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I N D E X.

Witnesses	D	C	Re-D	Re-C
Francis P. Egan	11	23		
Charles Kimball	43	47	67	
Feltus E. Seymour	67	73		
Herbert C. Mason	83	91	105	

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

.....
THE PEOPLE OF THE STATE OF NEW YORK:

-against-

JOHN F. DORTHY

: B e f o r e

: HON. OTTO A. ROSALSKY,
: Justice,

.....
And a jury.

New York, ^{February} ~~January~~ 18th, 1907.

Indicted for Forgery in the Second Degree and Grand
Larceny.

Indictment filed March 28th, 1908.

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

For the People, Assistant District Attorney Hart.

For the Defendant, R.M. Moore, Esq. and W.N. Cantwell, Esq.

A jury is duly empanelled and sworn.

THE COURT: Gentlemen of the Jury, do not discuss this case among yourselves, or form or express any opinion regarding the guilt or innocence of the defendant until the evidence is finally submitted to you. Be in your seats tomorrow morning at 10:30 A. M.

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New York, February 19, 1908

TRIAL RESUMED.

MR. HART'S OPENING ADDRESS TO THE JURY ON
BEHALF OF THE PEOPLE.

MR. HART : May it please the Court and gentle -
men of the Jury, this defendant is charged with the
crime of forgery, and these are the circumstances:

A working man named Feltus E. Seymour had saved
two thousand and seventy dollars, I think, which he
had deposit in a savings bank in this city. He had
lived for some time, I think a year or two, with a
young man named Egan, in this City. There was a friend
named Mason, who was, or claimed, perhaps was -- a
lawyer, and who used to come there frequently and stay
over night with Egan and Seymour. Now, Egan and
Mason and this defendant Dorthy were associated toge-
ther, carryi ng on what purported to be a law prac-
tice in the City of New York, not under the name of
Dorthy, not under the name of Egan, but under the name
I believe of Mason. You will come to the conclusion,
I am sure, before you hear all the Peoples' evidence
that they did not carry on a law practice but they
simply were a trio whose business it was to separate
people from their money.

MR. MOORE: That is objected to as entirely im-

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proper.

THE COURT: Objection sustained, and the jury will disregard it.

MR. MOORE: I ask the Court to admonish the District Attorney.

THE COURT: Mr. Hart, I think in an opening it is best to state what you intend to prove without giving conclusions of the facts or characterizing the facts. What you state to the jury might be the subject of objection, and you can readily appreciate what it means to make a statement of a fact that would be excluded.

MR. HART: I think perhaps my remarks might better have been saved for summation, as a conclusion to be based on the evidence.

THE COURT: Yes.

MR. HART: Whatever their business was they were closely connected. Seymour with whom Egan lived was a simple hardworking laborer, in no way connected with them; he worked at labor, earned his money with his hands, went to work early and came back at six o'clock at night. He saved what he could out of his wages and put it in a savings bank. That was the situation when this crime charged against this defendant Dorthy was committed. These three gentlemen needed some money, and the defendant Dorthy, who knew of

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course of Seymour very well because he was meeting Egan at the officer every day, Seymour's roommate, he knew through Egan that Seymour had this money in the bank; knew he had money in the bank; perhaps he didn't know how much or just exactly where it was deposited, but he suggested, in order to carry through a certain scheme that they were attempting to put through in New Jersey, that they would have to have some money and suggested to Egan that he steal Seymour's bank book and that he had a scheme by which they could get the money out of the bank. Well, Egan accepted the proposition and -- I want to say that Mason was there also and Mason concurred in this scheme; and it was arranged between Dorothy, Egan and Mason that Egan and Mason should get the book. Now, Seymour kept this book in one or two places. He either had it in his pocket or kept it in a little box in his room. When he made a deposit in the bank he took the book with him and then carried it sometimes with him a little while, as he naturally would, and the rest of the time he kept it in his room.

It was arranged between Mason and Egan, who are the ones that really committed the larceny of the book -- Dorothy was not present -- he arranged the scheme and they actually did it. Mason said to Egan "You go

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down to dinner with Seymour, so that he won't suspect us and I will come into the house and get the book." Well, that was carried out. That was carried out. Egan did take Seymour downstairs to dinner. That is, he went at the same time, and while they were dining Mason goes into the house, into the room where he was accustomed to go, gets the book and puts it in his pocket. I think he spent the night, that night, with Seymour and Egan. The next morning at six o'clock Seymour goes to his work; he does not know that his book is gone, and he does not suspect these friends of his. That day, when Mason and Egan get up they go right downtown to the office and there meet Dorthy, and then this is the scheme that Dorthy outlined to them by which they were to get the money out. Dorthy had procured one of those printed orders that savings banks have that anyone can get by going in there for it, saying "Pay to the order of _____", or "To myself" so much money, indicating number so and so, which you hand in with your book. He had one of those already there. He wrote out a document that purported to be somebody's will and took this order and just damped it with a little macilage or something down at the bottom of the will, something like this -- supposing this were the will (indicating with

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two pieces of paper). He put the order for the payment of money down under it that way (indicating) and here (indicating) is what purports to be a word, and here is placed the word "signature" printed in; and Dorthy says to Egan "Now you take this to Seymour and ask him to sign as a witness to this will." Well, Egan does that, he takes it; he takes it to Seymour and asks him if he will please act as a witness to a will, and Seymour, a simple minded fellow as you will see when he comes on the stand, signs the thing not knowing what it is. Egan takes it back to Dorthy and Mason and then it is detached, of course, and the will is destroyed and there you have a blank order for the payment of money, signed. Signed with Seymour's own signature so that the bank won't question it. Then Egan and Dorthy go to the bank and Dorthy goes to the window -- first, I want to say that under Dorthy's instructions Egan fills out this order, inserting the number of the pass book and the amount to be paid and everything. Of course he had the full information; he had the book there showing whatever the balance was; and they closed out Seymour's account taking out his whole life's savings. When the order is presented to the bank Mr. Kimball, the teller said to them, or, rather, to Dorthy "Endorse it." Dorthy then

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stepped back to a desk where Egan is standing and stands back in such a way as to more or less conceal Egan's actions, but Egan will tell you that Dorthy handed him the order to sign or endorse and he endorsed the name William Tierney, the name being fictitious; that he signed that and handed it back to Dorthy Dorthy then goes back to the window and gets the money and on the way downtown I believe they divided. Egan gets several hundred dollars and Mason gets several hundred and the defendant Dorthy gets the rest.

Now, I have stated the outline of the case. I think even in the details I have stated them correctly; if not you will hear the correct details when the witnesses are called.

One word may be necessary now to forewarn you against any surprises, and that is this, that this occurred in, I believe, October 1905, and while Seymour discovered that his money had been drawn out, this was a deep mystery as to how this thing had been done until about a year ago, when Egan was arrested and pleaded guilty to another forgery in which he had forged the name of a person, when that was brought up, and after pleading guilty he was asked to tell who was in the deal with him, and I suppose in order to get leniency he disclosed the whole of his transactions with Dorthy and in investigating them we found

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that he was corroborated by all the facts; all that he said turns out to be true, that this transaction which he told about on investigation we find supported by the other facts in the case.

MR. MOORE: I object to that. This is the first time I heard that there was any suggestion that Mr. Dorthy had to do with a forged check.

MR. HART: I am not accusing Mr. Dorthy of being connected with anything else.

MR. MOORE: It sounds very much like it.

