

Q And swore to it before the Magistrate? A Yes, sir.

Q What? A Yes, sir.

Q And it is true? A Yes, sir.

MR. LITTLE: I offer it in evidence if your Honor please.

MR. SMITH: No objection.

(It is marked Defendant's Exhibit 1).

BY MR. LITTLE:

Q Now, you state in here. (Reads) Now is that the way the thing happened? A Why, I don't see any difference in it; there is no difference in it at all.

Q No, there is no difference in that between that and what you have been telling us to-day, about the other man



coming back and demanding your money, or he would knock you down? A Well, I didn't tell all that happened. There was not everything that happened that was told.

Q You didn't tell them everything at that time? A No, sir.

Q But you went into details and said you were standing at 11th Avenue and 23rd Street with the defendant and an unknown man joined you in conversation, and suddenly you turned around and saw the defendant's hand coming out of your pocket, with the silk handkerchief, and the ticket and the two dollars, and you think that's just what you testified to, to-day, do you? A I didn't see him take the silk handkerchief from my pocket, and I don't remember my saying anything about its being taken, at the time.

Q But you say here that you noticed <sup>in</sup> the defendant's hand the above mentioned property, the money the ticket and the handkerchief? A Yes, the handkerchief was missing, too.

Q Now, Mr. Kasulke, you came up here, from Lincoln, Delaware?

MR. SMITH: Now, I object. He says he came from Milford, and not Lincoln.

MR. LITTLE: Very well, if you want it that way.

A Yes, sir; I came from Milford, Delaware.

BY MR. LITTLE:

Q Are you married? A Yes, sir.



Q And you have your expenses paid, of course?

MR. SMITH: I object to that, if your Honor please.  
I don't see the merit of that.

THE COURT: I will allow it, though I do not see that it is very material, but it is cross examination and I will allow it.

A JNo, sir.

BY MR. LITTLE:

Q No? You paid your own money to come up here? A Yes, I borrowed the money from my father.

Q Are you going to be paid anything for the time you spend up here?

MR. SMITH: I object to that as immaterial, irrelevant and incompetent.

THE COURT: I will allow it. It is on cross examination.

A I don't know.

BY MR. LITTLE:

Q Isn't it a fact that the Police Department, or the County of New York, is going to pay your expenses, and three dollars a day for your time here? A I was to have my expenses paid if I had to come back. That's the way it was.

Q What do you mean by that? If you have to come back?

A Well, they said to me, if I would come back, they would pay my expenses.



Q And they said that they would give you three dollars a day for your time, too, did they, besides your expenses? A I heard nothing about three dollars a day.

Q You heard nothing about three dollars a day? A No, sir.

Q Now, isn't it a fact---A Just a minute. About the three dollars a day. What I heard about that, I heard about that in the Detention House. I heard men talking there about what they were getting a day there, three dollars a day for married men and single men two dollars a day. That's all I heard said there.

Q And your wife is in Milford? A Yes, sir.

Q Isn't it a fact that you and your wife don't live together in Milford, Delaware, and that the reason why you don't live together is because you are such a notorious liar? A No, sir; we are not living together.

Q And that is because you are such a notorious liar that she can't believe a word you say; isn't that the reason why you don't live together? A No, sir.

MR. LITTLE: That's all.

ISADORE NATHANSON, of the 18th Precinct, being duly sworn, on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR SMITH.

Q On the 19th day of December, 1913, were you assigned to the 18th Precinct? A Yes, sir.

Q And on that day did you see the complaining witness, John Kasulke? A I did.

Q What time of the day or night was it? A Around about twelve, noon.

Q And where was it that you saw the complainant, John Kasulke? A At 26th Street and 13th Avenue.

Q And you had a conversation with him at that time? A I did.

Q And, as a result of the conversation which you had with the complainant, John Kasulke, what did you do, if anything, at that time? A He explained just what happened to him and I took him all around my post. My post consisted of 11th Avenue and 13th Avenue from 24th to 27th Streets and along the River front.

I walked him all around the post and he said he was robbed, and I tried to locate any of the men that had robbed him and finally he said---

MR. LITTLE: Objected to.

