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COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York.

-----X
THE PEOPLE
against
LOUIS MATZIO.
-----X

Indictment filed 14th day of March, 1912.

Indicted for Burglary in the third degree, Grand Larceny in the
first degree, and Receiving, as second offenses.

A P P E A R A N C E S:

For the People, ASSISTANT DISTRICT ATTORNEY EDWARDS.

For the Defendant, IGNATIUS A. SCANNELL, ESQ.

Tried before HON. THOMAS C. T. CRAIN, Judge, and a
Jury, on the 8th day of April, 1912.

Thomas W. Osborne,
Official Stenographer

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I S A A C M A R K S, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:
(Residence 160 Havemeyer Street, Brooklyn).

DIRECT EXAMINATION BY MR. EDWARDS:

Q What is your business? A Cloaks and suits.

Q Where is your place of business? A 23 East Broadway.

Q Your place of business, on the 1st and 2nd of March, was in the same location? A Yes, sir.

Q What time did you leave your place of business on the 1st of March? A 6 o'clock in the evening.

Q What did you do when you left? A I closed the door up and the windows -- looked the place at 6 o'clock, the front door and the windows at the rear with iron shutters and inside with wooden shutters, with two iron bars across.

Q What floor are you on, A On the fifth floor.

Q You have the whole floor? A No.

Q What portion of the floor do you have? A Catherine street and East Broadway side on the corner.

Q That gives you about half of the floor space? A Gives me more than half.

Q As I understood you to say, all the windows were closed and the door was closed -- how was the door fastened? A The door was fastened with a burglar alarm, one door -- two doors we have there -- one with a burglar alarm and lock on, and second is an iron door with two iron bars and two big locks.

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Q When did you return to your place of business after that?

A The next morning at half past seven.

Q Who left your place of business last on that night, who went out of the door last? A I went out last.

Q Did you leave anybody inside? A No, nobody.

Q You did the locking yourself? A I locked it myself.

BY MR. EDWARDS:

Q Now, when you got back there next morning at half past seven, what condition did you find your place in? A Found that the windows -- the rear window was broken; the iron shutters were taken off altogether and the inside window was broken -- the shutter was taken off and the window was broken in and the inside shutters were taken off.

Q The inside shutters? A Yes, sir, the inside shutters.

Q What window was that? A The rear window by the fire-escape.

Q Opening on the fire escape? A On the fire escape.

Q Had you left any merchandise in your place when you left there on the night of the 1st? A yes, sir.

Q What was it? A Left a lot of piece goods and cloaks, ready made stuff and stuff in work.

Q When you got there the next morning and found this window as you have described it to us, did you miss anything? A We were missing 54 coats, 14 suits, and three pieces of serge.

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BY THE COURT:

Q Were you the first person connected with your establishment, to reach those premises in the morning? A No.

MR. EDWARDS: I was just coming to that point.

BY MR. EDWARDS:

Q Who was there when you got there? A I find one or two of my clerks there.

Q Was the door open when you got there? A When I came in the door was open.

Q Who had the keys to your place? A My partner I gave it over when I left Friday night, I gave it over to my partner's boy and he took the keys to my partner.

Q When you got there your partner was already there?
A He was there.

Q And how many of your clerks? A There were two.

Q Any police officers there at that time? A No, there was no police officers in the place.

Q After that, do you remember how many pieces of this piece goods were gone from your place next morning? A I know it was three pieces of goods and 54 coats, 14 suits and one separate coat.

Q Do you remember how many yards there were of that piece goods? A The yards I don't remember, but I have it down on a paper.

Q Have you anything you can refresh your recollection from?

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A I have.

Q Will you refresh your recollection and tell us how many yards there were?

MR. SCANNELL: I object to that at the present moment, until it is shown this paper was written or the writing on this paper was made at the time when he was actually present, and checking the stock of those goods, and it is not a recollection that he gets from books or other memoranda.

THE COURT: Have you this gentleman's partner in court?

MR. EDWARDS: Yes, I will have him here.

THE COURT: I suggest that you prove the loss by the person who got there first. I will allow it.

Exception.

BY MR. EDWARDS:

Q State how many yards there were? A 113 yards in the three pieces.

Q 113 yards in the three pieces? A Yes, sir, in the three pieces.

Q What sort of material was that? A Serge, style No. 63,001.

Q When did you next see any of that material or any of this merchandise that you have described, the 54 coats and 14 suits and separate coat and 113 yards of piece goods? A I saw it ^{police} in the Oak Street station.

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Q Did you see all there? A I saw all there.

Q Who has it now? A I got some of the goods now, and there is some for evidence left.

Q Samples were kept by the police officers? A Yes.

Q I show you an article of clothing, and I ask you what that is? A That is one of my coats.

Q Is that one of the 54? A One of the 54.

Q There were 54 like that? A Not all like that, different styles.

Q 54 coats? A 54.

Q But different styles? A Yes.

Q That is one of the 54? A Yes.

Q You saw that next in the police station, the next morning, or that morning, the 2nd of March? A Yes.

Q Now, how long have you been in that business? A Six years.

Q And during that time have you been manufacturing and selling such coats as that? A Yes.

Q Are you familiar with the market value of coats such as those 54 were? A Yes.

Q Can you tell us what the reasonable market value of those 54 coats was on the 1st and 2nd of March? A I don't remember the style. I got it written down.

Q Have you a memorandum of the different coats? A Yes.

MR. SCANNELL: I object and move to strike out the

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words "got it written down". . He says he does not remember the styles.

THE COURT: Interrogate him first as to what he does recall.

BY THE COURT:

Q There was some cloth? A Yes.

BY MR. EDWARDS:

Q I show you a skirt and coat, and ask you if those were among the articles? A Yes.

Q Which class do they come in? A In the suits.

Q 14 suits? A 14 suits.

Q There were 14 and that is one of them? A That is one of them.

Q I now show you a piece of goods, and ask you what that is? A That is cut off one of the three pieces.

Q That is a part of one of the three pieces of goods that you have referred to in your testimony? A Yes.

Q Are you familiar with the market, the reasonable market value of these piece goods, on the 2nd day of March, 1912?

A Yes.

Q What was it? A Sixty-five cents a yard.

BY THE COURT:

Q How many yards were there in a piece? A 113 yards in the three pieces.

BY MR. EDWARDS:

Q In the three pieces? A In the three pieces.

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Q At the time that you recovered these 54 coats, did you go over them and did you look at them? A Yes.

Q And they were all yours? A They were all mine.

Q Coats of your manufacture? A Of my styles.

Q You examined each one at that time? A Yes.

Q You were at that time familiar with the value of each one of those coats? A Yes.

Q Tell us what the value of this particular coat is?

A This one here is \$5.50.

Q On that day? A \$5.50.

Q Were the other coats of the same value or different values? A Different values.

Q You say you don't remember at the present time the different styles of coats, and the value of each one? A No.

Q At the time when you recovered those 54 coats, did you make any memorandum as to the styles? A Yes.

Q You made that yourself? A Yes, sir.

Q And made it at the time? A Yes, sir, at the time.

Q You also made a memorandum of the market value on that day of each one of these coats? A Yes.

Q Have you that memorandum with you? A Yes.

BY THE COURT:

Q Was the memorandum correct at the time you made it?

A Yes.

BY MR. EDWARDS:

Q Will you produce it?

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(Produces it).

THE WITNESS: No. 712.

Q That is the number of the style? A Of the style -- 15 coats at \$8., and then No. 723, 10 coats at \$6.50.

Q That is the style number, 723? A Yes, sir, and style number 712 X, 10 coats at \$7., and 710 X, style number, 15 coats at \$5.75, and 714, 4 coats at \$5.50, and then was 14 different suits, there were different styles, each one was different sample.

Q They were sample suits, but different styles, fourteen different styles? A Yes, sir, different styles, and they were \$8. apiece.

Q All of the same value? A All of the same value.

Q What was this one coat, one odd coat? A That was a separate jacket and we made the value of that \$4.

Q If you have it conveniently there, what is the total value? A Of all the piece goods and everything?

Q Yes, everything? A \$553.70.

Q Had you ever seen this defendant before you saw him in the magistrate's Court? A No.
BY THE COURT:

Q Did you ever sell those coats to this defendant? A No.
BY MR. EDWARDS:

Q You never sold those coats at all? A These coats were not sold -- they were sold to different people.

Q Afterwards? A No, they were made up, we sell coats on samples. We sell the garments after a sample, and the customer bought them and we made them up for the customers.

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Q These have been made up for customers but never shipped from your place? A No.

Q They were never shipped as matter of fact in the course of your business? A No, they were not shipped from my place of business.

Q You never gave this defendant permission to take them?
A No.

Q You never gave Mr. Roberts, the chauffeur, any permission to take them? A No.

Q You never gave any one permission to take them? A No.

CROSS EXAMINATION BY MR. SCANNELL.

Q You say these first fifteen coats were valued at \$8?

A Yes.

Q How do you base your value? A We make up a sample, according to the price of the cloth, we know the price of the cloth was \$2 a yard, and we know how many yards it takes to a coat and how much we have to pay for the labor, and then put down labor and material and expense and profit, and it comes up to \$8.

Q They do not cost you \$8, do they? A No, do not cost me \$8.

Q How much do they cost you? A This here garment costs me \$7.25.

Q You only make 75 cents on that, in order for you to

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produce and make a garment like that it costs you \$7.25?

A Yes, sir,-- that with the expense.

Q How much does the No. 723, \$6.50 cost -- that is the next item, ten coats at \$6.50? A That costs -- I haven't got my calculation book here and I cannot recall exactly.

Q Can you approximate the value? A What?

Q Can you get near the value at all? A If you let me just get together, I can do that.

Q Take your own time.

MR. EDWARDS: I must object to this line of examination. The question is, what the fair market value is, and not what the cost of manufacture is. Every manufacturer is entitled to something for his profit. This man is a wholesaler, and the reasonable market value is the test of value and not the cost of production.

THE COURT: I will allow you to interrogate him to find out as bearing on the market value, and that is all.

BY MR. SCANNELL:

Q Take your time and let us know how much it costs to manufacture a coat which you ask \$6.50 for? A This coat costs me net \$4.55, labor and material.

BY MR. EDWARDS:

Q That is omitting expense -- no expense? A No expense.

BY MR. SCANNELL:

Q What would you call expense? A Rent and --

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Q. What would the coat cost you to manufacture?

THE COURT: What is the market value, that is the test.

