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

----- X
THE PEOPLE

against

ABRAHAM LASKER.

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----- X
Indictment filed 15th day of August, 1918.

Indicted for Grand Larceny in the First Degree and Receiving.

For the People,

ASSISTANT DISTRICT ATTORNEY GOLDSTEIN.

For the Defendant,

K. HENRY ROSENBERG, ESQ.

Tried before HON. JAMES T. MALONE, JUDGE and a
Jury on the 6th day of January, 1920.

MORRIS PHILLIPS, called as a witness in be-
half of the People, being duly sworn and examined,
testified as follows:

(Residence 1260 57th Street, Brooklyn.)

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q What was your business during the month of April,
1918? A Manufacturing of cloaks and suits.

Q Where was your business located? A 145 West 28th
Street.

Q How long have you been in business? A About nine

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years, since 1911.

Q Prior to April 20th, 1918, how long did you know the defendant Lasker? A About eight months.

Q Did you do any business with Lasker during those eight months? A Yes.

Q What was the nature of your business with Lasker during that period of time? A I used to give him out cloth to make up garments.

Q What was his business at the time? A He used to make it up and bring it up to me.

Q Where was his business located? A 149, I think it was, Avenue A.

Q What was his business? A He used to make a little contract and used to sell ready made suits.

Q He did contracting work for you? A Yes.

Q On April 20th, 1918, did you see Lasker? A Yes.

Q Do you remember the day of the week it was? A He called me up on Saturday.

Q Was it in the morning or the afternoon that he phoned you? A He called up in the morning but I was not in the place and the girl gave me the message that Mr. Lasker called me up.

Q Did you call him up? A Then I called him up and he told me I should come down.

Q Come down where? A In 149 Avenue A, he wants to have me, very important.

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Q That is in the County of New York? A Yes.

Q Did you go down to see him? A Yes.

Q What time did you reach his place of business on Avenue A? A It was about two o'clock when I was there.

Q Did he have a store at that address? A Yes.

Q Did you have a talk with him when you got there?

A Yes.

Q What part of the store did you have the talk with him in? A In the back -- in the shop, in the back of the store.

Q There is a shop back of the store? A Yes.

Q Was there anybody present when you talked with him?

A Yes.

Q Who was there? A I don't know -- I don't know the man who was there -- a strange man was there sitting.

Q What did he say to you on that occasion? A He told me he has got a lot of goods, he knows of, bankruptcy stock, it is laying some place, and wants to get it for me and wants I should get the goods. I asked him what kind of goods and he said don't ask me what kind, I am telling you this is a bankruptcy stock, and if you want to get the goods, and he showed me here is a man -- another man was sitting alongside of him and he will tell me -- another man he will get it for me from his man, this man that has the goods at some place hidden, a lot of goods. I said what kind of goods and where are the goods. He said I can't

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tell you where the goods are laying, but you can depend upon me I will give it to you, he said. I said how much do you want for the goods, for how much can I buy the goods and he said "Well, you can buy it for \$2500" -- Mr. Lasker told me. I said -- he said and you will give me \$200.

BY THE COURT:

Q What? A I will give him for commission because he will get me the goods, I should give him \$200 for it, and for the goods he wants twenty-five hundred. I said how many pieces of goods have you got there and he said I don't know exactly, about forty to ^{forty-five} ~~fifty~~ pieces, and he said he don't know exactly how many pieces, but the yardage runs from forty to fifty yards in a piece and he would let me know immediately how many pieces he has got there. I said, well, all right, if you could get it, try to get it cheaper, if you get the lot of goods cheaper then you will get from me \$250. He went away. I said all right.

Q You would give him \$250? A I did not give him.

Q But you said you would give it to him? A Yes, I would give it to him --if you get it cheaper, the goods, then I will give him \$250. I said I want to see what kind of goods this is and how many pieces, let me know exactly how many pieces is there and then we will see about it. I said I did not have my lunch yet, go ahead and get me these swatches of the goods and how many pieces you have got exactly and then I will know what I got to do. He sent out

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a man and I went out for a cup of coffee at that time as I did not have my lunch yet and he said -- he sent out a man and he brought in two swatches, two pieces of goods he cut this off from the goods, one piece of black and one piece of blue. I asked him how many have you got there in the lot and he said from 50 to 52 pieces he has in the lot.

BY MR. GOLDSTEIN:

Q Stop for a moment -- are these the swatches the defendant brought you? A Yes, these are the two pieces of goods he brought me.

Q What kind of material is that? A This is serge.

Q Both? A Both serge, the same kinds of goods, but this is black and blue.

MR. GOLDSTEIN: I offer the swatches in evidence.

MR. ROSENBERG: I have no objection.

Received and marked People's Exhibit 1.

BY MR. GOLDSTEIN:

Q Continue? A It was about fifteen minutes later I came in and he gave me the goods and I asked him well, I will tell you, I cannot do anything now, I cannot get my money, the bank is closed and I will be here Monday and try to get me -- you work for me now and if you will get me the goods for twenty-two hundred and fifty you will get your \$250 for the transaction. He said, "No, I don't know if I will be able to get it, but I will try."

BY THE COURT:

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Q That was what he said? A Yes, that was what he said, I will try to get it for you, and I went away. It was on Monday, on the 22nd, Mr. Lasker called me up about ten o'clock in the morning, he called me up, that I should come down immediately with the money, he got it for me for my price, for twenty-two hundred and fifty. I went to work and told the girl to make out a check for \$2500 and I went to the bank and cashed it.

MR. ROSENBERG: I object to that, what he told the girl.

THE COURT: Yes, the objection is sustained.

BY MR. GOLDSTEIN:

Q When he telephoned to you on Monday the 22nd of April, 1918, who answered the telephone first? A Miss Quasha, the girl.

Q She is your bookkeeper? A Yes.

Q Then you answered the phone? A Yes.

Q Continue with what took place on the 22nd of April, after you had spoken to Mr. Lasker on the telephone? A I took the money and went to the bank and cashed a check and went down to him, to Mr. Lasker, and in 149 Avenue A, and when I came in the store I met there two other people standing with him having a conversation.

Q Speak louder? A They had a conversation with him and I passed by and went in the back, in the shop, and I heard what one said to Mr. Lasker "Well, give me half of the

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lot, whatever you have got", and Mr. Lasker answered, well, I wouldn't, as long as I promised one man I wouldn't give it if you give me twice the amount, I would not give it to nobody only to the man I promised it and nobody can get a lot, and he spoke in such a way that I should be anxious to get the lot quick.

MR. ROSENBERG: I object to that.

THE COURT: Strike out the answer. The objection is sustained.

BY MR. GOLDSTEIN:

Q State what he said? A He said as long as I promised one man I would not give it to anybody else, and then finished the conversation with him and went to me and he said, well, act quick, because the people want to get the --

BY THE COURT:

Q Act quick? A Mr. Lasker said to me act quick because the people want to take away the goods from you and he said all right, give me the money and I went to work and I gave him \$2250 and he said where shall I deliver the goods and I said deliver the goods right to the spongers and there he will examine the goods.

BY THE COURT:

Q You said that? A Yea, I said to Mr. Lasker -- he asked me where shall I deliver the goods to you or to the sponger and I said deliver it to the sponger right away.

BY MR. GOLDSTEIN:

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Q Was the name of the sponger mentioned? A The Crescent Sponger on 38th Street.

Q I show you this paper and I ask you what it is?

A This is the check I made out and cashed for this purpose.

MR. ROSENBERG: I object and move to strike that out as not binding on the defendant and as a self-serving act on the part of this witness.

THE COURT: Yes, attend to Mr. Goldstein's question and answer it.