THE COURT: Mr. Hart said that he was accounting for the lapse of time since October 1905 to the present.

MR. MOORE: Mr. Hart's explanation that he does not say that he was connected with the forgery of anything else I accept, but he said this man was arrested and he found that his statement was corroborated. I did not want any confusion as to that.

MR. HART: If I did misstate that correct it, anyway, but what I intended to say was this, that when Egan confessed he confessed not only to the particular crime he was charged with them but he confessed to this crime that Dorthy is under trial for now, and on investigation we found that the thing had occurred --

MR. MOORE: I object to that.

THE COURT: What thing had occurred?

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MR. HART: That the crime charged against this defendant now had occurred.

MR. MOORE: That we object to.

MR. HART: We say upon investigation we find it had occurred.

MR. MOORE: That is what the jury is here for.

THE COURT: He can state what he expects to prove.

MR. HART: I will substitute those words, I expect to prove, instead of we find it has occurred. That will explain to you the delay. Just as soon as the authorities' attention was called to the fact of this defendant's action in getting that money from poor Seymour, a prosecution was instituted, the defendant was arrested and is now brought to trial.

Now, of course, this man Egan when he gets on the stand is going to be scrutinized, he is going to be attacked by Dorothy's counsel and you may say to yourselves, naturally, "Why should he be free? Sentence was suspended for him, he is now at work, and he comes here as a witness. Why is not he just as bad as this defendant?"

It is not really relevant to this inquiry, because if this defendant is guilty he should be found guilty anyway, but it is just for you to scrutinize Egan's testimony carefully. I do not produce him as

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anything but an unmitigated scoundrel -- if a man in his position, a friend of Seymour's, living in the same house with him, could stoop so low as to do what he admits he did it is pretty hard to conceive of any worse betrayal of friendship; to take all that this poor fellow had, but in a prosecution of crime you have sometimes got to use witnesses whose hands are not clean. You know that, you sometimes have to set a thief to catch a thief, and you will see when Egan takes the stand that Egan is not a very clever fellow. He is a young man, and on the other hand, the defendant is a man, I should say, of at least middle age and he is a man of great ability; a man educated to the legal profession, and a man who is a great deal more of a menace to the community than Egan can ever be, I don't care how long he ever lives.

Now, remember that as we go through the trial and give Egan the consideration that you think his testimony is entitled to, and if you find it is corroborated by other testimony in the case and it is probable it will be fair ground for a conclusion on your part that he is telling in this connection what was the truth.

Call Egan.

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FRANCIS P. EGAN, a witness called on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. HART:

Q How old are you? A Thirty.

Q Do you work for a living? A I do.

Q By whom are you employed? A By the Degnon contracting Company.

Q Prior to that what did you do for a living? A Clerk in the office of Mr. Mason.

Q Do you see Mr. Mason in the Court room? A No, I don't.

Q Do you know the defendant Dorthy? A I do.

Q When did you first become acquainted with him? A Sometime in the year of 1904, about the time they entered the Hotel Florence. I have forgotten -- I think the latter part of 1903.

Q The time they entered the Hotel Florence, what do you mean? A The time they obtained control of it.

Q Was he associated with anyone else at that time -- Dorthy? A He had dealings with several attorneys -- Catwell and Moore.

Q Were you connected with the defendant Dorthy in any way at that time? A He was in the office with Mr. Mason, he and Mason.

Q Where was Mr. Mason's office? A 132 Nassau Street.

Q Is that where his office still is? A No.

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Q Where is it? A He hasn't any, that I know of.

MR. MOORE: I move to strike that out.

THE COURT: Motion granted.

Q What did you do in the office? You say Dorothy was connected with Mr. Mason also in his office? A He was.

Q What did you do there? What was your occupation? A I was the clerk.

Q What did your duties consist of?

MR. MOORE: Objected to as immaterial.

THE COURT: Objection overruled.

A We were dealing chiefly in mortgage loans and various properties and buildings.

Q What did you do? A I waited on the customers; I held them there.

Q Give us some idea of what you did? A I drew up papers for them, I held customers there until they would come from the hotel and when people would come in there with any messages for them I would telephone up to the hotel.

Q You are not a lawyer are you? A I am not.

Q Are you an educated man? A Not particularly, no.

Q Common school education? A That's all.

Q Never studied law? A Yes.

Q When? A 1901.

Q Where? A New York Law School.

Q How long? A I think the whole year.

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Q The defendant Dorthy, what did he do there?

MR. MOORE: Objected to as entire immaterial and incompetent in this case.

THE COURT: Objection sustained.

Q Well now, Egan, did you ever have any conversation with this defendant in the early part of October 1905 concerning obtaining money from Feltus Seymour? A I did.

Q About what time in October was that? A Well, I can't state other than it was five or six days before we obtained the money from the bank. That is the only way I have of getting it.

Q Very well. That is good enough for the present. We will take this date a little later -- four or five days before you got some money from what bank? A Greenwich Savings Bank, Sixth Avenue.

Q You had a conversation with this defendant Dorthy on the subject of getting some money? A I did.

Q Where was that conversation held? A 132 Nassau Street

Q In whose office? A Mason's.

Q Who was present? A Mr. Mason and Mr. Dorthy.

Q Mason, Dorthy and yourself? A Yes sir.

Q Anyone else? A No one else.

Q Now, I want you to state without having me drag it out of you just what that conversation was. Now, don't say we agreed to this or we agreed to that, but say what the defendant Dorthy said, what Mason said and what you said. A Mr. Dorthy came in the office four or five days before the date we

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obtained the money from the Greenwich Bank. Hew said we would have to have some money in order to put through the loan we were about to get on the Netherwood Hotel, New Jersey. I said I didn't know of any way we could get it. Mr. Mason didn't say anything. Mr. Dorthy said "Now, I have a scheme whereby if you two fellows can get Mr. Seymour's bank book, whereby we can get the money from the bank." I said I was willing to do it. And then too he said "You know you can pay it back by getting that money and we putting through the Netherwood deal, you can pay back the money you have already taken from Seymour." Mr. mason said that he was perfectly willing to do it though it was taking quite a risk. He said we could get this money out of the bank. When the Netherwood deal went through we could get it back without Seymour's knowing anything about it. He said I should go down with Seymour to dinner that night and Mr. Mason was to get the bank book, which was kept in a cupboard in the room, a wooden box. Mr. Seymour always changed his clothes when he came to dinner and the key to this box was in his trousers. That night I went down to dinner with Mr. Seymour, and then after I came up from dinner --

Q Did you eat at the same place where you had your room?

A Yes.

Q You boarded there? A Yes.

Q You and Seymour together? A Yes sir.

Q So you went down to the dining room? A Yes sir. When

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I came from the dining room nobody was in the room but Mr. Seymour and I. We came up from the dining room together. I stayed there for a while and I went out. I came in about ten O'clock or thereabouts and Mr. Mason and he were there.

Q Mr. Mason and who? A Mr. Mason and Mr. Seymour were in the room, and I went to bed. The next morning I asked Mr. Mason if he got the bank book and he said "Yes."

Q You asked whom? A Mr. Mason, if he got the bank book and he said "Yes." So we all met again in the office that next day.

Q In what office? A Mason's office, 132 Nassau Street.

Q New York City and County? A Yes.