BY MR. SMITH:

Q No, never mind the conversation. What did you do after that? A Well, after I walked him all around, and couldn't see anybody that had robbed him, I directed him how to go to Jamaica, Long Island. He said he wanted to go there, and I left him at 23rd Street and 13th Avenue, for him to take the car east, and that's the last I saw of him.



MR. SMITH: You may examine.

CROSS EXAMINATION BY MR. LITTLE:

Q Didn't you turn him over to some other officer? A No, sir; I didn't.

Q You didn't? A No, sir.

MR. LITTLE: That's all.

WILLIAM F. CALLAHAN, of the 18th Precinct, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q On the 19th day of December, 1913, did you see this defendant? A I did.

Q What time of the day or night was it? A About 12:30 P.M.

Q Now, where was the first place you saw him? A Running east, through 23rd Street, with the complainant and a crowd of about fifty people after him, shouting, "Stop thief".

Q And how far was the defendant ahead of the complainant? A About a hundred feet.

Q And where were you stationed at the time? A I was standing at the corner of 23rd Street and 10th Avenue, and the defendant was running east on 23rd Street, on the north side of the street, and I took up the chase and he turned west on 24th Street and into the vestibule of the house 502 West 24th Street.

Q And what did you do then? A I placed him under arrest in the vestibule of that house.

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

Q And what happened after that if anything? A ~~He~~ said, "What are you doing?" And he said, "I didn't do nothing."

And I brought him on the outside and the complainant came up and I asked him what had happened and he said, "Why, this man robbed me of two dollars and a railroad ticket, and the complainant handed it to me."

And the defendant says, "What are you hollering about? Didn't you get your money back?"

I then took the two of them down Tenth Avenue, and, as we turned into 20th Street to go west, the defendant said, "What's the matter here, officer? Can't we fix this up?" And I said, "No." "The only way ~~you~~ is to take you before the Magistrate and then you can fix it up there."

And I found this roll of bills in the right pocket of his coat.

MR. SMITH: I offer that in evidence.

MR. LITTLE: No objection.

(It is admitted and marked People's Exhibit 4).

BY MR. SMITH:

Q What else did you find at the time that you searched this defendant? A I also found in his hip pocket that wallet (indicating a wallet).



Q And the contents? A yes, sir. Containin that, that imitation ten dollar bill. (Indicating).

MR. LITTLE: Now, I object to that and move to strike that out.

THE COURT: Motion granted. Strike it out.

MR. SMITH: Now, I offer the wallet and its contents in evidence, as found in the possession of the defendant at that time.

MR. LITTLE: We object to that as immaterial, irrelevant and incompetent.

THE COURT: Now, how is that material, Mr. Smith, as bearing on this crime?

MR. SMITH: It is not material.

THE COURT: I sustain the objection. The roll was not objected to in the first place, and I thought that might be material, in view of the complaining witness's statement that one of these men did display a roll during the course of this transaction, and that they had exchanged coats. Therefore I will let the roll in, but I do not see that this bill is material.

BY MR. SMITH:

Q Did anything further take place at that time? A The complainant told me about him writing on a piece of paper, and the complainant gave it to me.

Q Where did you have this conversation? A In the sta-

tion house.

Q Now, what did he say to you? A The defendant denied guilt of anything, being guilty of any crime at all. He said he was entirely innocent.

Q Well, now, in the presence and hearing of the defendant, what did the complainant say, if anything? A The complainant said he had met him in Jersey City and brought him over here, and, somewhere around 11th or 13th Avenues---he wasn't sure which, this man had stuck his hand into his pocket and took the two dollars and the railroad ticket out.

Q And what did the defendant say? A He said, "We were gambling".

Q What else was said, if anything? A And then the conversation drew on, as to wanting me to fix it up on the way to the station house.

Q Now, when you searched the defendant in the station house, did you find any money in his possession? A Yes, sir; there was a one dollar bill in his possession.

Q And that was all? A Yes, sir.

Q Was it a dollar bill? A Yes, sir.

MR. SMITH: You may examine.