BY MR. GOLDSTEIN:

Q What is that check? A This is the check --

MR. ROSENBERG: May I have an objection as immaterial, incompetent and a self-serving declaration and act of this witness, and not binding upon this defendant.

Objection is overruled. Exception.

BY THE COURT:

Q It is your check? A Yes.

Q Did you give it to the defendant? A No, I did not give it to the defendant, I cashed it in the bank.

The check is marked for identification People's Exhibit 2.

MR. ROSENBERG: May my objection be also noted to the second question and answer.

THE COURT: Yes.

BY MR. GOLDSTEIN:

Q After you had given him the money?

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BY THE COURT:

Q You drew the money? A I drew the money from the bank.

Q \$2250? A Two thousand five hundred dollars and I had \$250 in my pocket to give to him.

Q You drew \$2,500? A Yes.

Q You gave him \$2250? A Yes.

Q Did you give him \$250 besides? A No, I told him -- he said that is all right when I will -- he asked me for the money right away. I said you could believe me, as soon as you deliver me the goods you will get it from me.

Q The \$250? A The \$250.

BY MR. GOLDSTEIN:

Q After you had given Lasker instructions as to where these goods were to go, what did you do? A I told him -- he said in case he would not accept the goods without an order from you -- so I wrote him out on a piece of paper, a receipt in my own handwriting where the goods were to go.

Q What did that receipt say?

Objected to.

BY THE COURT:

Q It was a receipt? A It was a receipt that I made out.

Q You made it out? A Yes, I made it out that he should show to the sponger and then he would accept it.

Q Did you give it to the defendant? A Yes, and after that he took -- he said call him up from here to make

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sure he will accept the goods, and I got the telephone and called him up immediately that in case he will get a lot of goods he should accept them, examine them and see if they are all right. I gave him the money and he went out to get the goods. He said in a half an hour he will get the goods with the sponger, Mr. Lasker said. Then I went away and he went out for the goods and I went to my place, and about a half an hour or three quarters of an hour I called up the sponger and asked him did you receive --

Objected to. Sustained.

Q Did you go to the sponger? A I went -- after the second time, when I could not get no answer --

Objected to.

Q You say you telephoned to the sponger? A Yes.

Q Did you have a conversation with him, yes or no?

A Yes.

Q You had a talk with him over the telephone? A Yes.

Q After you had that talk with the sponger over the telephone, what did you do? A He told me --

Objected to. Sustained.

Q Do not say that. A I was waiting another half an hour, for perhaps he could not deliver so quick.

Q What did you do then? A Then I went over to the sponger and then --

MR. ROSENBERG: I object to what he did over at the sponger as not binding upon this defendant.

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Q You went to the sponger? A Yes, I went to the sponger.

THE COURT: The objection is overruled. You need not say what was said -- you went over there.
BY MR. GOLDSTEIN:

Q When you got to the sponger had the merchandise which you had contracted to buy from Mr. Lasker arrived at the sponger's?

Objected to. Objection sustained.

Q After you reached the sponger and had a talk with him, what did you do? A I asked him if he received the goods --

Objected to.

Q Tell us what you did, not what you said or what he said, but what did you do, where did you go, if any place?

A I did not go no place at that time.

Q Did you go back to your place of business? A I went back to my place and called up Mr. Lasker to see what is the matter with the goods, what he did not deliver the goods.

Q Was Mr. Lasker in when you telephone to him? A Mr. Lasker's wife answered the phone and she said --

Objected to. Sustained.

THE WITNESS: He was not in.

Q You had the talk with Mrs. Lasker? A Yes, sir.

Q After you had this telephone conversation with her what did you do then? A I went down immediately, she told

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me to come down.

Objected to. Sustained.

Q You cannot say what somebody else said to you, remember that distinctly through your examination, tell us merely what you did? A I went down to Mr. Lasker in the place of business.

Q Did you find him there? A I did not find Mr. Lasker.

Q What time did you go there? A It was about three o'clock in the afternoon.

Q What day? A The same day, April 22nd.

Q After you got to Lasker's place and did not find him there what did you do then? A Well, she told me that Mr. Lasker --

Objected to. Sustained.

Q Never mind that, did you have a talk with his wife?

A Yes.

Q After you had this talk with his wife, where did you go, if any place? A I went up in my place back.

Q What did you do if anything at all that day in regard to this matter? A This matter, I went over to my lawyer Mr. Lefis and told him all about it.

BY THE COURT:

Q Do not say anything you said to him, you went to see your lawyer? A Yes.

Q Your personal counsel? A Yes.

BY MR. GOLDSTEIN:

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Q What did you do the following day? A The following day I sent down Miss Quasha to see if he is in the store, Mr. Lasker.

Q Did you meet Mr. Leff that day? A I met him in the evening about six o'clock.

Q At night? A Yes, not night, but half past five I met him.

Q What day? A This was the next day, on the 23rd.

Q You met Mr. Leff, your lawyer, on the 23rd of April, 1918, about five o'clock? A Yes.

Q Did you have a talk with him? A Yes.

Q When did you see Mr. Leff again? A After that?

Q Yes, did you see him the next day or the day after?

A After that I saw him right here by the District Attorney.

Q Did you and Mr. Leff go anywhere that day or any other day? A He went down to his store the same night.

Q When you got down in Mr. Lasker's store did you find him there? A Yes.

Q Did you have a talk with him? A Yes, I had a talk with him.

Q Tell his Honor and the jury what was said between you and this defendant Mr. Lasker and who was present at that conversation? A When I came in with Mr. Leff to Mr. Lasker's place, I made out with Mr. Leff to introduce him as a bookkeeper and my accountant, that he is my accountant and looks over my books.

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Q You introduced your lawyer as your accountant? A Yes-- wanted to find out what it is. We went in and I stopped to ask him what was the trouble, what was the matter, what was the trouble here and well, he started to tell me "When we went out --"

BY THE COURT:

Q Who said this? A Mr. Lasker told it "When we went out to get the goods, we got a wagon, he said, and we put the goods on the wagon and as soon as we leave the place about a half a block three detectives, three men came along who was suspicioned like they were detectives and they got hold of Mr. Lasker and said where are you going with the goods, and he said he could not say anything where he was going with the goods and he went with the detectives, and the other two detectives they went -- they took the other two men and what went with him, going on the way, he said "What can you do for me." He said the detectives said to him what will it be worth for you if I should let you free, and he said well, I am a poor man, I have only a few dollars, what I collect to pay my bills and I could give you away my few dollars. I am innocent. They gave me only a few dollars to help me put up the goods on the wagon and I am positively I could swear that I am innocent." He said "Well, as long as you are innocent I think I will see what I could do for you, how much money have you got, and he said I got about one hundred -- about a hundred and sixty or a hundred and

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sixty five dollars in my pocket, he said, and I will give you and then you let me free. They went on the corner -- the detective said to Mr. Lasker, well, how can I leave you off, and he said when we come to the corner then I will turn around in the back, and I will disappear and you won't find me. Then I asked him where are -- where was the goods, where are the two men that got arrested. He said I don't know, I can't tell you where they are. As soon as he said -- he said as soon as I gave him the money, I took out the money from my pocket and they left me off -- he said about this thing -- Mr. Leff asked him "Where are the men -- where were the goods, he said I don't know -- where are the men who were arrested and he said I don't know, I can't tell you. Then Mr. Leff started to tell him, you mean to say that anybody would believe such a story like this.