MR. SCANNELL: Perhaps the market value might not necessarily be dependent on the asked price in his particular establishment.

THE COURT: I will allow you to interrogate him on that question.

BY MR. SCANNELL:

Q. Did you ever sell the coats, the first style that you mention, 15 coats at \$8, did you ever sell those for less than \$8, that style of coats? A. No, sir.

Q. Do you know of anybody that ever did sell them less?

A. No.

Q. You have always absolutely the bottom price for those coats? A. I have the bottom price. We have one price.

Q. Does anybody near you make coats of that exact style?

A. No, not of that style -- not that I know of.

Q. You do not know anybody that makes them in that style, as you are the only one who had that style? A. We have our own design.

Q. And your prices are only prices for coats of that style? A. Of that style -- we are making the stuff -- we have our own designs and our own price and everything.

MR. SCANNELL: if your Honor please in that case I

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think it is material to go into the actual cost. If his is the only price, it cannot be the common price.

THE COURT: You may proceed.

BY MR. SCANNELL:

Q How much does it cost you to manufacture the ten coats for which you ask \$7? A \$5.40.

BY THE COURT:

Q In giving the total of \$553.70, as the market value of the merchandise which you say was missing from your place, how much have you calculated as profit, that is to say, how much have you calculated in that figure over and above all items of direct or indirect expense entering into the production? A I cannot say at present, your Honor, exactly, as it is hard for me to say on all the goods there. I can tell on each item separate.

BY THE COURT:

Q You cannot take that \$553.70 and say that that \$553.70 was worth so much more to you than the merchandise? A That was just worth to me at that ~~in~~ time -- at that time I could get the money for it. We can get at that time \$553.70.

BY THE COURT:

Q What I want to get at is, what you have allowed as being your manufacturer's profit, in the \$553.70? A I cannot tell that.

BY MR. EDWARDS:

Q Can you tell us approximately what per cent you add

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to cost for profit? A Different -- if we sell goods a little better we can get more for it.

Q You have no rule? A We have no rule.

Q You could analyze these figures and give us the exact amount you added for profit by referring to your books?

A Yes, sir, I can do that.

BY THE COURT:

Q Are you able to testify now as a matter of knowledge as to whether the cost, counting in all items of expense, brought the amount above \$500? A We figure mostly ten per cent profit, because we have to add on salesmen's commission, when we sent them on the road, it costs seven and a half per cent and factory expenses and so forth. After we have it on our books each item is calculated separately and when it comes to the conclusion, most of the time ten per cent. In poor seasons we have to lose and sometimes on goods where they lose market value, sometimes we have to lose on that. So, there is sometimes, when there is demand for the goods we get more for them sometimes.

BY THE COURT:

Q Are you able to say now what you have calculated as the market value was in every instance at least ten per cent more than the cost price to you of these articles? A Yes, there was ten per cent profit on these bare goods, figuring the ten per cent profit.

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BY MR. SCANNELL:

Q You say sometimes when the market was poor you have to lose on those goods, then you do change the prices? A We change the prices only when the season is out -- after season-- some garments were worth in March 2nd \$8, and it may be in a week around the goods will go up and cost \$9 and sometimes a week later the market will come down and be worth only \$7.

Q When I asked you if you had only one price for these--

A We have one price.

Q When I asked you if you had one price for these, you said yes; you mean you have one price at one time, that is what you mean? A Yes.

Q So that these coats that are worth \$8 now might be worth \$6.40 in two weeks? A Yes, two weeks later.

Q The demand is pretty good in the season? A Yes.

Q So these prices are entirely high? A They were not high.

Q They were not higher than usual but higher than in the poor season? A It was just in the season and it was just the season's prices.

MR. EDWARDS: I object. The question is, the fair market value on the day in question.

THE COURT: The only question is whether the fair market value on that day was more than \$500. That is all we are interested in -- if it was less than \$500 or more

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than \$500. He has testified to figures here, \$553.70.

BY MR. SCANNELL:

Q Can you tell me now the actual cost of manufacturing, taking in all the expenses of this entire bulk of goods, which you testify you found in the police station or which had been removed from your store? A At the moment?

Q Yes? A I just told to your Honor just exactly --

MR. EDWARDS: If your Honor please, if he wants that information, let the witness be excused for to-day and he can come back to-morrow morning and give us the cost of manufacturing and everything.

THE COURT: Yes, I think you will save time by so doing.

MR. SCANNELL: Then I will reserve my right to cross examine him until then.

THE COURT: Yes. He has to come back any way so you might as well reserve your cross examination.

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WILLIAM D. CULLEN, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 1688 Anthony Avenue, Bronx.)

DIRECT-EXAMINATION BY MR. EDWARDS:

Q What is your occupation? A Attached to the Court of Special Sessions.

Q You are familiar with their record files there? A I am.

Q Have you produced, at my request, the record in the Court of Special Sessions of the conviction of Louis Matzko of petit larceny, on the 13th day of December, 1910? A Yes.

Q This is produced from the files of the Special Sessions Clerk's office? A Yes.

THE COURT: Mr. Edwards, you can read the part you want in, subject to the identification.

MR. EDWARDS: I suppose to have the record correct, I should offer this in evidence, in the first instance. I ask the defendant's counsel to permit me to read from it instead of putting the actual record in, so that it may go back.

(The paper is marked in evidence People's Exhibit 1.)

MR. EDWARDS: "Court of Special Sessions of the City

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of New York, First Division; People against Louis Matzio and Edward Shea" -- it bears the endorsement, "No. 1"-- which is Louis Matzio -- "Guilty December 13, 1910; sentenced on December 20th, 1910; No. 1 paroled to March 23rd, 1911"-- No. 1 being Louis Matzio. The charge, petit larceny. I think that is sufficient.

THE COURT: You might get the name of the complainant and the personal property of --

MR. EDWARDS: The personal property was, "One roll of leather containing six pieces of sole leather of the value of \$15., the property of Harrington & Company; the complaining witness' name is Edward W. Byrus, and the property is alleged to be Harrington's property in the care and custody of this complaining witness, which I think covers the point.

DAVID BROWN, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Second Precinct Detective Bureau).

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this city? A Yes.

Q Do you know this defendant? A Yes.

Q Did you, in 1910, place him under arrest? A Yes.

Q On what charge? A Petit larceny.

Q Were you present at the time of his conviction on the

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13th of December, 1910, in Special Sessions, in this department?

A Yes.

Q Were you present when sentence was suspended upon him and he was paroled on that charge in December, 1910? A I could not say that positively.

Q You were present at the time of his conviction? A Yes.

Q Is this defendant the same man who was then convicted under the same name, Louis Hataie, of petit larceny? A Yes, sir.

(No cross-examination).

GEORGE F. Mc GILLU, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(1st Precinct, Detective Bureau).

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are an officer of the Municipal Police Force of this city? A Yes.

Q On the early morning of the 2nd of March, where were you? A On patrol in the vicinity of Catherine street.

Q In citizen's clothes or uniform? A Uniform.

Q Just tell us whether or not you saw this defendant that morning? A While I was on patrol in that vicinity, and while walking east on the south side of Catherine street, I heard the report of two shots and I ran in the direction in which I heard the shots, and about the same time I heard the shots, I saw an

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automobile speeding up -- going west up Catherine street.

Q What kind of a car? A Taxicab. I ran on the sidewalk, on the south side of Catherine street towards East Broadway. When I got at the corner, I ran out in the middle of East Broadway, and the taxicab was then about twenty feet from the crosswalk of East Broadway.

Q Which way was the taxicab going? A Going west.

Q Coming towards you? A Yes, sir. I was going east, and I drew my revolver and pointed it at the driver and told him to halt, which he did. I told him to put his hands up and I jumped inside the taxicab and found the defendant, Louis Natzio, sitting on a quantity of goods inside there with his hand on the taxicab door, sitting on the pile of goods.

Q What did you do then? A I placed him under arrest.

Q What happened to the chauffeur? A I placed him under arrest too, and brought both to the Oak street station.

Q Who was with you when you took them there? A Officer Kennedy assisted me down there with them.

Q Did you see the officer who fired the shot? A I saw the officer afterwards. I found out it was Sergeant Pfeiffer fired the shot.

Q Did he come up to you while you were with the machine there? A He did not come up, but he told me --

Objected to.

Q He called out something to you? A Yes.

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Q Then you took the defendant and the taxicab driver and the taxicab to the station house? A Yes.

Q Did you at any time have any conversation with this defendant? A Yes, sir, I asked -- do you want to know the nature of the conversation?

Q Tell us when it was and where it was? A When I placed him under arrest.

Q What did you say to him and what did he say to you?

A I asked him what he was doing in the taxicab. He told me that he jumped in there to get out of the way of the shots.

Q And how far had you seen this taxicab before you heard -- before you placed or stopped the driver with your gun? A How far?

Q Yes, how far was it away when you first saw it? A One block -- a block -- twenty feet from the crosswalk -- one block, yes.

Q This point, where you placed this defendant under arrest, was in the county of New York? A Yes.

Q And as matter of fact the whole length of Catherine street is in the county of New York? A Yes.

Q And also East Broadway? A Yes.

Q That was all the talk you had with this defendant? A No, I asked him -- he told me he did not know anything about the robbery; that some friend of his, and he was passing down Catherine street to go to his father's house to borrow rent, or get the

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rent of his father, that some friend of his asked him to go over to Beefsteak John's and get a taxicab over there and tell him to come over there. So I asked him was there anything in the taxicab when he went over there. He said yes, there was a bundle of clothes in there, one bundle, and he said that he brought the taxicab over to No. 19 Henry Street and got outside of it. I asked him if he saw anybody put any stuff in it. He said no, he did not, but the next thing he knew he heard two shots and he jumped in the taxicab to get out of the way of the shots.

Q Did he tell you whereabouts it was that he took the taxicab to, from Beefsteak John's? A From Beefsteak John's -- what he did not tell me just route he took, no.

Q Did he tell you where he stopped the cab? A Yes, sir, he stopped in front of No. 19 Henry Street.

Q What did you do with this stuff in the machine?

A Brought it down to the Oak Street station and when we got down there, did not know who owned it, and found some tags on it with the mark of Marks & Funk on it and found they were at 23 East Broadway and upon further investigation, we found out the rear window had been forced.

Q What investigation did you make there, or you took part in? A I went around there about half past six, I guess.

Q In the morning? A Yes, sir, with Sergeant Pfeiffer and found the rear window had been forced.