Q By you "all" you mean yourself, Mason and the defendant Dorthy? A Yes. We met in the office next morning and Dorthy asked if we had the bank book. Mason said "Yes." Dorthy then took some legal cap and drew up a document that purported to be a will and attached an order to it. Now he said "Egan, you take this and get ~~the~~ Seymour's name." He said "I think the better way would be to have Mason come in the room with the document and say that he had a will that he wanted another witness, and forme to speak up and say, 'Why, yes; Seymour will act as a witness; it is ordinarily done.'" After pasting the slip or order to this instrument he handed it to Mr. Mason. That night, I think -- I can't state positively whether it was that night or the following night -- Mr. Seymour and I we had

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come up from dinner and Mason came in the room and sat on the divan. He said "I have just drawn up a will and I want another witness." I was standing there. I said "Mr. Seymour will act as a witness, won't you?" and he said "Yes;" and he signed his name to it.

Q Seymour did? A Seymour did.

Q On what, on the order or on the will? A On the order. There was a part projected from the legal cap. There was a part of the order projected with a little dotted line, then there was a line put in for just one more witness and that is where Seymour had to sign his name.

Q And Seymour signed his name there in your presence?

A Yes sir, to this instrument. Then I don't think we saw Dorothy the next day; it must have been at least two days after and we met him in the office at 132 Nassau Street. He removed this order from the instrument .

BY THE COURT:

Q Who did that? A Dorothy; and he tore up the instrument and threw it into the waste paper basket.

BY MR. HART:

Q The thing which purported to be the will he threw away? A Yes sir. He said "Now, Egan, you fill this out here," and I took the pen and he showed me how to fill out the order.

Q You mean the order on the bank? A The order on the bank, yes sir.

Q You would know that again, if you saw it, wouldn't you? First, I show you the bank book, look at it carefully

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inside and out and state whether or not that is the bank book that you referred to in your testimony? A That is.

MR. HART: I offer it in evidence.

Q First, I will ask you, when Mason met you after, the following morning, after stealing the bank book, and he met you and Dorthy at Mason's office? A Yes sir.

Q Did he show you this book? Did he take it out and show it to you at the time? A He took the book out and showed it to us.

MR. HART: I offer it in evidence.

The bank book is received in evidence and marked "Peoples' Exhibit 1."

Q Now, I show you a paper and ask you what that is? A That was the paper that I filled out after Dorthy had attached it to the legal cap, to what purported to be a will?

MR. HART: I offer that in evidence.

Received in evidence and marked Peoples' Exhibit 2.

Q Did you fill this out after it was detached from this instrument? A Yes sir.

Q Then it was that you filled it out? A Yes sir.

Q I want you to take this piece of paper here and using that, assuming that that is the document purporting to be a will, show us how that (Peoples' Exhibit 2) was attached to it. Show us about how it was arranged, so the jury can see?

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A It was folded in such a manner, just that portion of it, and this here also was covered up (indicating); it was folded in such a manner just so the dignature -- it was all filled in here (indicating above) as a will, and the name for witnesses here, right down to the bottom, so the next witness would be Seymour and Seymour's name had to come here (indicating at bottom).

Q Followed by the address? A Followed by the address.

BY THE COURT:

Q Was the paper purporting to be the will in width the size of the bank order? A No, it was as large as this -- regular legal cap (indicating a sheet of legal cap produced by counsel).

Q And this (Peoples' Exhibit 2) extended down (indicating down beyond the bottom of sheet of legal cap)? A Yes sir.

Q And the paper was of different material too? A Yes sir

Q Did Seymour say anything at the time of the signing?

A No.

Q Did he examine the paper? A He didn't say anything at all.

BY THE FOREMAN OF THE JURY:

Q How was it attached, pinned or pasted? A No; with glue or mucilage.

BY MR. HART:

Q Was it securely attached or just barely affixed? A It

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was affixed. You see there were two or three sheets of paper to this.

Q To the will? A To the will, yes. And this was between; it was quite securely attached.

Q Now after Dorthy detached it, Peoples' Exhibit 2, from the document in question, ^{you say} he told you to fill it out? A Yes sir.

Q Is this handwriting on here all except the signature , Feltus E. Seymour, yours? (Indicating on Peoples' Exhibit 2).

A Yes sir.

Q You wrote it all in? A Yes sir.

Q Were you at a desk? A Yes sir.

Q In Mason's office? A In Mason's office.

Q Where was the defendant Dorthy? Was he standing near you or sitting down? A No, he was sitting down at one side of the desk and I at the other.

Q Watched you fill that out? A Yes sir, sitting right opposite me.

Q you had the bank book in front of you? A Well, it was at one side.

MR. HART: I will show these exhibits to the jury. I will wait until you pass them around, gentlemen, and you all take a look at them.

(Peoples' Exhibits 1 and 2 are now passed to each one of the twelve jurors in turn.)

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Q Now, after you had filled this out (Peoples Exhibit 2) under the defendant's instructions in the office of Mason on Nassau Street, what was the next thing that was said and done?

A Mr. Dorthy said we would go to the bank and wait at the bank while getting the money, that he would take the order, it would have to be signed, and I would stand right close to him. He said it would have to be signed, endorsed, and he would stand -- that I should stand right by his side and he would pass it to me and I should write some fictitious name on there and they could not connect me with it, because I was not the man who got the money.

Q Was that the idea, and that they could not connect him with it, or both? A Could not connect either, because it was his writing.

Q He would not have endorsed it and you would not have gotten the money? A Yes.

Q Sort of a division of the responsibility, was that the idea? A Well, I don't know as to that.

Q Did you and he go up to the bank? A After it was filled out the three of us went to the Greenwich Bank, Mason, Dorthy and myself, went up to the Greenwich Bank and Mr. Dorthy passed in the bank book with the order and we then went around to the cashier's window and the cashier pushed the order out after we had waited quite a little while. He said "Here, sign this," and immediately began to count the money out, and Dorthy stood right in front of them and he stepped over to the desk, and I

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was standing on the other side of him and I had a pen --

Q You had a pen? A I had a pen , a fountain pen.

Q And how did Dorthy stand, did he stand between you and the cashier?

MR. MOORE: Objected to as leading.

THE COURT: Objection sustained.

Q How did you stand? A Mr.Dorthy stood between me and the cashier. That is where I stood, by this desk. The cashier could not very well see me. He was counting out the money.

Q What did you; what did Dorthy do; he had the order then didn't he? A He had the order. He passed it to me and I signed a fictitious name.

Q What did you sign? A William Tierney.

Q Look at it; is that yours [Peoples' Exhibit 2]? A yes sir.

Q What did you do with Peoples' Exhibit 2 after you put "William Tierney" on the back of it? A I gave it back to Dorthy and he passed it in and he got the money.

Q Do you mean he presented that order to the cashier and the cashier paid the money on it? A Yes sir.

Q Two thousand and seventy dollars and some cents? A Yes sir.

Q Is that right? A Something like that.

Q What did you do then; where was Mason at this time?

A He was there in the bank, he was standing one side.

Q what was he to do? A He was to act as attorney.

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Q What do you mean? A Well, this was supposed if any trouble arose, this was supposed to be an order from Seymour to me. If any trouble arose he was to identify me.

Q He was to identify you as being William Tierney, for instance, in this case? A As being William Tierney.

Q Well, no trouble did occur? A No sir.

Q Did you three leave the bank? A We three left the bank.

Q Who had the money when you three left the bank? A Mr. Dorthy.

Q Proceed? A We went down Sixth Avenue and over Fourteenth street, and somewhere on 14th Street near 5th Avenue he took out the money and gave me somewhere near seven hundred dollars.

Q How much? A About seven hundred dollars.