BY THE COURT:

Q Who said that? A Mr. Leff, he asked him where was the goods, where are the people who were arrested. He said I don't know, I can't tell you. Mr. Leff said to him, do you mean to say anybody would believe such a story like this, you took away the money from -- you stole away the money from this man and now you want to get away with it, I think you wouldn't get away with it. I am not his attorney -- I am not his accountant -- I am his attorney, and I think you better, if you want not to go in jail, you better give the money back. Well, he said if -- I don't know -- I didn't

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take no money from him. He asked him where are the \$2,250. He said I give it away to two men as soon as they put up the goods on the wagon. Then when I heard Mr. Leff say he is my attorney, he said I don't know you, I would not speak to you and I did not take no money from you, and if you put me in jail I will take Mr. Phillips along with me. He did not want to say a word any more and I started to quieting him down -- Mr. Lasker got excited. He said, I don't know you, I did not take no money from you, I don't know you at all. I never met you. I took him in the back and Mr. Less was standing in the front in the store and I had a conversation with Mr. Lasker. I told him, well, see what you can do, you took away from me \$2250, give me some money and give me -- I will lose something, try to give me part of the money back. He said no, I cannot give you a cent back, if you want to deal with me now I will see that you should make it up the money, you will make up three times as much as you paid to me if you deal with me. I said no, I don't want to have anything to do with you now as long as you are such a man and I cannot do any business with you. Then "I don't know you. I did not take any money from you", and at that time I went with Mr. Leff to the District Attorney and we got him arrested.

CROSS EXAMINATION BY MR. ROSENBERG:

Q You claim the first time you had anything to do with

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Lasker was on Saturday, April 20th, is that correct? A Yes.

Q You are sure of it? A Yes.

Q And the second time you say you saw him was when you gave him \$2250, is that right? A Yes.

Q On Monday, the 22nd, is that right? A Yes.

Q There is no mistake about that, is there? A No.

Q Is your mind clear about the dates? A Yes.

Q Since you were examined in the magistrate's court on May 8th, 1918, you have seen the stenographic minutes of that examination, haven't you? A I have seen them?

Q Have you seen the stenographic minutes of the examination in the magistrate's court? A No.

Q You have not? A No.

Q Have you talked with your lawyer about what was said at the examination? A Well, I spoke to the lawyer -- I did not have to state that -- I know ten years well what happened.

Q You did not have to state? A No.

Q Didn't you talk it over with your lawyer a number of times before you came to the District Attorney, didn't you? A Yes, I talked it.

Q What did you talk over? A Well, what should I do with it.

Q Didn't you talk over what you said and what he said in the other court? A No, sir.

Q What you were going to say here? A No, sir.

Q Never said a word, is that right? A No, sir.

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Q Do you understand me? A Yes.

Q That you never spoke with Mr. Leff, your lawyer, as to what you were going to say and what he was going to say when the case came to trial is that right? A We did not have to speak about it. We know it.

Q Mr. Leff was your lawyer in the police court? A Yes.

Q He is your lawyer now, isn't he? A Yes.

Q He is sitting or he was sitting in the first seat in the court room, wasn't he? A Yes.

Q Up to a few minutes ago? A Yes.

Q And he is in the court room now -- no, he just stepped out? A He is not in now.

Q But he has been here all morning? A Yes.

Q All morning? A Yes.

Q And all afternoon while you were on the stand?

A Yes.

Q Weren't you going to give Lasker \$10 for his trouble?

A \$250.

Q Were you going to give Lasker \$10 for his trouble?

A No, sir.

Q Nothing like that was ever said? A No.

Q Is that right -- don't shake your head, talk -- was anything said about \$10 for Lasker's trouble? A No.

Q You are sure of that -- didn't you swear to that in the police court that you gave him \$10 in cash? A For expenses, not for the trouble, for expenses.

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Q Was not this question put to you and didn't you make this sworn answer under oath, "I gave him \$10 he should work on the goods"; did you say that in the police court? A Yes.

Q Didn't you say that you gave him that \$10 on April 18th, two days before Saturday, the 20th? A No -- well --

Q Was not this question put to you and didn't you make this answer? A It was all on Saturday.

Q Will you listen to this, was this question put to you but the District Attorney and did you make this answer under oath in the magistrate's court: "Q You gave him \$10 on the 18th? A I gave him on the 18th \$10 cash." A Yes, sir, but I could not remember exactly the date. I thought at that time it was the 18th, but it was the 20th, Saturday.

Q Wasn't the matter much clearer and fresher in your mind on May 8th, 1918, than it is today? A No, sir, it was not no clearer. I thought at the 18th but it was the 20th at that time.

Q You thought it was the 18th? A Yes.

Q How did you discover it was the 20th? A I looked over exactly and found out it was the 20th.

Q Did you look it over with your lawyer? A No, not with my lawyer but I myself, I had a mistake at that time in having the date, in telling the date exactly, because it was on Saturday. It can't be the 18th, on Saturday.

Q Did you tell this jury that nothing was said about \$10 at all? A Yes, for expenses. This is a side line, to

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give him for expenses to work on it, that he should get it for the price.

Q Weren't you going to give him \$250 to work on the case? A \$250 after I will get the goods.

Q Didn't you in answer to the question -- didn't you say he was to get -- that Lasker was to get \$250 for his commission? A Yes.

Q And that was for working on the case, isn't that right? A Yes.

Q Then why was it necessary to give him \$10 to work on the case? A To go and treat him that he should get it for the price -- he told me I should give him \$10 and he will try to work on it.

Q You thought you should -- you had to give Lasker \$10? A He asked me.

Q So he should treat the fellows in order that you should get the goods? A Yes.

Q Didn't you do that on the 18th of April? A No, sir.

Q You say it was the 20th? A The 20th.

Q On the Saturday? A Yes.

Q You had come to all your agreement to buy the goods on Saturday? A Yes.

Q The first time you met Lasker? A Yes.

Q You heard what Mr. Goldstein said when he opened his case to the jury, didn't you, you were sitting in the court when Mr. Goldstein made his opening speech to the jury--

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didn't you hear him? A I was not in.

Q Were you here when Mr. Goldstein spoke to the jurors and asked them different questions? A -No, sir.

Q You did not hear that? A No.

Q You intended to buy a swag of goods? A Yes.

Q What is a swag of goods -- tell this jury what you understood was a swag of goods? A I don't know what swag is -- you asked me a swag.

Q You said you knew -- that you intended to buy a swag of goods? A A job of goods -- a swag?

Q You know the difference between a swag and a job lot of goods, don't you? A I don't know.

Q Didn't I just ask you if you knew that you intended to buy a swag of goods and you said yes, and then I asked you to tell the jury what you meant by a swag? A I don't know what swag means.

Q You haven't any idea? A No, I know a job of goods, a lot of goods.

Q You have no idea what a swag means? A No.

Q Did you intend to buy a lot of crooked goods?

A Well, no, sir.

Q You did not intend to buy any crooked goods-- did you yes or no? A No, sir.

Q You thought they were really honest goods, being sold to you honestly, is that right? A It is not a question of --

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Q Is that right? A Yes.

Q You thought there was nothing wrong with the goods that they were absolutely honest? A Well, it was -- I thought it was something wrong with the goods -- bankruptcy stock and it is hidden.

Q What did you think was wrong with the goods? A I don't know.

THE COURT: He said they were hidden.

THE WITNESS: They were hidden.

BY MR. ROSENBERG:

Q They were hidden? A Yes, he did not want to tell me --

Q Tell the jury whether you really thought it was goods being sold honestly, legitimately, or whether they were goods being sold in a dishonest way? A I asked Mr. Lasker what kind of goods it is and he said this is a bankruptcy stock. I said all right, if it is bankruptcy stock, you could show me the goods, where it is laying, and he said, no I would not show it to you. If you want to buy it don't ask me no questions no more. I would not tell you."

Q Tell the jury if you really thought you were going to buy - A I thought there was something wrong with the goods.