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Q How did you get to that rear window? A I went up the stairs, five flights, and out on the fire-escape and leaned over and saw where it had been forced. I went out the hall window.

Q How are those premises located; they do not face on Henry street? A No; the premises of the place that was burglarized face on East Broadway.

Q Where does the rear come out on? A The rear comes out on Henry street -- that is, faces the rear houses of Henry street.

Q That is the back of the building faces the rear of the buildings on Henry street? A Yes.

Q Is there any connection between the rear yard, or whatever it is of that particular loft building, and the Henry street buildings, and how are they separated? A Just a little area-way about four feet.

Q So you can pass directly from the fire-escape --
A Would not say four feet -- say about five feet -- you could not step over.

Q You could not step over? A No.

Q But you could get down from the fire-escape?

THE COURT: The officer may describe.

BY MR. EDWARDS:

Q Describe where the fire-escape is located back of the building, and where it runs to? A The fire-escapes are on the back of the building of 23 East Broadway, and the rear part of the building on Henry street is about five feet away from the fire-escape.

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Q Where does the fire-escape run to? A It runs down to the ground.

Q Runs down to the ground in the rear? A Yes, sir.

Q When you get off the fire-escape on the ground in the rear, how, if at all, can you get out on Henry street? A The only way, get through the hallway.

Q You can go right through the hallway of another building on Henry street? A Yes.

Q What was done with this property that you took out of the taxicab? A Most of it returned to the owner, Marks & Funk, and part kept as evidence.

Q Do you remember how many articles of clothing there were in that? A I have got it in my memorandum book.

Q You made that memorandum at the time? A Yes.

Q You don't remember without looking at it? A No, not exactly.

Q Look at your memorandum which you made at the time, and refresh your recollection, and then tell us? A There were three rolls of blue serge, marked on one, $36\frac{1}{2}$ yards, the other $36\frac{7}{8}$ yards, and on the third, 39 yards; 54 cloaks; 14 suits, one small jacket; tags on them marked "Marks & Funk."

Q Those were produced in the Magistrate's Court the next day? A Yes.

Q And everything was given back except these samples, to the owner? A Yes, sir.

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Q After he identified the property? A Yes.

CROSS EXAMINATION BY MR. SCANNELL:

Q How many coats did you say there were? A 54 -- one minute until I see -- 54 cloaks.

Q Now, they were not all in the taxi? A No, I wouldn't say about that.

Q Tell the jury everything? A There was one bundle found in the hallway, two officers brought in later on, just how many cloaks were in the taxi we don't know exactly, because they got mixed up when they came in the station house, but there were three bundles of cloaks in the taxi and three rolls of serge.

Q You don't know how many bundles were found some other place? A Yes, I know how many bundles -- one small bundle.

Q You don't know what was in it? A No, I don't know the exact number of cloaks.

Q Did you find that? A No.

Q Were you present when it was found? A I was present when it was brought in the station house.

Q Were you present when it was found? A No.

Q You do not know where it was found? A No, I do not know myself, only what I heard.

Q You say you had a conversation with the defendant, in which the defendant said that he had jumped into the taxi to get out of the way of the shots? A Yes, sir.

Q That he met somebody or other, and they had sent him to

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a restaurant to get a taxi. A Yes.

Q He told you the name of the man, didn't he? A He said he did not know his name, but he went by the name of Big Frank.

Q Did you know whom he meant? A No.

Q Have you since found out? A No -- tried to locate him.

BY THE COURT:

Q Have you ever seen that suit which is in court, before?

A Yes.

Q Where? A In the station house.

Q When? A It was in the taxicab and brought it to the station house on the morning of March 2nd.

Q When you first saw it, where was it? A It was in the bundle of -- tied in with a bundle of other cloaks in the taxicab.

BY MR. SCANNELL:

Q There was just one bundle in the taxicab? A No, three.

Q Three in the taxi and one came in afterwards, but you don't know where it came from? A Yes.

Q Did he have any other conversation with you there, did he say anything about having left some one sick, and was going on his way home? A Not that I remember.

Q You would not say that he did not? A I think I could safely say that.

Q After you got down the fire-escape in the back of this building on East Broadway, and you came to the ground floor, you saw there a hallway to get out on the public street? A Yes.

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Q Is it not through another house on Henry street, where you would have to break in one house in the back and break out through the front to reach there? A I believe it is a tenement house and the doors, I think, are left open there.

Q You don't know? A Not positive. It is a tenement house. There is people living upstairs.

Q You did not see anybody coming through there? A No.

Q You were on Catherine street? A Yes.

Q Did the taxicab come around the corner? A Yes.

Q Around the corner upon Henry street? A Yes.

Q Did it not slow up at the corner of Henry and Catherine, or Catherine and East Broadway? A When I pointed my gun at the driver, yes.

Q How fast was it going? A I do not know. I do not know how many miles it was going.

Q Did you ever arrest anybody for speeding? A No.

Q Was it going ten miles an hour? A I guess it was going over ten miles an hour.

Q That is what you mean when you say it was speeding along? A No. I don't know. I can't tell you just how many miles an hour it was going.

Q You said before it was speeding -- perhaps you did not -- perhaps my recollection is wrong -- but my impression is that you said you saw this taxi speeding along? A Yes, well, perhaps I will say -- let me see -- well, it was going eighteen or

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twenty miles any way.

Q Came around the curve at twenty miles an hour? A Yes.

Q Around the corner? A Yes.

Q You saw it coming around the corner at twenty miles an hour? A Yes.

RE-DIRECT EXAMINATION BY MR. EDWARDS:

Q What officer brought in the extra bundle, do you recollect? A Yes, the name is Daly -- I believe it was found by Sergeant Pfeiffer and he ordered two officers to bring it in.

BY MR. SCANNELL:

Q Do you know of your own knowledge that Sergeant Pfeiffer found it? A What he told me.

Q You were not there when he found it? A No.

MR. SCANNELL: Then I move to strike that out.

THE COURT: Strike it out.

BY MR. EDWARDS:

Q What time in the morning was this? A About 3 o'clock in the morning.

CHARLES PFEIFFER, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(172nd Precinct).

DIRECT EXAMINATION BY MR. EDWARDS:

Q You are a sergeant of the Municipal Police force of this

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city? A I am.

Q You are attached to the 172nd Precinct? A I am.

Q On the 1st or 2nd day of March, in the early morning, where were you? A I was standing at the corner of Madison and Catherine streets.

Q Were you in uniform? A In uniform, on duty.

Q And what precinct were you attached to then? A The Oak street station, 5th Precinct.

Q Tell us in your own way what occurred that morning, about what time it was, and just what happened? A This was about 3 A.M. I was in company with men on the fixed post. They were just relieving each other on the even hour. They relieved at that time every half hour, and this happened to be at 3 A.M., on the even hour, and I happened to see a taxicab going through Monroe street. I made the remark to one of the men I said --

Q Do not say what you said -- just what you did? A Any way I seen this going down through Monroe street and I went through Madison to head her off, thinking she would come through market street and she did, but they went at such a speed that by the time I reached market street, I saw nothing of the taxicab any more.

Q Running fast? A Yes. She went in the direction towards East Broadway and I headed that way, and I was going to ask a man at the fixed post there --

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Q Were you walking or running? A I was walking, and when I got to Henry street and Market, there was a milkman, a Jewish milkman, and he said --

Q Do not say what he said -- he said something to you?

A - Yes.

Q What did you do? A I ran in the direction towards Catherine street.

Q On Henry? A On Henry.

Q What did you see? A When I got to the middle of the block about, I saw my taxicab I was following up.

Q Where was it then? A Standing at the corner, in front of 19 & 21 Henry street, at the corner building, at Catherine street.

Q Did you see any men around? A As soon as I saw the taxi I saw some men coming out of a building, coming off the stoop, bringing the stuff into the --

Q What do you mean by "this stuff"? A The bundles of cloth.

Q There were some bundles? A Yes, with ropes around them. I could perceive there was a burglary going on, and I whipped out my gun and was going to hold them up, but got within about four doors from this taxi when I saw the taxi starting and they made one swing around the corner. Before they got around I fired two shots at them to stop them and then chased after them.

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Q What became of those men putting the bundles in, did you see what they did with the bundles? A This defendant jumped in the cab.

Q How many other men were there? A There was, when I could see, there was two on each side of the running board and the chauffeur in front. The chauffeur never got off the car.

Q What did they do with these bundles when they brought them down the stoop? A Loaded them into the taxicab.

Q Put them right in the taxi? A Yes.

Q What did you do after you fired two shots? A Chased up after them and ran up to -- around the corner and saw a man in a hall, and had suspicion he was one of them, but I was not sure of him and so I did not hold him, but ran -- I was not going to miss the taxi, and I ordered Officer McGann and Officer Kennedy to take the stuff to the station house, and I said I will be back immediately.

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Q You have not got the taxi yet? A Reached the taxi.

Q Where was the taxi? A East Broadway.

Q Where was it? A Officer McGann was in front of it.

He was there with a gun and they could not go further.

Q You found the taxi stopped at East Broadway with Officer McGann in charge? A Yes, sir.

Q Any other officer there? A Officer Kennedy and McCarthy came from the fixed post. They were the men I was talking to on the corner and they ran up and I ordered Kennedy and McGann to take this taxi and the chauffeur and the defendant and the material that was inside to the station house.

Q Then what did you do? A I told them, I said--

Objected to.

Q Was the defendant present then? A Yes, he was present.

Q Go on? A I told him to tell the Lieutenant I would be there immediately and make my charge and he should hold him until I got there because I ran back into Henry street--

MR. SCANNETT: I object to his reasons.

Q You then ran back into Henry street? A Yes.

Q Tell us what you did in Henry street--you said you ran into Henry street--tell us what you did when you ran back into Henry? A I ran back into this tenement No. 19 and 21 on the corner and went up the stoop and went through this--went to go through the building for the purpose of looking where these men went to. Some ran into the building and some ran around

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the corner. I went into the hallway of this building and stumbled over another bundle of clothes. So I went to the corner and blew my whistle and got all the--several men around--they all went towards this taxi--they were all up towards East Broadway, and I had to call for some more men to come down to give me a hand with this bundle in the hall. So I sent Officer Daly and Reeger with this bundle to the station house and part of the swag that they were taking out of the house.

Q You were in the hallway of this same building you saw the men bringing the bundles out of? A Yes.