Q Did he give Mason any? A I saw him giving something but I don't know just how much.

Q Then what did you do? A I was to take this money and put it in the Greenwich Bank on William Street, and that was to be used .

Q That is another bank you mean? A Yes sir.

Q Where is this Greenwich Savings Bank? A Corner of 16th Street and Sixth Avenue.

Q New York City and County? A Yes sir.

Q You were to deposit your money in another bank? A Yes sir.

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Q Tell us about that? A We came downtown and I left them near the Post Office Building and went over to the office and I went down and deposited the money.

BY THE COURT:

Q The money which you received? A Yes sir.

BY MR. HART:

Q Do you know what became of the money Dorothy got? A No sir, I do not.

BY THE COURT:

Q Where were you to deposit the money you received? A Well, you see the office down there was in my name. You see they were dispossessed and the only way we could stay in the office, they had to get it in my name, and I had to see that the rent was paid, and we were arrears then for the rent.

Q Where was Mason's office? A It was Mason's office but they used my name.

Q What was the sign on the door? A H.C. Mason.

Q Did you finally give up your office there? A Yes sir.

Q Then where did Mason have his office? A He didn't have any. He held out in the Astor House and the telephone building on Dey Street.

CROSS EXAMINATION BY MR. MOORE:

Q Don't you know that Mason gave up that office in May of that year? A He didn't give it up; he was dispossessed.

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Q Don't you know that Mason gave up that office in May of that year? A He did.

Q And he moved to 170 Broadway, didn't he? A He did not.

Q Sure of that? A Positive.

Q Didn't he have an office at 170 Broadway at this time, in October? A No sir.

Q Associated with Mr. Jackson at 170 Broadway? A They may have been associated in some particulars with them.

Q And their office was there? A No, their office was not there.

Q And you continued to keep this office over at the other place, 132 Nassau Street? A Why, all of Mason's furniture --

Q And you continued to keep that office, didn't you, 132 Nassau Street? A I stayed there as a clerk of Mr. Mason's.
BY THE COURT :

Q Answer the question. Did you continue to keep that office at 132 Nassau Street? A Well, I stayed there just as I had been staying there.

MR. MOORE: I move to strike that out.

THE COURT: Motion granted.

MR. HART: Keeping an office involves a conclusion.

BY MR. MOORE:

Q Was the office continued under your name, the rent paid

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up in your name for May? A It was.

Q And that was so for a year, wasn't it? Until the May following? A No, I don't think so.

Q Do you know just when you gave up the office and ceased to pay rent? A I can't recall. The receipt would show.

Q Now this money you say you got you spent, didn't you? A In various ways, yes.

Q I understood you to tell the jury that the original purpose of getting this money that Seymour had was to promote the sale of the Netherwood property over in Jersey, is that right? A Yes sir.

Q Understanding that was the purpose of it you say immediately upon getting it it was divided into three portions and not used for the purposes for which originally intended; is that so? A The portion I was to get was to defray the office expenses.

Q It took seven hundred dollars to defray the office expenses? A Oh no, but from time to time Mr. Mason and Mr. Dorothy would both come and get money, send me to the bank.

Q How much of the seven hundred dollars would it take to defray those office expenses at that time? A The office expenses were not much. It was \$25.00 a month.

Q So that several hundred dollars would defray the office expenses for a considerable length of time, wouldn't it? A Yes, if it was used alone for that.

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Q You say that Mason went to the bank with you on this day? A He did.

Q What time of day was it when you got there? A I can't state positively.

Q You have been pretty much in detail as to the other things? A Somewhere, I should think, about between ten and eleven.

Q And was Mason known to the bank people? A I don't know.

Q And you say that he was going there for the purpose of identifying you provided the bank people were not satisfied, and you don't know whether he was a stranger to the bank? A He was better known in New York than I was, that was why.

Q You think that Mr. Mason, if you got into trouble, going there with a larceny of \$2070.00 that Mr. Masin being a well known lawyer would stand for it and tell the bank people you were all right; is that what you want this jury to believe? A I don't quite understand your question.

Q (Question repeated by stenographer.)

MR. HART: Objected to. No testimony in the case that Mr. Mason was a well known lawyer.

MR. MOORE: He just said that Mr. Mason was better known than he was.

A I didn't think anything of the kind.

Q Then did you expect that Mr. Mason would go there and give a fictitious name and identify you, both strangers? A I didn't think about that.

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Q You had planned the purpose of Mr. Mason going there. Now what was it? A I had not; Mr. Dorthy had.

Q Well, the three of you, this was discussed by the three of you? A Yes.

Q What was the purpose in Mason going to the bank with you? A It was to identify me, and I suppose get a part of the money.

Q Then you now say you suppose it was to identify you, is that right? Or had the fact that he was to go there for that purpose been discussed? A I don't recall.

Q Then the declaration that you made upon your direct examination that Mr. Mason was to go there to identify you if you got in trouble was not based upon the fact, was it? A They both were to identify me if I got in trouble.

THE COURT: Answer the question put to you by Mr. Moore.

Q The statement that Mr. Mason went to the bank for the purpose of identifying you and in case you got in trouble to help you out, or words to that effect, was that based upon fact or supposition? A Well, that was what we talked over in the office. That was why he went up there.

Q You talked over Mr. Mason being known as a lawyer, with offices at 132 Nassau Street, that if the bank people raised any questions about the regularity of this proceeding, then he was to disclose his identity and make it all right with the bank

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people, is that right? A I suppose so.

Q Notwithstanding the fact that Mason knew and Dorthy knew and you knew that you were going there with a forged order to steal this money, is that right? A Yes sir.

Q Now, Mr.Egan, you read law in 1901 for a yeark you say?

A Yes.

Q After that what didyou do? A I think that I was with the Metropolitan Street Railway for five or six months, in the Legal Department.

Q After that what did you do? A I went home and worked on a farm.

Q For how long? A I had congestion of the lungs; I didn't do anything for about four or five months; and I worked on a farm for about a year.

Q Then what did you do? A Then I came down. After I got done working on the farm, after having left the Metropolitan Street Railway I came down to Mr.Mason.

Q Didn't you work for another law firm before you worked for Mason? A No.

Q Cannon and Cannon? A I served papers for them when I was with Mr.Mason.

Q Before you resume work with Mr.Mason didn't you work for that firm of lawyers for a time? A No. When I was in ^{the} New York School for a while I was in Petrash and Burnett's, afternoons.

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Q But this particular firm, didn't you work for them before you worked for Mr. Mason? A Never.

Q So from 1901, all the time from 1901, with the exception of the time when you were sick when you went home to your father's farm -- wasn't it or your people's farm? A Yes.

Q you were either in a law school or connected with a law office, were you not? A Yes.

Q Notwithstanding the fact that you had served for nearly five years in various capacities as an assistant to lawyers and in the law school you tell this jury Mr. Dorthy told you how to make out this order? A Yes sir.

Q You didn't know how to make it out? A I have never had --

Q Did you know how to make it out? Look at it and see if you did not (Handing people's Exhibit 2 to witness)? A I suppose I could.

Q Why certainly you could? A Yes sir, I could.

Q Then Mr. Dorthy did not need to show you how to make out that order, did he? A No, not specially. If I had had the book --

MR. MOORE: One moment.

MR. HART: I object. Let him answer.

MR. MOORE: I don't want any "ifs" attached to it.

MR. HART: I think he is entitled to give the

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answer.

MR. MOORE: His conclusion, if he had something he might have done different is certainly not responsive and the question can be answered yes or no, either he did or did not.