Q What did you think was wrong? A I don't know in what way, but there was something wrong.

Q You are a businessman in New York, is not that right?

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A Yes.

Q You have been in business nine years, is that right?

A Yes.

Q You have been buying goods in the open market? A Yes.

Q In your business? A Yes.

Q When you buy goods regularly you get a bill for them?

A Yes.

Q And you give a check for them? A Yes.

Q Tell the jury what you thought was wrong with these goods? A Well, I thought it was something -- some kind of goods, which he did not want to tell me what it is -- thought perhaps as long as he is getting them for me, I don't know what it is, might be something -- it is stolen goods.

Q You thought it was stolen goods? A I thought so -- he said don't ask no questions, you get it from me.

Q You were willing to buy goods of him if you thought they were stolen? A I bought them from him, I did not buy --

Q You were going to use Lasker, you thought, by paying Lasker \$250 you could buy stolen goods and it would not hurt you at all, is that right, you were to be protected, is that right? A Well, if I would know exactly they were stolen goods directly it was stolen goods, I would not go near it.

Q You thought that you were going to buy stolen goods, didn't you? A He told me it was bankruptcy stock.

Q You thought you were going to buy stolen goods,

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didn't you? A I thought -- I did not know what it was. I bought it from him. I bought the goods from him.

Q You thought if you gave Lasker \$250 you were protected, if the goods were stolen, is that right? A Yes.

Q Is that the truth? A Yes.

Q If you thought the goods were stolen, then you did not think it was bankruptcy stock, if you thought the goods were stolen, then you knew or you believed that the goods were not bankruptcy stock? A Well, it was a doubt -- I did not think exactly it is stolen goods.

Q All right, you thought it might be bankruptcy stock? A Yes.

Q But a crooked bankruptcy stock? A Yes -- I did not know what it was.

Q That is bankrupt stock, that some merchants who bought goods from businessmen was going to sell the goods in a hurry and get rid of them in a hurry and you were going to buy it, that is what you thought? A It was not in a hurry. I bought it Saturday and gave him Monday -- spoke with him Saturday about the goods and he gave it Monday.

Q You spoke of it secretly, no one was supposed to know? A Well, anyone -- I did not tell anybody if I buy goods, even regular goods I am not telling anybody I am buying goods.

Q These were not regular goods and therefore you surely would not tell anybody is that right? A I did not tell

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anybody, no, sir.

Q If you thought it was a bankrupt stock, you knew the goods were secreted and kept some place where the merchants of New York or the receiver could not get hold of them? A Yes, sir.

Q You knew that? A Yes.

Q You did not think that was wrong? A Well, I think there is something wrong.

Q You knew there was something wrong? A Yes.

Q But you were perfectly willing to do it? A Yes, sir.

Q You felt that you were protected as long as you had Lasker and gave him \$250, is that right? A Yes.

Q And \$10 to treat the boys? A Yes.

Q Then you intended to use the goods in your business? A Yes.

Q Was there not about \$8,000 worth of goods you were going to buy? A No, sir.

Q What is that? A No, sir.

Q Didn't you tell Mr. Markowitz, the District Attorney, that you were going to buy \$8,000 worth of goods? A No, sir.

Q How much were these supposed goods to be worth that you were going to pay \$2500 for? A It was a difference of a couple of thousand.

Q The difference you were going to put in your pocket, is not that the idea, you were going to make at least a

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couple of thousand on this deal? A Yes.

Q If you were able to get the goods, is that right?

A Yes.

Q The way you figured in your mind? A Yes.

Q That if everything went along all right, you would be ahead about \$2,000? A Yes.

Q How many thousand really were you going to be ahead?

A I cannot tell you exactly how many, but it was worth half a dollar more on the yard.

Q Wasn't it worth more than that? A At that time I do not think so.

Q You say you were going to pay \$2500 for the stock?

A Yes.

Q And going to make a couple of thousand dollars you figured the stock to be worth five thousand? A About that.

Q And you were going to pay \$2500? A Yes.

Q That would be at least \$2500 that you were going to make on the deal, is not that right? A Not exactly \$2500.

Q Well, about \$2,000, at least? A Yes.

Q When you went down to Lasker's place, you had a talk with Mr. Lasker, is that right? A Yes.

Q You found his wife was there? A Yes.

Q In Lasker's place? A Yes.

Q On the Saturday and on the Monday that you were there?

A Yes.

Q Did you have companions? A Not Sunday -- on Monday

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only.

Q At the time you gave the money? A Yes.

Q She was there? A Yes.

Q Why did you tell the jury the woman was there when you gave the money -- you said two men were there, unknown men?

A Two men and his wife.

Q Why didn't you say his wife was there, why did you keep that out, did you have any reason? A No reason at all.

Q Mr. Leff is in court now? A Yes.

Q Sitting in the first seat? A Yes.

Q The sponger was to be your sponger? A Yes, sir.

Q You did not want the goods to go into your place of business on 28th Street, did you, when the goods were supposed to come from a bad man or the thief or the man who was doing the wrong thing, you did not want the goods to come direct to your place of business on 28th Street, did you?

A Not exactly.

Q You wanted to be as clean as possible up on 28th Street? A We buy regular goods and send direct to the sponger.

Q When you buy regular goods you get a bill for it?

A Yes.

Q You did not get a bill for these goods, did you?

A No, sir.

Q You knew they were not regular goods, is that right?

A Yes.

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Q You did not want the goods to be sent from the supposed bankrupts or thieves to your place on 28th Street, did you? A Not on account --

Q Did you want it? A No.

Q One of the reasons was that you feared that the police might catch you up there with the goods, is that right?

A I did not think of it.

Q You did not think of the police at all? A No.

Q Did not enter your mind? A No.

Q Did not enter your mind about the wrong or the police?

A I sent to the spenger to be examined -- that was all.

Q You used Lasker as your dummy, didn't you, so you should be protected in case there was any trouble, is not that right? A I did not think of it at that time.

Q What were you giving him \$250 for? A For his work. I told him if you get it for the price I will give you \$250.

Q \$10 to treat the boys so he should get the goods -- why did you do that? A He asked me \$10 that he should do that.

Q When you testified in the other court you did not say a word about the other two men saying that they wanted to buy half the goods, did you? A Yes, I did.

Q In your examination in the magistrate's court? A I don't remember exactly, but it was so.

Q In your examination in the magistrate's court, you were examined as you are now being examined here today?

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A Yes.

Q Is not that right? A Yes.

Q I examined you, did I not? A Yes.

Q And the District Attorney was representing the People and he examined you? A Yes, sir.

Q You were asked to tell everything that took place?

A Yes.

Q Did you say anything in the other court about the two men in the store asking Lasker to sell them half of the goods so as to make you anxious? A I don't remember exactly, but it was so.

Q You did not say anything then, did you? A I don't know.

Q Will you say you did? A Well, this I don't remember if I did or not, but I know it was so, that it happened.

Q You did not get any bill for the goods? A No.

Q You did not know where the goods were? A No.

Q You never saw the goods in your life? A No, sir -- the swatches I saw, that is all, the samples.

Q You knew Lasker was not in the business of selling woolens, didn't you? A Well --

Q You knew he was not in that business, didn't you?

A Yes, he was in the business. "I bought from him two pieces of goods that time -- everybody was dealing with goods at that time.

Q Do you mean to tell this jury as a businessman that

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you would give up \$2,500 without seeing your goods, or \$2,250, without even seeing the goods? A Well, I trusted him and he said that it is all right, I could depend upon him.

Q You knew that he was supposed to get the goods from the other people? A Yes.

Q You knew that? A Yes.

Q You knew he did not have the goods to deliver to you, A Yes.

