

START

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CASE

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

3638

THE PEOPLE OF THE STATE OF NEW YORK,

-against-

WARREN SNIFFEN, alias MICHAEL KENNEDY:
alias MICHAEL LE ROY.

B e f o r e

HON. OTTO A ROSALSKY, J.,

And a Jury.

New York, N. Y., December 16, 1921.

INDICTED FOR FORGERY IN THE SECOND DEGREE AS A SECOND OFFENSE.
INDICTMENT FILED MAY 31, 1921.

APPEARANCES:

Morris H. Panger, Esq., Assistant District Attorney,
For the People.

Sidney R. Lash, Esq., For the Defendant.

(A jury was duly impanelled and sworn.)

(Mr. Panger opened the case for the People.)

C H R I S T I N E G. R O O S E V E L T, called as a witness on
behalf of the People, having been duly sworn, testified as
follows:

(The witness stated that she resides at 804 Fifth Avenue,
New York City.)

DIRECT EXAMINATION BY MR. PANGER:

Q Mrs. Roosevelt, I take it that you are a housewife?

A Yes, sir.

Q Did you ever see this defendant before seeing him in
court? A No.

Q You do not know the defendant? A No.

Q Now, on the 4th day of May, 1921, did you see this piece

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of paper, this check? (Handing paper to witness) A Before; it was on the 2nd. This is the 4th; it has been altered into a "4".

Q On the 2nd day of May did you make out a check? A I had a check drawn.

Q And will you tell what you did to that check which you had on the 2nd day of May, 1921?

MR. LASH: I object to that, if your Honor please, It is irrelevant; that check has not been identified as the check.

MR. PANGER: A check.

THE COURT: Objection overruled.

MR. LASH: Exception.

Q Did you make a check to a certain Mr. Brown? A I had a check drawn to Mr. -- no, not to Mr. Brown.

Q Who did you make it to? A My check was drawn to Fiske & Brown.

Q And on what day did you draw that check? A May 2nd, 1921.

Q And do you know the number of that check? A Yes; No. 2509.

Q Are you telling us that from your own memory or after refreshing your recollection? A I have the stub.

Q Have you the stub with you? A I have the stub.

Q May we see the stub?

THE COURT: The stub is not admissible.

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Q You say the number of that was 2509? A Yes, sir.

THE COURT: Is this the check which is the basis of the charge made in the indictment?

MR. PANGER: Yes, sir.

Q That check was made on the 2nd day of May, 1921? A Yes.

Q To the order of Fiske and Brown? A Yes, sir.

Q For how much? A \$11.40.

Q And signed by you, "C. G. Roosevelt"? A Yes.

Q Did you write anything on the back of that check? A No.

Q Now, I show you this check and ask you whether this is the identical paper that you wrote upon on that day? A Yes, I should say that was my check.

Q I show you the signature on the face of the check and ask you whether that is your signature? A Yes, that is my signature.

Q Now I show you the signature on the back of the check and ask you if that is your guarantee or endorsement? A No, it is not.

Q And what was done with that check after you wrote it or made it out? A It was enclosed with the bill and posted.

Q And mailed somewhere? A Mailed.

Q To whom? A Fiske & Brown.

Q And when did you next hear of this check? A I should think on the 4th of May.

Q And did you see the check on the 4th of May? A Yes.

Q And was it in the condition that you put it into or was

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it in the condition in which it is in now? A Well, it was very much fresher, not so crumpled.

Q I do not mean the condition of the paper; I mean the writing on it. A Yes, it was in the condition it is in now.

CROSS-EXAMINATION BY MR. LASH:

Q Did you fill in that check, Mrs. Roosevelt? A Did I sign that check?

Q Did you fill in the body of the check originally? A No.

Q A check was handed to you by someone and you signed it; is that correct? A A check was made out for me by my secretary.

Q Is your secretary in court? A No.

Q And you affixed your name to this check? A I signed my check.

Q Are you able to positively identify this check as the check that you sent to Fiske & Brown; not what you think, Mrs. Roosevelt, but positively identify that check as the identical check you sent to Fiske & Brown? A Yes, I can. Yes, I can identify that check.

Q Well, will you tell me by what method you could identify it? A I can see where it has been altered. As soon as this check was returned to me I saw at once the changes that had been made in it and I knew how this and that had been altered (indicating on check). I know how that had been changed and how that had been changed (indicating) and as soon as I saw the check I knew it was not like the check that I had made out and signed.

Q Have you examined all of your vouchers, returned checks,

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for the month of May, 1921? A No.

Q Do you know whether there is any returned voucher made payable to Fiske & Brown among those returned? A I do not know.