MR. HART: Mr. Moore is crowding this witness into a position where he wants to make an explanation.

THE COURT: The witness is allowed to give a full and complete answer to the question. If the answer of the witness indicates a mere opinion, why, move to strike it out and I shall instruct the jury to disregard the evidence.

MR. MOORE: Well, that is what I do. The first portion as answered is responsive and the second is supposititious entirely.

THE COURT: Proceed to answer the question.

THE WITNESS: I could fill it out if I had had the book.

BY MR. HART:

Q What book? A The bank book.

BY MR. MOORE:

Q You did have the bank book, didn't you? A I did not.

Q Wasn't it there that morning? A Yes sir. In Dorothy's hands.

Q Mr. Dorothy had the bank book and wouldn't let you take

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it, is that what you mean? A I didn't ask him for it. I suppose he would if I asked him.

Q There isn't any writing on either side of the paper that is in Mr. Dorothy's handwriting, is there (Peoples' Exhibit 2)? A No sir.

Q All of the handwriting that is on that paper is in your own handwriting, is it not, with the exceptions of the characters that were made by the bank official? A And Seymour's.

Q Now with regard to Seymour's signature, are you sure that you have told the jury just how you procured this signature? A Yes sir.

Q I understood you to say that the will was drawn up much the size of legal cap? A Yes sir.

Q Which is that style paper (indicating a sheet of fool's cap)? A Yessir.

Q Do you know whether it was legal cap or not? A I do not. It was the same style paper as that.

Q AS this (indicating)? A Yes sir.

Q Then this piece of paper was attached down at the bottom in that manner (indicating)? A Yes sir.

Q And he is asked to put his signature on it? A yes sir.

Q As a signature to a will? A Yes sir.

Q And he made no comment about that attached paper in that peculiar shape? A No sir.

Q He is not bline? A No sir.

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Q His eyesight is good so far as you know? A So far as I know.

Q Hadn't you prior to this time procured Mr. Seymour to sign his name to other papers for you? A I did one time in obtaining a loan.

Q More than once? A That's all.

Q Didn't you get him to sign his name to a paper with reference to the collection of the check? A Yes.

Q Now this check the District Attorney mentioned in his opening was for a claim that was due and owing to Mr. Seymour, was it not? A Yes sir.

Q And you acted as his agent or attorney in its collection, did you not? A yes sir.

Q And you collected that shortly before this time, didn't you? A Yes sir.

Q And in the collection of that note did you not procure Mr. Seymour to sign his name to papers upon several different occasions? A Well, there are only two that I have in mind. That is to obtain the check from Rowe, William Clarke Rowe.

Q Now, Mr. Egan, two that you remember and there may have been others that you do not remember? A Well, that is all that I can remember.

Q You did collect that money, did you not? A Yes sir.

Q And it was paid by check to the order of Mr. Seymour?

A Yes sir.

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Q And delivered to you? A Yes sir. No, not to me,

Q Delivered to whom? A Delivered to Mason by Rowe. Mason was the attorney for the estate that was settled.

Q Well, the check came into your possession, A Yes.

Q And you signed the name of Seymour to that check, didn't you? A Yes sir.

Q And endorsed the check in the name of Seymour? A I did.

Q And then you procured a friend of yours by the name of McGuire to cash the check, didn't you? A Yes sir.

Q And subsequently and prior to this transaction that is now on trial, you were arrested charged with the forgery of Mr. Seymour's name on that check weren't you? A I was.

Q And it was while you were pending trial upon that forgery charge that you made the charge that you now state against Mr. Dortby, wasn't it? A Yes sir.

Q So far as you know Mr. Dortby was a stranger to Mr. Seymour at that time? A As far as I know, yes.

Q And at the time you made this confession implicating Mason and Dortby you were in the Tombs locked up, were you not on this forgery charge? A I was.

Q Subsequently you were discharged from the Tombs upon this forgery charge under a suspended sentence, were you not? A Yes sir.

Q And after you had made this charge against Mr. Dortby?
A Yes sir.

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Q And you never were indicted, so far as you know, for your connection with this particular transaction about which you now testify, were you? A Not that I know of.

Q Now I suppose, Mr. Egan, that having confessed to forgery and having confessed to a part in grand larceny, you would not tell a lie to get out of it, would you? A I don't think I would, no sir.

Q You don't think you would? A No sir.

Q Now, coming back to this paper (Peoples' Exhibit 2) when you took the paper to the bank Mr. Dorthy, you say, present it at the window? A Yes sir.

Q And you were by his side? A Yes sir.

Q And then he pushed it back and said "Endorse it"? A Yes.

Q Why did you put the name "William Tierney" on it? A He told me to use a fictitious name; any name but my own name.

Q And you put the first name on you could think of? A Yes sir.

Q And the purpose, of course, in putting the name of Tierney on the paper was so it would not be connected with any of the real names of the party to this crime? A The same as any --

Q Yes. At that time Mr. Dorthy lived in Plainfield, New Jersey, didn't he? A Yes sir.

Q Now, did Mr. Dorthy also tell you to put on the front of

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that paper after the "residence", Plainfield, New Jersey? A yes sir.

Q So that while he was desirous to keep his name in obscurity he was willing to point out this place of residence, so far as you understand? A He claimed we could not be detected.

Q But did you discuss that feature, that it was imprudent in other words for you to call the attention of the officials to the place of residence of the man.

MR. HART: As Seymour's residence, not his.

Q But to fix ~~xx~~ a place of residence that was the actual residence of one of the conspirators? A There was some conversation about him being acquainted there and if anything should arise there was a conversation that Mr. Dorthy was acquainted with people out there.

BY MR. HART:

Q At the bank? A At the bank? The conversation was had in the office.

BY MR. MOORE:

Q You put the residence, Plainfield, New Jersey, so that if any further question arose and they were not satisfied with Mason Mr. Dorthy could step into the breach and tell them he was Mr. Dorthy of Plainfield, New Jersey and therefore you would get the money without further trouble, is that the idea? A Yes sir.

Q So that notwithstanding that you knew it was a theft --

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THE COURT: Who was to give his residence as Plainfield, New Jersey -- Mr.Dorthy?

MR. MOORE: It purports to be the residence of Seymour, but it is the actual residence of Mr.Dorthy in plainfield, New Jersey, and I asked him if he discussed at that time that feature of the case of giving the actual bona fide residence of one of the parties to this crime as being likely to call the attention of the officers of the law to that particular city.

THE WITNESS: I did not speak -- They spoke about Plainfield, the fact that Dorthy lived there and if anything should arise in the bank he knew quite a good many influential people in Plainfield and he could call them up and use them as reference.

Q You mean to say, Mr.Egan, that before you went to that bank Mr.Dorthy said "If anything happens I will have them call up Plainfield where I am well known, communicate with my bank, and tell them that this is all right, I am John F.Dorthy?"

A Yes sir.

Q So that the very moment that the theft would be discovered Mr.Dorthy could be charged with the crime and could not get away with it, do you mean that? A Well, he was sure it would not be.

Q It was bound to be discovered, wasn't ^{it?} If Seymour lived

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a reasonable length of time he would learn his money was stolen?

A Certainly.

Q Then he would ^{immediately} know if Dorthy gave his name and identity one of the parties to it, wouldn't he? A He might have, I don't know.

Q I understood you to say that Mason roomed up there at that time and had come there times before this? A The greatest part of the time he roomed there.