Q What did you? A Went through this building up on the roof--no, it was through a window onto an adjoining roof at No.-- I believe the number is 19 and 21 or 17 and 19 Catherine street.

Q You went out a rear window of Henry street-- A Onto a roof and crossed this roof and you go up a ladder and you get onto White's bakery, 15 Catherine, a little bit higher, but there is an iron ladder going up, but they had a wooden ladder besides that--

MR. SCAMMELL: I object to that.

THE COURT: Yes, strike that out.

BY THE COURT:

Q There was a wooden ladder there? A Yes. I got on White's roof and from White's roof I looked up at all the windows but could not see anything where they made any entrance.

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I was looking to see what entrance they had made into No.--

Q You did not see anything when you got to White's roof, what did you do next? A Went to the station house and made my charge.

Q Then you came back? A I came back at about six in the morning when Daly came, and then I found out where they--

Q Where did you go? A I went over the route the same as I had before, over the roof.

Q You got on White's roof again? A Yes, and then I lowered myself down and got hold of the drain pipe and got on a shaky fire escape, without any railing around it, and I was afraid to kind of risk it to go further and so I took one of the iron shutters off and laid it down over to make it more solid to cross over on.

Q What floor were you on at this time? A Back of the fifth floor of No. 23 East Broadway. I crossed over and got into this here Mr Marks' place.

Q How did you get in his place? A Through a window.

Q On the fire-escape--his window on the fire-escape?

A From the fire-escape, yes, it was the rear of his window in the rear of East Broadway.

Q You mean his rear window opened onto a fire-escape?

A Yes.

Q And you got in through that fire-- A Yes, sir.

Q Having come-- A From the side of White's roof.

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Q You had come originally through 19 and 21 Henry street over the roof? A Yes, sir.

Q To this rear window of Marks' place? A Yes.

Q What was the condition of that window when you got there, before you went in through it? A The iron window had been forced open.

Q What do you mean, the iron shutter? A The iron shutter, and the shoulder or brace where this bar--they had--it was a window every bit as large as that window pretty near (indicating), and had a big wooden shutter on it.

Q Inside? A Inside, and some sheeting, tin sheeting over it, and they had two bars in the back of it, and the bars about I will say four by two--four inches by two, and they had an extra iron bar back of that and they could not force the window back, so they forced the shoulder out of the side of the window.

Q Forced the shoulder out of the side of the window? A Yes.

Q And that had sprung the inside shutter? A They swung the shutter to one side and lifted this bar on the inside pressing it up.

Q When you got there the inside shutters were open?

A Yes. This big tin and wooden thing that was over the window had been shoved up to the side.

Q So you could go right in the window without opening it at all when you got there? A Yes.

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Q You did go in? A I went in.

Q At that time was anybody else in there? A No, nobody.

Q You were the first one in? A I was the first one in there.

Q How were the doors to the place when you got in there, locked or what? A Everything secure.

Q Except this window? A Except this window. They did not touch the other locks, because there was burglar alarms on it.

Q What did you do then? A Well, I was in company with the watchman that belongs in the building. They have a private watchman there and I left him in charge.

Q What was the condition inside the loft? A I saw that some stuff had been missing, but I could not tell because there was some cloaks and stuff hanging around.

Q There was merchandise in there? A Yes, sir.

Q When you got in there? A Yes, sir, they had not cleaned it out completely.

Q Did you at any time have any talk with this defendant?
A Yes.

Q When? A In the station house.

Q Was that before or after you got in this window? A That was after.

Q Tell us what conversation you had with him? A I asked him if he--he ought to tell us the the other fellows were, and

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and he told us a story about Big Frank who wore a fur coat and he said--asked him his other name and he said he did not know it, and he said he had--he was sent to Beefsteak John's to get the chauffeur, and the chauffeur also admitted that this defendant was the man who ordered him to go to Big Frank, who was the man who had hired the taxi.

Q When you were on Henry street as you have already told us, and saw some men coming down the steps of No. 19 and 21 Henry with some bundles, how many of those men were there?

A Well, I should judge I saw five. It was dark.

Q Could you at that time distinguish this defendant?

A Well, I saw him jumping into the cab.

Q At what point was that? A That was just before she started.

Q Just before she started? A I saw him getting into this cab and he was the one that got into it.

Q Was that before or after you fired? A That was before I fired the shots.

Q You did not fire the shots until the cab started? A Until she turned around the corner. As soon as--I was afraid she might make away and I fired the shots, knowing if they turned the corner they would be out of my sight.

Q Can you state whether or not this defendant was one of the men who was carrying those bundles? A From what I saw, the way things were, the darkness as it was that night, I will al-

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most swear he was one of them that was carrying the bundles.

Q Down the steps? A Yes.

Q You saw this man come down the steps? A Yes, sir, and the last one that went in with the bundles--he stayed in that cab and he was found in the cab afterwards.

CROSS-EXAMINATION:

Q You say this was very dark? A I don't say it was very dark, but it was kind of--pretty dark, you could not distinguish faces.

Q You could not distinguish faces on that night? A No.

Q You say that you came up and noticed this taxi? A I did.

Q And you were then at-- A Madison and Catherine.

Q That is about a block and a half? A That is a block away from Henry street.

Q 19 and 21 is not on the corner? A Yes, it is right on the corner.

Q Then you were a block away? A Just a block.

Q You started to pursue this taxi, you thought there was something wrong going on? A I thought the thing was not right.

Q You started to walk first and later broke into a run?

A After, after this milk man told me I run.

Q You were going up on a run and before you had a chance to get there the taxi started out? A Yes.

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Q So that you were running--these blocks are short or long blocks? A Quite a long block from Market to Catherine on Henry.

Q That is from Madison to Henry on Catherine? A I ran on Henry but--

Q You were down at Market street? A Yes.

Q Where was the millman? A He was coming up Henry street towards Market and he had just reached the corner when he saw me walking up Market street.

Q Now, he was not at the corner? A He had just about reached the corner when he called to me, he said there was burglars and robbers on the corner.

Q Then you started to run? A Started to run.

Q You ran all the way? A All the way down Catherine street and did not stop running until I reached the taxi on--at East Broadway and Catherine when McGann was--

Q You never stopped running at all as matter of fact until the taxi cab had started? A No, I did not stop running. I was running all the time and they spied me and started and away they went.

Q You say it was very dark that night, you could hardly distinguish faces? A I could not distinguish faces, but could see the forms and see the people there.

Q You were running and you could not see the forms from Market street? A No, I did not see--I did not notice the taxi

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from Market.

Q You could not see the taxi one block away in this street?

A I do not say I could not but did not see.

Q You knew there was something doing? A I did not look down the ~~xxx~~ street until that milkman told me--

Q After the milkman told you you started running down the street? A Sure.

Q Did you see the taxi then when you started to run?

A I did not see it right away.

Q You started to run? A Yes.

Q At Market street and Henry,--when you started to run you did not see the taxi although you were looking down the block, is that right or not? A I did not exactly look in that spot where the taxi was, but when I came down further I saw the taxi and then I realized what was up.

Q When you started--you were looking down the block and the milkman had told you that there was a robbery being committed at Catherine and Henry--you started to run and you could not see the taxi? A I started to run. I was looking down all four corners, and as I happened to look towards this corner I saw something standing there, and when I got closer I saw it was the taxi I had been following.

Q You could not distinguish a block away it was a taxi?

A No, not until I got halfway up the block then.

Q Then you saw this body that was looming up in the dark

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was a taxi? A I saw the men were bringing the stuff out of the building and putting it in.

Q Do you know how long that block is? A I would not say.

Q That is your beat or was at that time? A That was one of the blocks.

Q So you had gone over it many times and could you give any idea how long that block is? A Well, let us see--I do not know how many feet to a block--I never measured it.

Q Is it as long as the average avenue block or as long as the average street block--these are a lot of cross streets down here? A I will tell you how long it is--it is about as long as the width of this block here, where this building is standing.

Q From Centre to North? A On Centre street, and even longer, I think.

Q How far away from the taxi were you when you pulled your gun? A About half a block away. I pulled my gun out.

THE COURT: We will suspend now.

MR. SCAMMILL: I wish to make a motion. I ask your Honor to discharge the jury in this case upon the ground evidence was introduced tending to prove the conviction, prior conviction of the defendant here, and that a police officer in uniform got on the stand and gave evidence proving prior conviction before the defendant was convicted

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of this offence.

Motion denied, and exception.

MR. SCANNEL: At this stage I wish to renew my motion to discharge the jury upon the ground that the defendant's constitutional right has been violated and I would like to state briefly my grounds. It has always been the rule of criminal procedure that a defendant charged with a specific crime should come before a jury of his peers for the adjudication of his guilt or innocence of that specific crime clothed with the garb of innocence which should last throughout the trial, and this fundamental rule has been secured by the Constitution of the State, by the Constitution of the United States and by the ancient bill of rights of England, and when testimony is offered in a case, before any testimony has been brought which would tend to show the guilt or the innocence of a defendant for the crime for which he is charged, and the guilt or innocence

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of which is being established at this trial, which testimony tends to show that he was convicted of a prior crime, which had no connection with the crime at issue, that that garb of innocence is destroyed; that the minds of the jury cannot help but be swayed and influenced by evidence so introduced and prejudiced against the defendant before the inception of the case proper, and this right which the defendant has cannot be removed by any statute or any rule of evidence, and I hold this right has been violated in this case and on that ground I ask for the discharge of the jury.

THE COURT: The motion is denied.

Exception.

THE COURT: When the time comes the jury will be instructed as to why there is an allegation in this indictment of the alleged commission by this defendant or previous crime and the relation which that has to the charge, as now made in the indictment, and the purposes for which they are to consider it.

CROSS-EXAMINATION CONTINUED BY MR. SCANNELL:

Q I think when we suspended yesterday that you were describing how you were just at the corner of Market street and Henry and had started down Henry street towards Catherine? A Yes.

Q Now, you were saying it was very dark on that street?

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A It was not altogether totally dark.

Q But that it was so dark that you had to get half way down the block before you could distinguish a taxi was a taxi?

A That I could see it was the taxicab, yes.

Q And that this block on Henry street from Catherine to Market was about as long as the block here upon which this building is located? A Might be a little longer.

Q Now, you say that the taxicab started before you reached it? A Yes.

Q How far away from you was it when it started? A I was about four houses away when they started the thing going and swung around the corner.

Q Now, have you any idea how wide the houses are in that particular locality? A Might be from 20 to 25 feet.