CROSS EXAMINATION BY MR. LITTLE:

Q You were on Tenth Avenue and 23rd Street; is that right? A Yes, sir.

Q Or near there? A Standing on the southwest corner



of Tenth Avenue and 23rd Street.

Q And this defendant came running through 23rd Street?

A Yes, sir, from 11th Avenue, on the north side, running east.

Q Running east? A Yes, sir.

Q And I understand you to say that he turned into Tenth Avenue? A yes; then into 24th Street, at 24th Street.

Q And at 24th Street he turned back west on 24th Street?

A Yes, sir.

Q And you caught up with him in the vestibule of the house? A yes, sir. One step up. He was closing the doors on me.

Q One of these old fashioned high stopp houses? A Yes, sir.

Q And that was about half past twelve? A yes, sir; half past twelve exactly.

Q The complainant was about a hundred feet behind him?

A Yes, sir.

Q And a crowd behind him? A Yes, sir.

Q The complainant wasn't turned over to you by any officer was he? A No, sir.

Q You didn't see him around 13th Avenue or 11th Avenue, did you? A I wasn't on those avenues that day at all.

Q Now then, you say that this defendant said that he was entirely innocent of any wrong doing, and hadn't committed any crime at all; is that right? A That's what he claimed.

Q And was this complainant there when he said that? A The complainant was there, and accused him of putting his hand into his pocket and taking the two dollars and the railroad ticket out of his pocket.

Q And the two dollars and the railroad ticket were in the possession of the complainant when you arrested the defendant?

A Yes, sir.

Q Now, I understand you to say, the defendant said they were gambling, do I? A Yes, sir; he said that.

Q Did he say what game they were playing? A No, sir; but he said he and the defendant had been gambling.

Q The defendant and the---A The complainant and the defendant had been gambling.

Q And what did the complainant say to that? A He denied it?

Q What did he say? A He said that he had never played more than Old Maid in his life.

Q And where did this conversation take place? A Just on the way to the station house, about five minutes after I had placed him under arrest.

MR. LITTLE: I think that is all, Callahan.

RE-DIRECT EXAMINATION BY MR. SMITH:

Q Officer, when the complainant came up to you, in 24th Street near 11th Avenue, and handed you the ticket and the two one dollar bills? A After he told me the trouble, he had the ticket and the two one dollar bills in his hand.

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Q Are those the bills? (Indicating People's Exhibit 3 for identification? A Yes, sir.

Q And they had been in your possession ever since that time? A In the possession of the Property Clerk.

MR. SMITH: I offer them in evidence.

(They are admitted without objection and marked People's Exhibit 3 in evidence.)

GEORGE H. GRIFFIN, of the Detective Bureau, being duly sworn and examined as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q On the 19th of December, 1913, did you see this defendant? A Yes, sir.

Q Where was the first place you saw him on that day? A 18th Precinct Station House.

Q What time of the day was it? A About half past twelve.

Q And did you have any conversation with the defendant at that time? A The defendant, the officer and the complainant were standing in the station house, ---

Q Did you? Yes or no? A Yes.

Q Now, what conversation did you have with the defendant at that time?

MR. LITTLE: We object to that as immaterial, irrelevant and incompetent, and no foundation has been laid and

there has been nothing shown as to whether the defendant was warned of his rights or not.

THE COURT: Objection overruled.

MR. LITTLE: Exception.

A I asked the defendant where he worked, and he said he worked for Park & Tilford, and I said, "Are you working there now?" And he said, "Yes". And I said, "I'll verify that. I'll call them up on the 'phone and then he said, "That's about twenty years ago." And then he said ten years, and then he denied ever working for them at the Broadway and 41st Street Store, and I have since verified---

Q Now, did you ask him as to whether he had been previously arrested? A yes, sir; and he denied it.

And I asked him how he took this man's money and he said "We were gambling."

Q Now, did you have any other conversation with him?

A On the way down to Police headquarters, ---

Q Well, what conversation, if any, did you have with him on the way down to Police Headquarters? A I asked him where he lived, and he said 69 West 107th Street, I think it was, and I asked him if he had been ever arrested in New York---

MR. LITTLE: Objected to.