Q And you say that there were two men there who were supposed to be the owners of the goods? A One man was --

Q One man? A That is all.

Q You knew on the day that you gave your money to Lasker that he was supposed to give that money over to the unnamed man? A Yes, sir.

Q And that the unnamed man was supposed to be the owner of the bankrupt stock? A Yes.

Q Did he introduce you to that man? A No.

Q Didn't you think it very funny that you coming there as a buyer, not to be introduced to the seller? A Well, he did not --

Q Did you? A No.

Q Did you ask the man's name? A No.

Q Did you ask where he keeps his business? A No.

Q Did you ask where the goods were? A No.

Q What Did you see the goods? A Yes, I asked him to give me a swatch, samples of the goods, and how many pieces --

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when he will tell me how many pieces and these are the goods, then I I believed him.

Q Were they all to be the same goods? A That was what he told me, all the same.

Q How much do you say the value of those goods -- a swatch of which you produce in court -- what are they worth a yard? A At that time it was worth about \$1.75 a yard -- from \$1.50 to \$1.75.

Q That is the highest price you would put on it? A That time I don't know if I could get it any more -- I don't know exactly.

Q Figuring it at \$1.50 to \$1.75 a yard? A About.

Q That would make about \$2,000, is that right? A Yes.

Q If the goods, according to your sworn statement was worth \$2 a yard, that would make another one-fourth of the five thousand? A I cannot say how much I would get for the goods.

Q Didn't you say in the police court that the goods were worth \$2 a yard, didn't you say that? A Well, after that, in a couple of weeks later it was worth more.

Q You swore in the police court on May 8th, 1918, that the goods which you say you were going to buy was worth \$2 a yard, is that right? A I say from 1.50 to perhaps \$2 a yard.

Q A difference of 25 cents? A At that time it was no difference, 25 cents, when you give 25 cents less --

Q That is if you buy crooked goods it would be no dif-

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ference?

Objected to. Sustained.

Q But if you bought regular goods it would be a big difference?

Objected to. Objection overruled.

Q Answer the question, if you were buying crooked goods it would not make any difference 25 cents a yard on such a large quantity -- 52 pieces, would it, is that right? A What is the question?

Q If you are buying crooked goods it would not have made any difference, 25 cents a yard, buying 52 pieces of those goods, would it -- would it make any difference? A I don't understand the question.

Q If you were buying goods regularly, you would figure to the penny on the yardage, wouldn't you, in order to compete with your trade generally, wouldn't you? A Yes, figure exactly.

Q You are careful when you buy regularly? A Yes, sir.

Q Even to the penny or half a cent? A Not half a cent.

Q How many yards would 50 pieces be? A Forty yards to the piece you say? A About.

Q Wasn't it more than that? A 40 to 45 he said, I don't know exactly.

Q Did not make any difference how much yardage was in the piece? A He said from 40 to 45.

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Q At any rate the goods were worth about -- you testified in the magistrate's court they were worth about \$2 a yard, is that right? A Yes.

Q Is that correct? A Yes, sir.

Q Did you see the defendant hand the money over to the stranger there? A What?

Q When you gave this money, \$2350 to Lasker, did you see him hand it over to the stranger? A No, sir.

Q You knew he was supposed to do that? A Yes, sir.

Q You told him to do that? A Yes.

Q You expected that he should do that? A Yes.

Q And he was authorized to do it, didn't you tell him to do it? A I gave him the money he should get me the goods.

Q To give it to the stranger? A I don't know to whom he was supposed to give it. I gave it to him.

Q Wasn't he supposed to give it to the man who was selling the goods? A I don't know to whom he gave the money.

Q Who was he supposed to give it to? A I don't know. He was supposed to give me the goods. He was supposed to send me the goods.

Q I talk about the money now, when you gave \$2350 to Lasker, didn't you tell him to give it to the man who was sitting there? A At that time when I gave him the money it was no man there, to give him the money. He himself took it and put it in his racket and went for the goods.

Q He was not supposed to keep the money? A I don't

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know what he was going to do with the money.

Q You don't know, you want to tell this jury that is what you believed? A I know I gave him the money in his hand.

Q What was Lasker supposed to do with the money? A I don't know -- supposed to give it to the people where he got the goods from.

Q You trusted Lasker? A Yes.

Q Was not Lasker supposed to trust the other people?

A I suppose so, yes.

Q He was supposed to give your money to the people who were selling the goods? A Yes.

Q Is not that right? A Yes, I suppose so.

Q You told him to do it? A I did not tell him to do it.

Q You knew he was supposed to deliver the money to the man? A He gave him the money -- before -- gave him the money perhaps he paid him for the goods, how do I know?

Q Perhaps he paid the other man for the goods? A How do I know?

Q You don't know to the contrary? A I don't know what he is to do with this money.

MR. GOLDSTEIN: Have you developed that any bankrupt goods were stolen.

MR. ROSENBERG: No, it has not been developed.

THE COURT: I asked Mr. Goldstein, was it developed, as far as you know?

MR. GOLDSTEIN: No.

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MR. ROSENBERG: He said he never made any inquiry about it.

MR. GOLDSTEIN: The testimony is that he was to buy a bankrupt stock.

BY MR. ROSENBERG:

Q At any rate there was a man who claimed to be the seller and there was a man there who ~~said~~ claimed to be the seller of this bankrupt stock? A On Saturday there was sitting a man.

Q On Saturday was it? A On Saturday.

Q Or was it on Monday? A On Monday, no, it was no man there, only two people were standing there and they were arguing about they wanted they should get the goods. He said I would not ~~is~~ give it to you as long as I promised to one man, I would not give it to anybody else.

Q You never said that in the other court, did you, did you ever say anything about that in the other court? A I don't remember if I said this in the other court, but this is the truth.

MR. ROSENBERG: Will you admit that he never testified to that in the police court?

MR. GOLDSTEIN: I have never read the minutes.

BY MR. ROSENBERG:

Q You have had business dealings with Lasker before?

A Yes.

Q You have delivered to him some goods of the value

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of about \$90 at one time? A I don't remember, I suppose so.

Q Did you ever deliver to Lasker goods of the value of about \$90 -- did you? A Yes.

Q And you would not trust him with the goods, but sent them to him on memorandum? A That was what he asked me.

Q Did you send them on memorandum? A Yes.

Q He paid you for them? A Yes.

Q You bought some other little things from Lasker?

A Yes.

Q And he sent you a bill, didn't he? A Yes.

Q In his own name? A Yes.

Q And you paid for it by check? A Yes.

Q Have you got your check book here with the stub, your check book -- you were asked to produce it by the District Attorney, upon request, where is it? A I think they brought it up.

Q Will you look on April 22nd -- now, you have testified on direct examination concerning the check, is that correct? A To what?

Q You testified on your direct examination in answer to Mr. Goldstein about a check of \$2500? A Yes.

Q That check was drawn on Saturday or Monday, which? A On Monday.

Q You came to your agreement on Saturday, didn't you, as to how much you were going to pay? A No.

Q You did not? A No.

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Q You did not come to any agreement as to how much you were going to pay until you got to Lasker's store on Monday, did you? A He called me up and told me he got it for my price.

Q How much was that? A \$2250.

Q You are sure of that? A Yes.

Q Then you had your bookkeeper draw a check? A Draw a check for \$2500.

Q Why did you have your bookkeeper draw a check for \$2500 when you were going to buy a stock for \$2250? A Because I promised him to give him \$250.

Q When you got there and gave him the \$2250, why didn't you give him the other \$250, as long as you had the money in your pocket, why didn't you do it? A I did not want to give it to him until he delivered me the goods.