Q So that it was about 25 feet away when it started?

A When they saw me all they had to do was just to turn around the corner. They were right at the corner.

Q It was about 100 feet away from you when it started?

A Well, I did not measure the distance.

Q About four houses and the houses were about 25 feet-- about 100 feet? A About 100 feet.

Q And the defendant you say was on the taxi? A He was in the taxi.

Q He was in the taxi? A Yes, sir, inside.

Q Were you running when you saw the taxicab, when you

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were halfway down the block? A I ran all the time from Market street clean around and when I started up I was still running and pulled my gun out when I got about the middle of the block.

Q While you were in the middle of the block you pulled your gun out while you were running? A Yes.

Q And when you got within 100 feet of the taxi, it was on its way, and then you could not see the defendant because he was inside? A They swung around the corner. Before they got around I shot at them.

Q You shot at the taxi? A For them to stop? A Yes.

Q You could not see the occupant inside, when they were going around the corner? A Could not see after they got around the corner, but after I got around the corner he was inside.

Q Yes, but when you say that you saw him here in 19 and 21 Henry street-- A I saw somebody come out of the hall with a bundle and get into the taxi and close the door and then two jumped on the running board on each side and then it turned around the corner and by the time I got around they were off the running board and all I saw was him and the chauffeur.

Q There was more than one man got on this taxi? A Yes, sir, sure, there was about four besides him.

Q So that there was more than one got on the taxicab? A Yes.

Q You testified before, if I noted this correctly, that

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you could almost swear that it was the defendant who had this bundle? A Sure, I found him inside.

BY THE COURT:

Q Officer, as matter of fact, you saw a man come down the steps of a certain house on Henry street with a bundle? A Yes.

Q You saw that man get into a taxicab? A Yes.

Q You saw certain other men get on the running boards of the taxicab? A Yes.

Q You saw the taxicab leave and turn a corner? A Yes.

Q Afterwards the defendant was found inside of the taxicab? A Yes.

Q And because you saw one man get in the taxicab, you draw the inference that as one man was found inside the taxicab, that was this defendant? A It was impossible for him to get out because I had gone around the corner so fast--

MR. SCANNELL: May I except to your Honor's question as leading.

THE COURT: I will withdraw it and the jury will disregard it.

BY MR. SCANNELL:

Q You said you could almost swear that you saw this defendant with a bundle, carrying the bundle, you testified that before? A Yes, I saw a man come down with a bundle.

THE COURT: Counsellor, this officer does not pretend to swear that the man who came down with a bundle

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was this defendant.

MR. SCANNELL: Then my recollection serves me wrong, because I noted here that he said he could almost swear it was the defendant.

THE COURT: He has not testified to that. He testifies that a man got into the taxicab with a bundle, and that only one got in, and that he did not see anybody get out of the cab.

BY MR. SCANNELL:

Q During that day or that evening -- I am not saying during whether it was the hours upon which you were on post outside of that, during that day, it is true that you had some drink?
A Me?

Q Yes. A I never drink on post. Never have a drink on post.

Q I do not say on post. I said either on post or out of post, on that day? A No.

Q You say you went from 19 & 21 Henry street over to this building which had been burglarized on East Broadway? A Yes.

Q Now, you went over the roofs? A I went over the roofs.

Q Did you see any other way? A What?

Q Did you see any other way of communication? A There was an escape there they could go down to Catherine street, but, that door leading down through Catherine street was locked. It was open in the day time, but locked at night. The door, I

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found out in the morning, was open, but at night when I went up there I tried that door and it was locked, so the people must look it in the night time and have it open in the day time.

Q So there was a way by which they could have gotten down the escape and gone to Catherine's? A Provided they had somebody inside to open the door.

Q There was no way by which they could have gotten from East Broadway to Henry Street? A Over the roofs, yes.

Q Only over the roofs? A Yes.

Q That was the only way they could have gotten from East Broadway to Henry street? A Yes, the only way I seen.

Q You investigated the premises? A I went through three times before I found where they did really go.

Q So there is no way to get from the house on East Broadway to the house on Henry Street where you saw this taxicab, except over the roofs? A Only over the roofs.

Q In order to do that, you had to tear off the shutters and lay them across the spaces. A I did not have to, if I wanted to take a chance of breaking my neck and going down five stories. I done that to make it securer.

Q So that if a man with a bundle in his hand wanted to get across this gap, he would either have to ~~xxxx~~ lay shutters or he would have to take this chance with a bundle? A No, he would not.

Q How? A They could throw a rope from the roof and tie

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it up and hoist it up.

Q They could not throw this bundle from East Broadway to Henry street, could they? A They could hoist it up on the roof of 15 Catherine street, White, the baker's roof. That is the way they crossed. The way I figure it, they must have hoisted it with ropes. No man stood on that fire-escape with a bundle -- he would go down.

Q A man could not stand there? A No, I would not. I would not risk standing on it without a bundle, it was so flimsy.

Q How do you think they got, or is there a way by which they could get from the place that was burglarized on East Broadway, to the place where you saw the taxicab in Henry street?

Objected to as calling for a conclusion. Sustained.

Q You say you gave orders to certain men to give you a hand with the bundle you found in the hall? A I ordered Officers Daly and Reeger. When I found this bundle I took it out to the sidewalk and ordered them to take it to the station house.

Q You ordered those two men? A Yes, two men. It was a big bundle.

Q It was not a small bundle? A No, it was a big bundle.

Q You heard the previous officer, Officer McGann testify, did you? A I don't remember.

Q He said it was a small bundle.

Objected to. Sustained. Question withdrawn.

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RE-DIRECT EXAMINATION:

Q Do you often see taxicabs down in that neighborhood at that hour of the morning? A Very few.

Q Now when you saw the taxicab start up, you say it turned the corner. A Yes.

Q It turned the corner at Henry into what street? A Into Catherine.

Q When you reached the corner of Henry and Catherine, where was the taxicab at that time; when you got to the corner of Catherine and Henry so you could see where McGann had stopped the taxi, where was it then? A It was up around about White's bakery.

Q How far away from you was that? A About three doors from the corner.

Q Was that a full block from you? A All but three doors.

Q Nearly a block away? A Yes.

Q How long approximately did it take you from the time you saw the taxi turn the corner, to get to that corner where you saw the taxicab again? A I don't think it took me more than a minute or two to run up the street.

Q You had to run four -- A Fully a block.

Q Four or five houses to get to the corner ?

Objected to. Objection overruled.

A On Market street.

Q From the time you fired the shot, as the taxi turned the

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corner, until you reached the corner of Catherine and Henry where you could again see the taxicab? A It was only a couple of seconds.

Q Just the length of time it took you to run that distance?

A That was all. I was running full speed.

Q From the time the taxicab started up until you lost sight of it as you turned the corner, did you see anybody get out of it? A No.

BY THE COURT:

Q After you saw the taxicab having turned around the corner, you having turned the corner, did you see anybody get out of it? A No, and I would have heard the door slam if anybody got out.

BY MR. EDWARDS:

Q You did not see anybody get out or hear the door slam?

A No.

GEORGE F. MCCANN recalled:

BY MR. EDWARDS:

Q Officer, when your attention was attracted by the shots and you looked down Catherine street, as you have already testified, where did you see the taxi? A Coming around the corner of Henry street going west on Catherine.

Q From that time until you stopped it, did you lose sight of it at any time? A No.

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Q Did you during that time, see anybody get out of it?

A No.

Q How many bundles did you say were in that taxicab?

A Three bundles in the taxi and three rolls of serge.

CROSS EXAMINATION:

Q Did I understand that you said yesterday that you saw the defendant get on the taxicab? A No, I did not see him get on the taxicab.

ISAAC MARKS recalled:

CROSS EXAMINATION CONTINUED BY MR. SCANNELL:

Q Can you tell me the cost to you, of making and producing the material which you testified to yesterday in bulk? A In separate garments I could, such each garment.

Q Separate garments? A Yes. You said yesterday style No. 712?

Q That is the first one? A Yes -- the cost of that garment is \$7.30 with expense.

BY MR. EDWARDS:

Q That is the one you testified the market value was \$8.?

A Yes.

BY MR. SCANNELL:

Q And that you testified the cost yesterday was \$7.25?

A Well, that just came from the books. I could not guess it

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within five cents. Do you want the other numbers?

Q Yes. A Style No. 723, the real cost is \$5.50, and, 712 X, is \$6.30.

Q There were ten of them? A Ten, 712 X, and 710 X were fifteen at cost \$5.25; 714 were four at cost \$5.; fourteen suits -- they were different, and we priced them up, some of them were worth twelve and some of them were worth eight, and we made them \$8.

Q \$8.? A \$8. a piece.

Q I have fourteen suits and fourteen skirts at \$4. each -- I suppose that is the fourteen? A That is suits -- that means a coat and a skirt -- \$8. -- there was one \$8. each.

Q That was your asking price? A That was the price we got it down to sell it at. Some of them were worth more, but cut them down to sell them, as they were single lots.

Q They are still worth \$8., they cost \$8. to manufacture?

A No, cost me more than \$8. to manufacture.

BY MR. EDWARDS:

Q Tell us that they did cost? A It is hard to tell what samples cost me. The sample maker gets \$4. a day and sometimes will make a sample, take him a day and sometimes two days to get them out right. It is hard for me to tell how much it cost, each sample.

BY THE COURT:

Q What was the cost price of the entire merchandise that

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was missing? A The cost price was \$515.70.

BY MR. SCANNELL:

Q That is the total? A That is the total.

Q Just one more item, one jacket? A At \$4.

Q How much did that cost you? A That was, the skirt was missing from this one here -- that suit entirely, if I had the skirt to it, it would have been worth \$12., but as long as there was missing the skirt, then we have not got the whole suit and we have to sell them separate, and figure it down to \$4.

Q What did the 113 yards cost? A 65 cents a yard.

Q That actually cost you 65? A That cost me 65 cents a yard.

BY MR. EDWARDS:

Q What is your partner's name? A Isidor Funk.

THE PEOPLE REST.

MR. SCANNELL: I now ask your Honor to strike from the consideration of the jury, the burglary charge in this indictment, inasmuch as there is no connection of the defendant with the breaking into of this house on East Broadway.

Motion denied. Exception.

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LOUIS MATZIO, the defendant, called as a witness in his own behalf, being duly sworn and examined, testified as follows:

(Residence 694 Second Avenue).