BY MR. HART:

Q You say the greater part of the time Mason roomed with Seymour and yourself? A Yes sir.

BY MR. MOORE:

Q Did I ask you if so far as you knew Seymour and Dorthy were strangers at that time? A You did.

Q And you said they were? A They were not, so far as I know.

Q They were not acquainted? A They were not acquainted.

BY MR. HART:

Q Where did you live? A 148 East 45th Street.

Q New York City and County? A Yes sir.

BY THE COURT: (Referring to Peoples' Exhibit 2) Who wrote "148 East 45th Street" and "Plainfield, N.J." ? A I did all the writing on there, with the exception of the signature.

Q Do you know what was the residence of Seymour given to the bank, what residence Seymour gave to the bank? A No, I did not.

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Q You did not? A No sir.

Q Where did Seymour live? A He lived with me at 148 East 45th Street.

Q How long had he lived there before the day the money was drawn from the bank by you and Dorothy and Mason? A To my knowledge he lived there three or four years.

Q And what was your object in putting down for the present residence "Plainfield, N.J."? A The object was if any thing should happen in the bank that Mr. Dorothy who is acquainted out there, he might call for people.

Q Might call up what people? A Why, he might get people or be able to state to the bank that Seymour did live in Plainfield, N.J. that he had moved there.

Q Wasn't it necessary to be put down for the purpose of drawing the money or giving some information as to the history of Seymour? That is the way you go to draw money in any savings institution. At times don't you know whether you are asked by the cashier or paying teller to give your residence?

A Yes sir.

Q Didn't you have to find out what residence Seymour gave when he opened the account in the bank, if that question were asked? A There wasn't any question about that at all.

Q Didn't you discuss that? A No sir.

Q Who suggested the putting down of Plainfield, New Jersey? A Mr. Dorothy.

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Q And he lived at that time in Plainfield, New Jersey?

A Yes sir.

Q Who suggested the scheme to steal this money from the bank credited to the account of Seymour? A Mr.Dorthy.

Q Did he know anything about whether Mr.Seymour had any account? A Yes sir.

Q Who told him about it, do you know? A Well, he heard Mason and I talk it over in the office one time. In the hotel Florence they wanted to borrow some money from Seymour .

Q Who was present when the will was presented for signature? A Mr.Mason.

Q Where was this defendant Dorthy? A He was not there.

Q He was not there? A No sir.

Q Dorthy was not there? A No sir.

Q What became of this dollar sign (Referring th Peoples' Exhibit 2)? How was that? Was that secreted,the dollar sign on the order forthe pahment of money? A As I remember this was turned under (indicating edge turned in of Peoples' Exhibit 2).

Q Show that to the Jury, how it was done?

(Witness now again indicates by turning in edge of Peoples's Exhibit 2.)

Q The other signatures to this document purporting to be a will, did they contain the residences of the witnesses? A I don't remember.

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Q Did Seymour say anything whether he was to put down his residence or not? A No sir.

Q Where is Mr. Mason now? A Sitting there (indicating a man in court room.) .

Q You say you received instructions of how to fill this out (peoples' Exhibit 2). What do you mean by instructions?

A He sat opposite me at a desk and said "Here, Egan, you fill this in, " And he had a bank book and told me the number to put in, and he pulled it out and pointed with his finger like that (indicating) .

MR. HART: I would like to have the witnesses excluded from the room.

THE COURT: Yes.

(The witnesses are excluded.)

BY MR. HART:

Q When you forged this endorsement to the check for Mr. Rowe, payable to Mr. Seymour, was that afterwards or before this transaction? A That was before this transaction.

Q Did the defendant Dorothy know anything about that?

Objected to. Objection sustained.

MR. HART: Well, there is question in this case as to how the defendant Dorothy was acquainted with Seymour, and the fact that he had the money, and it seems to me that this is something on that point: If he had known that this Egan had been able to

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procure money belonging to Seymour so easily before it shows he had knowledge that Seymour had money and that Egan had access to him and to his money. That is the only purpose.

THE COURT: I will allow you to add whether Dorthy knew that this defendant had been convicted of forgery.

MR. HART: He had not been convicted. It was not discovered then. This witness was still in Seymour's confidence at that time.

Q He didn't know you had forged his name? A No sir.

Q Had you ever said anything to the defendant Dorthy about that transaction?

MR. MOORE: Objected to as incompetent and improper. This man is willing we see to go the limit, but it is incompetent. This man is not on trial for that and it would be incompetent to show that Dorthy was connected with some other crime.

THE COURT: Objection sustained.

MR. HART: It is not offered for that purpose.

THE COURT :: The witness testified, so far as he knew, he did not know whether Dorthy knew anything about the financial condition of this man.

Q To whom was that check made payable? That check was made payable to Feltus E. Seymour.

Q And you say it was signed by Mr. Rowe? A Mr. William Clarke

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Rowe.

Q And that Mr.Mason represented Mr.Rowe or the estate?

A Mr.Mason represented the estate, one of the heirs of the estate. Mr.Rowe represented the executor.

Q At that time you andMason and Dorthy were in the same office together? A Yes sir.

RE-CROSS EXAMINATION BY MR. MOORE:

Q That is not quite so, is it that you and Mason and Dorthy were in the same office together at this time? A It is.

Q What? A It is.

Q This check was given to you, in August, wasn't it, of this same year? A Yes sir, an

Q And Mason had surrendered that office you said in May?
A He was ejected and the office had to be taken in my name in order to keep the furniture and desks there.

Q Dorthy was not there, was he? A Part of the time.

Q They were there at 170 Broadwy ? A Part of the time he was there.

Q And he was maintaining two offices, was he? A No, he was not.

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C H A R L E S A. K I M B A L L a witness called on behalf of
the People being first duly sworn testified as follows:

DIRECT EXAMINATION BY MR. HART:

Q You are employed by the Greenwich Savings Bank? A Yes
sir.

Q In what capacity? A Teller.

Q Were you employed by them in the month of October 1905 ?

A Yes sir.

Q In the same capacity? A Yes sir.

Q Paying teller? A It is Teller; not paying teller.

Q At that time did Mr. Feltus E. Seymour have an account
in your Bank? A Yes sir he did.

Q And did he then on October 9th 1905 have abbalance of
\$2,070.55? A Yes sir.

Q On that day do you remember whether or not you saw
this defendant and Mr. Egan who just left the stand? A Yes
sir.

BY THE COURT:

Q Do you remember the last witness; do you recall him?

A There was a---

MR. HART: Have Mr. Egan step in.

THE WITNESS: The last witness?

Q Yes? A Yes, I recall him.

BY MR. HART:

Q You recall him? A Yes, I recognize his face.

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Q You saw him leave the stand? A Yes.

Q You know whom we are talking about? A Yes.

(Mr. Egan now comes into the Court Room)

Q That man (Indicating Egan)? A Yes, I saw him.

Q Now look at the defendant at the bar here? Did you see him on that day? A Yes sir I did.

Q State whether or not this book and this order, People's Exhibits 1 and 2, were presented to you at your window as teller in the Greenwich Savings Bank on October 9th, 1905? A Yes sir. That is the book and order that were presented at the Bank at that time.

Q Who presented that order People's Exhibit 2, together with the book? Who come to your window with that order? A Mr. Dorthy presented the order.

Q By Mr. Dorthy state whether or not you mean this defendant?

MR. HARTL (Addressing defendant) Stand up.

(The defendant stands up).

MR. HARTL Look at that man. When you say Mr.