THE COURT: Sustained.

BY MR. SMITH:

Q Then you had no further conversation with him? A No,

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sir.

MR. SMITH: You may examine.

CROSSEXAMINATION BY MR. LITTLE:

Q What did he say about the gambling, officer? A He said, "We were gambling," but he didn't say how."

Q Did he say where? A No, sir; I didn't ask him where.

Q You didn't go into that? A No, sir; it wasn't my case. I was simply assisting the officer.

Q You didn't take it up with him about the gambling? A No, I simply asked the defendant what he was doing and he said "We were gambling," and the complainant denied ever gambling, and he said the only game he ever played was Old Maid, and so I didn't go any further into the gambling.

MR. LITTLE: That's all.

MR. SMITH: The People rest.

MR. LITTLE: We move, if your Honor please, to dismiss the indictment, and to direct a verdict of acquittal in this case, on the ground that there is not sufficient evidence here to convict the defendant, or to hold him on the charge of Grand Larceny in the second degree; and there is absolutely no reliable evidence on which the case can be submitted to the jury on any charge whatever.

THE COURT: Motion denied.

MR. LITTLE: We take an exception. We rest!

THE COURT: Go to the jury.

(Mr. Little then summed up for the defense and Mr. Smith closed the case for the People.)

## THE COURT'S CHARGE.

NOTT, JR., J:

Gentlemen of the Jury:

This defendant has been indicted by the grand jury of this county, charged with grand larceny in the second degree, and the indictment charges that the defendant, on the 15th day of December of last year, with force and arms, did steal, take and carry away from the person of the complaining witness, John Kasulke, certain property, consisting of one handkerchief, the sum of two dollars in money and a certain instrument, to wit, a certain railroad ticket, of the value of \$2.25.

Grand larceny is defined by our Statute, and as it applies to this case, as follows:

"A person who, with intent to deprive or defraud the true owner of his property, or for use and benefit thereof, or to appropriate the same to the use of the taker, or of any other person than the true owner, takes from the possession of the true owner such property, steals such property, is guilty of larceny."

Therefore, in determining whether or not this defendant is guilty of the crime of larceny, there are two elements to be considered: First, did he take any property; and, second if he did, did he take that property with intent to deprive the true owner of his property, and appropriate the same to his own use or the use of some one else.



else than the true owner.

If you answer those two questions in the affirmative you may find the defendant guilty of larceny. If you answer either of them in the negative, or have any doubt about either of them, then he is entitled to an acquittal.

If you find he is guilty of larceny, then you may determine whether or not he is guilty of grand larceny in the second degree, under the provisions of Section 1296 of the Penal Law, which defines that grade of crime, as follows:

"A person is guilty of grand larceny, in the second degree, who steals or unlawfully obtains or appropriates property of any value whatever by taking the same from the person of another."

Therefore, to make out the crime of grand larceny, under the circumstances of this case, there must not only be a larceny, but it must be a larceny from the person.

The law regards the sanctity of the person, and makes that act grand larceny, which would only be petty larceny, if not taken from the person. Therefore, if you find, beyond a reasonable doubt that the defendant took from the person of this complainant, the complainant's property, with intent to deprive and defraud the complainant of his property, and to appropriate the property to the use of the defendant, or of some one else besides

the true owner, then he would be guilty of grand larceny in the second degree.

The defendant is presumed to be innocent until his guilt is established beyond a reasonable doubt, and that presumption attends every defendant who comes into the criminal Court; and it is incumbent upon the People to prove his guilt to the degree that I have indicated, beyond a reasonable doubt.

A reasonable doubt, however, gentlemen, does not mean a doubt that arises from matters not in evidence. A reasonable doubt arises from the evidence in the case, and a jury should consider the evidence in the case, and the evidence alone, and not go outside of the evidence to speculate or guess, or surmise, but you take the evidence in the case, and consider that only, and see whether that evidence raises in your minds a reasonable doubt, **for** which **you** can give a reason. A reasonable doubt is not a doubt to which resort can be had simply to avoid doing a disagreeable duty, or a mere guess or surmise that, perchance, the defendant may not be guilty. It is a doubt, as I say, arising from the evidence in the case.