Q You do not know. Then you would not positively swear, Mrs. Roosevelt, would you, that this check is without question or doubt the identical check that you mailed to Fiske & Brown? Now, don't guess, Mrs. Roosevelt. If you have a doubt, say so.

A If I may look in my book I may see whether there was another check drawn to Fiske & Brown. As that one was not paid, I wanted to pay my bill, and as that check had not been paid, I probably drew, I am almost sure I drew, another check for them, to pay my bill for the end of the month; but that was not paid.

Q But you are not positive? A Yes, I am positive that was the check that was drawn for that amount to pay that bill.

Q To the order of Fiske & Brown? A Of Fiske & Brown.

Q You do not know the defendant Sniffen, do you? A No.

Q You never saw him before? A No.

Q Excepting, perhaps, in court in this case? A That is all.

RE-DIRECT-EXAMINATION BY MR. PANGER:

Q I take it, Mrs. Roosevelt, that you never authorized the defendant to either sign your name for you or do anything with this check? A No, I did not.

Q In the way of changing it? A No.

MR. LASH: No further questions.

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WILLIAM H. BROWN, JR., called as a witness on behalf of the People, having been duly sworn, testified as follows:

(The witness stated that he resides at 114 Jamaica Avenue, Flushing, N. Y.)

DIRECT EXAMINATION BY MR. PANGER:

Q Mr. Brown, where do you live? A I live at 114 Jamaica Avenue, Flushing, New York.

Q And what is your business? A I am a merchant in tea and coffee, olive oil, and things of that kind.

Q And you do business under the name of what? A Fiske and Brown.

Q Is that a copartnership or corporation? A Copartnership consisting of my brother, Stewart Brown, and myself.

Q And you are a member of that firm? A I am.

Q In the general course of your business, do you open mail and receive checks and all that? A The mail is generally opened by one of my stenographers.

Q It is passed on to you, is it? A Yes, sir, and either my brother or myself sees it.

Q I show you this check, No. 2509, made, according to this check, on the 4th day of May, 1921, to Fred H. Brown, for \$310, signed C. G. Roosevelt, and ask you whether you ever received this. (Handing paper to witness)

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

THE COURT: Objection overruled.

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MR. LASH: Exception.

A I don't remember ever having received it, no.

Q Would you say that you did receive it? A I would say that I did not.

Q Will you state where your place of business in New York is? A 68 Thomas Street.

Q What kind of premises are they? A A loft building with an elevator in it.

MR. LASH: I object to that as incompetent, irrelevant and immaterial, and I move to strike it out.

THE COURT: Objection overruled; motion denied.

MR. LASH: Exception.

Q How many floors in that building?

MR. LASH: Same objection.

THE COURT: Objection overruled.

MR. LASH: Exception.

A Five.

Q And where is your place of business? A We are on the third floor. It is two flights up.

Q Will you state to the Court and jury what measures are taken to facilitate the delivery of mail to your office or to your firm? A At the present time?

Q No; in May, 1921, from the 2nd to the 4th?

MR. LASH: I object to that, if your Honor please.

THE COURT: Objection overruled.

MR. LASH: Exception.

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A At that time we had an iron mail box just inside the entrance, near the entrance to the elevator.

Q The entrance to the building or the entrance to your particular loft? A The entrance to the building.

Q Proceed. A And any mail that was brought in there by the postman was deposited there in that box, which was locked.

Q On or about the 2nd or 3rd or 4th of May, did you see that mail box? A Yes, sir.

Q What was the condition of that mail box?

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

THE COURT: Objection overruled.

MR. LASH: Exception.

A It was open and hanging down. It opens by a flap coming down and that was opened.

Q Opened with a key, according to the appearance of the box? A That I couldn't say.

Q Was it broken? A I couldn't say.

Q What date was that? A The 3rd of May.

Q I show you this paper and ask you to look at the reverse side, and I ask you whether that name, Fred H. Brown, whether that signature, Fred H. Brown, was made by you? A No, sir.

Q What is your name? A William Herman Brown, Jr.

Q Is there any Fred H. Brown connected with your concern?

A No, sir.

Q Do you know your brother's handwriting? A Yes, sir.

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Q Would you say that he signed this? A No, he did not.

Q That is not his signature? A No, sir.

Q Neither is it yours? A No, sir.

CROSS-EXAMINATION BY MR. LASH:

Q You do not know the defendant Sniffen, do you, Mr. Brown?

A No.

CLAYTON DEMAREST, called as a witness on behalf of
the People, having been duly sworn, testified as follows:
(The witness stated that he resides at 368 Union Street,
Hackensack, New Jersey.)

DIRECT EXAMINATION BY MR. PANGER:

Q Mr. Demarest, what is your business? A I am paying
teller.

Q Where? A Chemical National Bank.

Q Where is that? A 270 Broadway.