Q You were going to hold up \$250 when you had already parted with \$2,500, is that it -- or \$2,250? A Yes.

Q You were going to hold up \$250? A He did not ask me at that time -- he said, all right, you pay me later.

Q He did not ask you? A No.

Q Didn't you testify in the magistrate's court that he did ask you and that you would not give him the \$250 didn't you testify to that in the other court -- what do you say --

MR. GOLDSTEIN: I object to the form of the question.

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Objection sustained.

Q You say he did not ask you for \$250 he was supposed to get for his commission? A Well, I don't remember exactly if he asked me or not. I did not give it to him at that time. I said I will give it to you later when I will get the goods.

Q You did not want to trust him with the \$250? A It is not a question of trusting.

BY THE COURT:

Q But you did give him \$2,250 in cold cash? A Cash-- in one hundred dollar bills.

ROSENBERG:

BY MR. ROSENBERG:

Q Did you take a receipt for that 2250? A No.

Q Did you take a bill for the 2250? A No.

Q Didn't you think that was unusual? A Well, now, yes-- after that I realized it was unusual, but I did it -- I fell for it.

Q You cashed the check yourself? A Yes.

Q Did you have the check made payable to your own name?

A I don't remember exactly.

Q You have the check here -- the check appears to be made out to bearer? A Well?

Q Is that correct? A That is it.

Q Why didn't you have the check made out to your own name? A I did not take the money for myself.

Q You did not get the money for yourself, that is the reason? A Sure, I had to give it away for merchandise.

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Q If you were not going to get the money for yourself, why did you not make out the check for Lasker? A He wanted cash, he did not want no checks.

Q Why, because it was a crooked transaction, he did not want checks, to figure in it? A He did not want no checks -- only cash.

Q Isn't that the reason why you did not have it made out to your name, because you did not want your name to figure in it? A No, I did not think of it.

Q You had to endorse it to get the money? A Naturally, they would not give it to me without endorsing it.

Q What did you tell the bookkeeper when you made out that check, or when she made out that check? A What?

Q What did you ask the bookkeeper -- she asked you what did you want \$2,500 for, didn't she? A I don't remember exactly if she asked me or not, but she made it out.

Q Did she ask you, yes or no -- never mind looking at the young lady, look at the jury? A I am not looking at the young lady.

Q You might get some comfort over there?

MR. GOLDSTEIN: I object to that as improper.

THE COURT: Yes.

BY MR. ROSENBERG:

Q Did the young lady ask you anything about why you --

A I don't remember that.

Q Did you tell her what you wanted the check for?

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A I told her for some goods.

Q From whom you were buying them? A I did not tell her from whom, but I told her to make me out a check for \$2500.

Q In your name or bearer? A Whatever it is -- to bearer.

Q But not to your name? A I put the name on the back of the check.

Q Did you make any complaint to the police until after you consulted your lawyer on the 23rd of April? A No.

Q You did not make any complaint to the police until after you consulted your lawyer? A Yes.

Q Then you acted under his directions? A Yes.

S O L O M O N S. L E F F, called as a witness on behalf of the People, being duly sworn and examined; testified as follows:

(Residence 1335 47th Street, Brooklyn.)

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q You are an attorney and counsellor at law duly admitted to practice law in all the courts of the State of New York? A I am.

Q Where is your office? A 200 Fifth Avenue, New York.

Q Where was your office on April, 1918? A In the same place.

Q How long have you been a practitioner? A Since 1905.

Q Phillips is a client of yours? A He is.

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Q And was during 1918? A Yes, sir, for several years prior thereto.

Q Did he call at your office on the 23rd of April, 1918? A Yes.

Q Sometime in the afternoon or towards evening? A I don't recall the exact time of day -- sometime in the early part of that day if my recollection serves me.

Q Did he consult you? A He did.

Q How long did he remain in your office? A Perhaps fifteen or twenty minutes of that day.

Q Where did you see him again? A In the afternoon of that day around six o'clock.

Q Did you have a conversation with him? A I did.

Q Where did you go after your had your conversation?
A Do I believe it is 149 or 141 Avenue A which was then the place of business of this defendant.

Q When you reached the defendant's place of business at that address, did you find him there? A I did.

Q Who else was there besides the defendant? A There was several men.

Q Did the complaining witness Phillips engaged in a conversation with Lasker? A He did.

Q Did he introduce you to him? A After we had been there for about fifteen minutes or thereabouts and the other men had left, Mr. Phillips introduced me to him as his credit man and accountant.

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Q Tell us what happened and what was said between all the parties on that occasion? A After the introduction to Mr. Lasker of myself as his credit man, Phillips said to him well Lasker, what about my money and my goods. I heard there is something happened, what was it. So Lasker says "Well, I tell you Phillips, you know I am in business over here and I need quite a lot of money to pay my bills and it is hard time getting it. He said I went out and I needed about \$160 to pay some bills and I went out and borrowed that money, and I had it with me to pay my bills, and after you had given me your \$250, I went over to that place where the goods were and I gave it to the two men who had the goods. He said, "After the two men -- then the two men went ahead -- no, my recollection is this, -- he said I told them I had the money and they put the goods on the wagon and then I gave them the \$250 and he said they started off and I was on the wagon with the other two men. We had hardly gone a half a block when ~~the~~ two men stepped over, one got hold of me and another man got hold of the horse and the man who got hold of me says "What are you doing here. I said who are you -- Lasker says "Who are you." He said -- he opened up his coat and showed me a shield, and he said he looked like a detective. I said, why, what is this about, and he said don't you know all these goods are stolen, how did you come around here with these goods. He said I don't know anything about it, I did not know anything about it, whether they

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were stolen or not, but I was passing by along the street here and these two men asked me to give them a lift to put the goods on the wagon and they promised me a couple of dollars if I would put them on. This is what he said to the detective. And he said "I told the detective I was a poor man and that I had a big family and so forth and that if -- that I wanted to earn a couple of dollars and I helped these men put the goods on the wagon, and I don't know anything more about the case. I don't know that they was stolen, and so the detective says, well, you come along, and he said "I walked along with him and I noticed the other detective also got hold of the other two men and was walking behind me, and as I was walking along the street I said to the detective, why I am an innocent man, I don't know anything about this, I am a poor man, won't you let me off", and the detective says to me, how do I know you are innocent. He said I did not know anything about this, I am a poor man, and he said what is it worth to you if I let you off, and he said, I tell you I got about \$160 in my inside vest pocket and you let me off here I will give you that money, and so the detective says to him well, as long as you say you are innocent and that you don't know anything about this, why I will take a chance and let you off, how will we do it, and he said just as soon as I turn around the corner you slip me the money and I will sneak away, and so he said he put his hand in his inside vest pocket and pulled out the roll of bills which he said

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was about \$160 and he gave it to the detective then and there and as they turned the corner he walked away and that is the last he saw of them. Then I said to him -- I listened very intently and I said to him, Lasker what became of the other two men. He said I don't know. I said what is their name. He said I don't know. Where was it that these goods were put on the wagon, and he said I don't know the place. I said don't you know anything about this, and he said no, I don't know anything about it; I said where were these men brought that were arrested, weren't you interested enough to find out what happened to them. He said no, I did not care. I said, Lasker, do you want anybody to believe this story, and he said, why. I said, do you think anybody is going to listen to this story and believe you? I said what became of the \$2250. He said I gave that to the men the moment they put the goods on the wagon. I said "Lasker, you are a ~~man~~unfounded confounded liar and furthermore you are a crook, a common crook. I says, you will never be able to get away with this story and have anybody believe you and get away with all this money this way. He said "What do you mean." I said "Now, Lasker, you don't have to get excited. I am not Mr. Phillips' accountant or his credit man. I am his lawyer, and I am here to see that he gets his money back. If he don't get his money back I mean to see that you go to jail." He said "If I go to jail here I am going to take Phillips with me." I said "Whether you take Phillips with

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you or not, you are going to shell out here." We had some very heated words then and he threatened -- he took a pair of scissors on the table along side of which we were standing and he picked them up and threatened to hit me with them and I said now, you need not get excited, but I want you to give up the money. I won't stand for any monkeyshines of this kind. This is a nice ~~task~~ ^{tale} to tell someone else that nobody is going to believe any story like that because I don't believe it. He said you get out of my store. I said I won't get out of your store and I will stay here just as long as I think it is necessary, and with that Phillips gets hold of him and pulls him over to the rear of the store and in the meantime I stood in the front and I did not overhear all the conversation that took place between Phillips and Mr. Lasker, but only got drifts of it, so I am not in a position to say just what the entire conversation was. This was about -- well, the talk was held about forty or fifty feet away from where I was standing in front of the store and they were in the rear -- in the work room. After that I did not see him except in the District Attorney's office.