Now, you are the sole judges of the facts in this case, and it is your province to consider the witnesses on the stand, to determine their reliability, their credibility and make up your mind whether they are telling the truth or not; and if, in this case, you believe that the complain-



ing witness and these officers, whom you have heard, have told the truth, then you would be justified in bringing in a verdict of guilty.

But if, on the other hand, you believe that they have not told the truth, or if their testimony leaves your minds in such a condition that you entertain a reasonable doubt, then you should bring in a verdict of Not Guilty.

The evidence is so fresh in your minds that I am not going to refer to it at all. I leave the testimony to you, to say whether or not it establishes the guilt of the defendant; and, when I say I leave the testimony to you, I mean that I leave it for you to determine from the testimony in the case whether the defendant is innocent or guilty.

The case is important to the defendant, as involving his liberty; and, on the other hand, it is important to the State; to the Citizens of this Community; that strangers who come to our City, either for business or pleasure, shall not be robbed in our streets, that our City may not get a bad name abroad, to the effect that persons who come here on business or pleasure are robbed, with impunity, in our streets; and it is important that law and order should be maintained in our community; and, therefore, as I say, the case is important both to the defendant and to the People, and should be decided calmly, carefully, and

without favor or prejudice either to the defendant or to the complaining witness.

Now, your verdict will be either guilty or not guilty of grand larceny in the second degree.

MR. LITTLE: I ask your Honor to charge the jury that the fact that the defendant himself did not take the stand, should not be taken by them as against the defendant.

THE COURT: Gentlemen of the Jury, Section 393 of the Code of Criminal Procedure provides as follows:

"The defendant in all cases may testify as a witness in his own behalf, but his neglect or refusal to testify does not create any presumption against him."

THE COURT: Are there any other requests or exceptions?

MR. LITTLE: I will ask your Honor to charge the jury that, if they believe that the complainant in this case testified falsely in any material fact, they are at liberty to throw out his entire testimony.

THE COURT: I will charge that, with one modification: If the jury believe that the complaining witness testified willfully falsely on a material fact, they are at liberty, but not compelled, to disregard his entire testimony.

MR. LITTLE: I will ask your Honor to charge the jury



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that, on the question of intent, the conduct and actions of the defendant must be considered, in the returning of this money, and the fact that the complaining witness had the money and ticket in his possession before the arrest.

THE COURT: Intent is an operation of the human mind, gentlemen, and we cannot see into a man's mind, and can only determine his intent from his actions. He is presumed to intend the reasonable and natural consequences of his acts; and, in determining the intent with which the defendant acted in this case, you are at liberty to consider all the circumstances, as showing what was in his mind when he did whatever you believe he did do.

MR. LITTELL: I ask your Honor to charge the jury that the defendant's character is not an issue in this case.

THE COURT: No evidence of good or bad character has been presented in this case, and there is no issue of character in this case.

MR. LITTELL: That is all.

THE COURT: You may retire, gentlemen.

(The jury retired at 4:10 P. M. and returned at 4:20 P. M.)

(The jury found the defendant guilty of grand larceny in the second degree.)

THE COURT: Do you want to make your motions now or reserve them until the day of remand, the 23rd, one week from to-day?

MR. LITTLE: I will reserve them until then, your

Honor.

---oooOooo---



## COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part I.

-----o  
The People

vs.

GEORGE THOMAS  
-----oBefore :  
HON. CHARLES C. NOTT, JR., J.

New York, January 28th, 1914.

Indicted for grand larceny in the second degree.

Indictment filed December 23rd, 1913.

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

ASSISTANT DISTRICT ATTORNEY JAMES E. SMITH, FOR  
THE PEOPLE.

JOHN T. LITTLE, ESQ., FOR THE DEFENSE:

## THE SENTENCE.

Frank S. Beard,  
Official Stenographer.

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## THE SENTENCE.

New York, January 28th, 1914.