DIRECT EXAMINATION BY MR. SCANWELL:

Q Do you remember the 2nd of March? A Yes.

Q Tell this jury exactly what happened on that night and speak loud enough so that the jury can hear you? A At seven or a little after seven I left the house to go to my father's house. Wanted to get some money to pay my rent. When I went down there I found my father sick in bed and thought it would not look nice to ask him for the money.

MR. EDWARDS: I object to what the witness thought.

THE COURT: Yes.

BY THE COURT:

Q Do not say what you thought -- you found him sick in bed? A So I would not ask him for the money, being he was in bed. I stood there late, around one o'clock and my mother asked me would I go for the doctor. I asked her where, and she told me to go for Dr. Spotsin in Madison street. I went to the doctor and after I went to the doctor I went to my sister's house and told her my father was sick and she told me to wait awhile and she would go with me. About a little after one, or half past one or a little near 2 o'clock, we went to my father's house. My mother turned around and said, why don't you go home, your

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wife ain't feeling well and you ought to go home. I said I will in a little while. So around a little after two I left the house and told them I was going home. I was on the way up to the elevated station corner of Catherine and Henry and some fellow stopped me and asked me where I was going. I told him I was going up in 38th street and 2nd avenue, home. He said if you will do me a favor, I will let you ride up with us. I said what is the favor. He said, go around through Chatham Square and see if you see a taxicab there and if not call any one that comes along. I told him I would do him the favor. I went to Chatham Square and right in front of a restaurant there known as Beef-steak John's, was a taxicab just about to start away from there, cranking his machine, and, I told the chauffeur there were two men wanted a taxicab. He asked me where? I told him. He said he did not know. He said would I take him there and I took him there; I got on the seat, and when I got there there was one fellow on the stoop and one at the curb. I jumped off and I said there is your taxicab and he said all right, ain't you going to ride up with us. I said wait, I will see if the candy store is open and get a package of ~~xxx~~ cigarettes and I went around, and just as I turned around to get on the car, the car was coming along, and I jumped on and just as I jumped on, a couple of shots were fired and as I got in the car, somebody jumped off on the other side, and all of a sudden the car came to a stop and Officer Mc Cann put me under arrest.

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BY THE COURT:

Q At the moment you were placed under arrest, you were inside or outside of the car? A I was placed under arrest after he took me out of the car.

BY MR. SCANNELL:

Q Did you at any time during the 2nd of March, break into any premises on East Broadway? A No, sir.

Q Were you with anybody on the fifth floor of East Broadway that night? A No.

Q Were you inside the building 19 & 21 Henry street?
A No, sir, I was on the corner where that building is situated when the fellow stopped me.

Q You were on the corner, but you were not in the building? A No.

Q Did you carry any bundle out of that building? A No.

BY THE COURT:

Q Did you go inside the taxicab -- do you know what I mean by inside? A Yes.

Q Did you go inside of the taxicab? A Yes.

Q At the time you got inside the taxicab, was there anybody else inside of the cab? A No, sir, but I seen some one on the steps of the car jump off as I opened the door and got inside.

Q When you got inside the taxicab, you were the only person inside of it? A Yes.

Q Is that so? A Yes.

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CROSS EXAMINATION BY MR. EDWARDS:

Q Where do you live? A 694 Second avenue.

Q How long have you lived there? A About three months.

Q Who lives with you? A My wife and child.

Q What is your business? A Porter and driver, whenever I am out of work.

Q Where do you work? A At 51st street and 1st avenue.

Q Who for? A Tony de Salvo.

Q Where is his place of business? A 51st street and 1st avenue.

Q What is his business? A Barber shop.

Q What do you do there? A Sweep up and bootblack.

Q How long have you been working there? A About six months.

Q Where did you work before that? A With my uncle.

Q Where is that? A Washington Market.

Q What is his business? A Fruit and vegetables.

Q What is his name? A Cavone.

Q How long did you work for him? A A long time.

Q How long? A I don't know, about seven or eight months.

Q Where did you work before that? A I was out of work a few months.

Q For how long? A I couldn't tell you how long.

Q It is less than a year ago -- how long were you out of work? A Five or six months.

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Q Who did you work for before that? A Burns Express.

Q Where is their place of business? A 16 Bridge Arch.

Q And how long did you work for them? A A little over a year -- a year or a little over.

Q How often have you been convicted of crime? A Once.

Q When was that? A 1910.

Q What was the crime? A Petit larceny.

Q That was this conviction that I proved here yesterday, on the 13th of December, in Special Sessions? A Yes.

Q That larceny was committed from your employer at that time? A Yes.

Q The expressman? A Yes.

Q The one that you told us you worked for at Bridge Arch?
A Yes.

Q And sentence was suspended upon you then? A Yes.

Q What time did you leave home on the night of the 1st of March? A The 2nd of March wasn't it -- I was home the night of the 1st of March -- it was the 2nd of March.

Q When were you arrested? A The 2nd of March.

MR. SCANNELL: There is a little misunderstanding here.

MR. EDWARDS: I submit that I ought to be allowed to examine the witness without interruption.

THE WITNESS: I was not out of the house at all.

BY MR. EDWARDS:

Q When were you arrested? A The 2nd of March.

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Q What time? A About a quarter of three.

Q When, morning or afternoon? A In the morning.

Q What time did you leave home the night of the 1st of March?

BY THE COURT:

Q It was the 1st of March up to midnight? A I understand now -- I was at home about 7 o'clock. I left about quarter after seven.

BY MR. EDWARDS:

Q What time did you leave work that afternoon? A Around quarter to seven.

Q Quarter to seven? A Yes.

Q And then you went right home? A Yes.

Q When did you leave home? A About quarter after seven.

Q It was not 7 o'clock as you said on your direct examination, but it was quarter after? A Seven or a little after 7.

Q What time was it, do you know? A I couldn't exactly say

Q Where did you go when you left work? A Went on the elevated.

Q Where to? A To my father's house.

Q Where did you father live? A 77 Oliver street.

Q How far is that from Henry street? A Well, about two blocks.

Q You got down there and you found your father sick in bed? A Yes, sir.

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Q How long did you stay there? A All night pretty near except when I got arrested.

Q How long did you stay at that time before you left?

A About one o'clock or a little before one.

Q That is the first time you left your father's house after you got there, a little before one? A Yes.

Q And where did you go when you left there? A Went to the doctor's house.

Q Then you did not go at 10 o'clock to the doctor's?

A No, one o'clock.

Q Didn't you say on your direct examination that your mother told you at 10 o'clock to go for the doctor, and told you to go for Dr. Epstein? A No, I did not.

Q You did not say that? A No.

Q Why did you wait until one o'clock to go for the doctor?

A She told me to go at one o'clock.

Q You did not go before that? A No.

Q Your father was not very sick before that, was he? A No.

Q Yet you stayed there all that evening? A Yes.

Q When you left there at one o'clock, where did you go?

A Went to the doctor's.

Q Where is that? A Henry street.

Q What number? A I don't know the number.

Q Between what streets? A Between Market and Henry.

Q Between Market and Henry? A Between Market and Catherine.

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Q Which side of the way? A The east side of the way.

Q What is the number of the doctor's house? A I couldn't tell you.

Q How did you find it? A I went there once before for my father.

Q You knew where it was? A Yes.

Q Did you see the doctor? A No.

Q He was not in? A No.

Q Where did you go then? A To my sister's house.

Q You did not come back to your father and say you could not get the doctor? A No, I went to my sister's house.

Q Where did your sister live? A 32 Monroe street.

Q How far is that from Henry street? A Two blocks below Henry.

Q How far is that from where your father lives? A About a block and a half.

Q You did not go back to your father's house and tell him you could not get a doctor, but went to your sister's? A Yes.

Q At one o'clock in the morning? A Yes.

Q What did you do when you got there? A I told her my father was sick.

Q What did she do? A She said, wait a minute and I will go over to the house with you.

Q How long did you wait there? A Until she got dressed proper. She was not dressed proper when I got there; she had to

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get up out of bed to open the door.

Q How long did it take you? A About fifteen or twenty minutes.

Q Where did you go then? A Father's house.

Q What time did you get there? A I couldn't tell you what time it was.

Q How long did you stay after you got there? A About three quarters of an hour.

Q And then where did you go? A I was on the way to go home.

Q What time was that? A A little after two, about quarter after two.

Q When you left your father's house, what streets did you walk through? A Went up through Oliver into Oak street and into Catherine street and all the way up straight Catherine until I got to Henry where these fellows stopped me.

Q What happened at Henry street? A As I was passing some fellow said, Louis.

Q Who said it? A Some fellow by the name of Big Frank.

Q Do you know him? A If I see him I know him.

Q You know him by sight? A Yes.

Q Where does he live? A I couldn't say.

Q You used to live down in that district before you were married? A Yes, born there.

Q Don't you know Big Frank? A No.

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Q Know anything about him? A No.

Q Ever see him before? A Yes.

Q Ever go with him? A No.

Q This was nearly 3 o'clock in the morning? A Yes.

Q He stopped you on the corner? A Yes.

Q Any one with him? A No, he just stopped me.

Q He was alone? A No, there was another fellow with an overcoat on.

Q How many men with him? A Just two, him and another.

Q Big Frank and another man? A Yes.

Q Big Frank stopped you on the corner? A Yes.

Q How long since you had seen Big Frank at that time? A I couldn't tell you. I saw him in a cafe in James street.

Q How long before that? A I don't know how long before. Couldn't tell you.

Q What did he say to you when he stopped you? A He said hello, Louis. I said hello. He said where you going? I said home.

Q He called you by your first name? A Yes.

Q Louis? A Yes.

Q How old a man is he? A Looked around twenty-three.

Q Where does he hang out? A On the corner of James and Oak street, that is where I seen him.

Q Did you know this man that was with him? A No.

Q What did he say to you? A He said, where you going? I

said going up home. He said where? I said 2nd avenue and 38th street. He said will you do me a favor? I said what is the favor. He said, go along to Chatham Square and see if you can see a taxi, and if you get one, we will give you a ride up with us and you can get there in quicker time.

Q Did he tell you where he was going to ride to? A He said up around 90th street and 2nd avenue, and that I could get off at 2nd avenue.

Q That did not strike you as peculiar that he should ask you for a taxi at 3 o'clock in the morning at the corner of Catherine and Henry? A No.

Q You went right ahead to get it for him? A He said he wanted to get uptown and he wanted a car.