Q Is that all that transpired? A At that time.

Q After you left what did you do? A I went home.

Q When was the next time that you appeared in this matter? A I called this matter to the attention of the District Attorney as the result of which Mr. Lasker was arrested.

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CROSS EXAMINATION BY MR. ROSENBERG:

Q You saw Lasker on Monday, April 22nd? A No, I saw him on Tuesday.

Q April 23rd? A The 23rd.

Q When did you go to the District Attorney? A About either the end of that week or the beginning of the next week, the beginning of the following week.

Q At least four or five days elapsed between April 23rd and when you first saw the District Attorney? A About that, I am not in a position to say exactly.

Q It surely was not that week, was it? A I cannot recall now.

Q Cannot you tell us when it was? A No, I cannot. It was a few days later, whether it was a week or thereabouts I am not in a position to say.

Q Have you seen your testimony since you testified in the police court? A No.

Q Have you talked the matter over with your client about the testimony that he gave in the police court? A No.

Q Or the testimony he was to give here? A That we did.

Q When? A Sometime last week.

Q And you went over the details? A Just generally.

Q You as a lawyer knew what the details meant? A Yes.

Q You were preparing it for trial? A Not necessarily.

Q Were you preparing it for trial? A I was not.

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Q What did you go over the details with him for? A I asked him if he recalled what took place at that time.

Q Is that all you said? A Yes.

Q Were you not upstairs when he was being examined minutely by the Assistant District Attorney? A Yes.

Q He was telling his story? A Yes, sir.

Q And you were telling yours? A Yes.

Q Each heard the story from the other? A Yes, that is right.

Q You did not notify the police from the time, April 23rd, until you informed the District Attorney's office, did you? A No, sir, I did not.

Q At no time did you notify the police? A No.

Q And at least a week elapsed before the arrest was made? A I believe you are right.

Q The fact is you went down to Mr. Markowitz about the Saturday or the Monday following April 23rd, is not that right? A I am not in a position, as I told you before, to state exactly -- it was about a week.

Q A few days after? A Yes.

Q And during those few days you had seen your client Phillips, hadn't you? A Whether I saw him or consulted with him over the telephone I am not now in a position to state. There is no question I did speak to him about this matter.

Q And talked about the details? A When have you reference to?

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Q Between the time April 23rd and the time you saw Mr. Markowitz? A Yes, we did.

Q Talked over the details of the supposed larceny, is not that right? A We spoke over the matter, yes.

Q The details of it? A That is a relative term -- what you mean by details -- we spoke of the larceny of that money.

Q And of the nature of the transaction? A Yes.

Q And of the peculiarity of the transaction? A Yes.

Q And as to whether or not a man could be prosecuted under those circumstances? A I did not discuss that point with him.

Q You talked it with Mr. Markowitz? A I simply spoke with Mr. Markowitz telling him the nature of the act.

Q After Phillips told you and after you consulted with him? A After Mr. Lasker had himself told me.

Q You claim on April 23rd you made a written memorandum of what took place? A I did.

Q Didn't you? A I did.

Q Did you in that written memorandum which you say that you wrote at the time say anything about what you claim that you said to Lasker, that he was a crook? A Whether I said it in the written memorandum -- I don't believe I did.

Q Have you got the written memorandum here? A Yes.

Q You have it in your pocket? A Yes.

Q It has been in your possession ever since? A Yes.

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sir.

Q Have you read it since April 23rd? A I have.

Q How often? A Perhaps two or three times.

Q How long since you have read it the last time? A I believe I read it about a week ago when I was subpoenaed down here.

Q Didn't you read it today? A No.

Q To refresh your recollection as to what you wrote down? A No, I did not.

Q Is there anything in that memorandum of the supposed conversation between you and Lasker wherein you accused Lasker of being a crook? A No.

Q Is there anything in that writtenpaper where you accuse Lasker or you say that said to Lasker you can tell that story to me but nobody would believe you? A There is nothing in the memorandum that I said. The only thing in there is what Lasker said.

Q You say there is nothing in there as to what you said? A No.

Q You wrote a memorandum purporting to be what took place ~~between~~ at Lasker's store, didn't you? A So far as it--
then
as I thought was necessary to put down in writing about what Lasker told me.

Q Didn't you put that down in writing then and there so you could have it as evidence against Lasker? A No.

Q What did you put it down for? A To refresh my

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recollection at any time as to what actually occurred there.

Q If you only put down what Lasker said and not what you said how would that refresh your recollection? A Because I could recall what I said, but might not recall what Lasker said. It could not be used as evidence at any time.

Q Is that your only explanation? A Yes.

Q You purposely omitted what you said? A Not purposely, but I did not intend to put down anything that I said.

Q You said Lasker said that he offered the detective \$150, you say that, and you put that down? A My recollection is it was 160.

Q Well, 160, you put down that in writing? A Yes.

Q At that time? A Yes.

Q In your memorandum? A Yes.

Q Look at your memorandum and see if you did not put this down "I have quite a few dollars in my inside vest pocket, I will give it to you and then you will let go of me and I will sneak away as if I had suddenly run away and you did not know what became of me, to which his captor said, 'All right, hand over the money' and he gave him the entire bundle which he said contained \$165." A Yes, sir.

Q Did not Lasker tell you according to your own written statement made at the time that he had quite a few dollars in his pocket? A Yes.

Q And not as you testified that Lasker said "I have got \$165 in my clothes, which I will bribe you in order to

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let me go? A That is probably correct -- but, I have in my memorandum that he said he had quite a few dollars but he paid over \$165.

Q Everything you have testified that you said to Lasker on that occasion you did not put in the memorandum? A No, I did not.

Q Only what you claim Lasker said? A That is right.

Q The real reason for doing that was that you could say anything that you liked when you got on the stand?

A It is not, nothing of the kind.

Q How often have you testified for a client? A Probably ten or twelve years since I last was on the stand for any client.

Q You feel it is improper to testify in any case on behalf of your client? A I did not think so in this case because I thought it was a very crooked proposition which required the aid of an attorney who knew the facts.

Q Is that it? A Yes.

Q Don't you know that you could have telephoned to the police and had the police there that very night? A No, I thought I could get better results if I did the way I did.

Q That is you would be in possession of the evidence yourself? A Yes.

Q And you could testify? A I thought that this procedure was far better than --

Q Then not to inform the police, you did not trust

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them? A Not that I did not trust but I thought I could get it quickly through the District Attorney.

Q This is such a crooked transaction -- how much are you charging your client for your valuable services?

Objected to. Objection overruled.

A Nothing.

Q Nothing? A Nothing.

Q You are giving your time and attention to your client in this matter? A Yes, sir, absolutely, in this matter.