Q And how long have you been connected with the Chemical
National Bank? A Something over thirty-nine years.

Q How long have you been paying teller? A I have been
connected with the paying teller's department about thirty years.

Q Do you know this defendant? A In what way do you
wish ---

Q Did you ever see this defendant before the 4th day of
May, 1921? A No, sir.

Q On the 4th day of May, 1921, did you see this defendant?
A Yes, sir.

Q Where did you see him? A At my window.

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Q At your window? A Yes, sir; at my window in the bank.

Q That bank is where? A 270 Broadway.

Q New York City? A New York City.

Q City and County of New York. And when he came up to the window, what happened? A He presented a check for payment.

Q I show you this piece of paper and ask you whether this is the check and whether it was in this condition when it was presented to you on that date by this defendant? A Yes.

MR. PANGER: I ask that this check be received in evidence and marked People's Exhibit No. 1.

MR. LASH: I object to it on the ground that it has not properly been identified as the check in question.

THE COURT: Did you hear the witness' testimony? He said he saw this defendant at the window in the bank and that the defendant presented this check to him. You may examine the witness with a view --

MR. LASH: I will withdraw my objection.

(Check received in evidence and marked People's Exhibit 1.)

Q When you received this check what did you do? A I left the window to examine, or to compare the endorsement of Mrs. Roosevelt with our specimen signatures in the files.

Q And how long were you gone? A Possibly five minutes.

Q You remember the circumstances perfectly, don't you?

A Yes, sir.

Q And then you returned, did you? A Yes, sir.

Q What happened when you returned? A Why, the man

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presenting the check objected to being held up any longer for his money. Do you wish me to repeat the full conversation?

Q Yes, absolutely. A He said that he had taken enough time from his business and did not wish to be detained any longer; that he would get into communication with Mrs. Roosevelt about his inability to get the money, and that if he had any more transactions with Mrs. Roosevelt she would have to pay him in cash. That is the substance of what he said to me.

Q And who said that; was it this defendant? A Yes, sir.

Q This defendant said that to you? A Yes, sir.

Q You saw him there after the five minutes when you returned? A Yes, sir.

Q And what happened after that?

BY THE COURT:

Q How far away were you from this defendant when he spoke to you and you spoke to him? A Possibly two and a half feet.

Q Did you observe his physical condition at that time?

THE COURT: Question withdrawn.

BY MR. PANGER:

Q You say that after five minutes you returned and you had this conversation with him? A About five minutes.

Q Did you say anything to that? A I told him that I would give him the cash when I was sure that he was entitled to it.

Q And what happened after that? A I went on with my work and when the check was returned to me -- probably I did not

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explain it had gone out of my possession.

Q In the meantime where was the check? A I had referred it to one of our officers, stating my --

THE COURT: Do not state what you said to your officer.

Q You referred it -- A I referred it to one of my officers.

Q You gave this to one of your officers with instructions to investigate, did you? A Yes, sir.

Q And then you received the check back? A No, the check did not come back to me.

Q Well, what happened? A When the officer to whom I referred the matter finally came to my window, the man who had presented it was gone.

Q Did you notice when he left? A No, I did not.

Q Was that a busy day? A It was just about the close of the business day and I was busy getting up my figures for the proof of the cash.

Q Were there many other people present in the bank? A No.

Q Customers? A No.

Q From the moment that this defendant presented this check at your window up to the time that you missed him, how long a time elapsed? A I can only approximate that. It may have been as much as ten minutes. I won't say positively it was quite as long as that.

Q You looked at him and you recognize him, don't you?

A Oh, yes.

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Q You can surely say that this is he? A Yes.

Q And you also had conversations with him over a period of how many minutes, about? A Well, the time it would take for him to make the objections which he made and my response to them. Possibly two or three minutes; a couple of minutes.

Q Did you ever pay the money to the defendant? A No, sir.

Q He left without receiving the money? A Yes, sir.

MR. LASH: No questions.

THE COURT: Do not discuss this case among yourselves nor permit anyone to talk with you about it, nor form nor express any opinion as to the guilt or the innocence of the defendant until the case is finally submitted to you. Be in your seats, gentlemen, at ten minutes after two.

(Recess until 2:10 P.M.)

AFTER RECESS.

MR. LASH: If your Honor please, may we at this time withdraw the plea of not guilty on the plea of insanity and enter a plea of guilty to forgery in the second degree as a first offender?

MR. PANGER: No objection.

THE COURT: I will allow that to be done.

MR. PANGER: May I have it indicated on the record that this is not the finish of the People's case, not having proved the prior convictions?

MR. LASH: I will concede that for the District Attorney's record.

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(The defendant thereupon withdrew his plea of not guilty and pleaded guilty of forgery in the second degree as a first offender.)

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