Q Did he say where he wanted the car to ^{come} to? A Yes, sir, on the corner of Catherine and Henry.

Q Were you on Catherine or Henry street at that time?
A Catherine.

Q You went for the taxi. A Yes.

Q Where did you find it? A On the space at Chatham Square-- I don't know what you call it -- I guess you call it Chatham Square -- in front of the restaurant.

Q What restaurant was it? A Beefsteak John's.

Q You knew that place? A Yes.

Q Did you say to the chauffeur that some one wanted him?

A I said Billy, two young fellows --

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Q Did you know this chauffeur that you called him Billy?

A No, I just called him by that name.

Q Then you told him some one wanted him on Catherine and Henry street? A Yes.

Q What did he do? A He said where is Catherine and Henry? I said a couple of blocks below. He said will you get on the car and take me there if you don't mind. I said all right.

Q You got on the car with him? A Yes.

Q Where did you go, inside or outside? A On the seat.

Q How did you go to Henry Street? A Turned around into East Broadway and down Catherine.

Q How far did you go down Catherine? A Just one block and turned right around a curve.

Q Why did you turn the corner? A That is where they were on the corner.

Q You said they were on Catherine? A They were on the curve on Henry street.

Q How could you see that at 3 o'clock in the morning, you came down Catherine street? A Yes.

Q Why didn't you stop the car where you met the men?

A That was where I did stop him, but they were on this side of the street and he had to turn around to get where they wanted him.

Q You turned the corner? A I did not, but the chauffeur did.

Q When the car stopped, which way was it headed? A Towards

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the East River.

Q Towards Catherine or Market street? A Towards the East River.

Q Was it headed towards Catherine or Market street?

A Headed towards the East River.

Q Cannot you answer me, was the head of the car when it stopped on Henry street, towards Catherine or in the other direction? A It was towards Henry street on Catherine, towards Henry street.

Q You told me a moment ago it turned the corner into Henry street and stopped? A I thought you meant when we were coming down.

Q No, when the car stopped on Henry street the first time when you got it there, which way was it facing? A Catherine -- Market street before he turned around.

Q Facing Market? A Yes, sir, before he turned the corner.

Q Then it came into Henry from Catherine, is that right?

A Yes, sir.

Q When you got it there? A Yes.

Q It was headed away from Catherine, the front of the car was away and the back of the car towards Catherine? A Yes.

Q What did you do? A It turned around after I got off.

Q What did you do then? A I got off and walked to the sidewalk and I said to the fellow, there is your car and he said don't you want to ride up with us, and I said I want to see if

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the candy store is open and get cigarettes.

Q At 3 o'clock in the morning you wanted to go to a candy store to get a package of cigarettes? A Yes.

Q What candy store did you go to? A Some candy store right around the corner.

Q What candy store is it -- you have lived there? A I used to live on Catherine.

Q What candy store did you go to? A Never was in there before.

Q Where was it? A In Catherine street.

Q Whereabouts on Catherine? A Two doors away from Henry street about.

Q Whose candy store was it? A I couldn't tell you.

Q Was it open? A No.

Q At 3 o'clock in the morning you went to a candy store on Catherine street to get some cigarettes? A Yes.

Q You want this jury to believe that? A There is people living in the back.

Q Is that what you want this jury to believe? A It is up to the jury, if they don't want to believe it, I ain't forcing them.

Q You want them to believe it? A No, I don't. They have their own opinion about it.

Q How long were you at the candy store? A I wasn't there at all; I just saw it was closed.

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Q You went to the door and turned around and came back?

A Yes, and as I turned around, the car was coming around.

Q Which direction was it coming from? A From Catherine towards East Broadway.

Q How do you know the car turned around? A I saw the car coming around.

Q Did you see the car turn around? A Yes.

Q When you left it on Henry, it was headed the other way?

A No, I told you that and you would not give me a chance -- I told you it was headed to Market when I got off and came to the sidewalk, and the fellow told him to turn at the curb.

Q Then he turned around? A Yes.

Q When you left it, it was headed towards Catherine? A Yes.

Q Where was it when you started to come back from the candy store? A Almost around in Catherine.

Q How fast was it going? A I couldn't tell you.

Q Was it going fast or slow? A It was going slow enough for me to jump on.

Q You jumped on the running boards? A Yes, sir.

Q How many others were on the board at that time? A No one on the same side with me.

Q That was the side towards the curb? A Towards the curb, that I was on.

Q That was the curb at the corner of Henry and Catherine?

A A little up above the corner -- it came up by -- as soon as I

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saw it coming, I stopped.

Q You got on the running board of the car? A Yes.

Q What did you do? A As soon as I jumped on the running board another fellow was standing on the other side.

Q What did you do? A I heard the shots and I opened the door and got in. As I got in --

Q What did you find inside? A As I got in I stumbled over something.

Q What was it? A I couldn't tell you.

Q How big a thing was it? A Almost as high as my knee.

Q A big pile of stuff in there? A Yes.

Q Anybody else in the taxi? A No.

Q Any one on in front with the chauffeur? A No.

Q Didn't that strike you as rather queer? A It did after I was placed under arrest -- I fell over it.

Q It did not occur to you until after you were placed under arrest a block further on? A No, it was not a block. It was only about fifteen feet further up when I was placed under arrest.

Q You did not find Big Frank there? A No.

Q He was not on the running board with you? A No, that other fellow was on the running board when I got on, and jumped off when I got in.

Q Where did he go? A I would like to know.

Q Who was he? A I don't know.

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Q What did he look like? A He had a small moustache.

Q And what else, A Had a brown overcoat on.

Q What kind of a hat? A Slouch hat.

Q Was he the man with Big Frank when he stopped you?

A Yes, sir.

Q Was anybody else there besides Big Frank and that man?

A No.

Q Where did you hear those shots, in what direction?

A I couldn't tell you what direction they came from.

Q Any bullet strike anything near you? A No.

BY MR. SCANNELL:

Q Did you have any conversation with Officer McGann when he arrested you -- did you have any conversation with him when he arrested you? A I did down at the station house.

Q At the station house? A Yes.

M A R Y P O L I D I B A, called as a witness in behalf of the defense, being duly sworn and examined, testified through the official interpreter Mr. Villamena, as follows:

DIRECT EXAMINATION BY MR. SCANNELL:

Q Do you remember the night Louis was arrested? A Yes.

Q You are a sister of the defendant here? A Yes.

Q Where do you live? A 32 Monroe street.

BY THE COURT:

Q Is that where you lived on March 1st and March 2nd last?

A Yes.

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Q Do you remember that night? A Yes.

Q Just tell this jury what happened that night? A On that evening my brother called at my house and called me and told me that my father was sick. I got up and dressed myself and went with him, with my brother, over to my father's house. We arrived there about half past one. We stayed there talking in the house until about half past two and my mother says to my brother you better go home because I believe your wife is waiting for you. It must be around that time my brother started to go home. That is all I know.

Q Did you go home that night, or did you stay with your father? A I remained there at my father's house until about three or half past three, and then I went home, because I left my four children --

MR. EDWARDS: Object to her reason.

Objection sustained.

CROSS EXAMINATION BY MR. EDWARDS:

Q Where did you say you lived? A 32 Monroe street.

Q What time did your brother come to your house that morning? A One o'clock.

Q How do you know what time it was? A I looked at the clock when I got up, because it was not long that I went to bed. I went to bed about 11 o'clock and I am housekeeper of that house, and that is the reason I go to bed so late.

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Q Then you went around to your father's? A Yes.

Q You stayed there for a couple of hours? A Yes.

Q While you were there, your brother started for home?

A Yes, he left there about half past two.

Q You do not know what he did after he left there? A How do I know?

F E R D I N A N D O M A R Z I O T T I, called as a witness in behalf of the defendant, being duly sworn and examined, testified as follows:

(Residence 77 Oliver street).

(The witness testifies through the official interpreter Mr. Villamena):

DIRECT EXAMINATION BY MR. SCANNELL:

Q You live at 77 Oliver street? And did live there on the 2nd of March? A Yes.

Q You are the father of Louis Matsio, the defendant here?

A Yes, sir; I am sick on the bed --

Q Well the jury what happened that night? A I am sick on the bed with the rheumatism about two nights. I was sick with rheumatism. I had this rheumatism for three days in my leg and I was very sick. I was screaming with the pain. Louis came over to see me. My other children was near me too, and the mother says to Louis, Louis you go and get the doctor. The doctor was not in. After awhile the pain seems to me was

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less than what it was before and I slept, not sleeping for three nights previous, I went to sleep. Now I don't know what time Louis went away because I was sleeping. I found out that he was arrested, and that is all I know.

MR. EDWARDS: I object to what he found out from some other source.

BY MR. SCANNELL:

Q Who was there with you that night? A Marie Polivino, Geovina Rogers and Samuel Rogers -- that is all.

BY THE COURT:

Q What floor did you live on? A The first floor.

Q Do you mean one flight up? A Yes, you must come up seven steps to come up in my house, in the back.

BY MR. SCANNELL:

Q Was your wife there at the time? A Yes.

Q She is not able to be in court this morning?

Objected to as immaterial. Sustained.

CROSS EXAMINATION BY MR. EDWARDS:

Q What time did Louis come in to see you that evening?

A About 9 o'clock.

Q And how long did he stay before he went out for the doctor? A About an hour -- I did not look at my watch.

Q About an hour before he went to the doctor? A I was in the bedroom and they were in the kitchen talking together and I could not tell you the time that he went for the doctor.

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Q How long was it after he got there that he went for the doctor?

Objected to as having been already answered.

Overruled. Exception.

A About an hour after.

Q At the time when he went out for the doctor, who was in your house? A Geovina Rogers, Samuel Rogers, Marie Polivino, that is all.

Q What time did Marie Polivino get there that evening?

A About one o'clock.

Q Was she there when he went for the doctor then? A No, she was not there -- Louis went and called Marie.

BY THE COURT:

Q What time did the doctor get there that night, or did he not come at all? A He did not come at all. I heard he was up in the Bronx.

BY MR. EDWARDS:

Q How do you know what time it was when Marie Polivino got there that night? A I know she came over to my bed and asked me, how are you papa, and I said so and so, and I asked her what time it is, and she said it must be near one o'clock.

Q That was after Louis had gone out for the doctor, was it? A Yes.

Q Have you been down to see Louis in the Tombs since he was arrested? A No.

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Q You have not seen him at all since he was under arrest?

A No.

