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Criminal Law—Appeal from Dismissal of Injunction

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defendant's handwriting were found in his desk, that enough was proven for conviction.

The *Goldstein* case has what the Court is looking for and what was missing in the instant case—a concrete piece of evidence which logically connects the circumstantial evidence to the crime, to wit: the overheard conversation and policy slips in the one case, and the lack of proof that any of the names mentioned were names of horses running that day together with sketchy identification of the overheard voices as being those of the defendants in the instant case.

Appeal from Dismissal of Information

In *People v. Levenstein*⁶⁴ it was held that the state may appeal where a demurrer is sustained and an information dismissed by a Court of Special Sessions. Though the County Court had dismissed the appeal on the ground there was no statutory right of appeal,⁶⁵ the Court of Appeals reasoned that "indictment" in section 518 of the Code of Criminal Procedure included "information".

By amendment in 1954, section 518 was incorporated into section 750 of the Code of Criminal Procedure by reference, specifically making the provisions of section 518 applicable to courts of special session. Since courts of special session proceed by way of *information* and not *indictment* the Legislature must have intended *indictment* to include *information*. The 1954 amendment was meaningless otherwise.

Such reasoning is consistent with earlier Appellate Division rulings that the sustaining of a demurrer to an information is appealable.⁶⁶ This tends to promote the legislative policy of a uniform procedure in criminal cases.

Coram Nobis—Right to Hearing

In *People v. Lain*⁶⁷ denial of a hearing on a writ of error coram nobis was reversed upon defendant's sworn allegation that he was not advised of his right

64. 309 N. Y. 433, 131 N.E. 2d 719 (1956).

65. N. Y. CODE CRIM. PROC. §518: An appeal to an appellate court may be taken by the people in the following cases: 1. From a judgment for the defendant, on a demurrer to the indictment

66. *People v. Hammerstein*, 150 App. Div. 212, 134 N. Y. Supp. 730 (1st Dep't 1912); *People v. Firth*, 157 App. Div. 492, 142 N. Y. Supp. 634 (2d Dep't 1913).

67. 309 N. Y. 291, 130 N.E. 2d 105 (1955).