The defendant being arraigned for sentence:

MR. LITTLE: I want to move at this time, if your Honor please, to set aside the verdict, and for a new trial, at this time, on the ground that the verdict is against the evidence, and the weight of evidence, and contrary to law; and on the further ground that in this case, on the statement of the complaining witness, the complaining witness's evidence, your Honor, no conviction of larceny can be predicated, larceny from the person.

The testimony is, when this money was being taken, the complaining witness asked him what he was doing, and he said, "Let me take this money, and this other man will not get it."

It was a tacit consent on the part of the complainant.

The testimony further shows that the money was returned, two dollars, and a railroad ticket, was returned to the complaining witness, before any complaint had been made; and, under those circumstances and facts, I submit that there is no guilty intent, no felonious intent, directly under the case of the People against Perkins.

THE COURT: Motion denied.

MR. LITTLE: We except.



Now, if your Honor please, in this case, this defendant comes from Philadelphia, he lives in Philadelphia with his wife. The testimony, as your Honor probably remembers, of the complainant, was very incredible. The testimony was denied by the officers---not denied but contradicted.

He testified that he met one officer, and that officer took him to another officer and the two officers tell an entirely different story.

And he says that this other man---the unknown man---was six inches taller than the defendant, and I have taken the trouble to see that man and interview him, and I am convinced from his story that the story of the complainant is made up out of whole cloth. He is, as a matter of fact, six inches shorter than the defendant, not six inches taller, and, if he was six inches taller, how could this man (indicating the defendant) wear his clothes, as the complaining witness testified he did.

The whole story has the ear mark of being an improbable story, I submit.

THE COURT: Well, is that unknown man willing to come into Court so that he can be compared in height with the defendant?

MR. LITTLE: Yes, I think he can be brought into Court. He is a Philadelphian, also.



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THE COURT: Well, we will see if we can get the complaining witness to come on from Delaware, and see if he can identify the unknown man. We can get the complaining witness on, perhaps, and he may be able to identify the unknown man, if he is willing to come into Court. On his testimony, the unknown man was charged with a larceny. If this defendant knows of his whereabouts, where he is at present, why, he can tell the Court, and we can arrange to have him brought here.

MR. LITTLE: He is in Philadelphia, and lives in Philadelphia. It seems to me it is a case of very grave doubt, if your Honor please.

THE COURT: Well, personally, I have no doubt of the correctness of the verdict. It seemed to me a very clear case, but, however that may be, the verdict of the jury is conclusive on that branch of the case.

Now, have you anything to say on the question of sentence?

MR. LITTLE: Well, I have only to say that it appears to me that, in a case where the testimony is as incredible as it is in this case, if I were in your Honor's place---

THE COURT: Well, that consideration was addressed to your motion for a new trial, as against the weight of evidence, etc. But have you anything to say on the other branch of the case?



MR. LITTLE: I think the Court should be very lenient in a case of this kind, in view of the contradictions in the testimony.

THE COURT: No, the testimony was, at least, fully sufficient to support the conviction, and, if it had not been, I should have set it aside. But the verdict meets with the approval of the Court, and was founded on sufficient evidence, I think. And now we come to the question of punishment. There are some features of this case that I do not understand. I wish to ask the defendant some questions.

BY THE COURT:

Q (Addressing the defendant) When did you leave Philadelphia? A On the 7 o'clock train on the 19th day of December.

Q The same day you were arrested? A Yes, sir.

Q What did you leave there for? A I came here to deliver a message to Mrs. King.

Q Who is she? A That lady there. (Indicating)

Q A message from whom? A From her husband.

Q What about? A Beg pardon?

Q Why did you come all the way on from Philadelphia to deliver a message? A My husband asked me.

Q And you came all the way from Philadelphia to deliver a message from a man to his wife? A Why, her husband got in trouble over there, on the 12th, and he asked me to for the

last four or five days if I would do him a favor to come here and tell his wife a message.

Q What kind of trouble? Was he in prison? A Yes, sir.

Q Locked up? A Yes, sir.

Q What was the charge against him? A I couldn't say.

Q Well, didn't you see him? A Yes, I asked to see him, and they only give me three minutes talk.