Q Has your daughter Marie Polidina been to see him? A No.

Q Has your wife been to see him? A No.

Q He has been in prison since the 2nd of March, hasn't he?

A Yes.

Q And no member of your family has been to see him?

A No one of us with the exception of Sam Rogers and the wife.

Q Who is Sam Rogers? A My son-in-law.

Q And who do you refer to as the wife, your wife?

A Louis' wife went every morning.

Q You ~~is~~ have seen Louis' wife and Sam Rogers quite often, haven't you? A Yes, I saw Louis' wife every day, and the same thing with Sam Rogers.

Q They have told you all about what Louis told them down in the Tombs? A They have not told me nothing.

SAMUEL RUGIERO, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

(Residence 43 Oliver street).

DIRECT EXAMINATION BY MR. SCANNELL:

Q Do you remember the night of the 2nd of March? A Yes.

Q Tell the jury just exactly what happened on that night?

A As far as I can say, my brother was in the house, Louis Matzic,

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that night, about half past seven or eight o'clock and stayed there until about 12 o'clock or half past twelve, and my mother sent him out for the doctor, because his father was sick, which is my father-in-law, and he came back after awhile, I don't know positively the time -- he came back with his sister Marie Polidina, and stayed there until later -- after, my mother-in-law sent him home, it was somewhere around after two, I am not positive of the right time, and that is about all.

CROSS EXAMINATION BY MR. EDWARDS:

Q What relation are you to Louis? A Brother-in-law.

Q You married his sister? A Yes.

Q Do you live at the same place where his parents live?

A No.

Q What number did you say you lived in Oliver street?

A Forty-three.

Q Where were you on this night, the 2nd of March? A I was in the house.

Q The night of the 1st of March? A In the house.

Q At what house? A My father-in-law's house.

Q What time did you get there? A I got there about six o'clock.

Q How long did you stay? A Stayed until about a quarter after two.

Q Did Louis leave before you left? A About five minutes before I did.

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Q He must have left about a quarter after two? A I should say --

Q What? A I think so.

Q yet you testified on your direct that he left about half past two, didn't you? A Who left at half past two? That I left?

Q No, that he left there at half past two, didn't you say that a few minutes ago? A No, sir.

Q You did not, A No.

Q Do you know what time he left? A I left after two.

Q Do you know what time he left? A He left a couple of minutes before I did. Not positive of the time.

Q What time did you leave? A Not positive about the time I left, it was after two.

Q How do you know? A I happened to look at the clock.

Q Where was the clock? A Right in the house there.

Q Whereabouts in the house? A Right above the stove in the room.

Q Out in the kitchen? A Yes.

Q You had quite a family party there that night?

BY THE COURT:

Q Do you understand? A No, I don't get it yet.

Q Who were in those rooms that night besides yourself?

A My wife, my sister-in-law, that is about all, and Louis and

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my father-in-law was in bed, and my mother-in-law.

Q How many rooms were occupied by your father-in-law; how many rooms were there in that apartment? A Three rooms.

BY MR. EDWARDS:

Q Was your sister-in-law there that night? A Yes.

Q What time did she get there? A She got there about two o'clock, somewheres like that, not positive of the time.

Q About what time was it? A Somewheres near 2 o'clock she came over with Louis.

Q Around 2 o'clock? A Yes.

Q Who came with her? A Louis.

Q What time did Louis go out that night after he first got there? A After he got there first about half past twelve, I believe, or quarter to one.

Q Where did he go? A Went over for the doctor.

Q How long was he gone? A Somewheres around an hour, I guess, pretty near an hour.

Q Where did the doctor live? A I don't know where the doctor lived.

Q Don't you know? A No.

Q Didn't you have a doctor down there? A Not me -- never went for him.

Q Never have had a doctor for your family? A No.

Q Never called a doctor for your father-in-law? A No.

Q Do you know the name of the doctor your father-in-law

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has? A If I ain't mistaken I heard it was Epstein.

Q Do you know where he lives? A No.

Q What time did you get there that evening? A Before six -- I usually get there before six every night.

Q What do you work at? A Longshoreman.

Q Who for? A Work for my brother -- my brother is foreman of it.

Q For what line? A Sugar refinery.

Q How long have you been working at that job? A About a month.

Q Steady work? A No.

Q How many days do you work on an average? A Sometimes two and sometimes three and sometimes a whole week, and sometimes nothing.

Q Sometimes not at all? A Yes.

Q What did you work at before you took up that work?

A With my brother-in-law uptown, a shoe store.

Q What is his name? A Accuso.

Q What is his business? A Shoemaker.

Q Where is his place? A 150th street and Morris avenue.

Q How long did you work for him? A For more than eight years.

Q How old are you? A Twenty-one.

Q When did you begin to work? A When I was about thirteen, when I was in the store.

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Q That is a shoe store? A Yes.

Q You worked for him eight years? A About that.

Q And you are only twenty now? A Yes, twenty-one.

Q You began when you were thirteen -- you have been working how long as a longshoreman? A About two months or a month and a half.

Q That is all? A Yes, not quite two months.

Q You quit the shoe business? A Yes.

Q How many times have you been down to see Louis in the Tombs? A Once.

Q Didn't you go every Monday? A No.

Q Only been once? A Yes.

Q And talked this case over with him? A No, not about the case at all.

Q You have never talked to him about the case? A No.

Q Did you ever go down there with his wife? A No, sir, not with his wife.

Q Did you see your father-in-law after you had seen Louis?

A I was with my father-in-law at the time I went down to see Louis.

Q Did your father-in-law go down with you? A Yes, sir.

Q The last witness who was on the stand, went down to see Louis at the Tombs? A Yes.

Q They talked together down there? A They held quite a conversation about family affairs.

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Q You all talked together? A Yes.

Q His father talked to him too? A Yes.

Q And you were there at the time? A Yes.

BY THE COURT:

Q Who went with you to the Tombs, to the City Prison?

A My father-in-law.

Q Who is your father-in-law? A The man who was on the stand just before, Louis' father.

FANNIE RUGIERO, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

(Residence 43 Oliver Street).

DIRECT EXAMINATION BY MR. SCANNELL:

Q Now Mrs. Rugiero, tell the jury just what happened on the 2nd day of March? A On Friday night my father felt sick and my brother came down and it was quarter after seven. So he stood there until about 12 or half past twelve and he went and called the doctor. My mother told him to call the doctor, my father was very bad.

Q Were you there at half past twelve? A Yes, he went and called the doctor and the doctor was not in and he went -- coming down he went and called my sister --

MR. EDWARDS: I object to what he did outside of her sight.

Objection sustained.

BY MR. SCANNELL:

Q Just what you saw, not what happened outside, that you don't know, but just what you saw? A He went to call my sister --

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MR. EDWARDS: I object to that--this witness cannot know what he did when she was not with him.

BY THE COURT:

Q What time did you get to your father's house? A I was there when he came in.

Q When who came in? A When my brother came in.

Q Who is your brother? A Louis Matzio.

Q What time did Louis Matzio come into your father's house?

A It was about around quarter after seven.

Q In what room were you when Louis came in? A I was in the room father was, in the front room.

Q Who else was in the front room besides you and your father when Louis came in? A There was me and my other sister, not Polidina, but Gelatro, and there was my mother and my little sisters.

Q You were in the front room with your father? A Yes.

Q Your mother was in the front room with your father and your sister whose married name is Gelatro, she was in that front room? A Yes.

Q When Louis came in? A Yes.

Q How long did Louis stay in that room after he got in?

A He sat down down and he saw us crying and he started to cry too because my father was very bad, and he stayed there until about half past 12 and so my mother called him out and told him to go to the doctor for my father was very bad.

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Q Where were you when your mother spoke to Louis? A I just happened to come out and heard my mother say to go out for the doctor. She said to go out for the doctor because--

Q What did Louis do after your mother said that to him?

A He put his hat and coat on and went out.

Q Did you see Louis again that night, or did you see Louis after that? A Yes, sir, he came back with my married sister.

Q How long was that after Louis had gone out that he came back? A He came back around a quarter to two with my married sister.

Q Who do you mean by your married sister? A Polidina.

Q After Louis came back with your married sister Polidina who was in the room there? A All the children were sleeping and there was only me and mother and my husband Eugenio.

Q How long did Louis stay there after he came back? A I am not sure, around quarter after two or half past two when he went out again and went home.

Q Were you there when he left? A Yes, I was there.

CROSS-EXAMINATION BY MR. EDWARDS:

Q You say Louis got down there at quarter past seven?

A Yes.

Q Sure about that? A Yes.

Q You were there at the time? A Yes, I was there in the front.

Q Was your husband there too? A Yes, my husband was

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there too.

Q What time did you say it was when Louis went out to call the doctor? A It was around--I am not sure, it was around half past twelve or quarter to one.

Q You said a few minutes ago it was between 12 and 12:30? A Half past 12, I am not very sure.

Q You don't know? A No, it was around that time.

Q You haven't really any idea what time he went out? A No, I cannot tell you.

Q You cannot tell me at all? A No.

Q How do you know what time he came back with Mrs Pollidina? A When he came back it was quarter of two.

Q How do you know that? A I happened to look at the time and it was ten--

Q How long had he been gone, about? A About two hours.

Q You know where Dr Eppstein lives, don't you? A Yes, sir, 90 Madison street.

Q 90 Madison street? A Yes.

Q Doesn't he live on Henry street? A Madison and Henry--he lies right in the middle of the block on Madison street.

Q On what street, Madison street? A Madison street.

THE DEFENCE RESTS.

GEORGE F. MCGANN, recalled in rebuttal:

BY MR. EDWARDS:

Q You told us on your direct-examination that you heard

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some shots and saw a taxicab swing around the corner from Henry into Catherine, and start towards you, and that you did not lose sight of that cab at any time, and watched it until you stopped it, that is right? A Yes, sir.

Q Did you, at any time while that cab was under your eye, see any one get on to the running board while it was going, and get into the cab? A I cannot say that I did.

Q Can you say that you did not? A I did not see any one.

Q You were watching the cab continually? A Yes, sir.

CROSS EXAMINATION:

Q You were promoted for this? A I don't know, I can't say that.

Q You were promoted just after this? A I cannot say that.

BY MR. EDWARDS:

Q When were you promoted? A I cannot say that I was promoted for this.

Q When were you promoted, how long after this? A About a week after.

*Guilty Henry 3 Degree & S. L.
1st Degree Offense*

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