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Criminal Law—Right to Counsel

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epileptic seizure. Where evidence supported every element of the crime, corroborative privileged statements by the defendant's doctor before the grand jury did not require dismissal of the indictment. The case differed from *People v. Decina*⁸⁷ in that privileged testimony was not introduced at the trial.

Right To Counsel

The Code of Criminal Procedure not only provides that a defendant has a right to counsel, but also that he must be afforded a reasonable opportunity to obtain such counsel.⁸⁸

In *People v. Marincic*,⁸⁹ the Court held, reversing the City Court of Watertown and the County Court,⁹⁰ that a conviction of petit larceny could not be upheld where the lower court informed the defendant of her rights under section 699 and then, without waiting for any reply, immediately asked the defendant how she pleaded, and accepted a plea of guilty.

Section 699 specifically provides that "a magistrate must allow the defendant a reasonable time to send for counsel, and adjourn the proceedings for that purpose."⁹¹ This section is not satisfied if the defendant is merely informed of his right to counsel.⁹² He must be afforded a real opportunity to obtain such counsel.⁹³

The Law Revision Report of 1940, which resulted in the enactment of section 699, makes it clear that the defendant must be given a reasonable opportunity to request counsel before being told to plead.⁹⁴ Since the lower court did not comply with either the spirit or the language of the statute, the Court of Appeals properly reversed the conviction.

Right To Speedy Trial

During the last term of the Court of Appeals, two problems concerning the defendant's waiver of his right to a speedy trial were adjudicated.

In *People v. White*,⁹⁵ although four years had elapsed from the filing of the indictment to the time of trial, counsel for the defense not only acquiesced in

87. See note 71 *supra*.

88. N.Y. CODE CRIM. PROC. §699.

89. 2 N.Y. 2d 181, 158 N.Y.S.2d 569 (1957).

90. 152 N.Y.S. 2d 382 (County Ct. 1956).

91. N.Y. CODE CRIM. PROC. §699(2).

92. *People v. Pahner*, 296 N.Y. 324, 73 N.E.2d 533 (1947).

93. *People v. McLaughlin*, 291 N.Y. 480, 53 N.E. 2d 356 (1943).

94. REPORT OF LAW REVISION COMMISSION 1940, p. 95.

95. 2 N.Y.2d 220, 159 N.Y.S.2d 168 (1957).