Q Well, did they tell you what he was arrested for? A Well, they said his wife had him arrested. I don't know what the charge was.

Q But you say his wife was in New York? A Yes, sir; but he was arrested on his wife's warrant.

Q Then you say you left Philadelphia, that same morning? A Yes, sir.

Q To see her? A Yes, sir.

Q What time did you get here? A Why, between 9:45--- around ten o'clock.

Q Then why didn't you go home again? A I was going home. I was down to the ferry. I was going home then? I was at 13th Avenue and 23rd Street when I met the complainant and the unknown man. I stepped into the saloon on the corner of the ferry, at 23rd Street and Thirteenth Avenue, to get a drink, and the complainant and the unknown man were in there, drinking, and I was alongside of them, and they asked me about

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the weather, and finally they asked me whether I would have a drink with them.

Q The unknown man you speak of, is he the one that figured in this case? A Yes, sir.

Q Was he unknown to you? Did you know him at that time or not? A Yes, I did know him.

Q Then you did know him? A Yes, I mean he was unknown to the complainant.

Q Well, how did you happen to meet this friend of yours? You and this friend, how did you happen to meet? A I happened to go into that saloon to get a drink.

Q And how long had you been in New York? A I landed here about a quarter before nine.

Q You had never been here before? A No, sir.

Q And yet you and this friend of yours met this stranger from the country? A Yes, sir.

Q You met him by chance? A Yes, sir.

Q This man from the country you met just by chance? A Yes, sir; the other man lived in Philadelphia too. I know the unknown man, but he was unknown to the complainant.

Q What is his name? A Charles Smith.

Q Now, all right. You met Smith in the saloon by accident? A Yes, sir.

Q And Smith was with this man that made the charge against the two of you? A Yes, sir.



Q And you knew Smith and were a friend of his? A Yes, sir.

Q And you were a stranger in New York, and just met him here by chance? A Yes, sir.

Q What is your real name? A My real name?

Q Yes? A George Thomas.

Q Now, what is your real name? A George Allen but that isn't my name.

Q Now, don't tell me that, because I know better. What is your real name? A George Flotico.

Q Well, why didn't you say that at first? Did you ever work for a man named Green? A Yes, sir.

Q When did you work for him last? A The 18th day of December.

Q Do you know his handwriting? A Yes, sir.

Q Look at this letter I show you and tell me if it is his handwriting? A No, sir; it isn't.

Q Now, here is a letter to Mr. Conway, the Probation Officer, purporting to be from Green, and in his handwriting. And here is another letter to me purporting to be from Green, in another handwriting, and it looks to me as if you had written to your friend in Philadelphia to get busy in your behalf, and they have been sending false letters to the Court?

A No, sir; nothing of the kind.

Q Now, look at this other letter from Green. Is that in his handwriting? A Yes, sir.



Q Do you know how it came about that another letter, in another handwriting signed "Green" comes on here? A If your Honor please, he has three or four men working for him, and I guess he must have left word to write, and, when he got back he must have wrote himself.

Q Have you been known by the name of Allen? A Allen?

Q Yes? A Yes, sir.

Q Where were you known under that name? A In Boston.

Q Is that the time you were convicted there? A Yes, sir.

Q Are your parents living? A Yes, sir; my mother.

Q What? A My mother.

Q Your mother is living? A Yes, sir.

Q Is your father living? A No, sir; he died January 14th.

Q What is your mother's name? A I always called her Mother.

Q What is your mother's name, if you know it? A Marie or Mary.

Q What is her last name? A Flotich.

Q That is the name she is known by? A Well, that's the name she takes.

Q Well, is that the name she goes by in Philadelphia?

A Well, she goes under the name of Charote.

Q Does she go by any other name? A No, sir; not that I know of.

Q Where does she live? A 660 North Eleventh Street, Philadelphia.

Q Do you know anybody by the name of Broderick? A Yes, sir.

Q Who is that? A It's a lady that I have known all my life.

Q Do you know why she should write to the Court and say that she is your mother? A She has always been called "Mother" that's the way of speaking to all the boys around the neighborhood, and everybody calls her "Mother", Catherine Broderick.