Q As a public spirited citizen? A No, not as a public spirited citizen, but because I am -- as a citizen I believe it is a duty to be performed in this matter.

Q You were so bitter in this case that you did not believe Lasker the first time that you spoke to him? A After he told me the story I surely did not believe him.

Q The fact is that you were the lawyer for Mr. Phillips and you were naturally prejudiced in his favor? A In Phillips' favor -- I am inclined to believe what he told me.

Q Naturally you were inclined to believe your client? A After I heard the defendant's story.

BY THE COURT:

Q How long have you been Phillips' attorney? A About two years before that.

Q Did he go over the general subject of this matter with you before you went to Lasker's place? A He did.

Q And did you have a realizing sense that if his story

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was a true story that he was engaged in a criminal enterprise himself? A I did not take it that way from what he told me. He told me he was being sold a bankrupt stock, and from the information that he conveyed to me, I did not believe that he himself was engaged in the commission of any crime.

Q Did he tell you all of the details as he has told the jury here about the transaction, before you made this approach to the defendant? A He did, and more.

Q Did you not think that it was hardly ethical for an officer of the court, an attorney and counsellor at law, to get involved in the matter? A I did not believe I was becoming involved. I simply believed it was necessary for somebody to obtain some information which would lead or indicate the true facts in this case.

BY MR. ROSENBERG:

Q Why didn't you telephone to the police? A Because I did not believe that was the proper procedure.

Q What would be the proper procedure? A After the information was obtained, to obtain the aid of the District Attorney in ferreting out this crime.

Q Why didn't you go to the District Attorney's office next the day? ~~the crime had been committed~~ Because I did not think it was necessary to go the next day.

Q The crime had been committed -- A I went there in the shortest time I could possibly do so.

Q That was at least three or four days -- A I don't recall whether I had opportunity or time at that time to go

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to see the District Attorney.

Q You thought your time was more important than the prosecution, as a public spirited citizen, of this alleged criminal? A I thought my time - I had to be conserved first, my personal time had to be served first.

Q And that is the reason you did not notify the police and that is the reason you did not go to the District attorney? A I did go to the District Attorney.

Q I mean until three or four days at least had elapsed? A That is about right.

Q During all that time you never thought it necessary to notify the police? A No.

REDIRECT EXAMINATION BY MR. GOLDSTEIN:

Q You are under subpoena? A I am.

Q By the People? A Yes.

Q How often have you been subpoenaed in this court?

A About eight or ten times.

Q And you have been here on ^{that number of} ~~these particular~~ occasions?

A I believe so.

Q Or most of these times? A Almost every time I have been subpoenaed.

R A C I L L E B. Q U A S H A, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence 118 Harrison Avenue, Brooklyn)

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DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q During the month of April, 1918, were you in the employ of Mr. Phillips? A Yes.

Q In what capacity? A Bookkeeper.

Q Where? A 145 West 28th Street.

Q Do you recall having received a telephone call from a Mr. Lasker? A Yes.

Q Did you know Mr. Lasker before that telephone call came over the wire? A Yes.

Q You had spoken to him before? A Yes.

Q Did you recognize his voice when he telephoned? A Yes.

Q Did he give his name as Mr. Lasker? A Yes.

Q What did he say to you when he phoned that Saturday? A That he wanted to talk to Mr. Phillips.

Q Did you put Mr. Phillips on the wire? A Yes.

Q After Mr. Phillips got through talking to Mr. Lasker, what did you see him do -- did he remain there or did he leave? A He left.

Q The following Monday did Mr. Lasker phone again?

A Yes.

Q Did you answer the wire? A Yes.

Q Did you recognize Mr. Lasker's voice? A Yes.

Q Who did he ask for then? A Mr. Phillips.

Q Did you put Mr. Phillips on the wire? A Yes.

Q Did Mr. Phillips talk to him? A Yes.

Q Did you listen to the conversation? A No, sir, I

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did not.

Q You do not know what they were talking about? A No.

Q After this conversation did you draw a check? A Yes.

Q Is this the check People's Exhibit 1 for identification, that you drew? A Yes.

Q Who did you give that check to? A Mr. Phillips.

No cross examination.

MR. GOLDSTEIN: If your Honor please, I have expected the sponger in court whose testimony I believe is rather material in this case, but, if Mr. Rosenberg will make a concession, if he thinks that is is consistent with his duty to do so, I will rest -- will you concede, Mr. Rosenberg, that the goods which Mr. Phillips contracted to buy through Mr. Lasker never reached the sponger?

MR. ROSENBERG: That is a little far fetched, although I do not think it touches the real point in this case. I do not feel justified in making that admissions. I do not know anything about that and I am not going to make that concession. The meat of the case is on another angle entirely.

MR. GOLDSTEIN: I thought perhaps it might be material. If your Honor thinks it is not material I will close the People's case.

THE COURT: Nobody could probably receive what was never perhaps in existence and I hardly think it is

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of great consequence to the case, and in the aspect of the case as it stands.

MR. GOLDSTEIN: Then the People rest.

MR. ROSENBERG: I move to direct an acquittal on the ground that the People have failed to establish any crime charged in this indictment beyond a reasonable doubt.

MR. GOLDSTEIN: The indictment charges the defendant with the crime of grand larceny in the first degree. There are two counts in the indictment. The first count charging and accusing this defendant of common law larceny, on the allegation that on the 22nd of April, 1918 --

MR. ROSENBERG: With force and arms, that he took this money.

MR. GOLDSTEIN: (Continuing) That he stole the sum of \$2250.

MR. ROSENBERG: No, with force and arms, the common law charge is.

MR. GOLDSTEIN: I am not through yet. There is a second count --

MR. ROSENBERG: With force and arms.

THE COURT: I have examined the indictment.

MR. GOLDSTEIN: The second count charges the defendant with having received the sum of \$2250 from Phillips as agent and bailee, and that he feloniously

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appropriated the said money to his own use with felonious intent. The proof in this case shows that on the day in question \$2250 was given to Lasker by Phillips; that it was given to him for a specific purpose and that he was to secure for him a bankrupt stock consisting of woolens amounting or constituting about 50 or 52 pieces of serges, the ~~xxx~~ yardage being from 40 to 45 yards; that he never delivered those goods to him; that he misappropriated those moneys; that he refused to give him the money and under those circumstances it seems to me to be clear that the defendant at least would be guilty of the crime of grand larceny in the first degree as charged in the second count. It is a very simple matter. Here is a man who receives according to the People's version of the transaction a specified sum of money to go out and purchase a lot of goods. He did not purchase those goods. The goods were never delivered. The money was never returned. If that is so I know of no clearer case of larceny than one such as has been proven in this case.

THE COURT: Of course, the statute provides that the People must make out in its own case a prima facie case, and it must make it out by good and sufficient proof; the quality of it must be good and the quantity also, and it is enjoined upon the Court by statute the requirement that if that be not done, it becomes the

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duty of the Court to advise an acquittal. I have not listened to a case in a long time that has impressed me so unfavorably as this case has upon the proof of the State. It is manifestly not rooted in the public interest. It is to the Court shocking to its conscience and to its understanding and appears manifestly to be a fricassee of cupidity and fraud, in which the prosecuting witness was a willing party.

I am constrained to grant the motion to advise the jury to acquit because of the quality of the proof, and I will ask Mr. Donohue, in charge of the part, to submit a transcript of this testimony to the Grievance Committee of the Bar Association for its animadversion as to the conduct of the counsel in this case -- counsel for the prosecuting witness Phillips. The testimony will be written out and transmitted to the Secretary of the Grievance Committee.

the jury
I advise ~~you~~ to acquit.

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