Dorthy do you mean him, or not?

A I mean Mr. Dorthy under the name of William Tierney.

Q Well, look at this defendant?

MR MOORE: I move to strike out "under the name of William Tierney".

MR. HART: Consented to.

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THE COURT: Strike it out.

Q Do you see that man that stood up there, that defendant? A Yes sir.

Q What did he do? A He presented the book with the order.

Q What did you do when he presented the book with the order? A I compared the signature of Feltus Seymour with the signature that we had on a card.

Q And being satisfied as to the correctness of it I suppose you took some other step? A Yes.

Q What was the next thing you did? A I came back. It was the signature of Seymour. I was fully satisfied. Then I came to the window and called for Feltus Seymour and Dorothy responded. I said there was a little difference in the signature, and I said "how about this street and number?" I said "Is that the Street and number in Plainfield". He said "No." He stated that that was Seymour's address in the City, and I said "How about this address in Plainfield." He said "That is my residence;" and Egan, when I was talking with Dorothy, he came up and said something about doing the Bank, or whether Mr. Dorothy or Egan I really couldn't say.

Q Something was said though between those two about doing the Bank? A Yes, if the order was not paid. I stated that "You step back," (Pointing to Egan). I said "I am having dealings with this one man." Egan stepped back. He was at Dorothy's right at that time and I had two or three more words

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with Dorthy and then I presented the order to Dorthy and asked him to present his name or endorsement on that order. In the meantime there had been other depositors came up to the window, which I attended to them and -----

Q When you told him this did he step away from the window?

A He stepped around one side. There was a little shelf coming out, he stood there as if he was going to sign that order. I attended to my work at the desk. I saw that the order was signed.

Q You mean endorsed? A Endorsed on the back, and Dorthy presented that order back to me again.

Q Endorsed? A Endorsed as William Tierney and I asked Dorthy at that time if his name was William Tierney. He acknowledged it was.

Q What did you do then? A I took the order, put it through the regular channel, and the paying teller paid the money. While this was in operation, Dorthy stepped to the rail and was speaking with somebody else, I don't recall that individual. In the mean time Eagan had stepped around to Dorthy left. I took especial notice regard that because there was something a little irregular at that time----

MR. MOORE: I object to that, if the Court please.

THE COURT: Objection sustained.

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CROSS EXAMINATION BY MR. MOORE:

Q You put through each day, do you not, a large number of transactions, similar to this one? A I put through a number yes.

Q Well, a large number? A Well, what do you mean by a large number?

Q Well, I will ask you about how many you put through and then we will determine? A Well, there are about three hundred drafts put through that day.

Q And you put through anywhere from 300 to 1000 similar transactions to this a day, do you not? A No, we do not.

Q About how many do you put through daily?

MR. HART: I submit that he has answered.

THE COURT: Objection overruled.

A Individually?

Q Yes, individually? A I should judge between 50 and 60 or 70.

Q At that time how many did you put through?

THE COURT: In the year 1905?

Q In the months of October November December and January. See if I cannot help you. You were sworn before the committing magistrate were you not? A Yes sir.

Q Did you there swear you put through 200 to 1000 a day at that time? A Not individually. The Bank put that number through at that time. I was speaking of all the drafts.

Q Then the bank put through 200 to 1000 daily and and you

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assisted in a large number of those daily, didn't you, at that time? A Yes sir.

Q The People came to the bank at that time were strangers to you both of them? A Yes sir.

Q And this transaction itself was not called to your mind for some six months after was it? A I had---

Q Now, just answer that? Was it called to your attention, this transaction, for six months? A It was called about that time.

Q So that there had been nothing between the 9th day of October and the next six months ^{to} call your mind particularly the two men who came there with that order? A Nothing in between.

Q And it was a year after the six months expired before Mr. Dorothy was called to your attention, wasn't it? A About that time.

Q So that from the time this draft was put through until the time when you saw Mr. Dorothy 18 months had intervened, is that right? A About a year.

Q Wasn't it about 18 months? It was in March of last year, wasn't it, when your attention was next called to Dorothy? A I don't recall the date.

Q Well, it was some time in the Spring of 1907, wasn't it? A It was.

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Q Cant you tell as well when you went down to the police court as you can when Mr. Dorthy came to your Bank, as you say, and got this draft cashed? A I don't recall the date that time.

Q Don't you recall somewhere's near the date?

MR. HART: We will concede that it is whatever your minutes show.

MR. MOORE: It is a year and a half, nearly. It is marked 1907. I think he ought to know.

MR. HART: I do not see why he should remember those date particularly. March 2nd the complaint is dated.

Q You saw Mr. Dorthy then in the Police Court in this building, didn't you? A Yes sir.

Q And that was the first time that you saw Mr. Dorthy as you understand it, after he had been to the Bank, as you now say? A Yes sir.

Q At that time you were brought into court and asked if you could identify the man that was there with Egan weren't you? A Yes sir.

Q You had already seen Egan hadn't you? A Not before

Q You had already heard that Egan had made a confession hadn't you? A Yes.

Q Implicating Mr. Dorthy? A Yes.

Q And you were brought in there to determine whether or not you could identify Mr. Dorthy? A Yes.

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Q And at that time you knew Egan's version of this transaction, substantially? A My own opinion---

MR. MOORE: No no. I move to strike that out.

THE COURT: Motion granted. Answer the question.

Q Did you know what Egan's story was? A Substantially.

Q When you went into the court room you were asked to identify Mr. Dorthy there were on one side of the court room-- there was a line-up of, well of inferior, depraved persons; a line of criminals, was there not?

MR. HART: Including Dorthy?

MR. MOORE: No sir. That is just what was not done.

A I couldn't say whether they were criminals or not.

Q Well, they didn't look like prosperous business men and lawyers did they? A Well, I good many might---

Q But, do you remember that line that stood up there waiting for their time as well as you remember this man you saw a year and a half ago? A I saw other besides.

Q Weren't they apparently men without means and of depraved habits? A There were some.

Q Weren't they all that were in that line? A No.

Q At any rate you looked over that way didn't you where this line was and then you were asked by the officer who was with you to look over in the other end of the room, were you?

A Yes sir.

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Q And you looked over in that other end of the room?and there you saw Mr. Dorthy standing talking to a man alone, didn't you? A Yes sir.

Q Do you know who that man was? A Yes.

Q Who was it? A Yourself.

Q You didn't know till I told you, did you? A Yes I did.

Q Didn't I ask when you were before the Police Magistrate if you could recognize the man he was talking with when you identified him? A I don't recall that.

Q And didn't you say you could not? How is that? Is your recollection refreshed? Go back a little to make it clear You were sworn the next day after you identified Mr. Dorthy, weren't you? A Yes sir.

Q And you identified Mr. Dorthy after you were told "Look over in the corner of the room," where he was standing talking, as you now say with me? A Yes.

Q And the next day after you made that identification you were sworn as a witness in Mr. Dorthy's case, were you not? A Yes sir.

Q And I cross examined you, didn't I. A Yes sir.

Q Did I not ask you next day if you could tell the man, describe or point out the man that Mr. Dorthy was talking with at the time that you identified him, and didn't you say you could not? A At that time?

Q No, I mean when you were sworn in the Magistrate's Court

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A I believe it was.

Q Didn't you say that you couldn't identify or point out the man who was talking with him? A At that time?

Q Yes. Well, have you got such a manner of reasoning that you could now tell who he was talking with better than you could the next day? Is there any process of reasoning from which you can now determine who the man was better than you can now? A Yes.