Q Do you know why she should sign that letter "A heart-broken mother" (indicating)? A No, sir.

Q And say that she is your mother? A Well, your Honor, she often wrote me a letter and signed her name as "Mam", because she calls all the boys around the neighborhood "Son".

Q Now, I have received another letter from "A heart-broken mother," signed Mrs. Thomas. Who is that? A That's my mother.

Q Why did she sign her name Mrs. Thomas? A If she called herself Thomas, you wouldn't know who it came from. I have the letter now where Mrs. Broderick signs herself "Mam".

R O S I E      K I N G , of 156 Goerck Street, being examined

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by the Court, testified as follows:

BY THE COURT:

Q (Addressing the defendant) What did you say the name of the man in Philadelphia was? A King.

BY THE COURT:

Q (Addressing the witness) Do you know this man? (Indicating the defendant) A I don't know this man.

Q Did you ever see him before? A No, sir.

Q Never saw him before? A No, sir.

Q Where is your husband? A He is arrested.

Q Where? A He was arrested in Philadelphia.

Q Charged with what? A For abandonment.

Q You charged your husband with abandonment? A Yes, sir.

Q And you had him arrested? A Yes, sir.

Q Now, did you see this man (Indicating the defendant) on December 19th? A Yes, sir.

Q I thought you said you had never seen him before? A That day I seen him, but not before that day. The 19th of December, that man came up to my house.

Q Had you ever seen him before that? A No, sir; he came up to my house and he said, "I am a friend of your husband's". He says to me, this man here, he says, "Your husband sent me purposely down from Philadelphia that you should go there, and get him out of trouble?". That's all.

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Q Where were you to go to get him out of trouble? A To Philadelphia.

Q Your husband sent this man to New York? A Yes, sir; to me.

Q Yes, to do what? A That he should tell me that I should go to Philadelphia and get my husband out of trouble.

Q That is, that you should withdraw this charge against him? A Yes, sir.

Q And did he tell you what the charge was? A He didn't tell me what the charge was.

Q He wanted you to go on to Philadelphia and withdraw the charge? A My husband was in Philadelphia and he was arrested there.

Q Yes, and this man wanted you to go on to Philadelphia and withdraw the charge? A Yes, sir.

Q Did you go? A No, sir; I didn't go.

Q And your husband is still under arrest? A Yes, sir.

Q And what time of the morning was that? A That was about ten o'clock in the morning. It was on a Saturday morning, if I remember.

Q About ten o'clock? A Yes, sir.

BY THE COURT:

Q (Addressing the defendant) What time did you leave Philadelphia? A On the seven o'clock train.

Q And what time does that train arrive in New York? A

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Nine o'clock.

BY THE COURT:

Q (Addressing the witness) Where did you live at this time? A The same house, 156 Goerck Street, where I live now.

W I L L I A M F ? C A L L A H A N , of the 18th Precinct, being recalled by the Court.

BY THE COURT:

Q Have you learnt anything further about this man? A Nothing further, your Honor, than the records we got from Boston.

MR. LITTLE: This man also tells me that he is the sole support of a crippled mother in Philadelphia, and that he has been working right straight along; and it seems to me that, under the circumstances of the case, the case is one that should appeal to your Honor's leniency.

THE COURT: This defendant did not plead guilty. He went to trial and was convicted on evidence which seemed to the Court and to the Jury to prove his guilt beyond a reasonable doubt.

He gave a false name here, and he has been under another false name and has been convicted previously in Massachusetts. The letters that I have received, I confess, I place very little confidence in.

THE DEFENDANT: I could bring Mr. Green right here

to identify his writing, and I have a letter in my possession that he wrote. I am absolutely innocent of this crime, your Honor. The complainant claims that the other man was six inches taller than me, and this suit was made for me and he says the other man had it on, and it fits me perfectly.

THE COURT: What was the offence that you were previously convicted of?

THE DEFENDANT: Larceny of a shirt.

THE COURT: The sentence of the Court is that you be confined in State prison for not less than one year and six months, nor more than three years and six months.

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