Q What is it? A Because it was on account of the transaction at that day.

Q Because I told you that I was the man he was talking with, is that the reason which makes you now willing to swear that who was the man he was talking with? A No.

BY THE COURT:

Q How is it you now state Mr. Moore was the gentleman with whom this defendant was engaged in conversation at the time you identified him, and in the magistrate's court when asked the question point out the person with whom the defendant was engaged in conversation at the time that you identified him, in the magistrate's court you were unable to do so, and here you testify that Mr. Moore was the gentleman who spoke to this defendant at that time. A I did not understand that Mr. Moore had reference to himself at that time.

BY MR. MOORE:

Q Didn't I ask you if you could tell who the man was he

talking with in the police court and didn't you answer to that that you could not? A I understood, Mr. Moore----

Q No, just that. Did I ask you when I was examining you if you could tell the man with whom he was talking on the day before when you pointed him out and did you say you could not? A If I may ask a question here?

Q No, isn't that one that you understand? A May I explain.

Q No, if you do not understand the question please say so?

A I do not understand the way that you bring that out.

Q Then I will try to make it plainer. Did ~~you~~ I ask you before the magistrate if anybody was talking with him when you identified him? Let us take it slowly. Did I ask you that? Did I or didn't I? A Not in that me aning to me.

Q Do you mean to say that I did not ask you if there was anybody talking with him when you saw him, or if he was standing alone? A It was in reference to the conditions at the Bank.

Q No sir. Didn't I ask you before the magistrate if anybody was talking with him and didn't you say it was a tall ~~an~~ man with dark hair and a light overcoat? What do you say to that? A Well, there was.

Q Well didn't you say that? A Yes.

Q And didn't I ask you then in the next breath if you could tell who that man was or could point him out, and didn't you say "No sir." Now, answer that? A I can't tell.

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Q And didn't I then ask you if I was the man and didn't you say you didn't know Mr. Kimball? A I had---

Q No, no?

MR. HART: If you remember what you said there say so and if you do not say that.

A I don't remember that identical point.

Q You don't remember anything about that. You do remember however saying it was a tall man with dark hair and a light overcoat, don't you? A Yes.

Q And yet you can't remember the second question as to whether I was that man or not? A The second question I understood had reference to the case at the bank.

Q And you could not identify the other man who was with him at the Bank? A At the time, yes sir.

Q In the police court then you could only identify one of the two men who were at the Bank? A Yes sir.

Q Then when you say here that Mr. Egan was the other man, it is not because of your recollection of that face from the time of the transaction on the 9th of November, till now, is it? A It is.

Q Then when you said you could not identify the other man in the police court, you did not mean that man, did you? A Not at that time.

Q No sir; and you meant the man in the police court, didn't you? A Yes.

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Q Now you have learned that that man was myself, haven't you? A Yes.

Q And you remember right down there inside the rail searching for the man who committed the larceny on Feltus Seymour, the 9th of November, and you selected Mr. Dorthy after you had been told by somebody that Seymour made him the man, and knew his story, but the very next day when you are on that particular job of identification you could not identify the man with whom he was talking; is that right? A I didn't know that story at that time.

MR. MOORE: I move to strike that out.

BY THE COURT:

Q What story do you mean? A The reference to Egan's confession.

Q Were you able to identify Egan in the Police Court?
A I was not asked to do that.

Q Well, as a matter of fact now it is of great importance for this Jury to know, independent of Egan's confession, that he was one of the persons concerned in this forgery or larceny? Are you able now to state of your own recollection that Egan was the person who was in the company of this defendant at the time? A I do.

Q And you have not seen Egan for a period of 18 months.
A No sir.

Q Had you any suspicion about the transaction? A I had.

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After the transaction had gone through, on account---

Q No no, at the time of the payment of the money? A Yes, afterwards I had.

Q No, this is subsequent. At the time that this defendant presented the order with the name of Seymour on it, had you any suspicion about the transaction? A No, not at that time.

Q And you felt that in paying the money you had a right to do so? A Yes sir.

Q There was nothing peculiar about the transaction then, was there? A It was in the actions of the persons who presented it.

Q In what respect did the actions make you feel suspicious? A It was through the person had an uncertain feeling---

Q Well, as a prudent cashier, when you have doubts, don't you give the Bank the benefit of the doubt? A Yes sir.

Q Is the bank responsible for this sum of money? A No sir.

Q This was a forgery committed and you paid money upon it and you say the Bank is not liable? A If it was a forgery the bank might have to stand it.

Q The bank is contesting the claim then is it not? A No sir, not this.

Q Has the bank paid the claim to Mr. Seymour? A No sir.

Q Has Mr. Seymour brought suit? A No sir.

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Q Six years have not elapsed, have they, since this affair commenced? A No sir.

Q Any discussion about the liability of the Bank on this transaction? A Not that I know of.

Q Did you look for the address of Seymour at that time when the check was presented to you? A No sir.

Q You simply took it upon the signature? A Upon the signature.

Q And the order of the Bank refers to the present address, does it not? A Yes sir.

Q When, besides the word "present address" you say "Plainfield, New Jersey", did you think the 45th Street residence referred to Plainfield, New Jersey? A That is the question I brought up.

Q Your own bank slips state "Present residence" on one line and opposite or along side of that "Present residence" the words Plainfield New Jersey. A Yes sir.

Q What occasioned you to ask whether the present address referred to that fact? A Because the street and number were different from Plainfield underneath.

Q Now let me ask you, didn't this strike you rather suspiciously for the signature and residence to be in different handwriting? A No sir.

Q The man Seymour who opened his account could write his name and address, could he not? A Yes sir.

Q Did you have the writing, the address in the handwriting of Seymour? on file with the Bank? A Yes sir.

Q His residence as well? A Yes sir.

Q Didn't you look to compare the residence in paying out every dollar that the man had in the Bank? A No sir, we do not pay on the address.

Q Well, you pay on the handwriting did you not? A Yes sir.

Q The residence and signature to be written in a different hand----- A There are dozens of orders that come in merely filled in by somebody else.

Q There was nothing suspicious about the transaction at the time you paid the money? A No.

Q What occasioned you then to remember the particular person who presented the order upon that particular occasion?

A It was on account of the conversation that I had at that time

Q With whom? A With Dorthy.

Q What did Dorthy say to you?

Here you were paying to a stranger, not even a depositor of the Bank? A That is true, it is merely what I have stated before.

Q What conversation had you had with Dorthy which indicated that the transaction was a questionable one? A It was on account of some one stating that they were going to sue the Bank, if that order was not paid.

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MR. MOORE: That was a long time subsequent.

MR. HART: No, that was before the money was paid.

Q When did you discover that this transaction was of a questionable character? A Not until it was brought out about six months later.

Q Then it came back to your mind, the appearance of the person? A It did.

Q How many similar amounts have been paid out, in the neighborhood of \$2000.? connected with that Bank? A I couldn't state that.

Q How long were you engaged in conversation with Mr. Dorthy that day? A Maybe five or six minutes, all told.

Q And how, after that transaction, until it was called to your attention for a period of six months was there any reason in this world for you to remember the features of the person who obtained this sum of money? A In case anything arises a teller is drilled in a way that he would remember little incidents.

Q Well, now, let me ask you, do you remember any of the persons that appeared before you last Monday and obtained money at your window? A No.

Q Do you know any of the persons who appeared before you yesterday outside of persons who come regularly to the window? A I do not.

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