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

----- x
THE PEOPLE OF THE STATE OF NEW YORK, :

-against- :

ANDREW IQUINTO, alias FRANK ROSS. :

#3381
: B e f o r e :

: MULQUEEN, J.,

: and a jury.
: :
----- x

New York, July 22nd, 1920.

Indicted for Burglary in the Third Degree, Grand
Larceny in the First Degree and Receiving in the
First Degree.

Indictment filed May 27, 1920.

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

FOR THE PEOPLE: ASST. DISTRICT ATTORNEY ABRAMS.

FOR THE DEFENDANT: EDGAR J. TREACY, ESQ.

A Jury is duly impanelled and sworn.

M A X W E L L P. B E R K , of 1772 Weeks avenue, a wit-
ness called and sworn on behalf of the People, testifies as
follows:

DIRECT EXAMINATION BY MR. ABRAMS:

- Q Mr. Berk, where do you live? A 1772 Weeks avenue.
Q Are you a married man? A Yes, sir.
Q And do you live with your family? A Yes.
Q What is your business? A Exporting and packing.

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Q Where are you engaged in business? A 44 Watt street.

Q City and County of New York, Borough of Manhattan? A Yes.

Q What part of the building do you occupy? A entire building.

Q How many floors has it? A Six floors.

Q How wide is the building about? A Twenty feet by sixty.

Q And you occupy the entire building? A Yes, sir.

Q What is the firm name? A Universal Export and Packing Company.

Q Is that an individual or a corporation? A An individual doing business under that name.

Q Were you in business on the eighth day of April, 1930 at this place? A Yes, sir.

Q Did you have merchandise in that building? A I did.

Q Do you remember the seventh day of April, 1930? A I do.

Q Tell me who locks up your place of business at night? A I lock up generally at night.

Q Do you recall that you did that on that night? A Yes.

Q Before locking up your place of business, did you see to it that everything was closed up? A We go from top to bottom.

Q Did you go from top to bottom and see that all windows and doors were closed? A Yes.

Q And you left everything intact? A Yes, sir.

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Q Did you lock the doors downstairs? A Yes, sir.

Q And took the keys with you? A Yes, sir.

Q At the time you left the building on April 7th, 1930, you had certain merchandise in that building? A Through the entire building.

Q Did you go back there on the eighth day of April, 1930?

A I did, at about eight-twenty A. M.

Q Did you open up the place? A I did not. There is another man I have who opens up and gets there about eight-ten or eight-fifteen.

Q When you got there did you find that man there? A I found the man downstairs in the street waiting for me.

Q Did you go up in your building? A Yes, sir.

Q What did you find? A When I arrived at the building that man was downstairs and he said,--

Q Never mind that; what did you find? A I found the man downstairs. I went up stairs with him to the second floor and I seen the entire place in disorder.

Q How about the doors? A The doors were locked.

Q How about the windows? A The windows were locked with the exception of one on the third floor was opened.

Q Had you closed that window the night before? A Yes, sir.

Q And you found that opened? A And also found the skylight on the roof openend, -- the skuttle partly pried open. They tried to pry it open.

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Q Was your skylight closed the night before? A Yes, sir.
The skylight glass was broken when I got there.

Q Was it broken the night before? A No, sir.

Q How about the scuttle? A The scuttle was nailed very tight, with nails; they could not open that. It was partly open in the morning.

Q But you do know it was tightly nailed the night before?
A Yes.

Q Did you investigate and find out whether any of your merchandise was gone? A I did, immediately.

Q What did you find? A I found silk, a quantity of about two hundred pieces of silk comprising crepe-de-chin and georgette and broad cloth silks and two bolts of serge were missing.

Q You are in that business buying and selling goods of that kind? A Yes.

Q And do you keep posted on the market values? A Yes.

Q Approximately what would you say that property was worth?
A The entire amount stolen was \$20,000.

Q Did you ever see any of those goods again? A Yes, sir.

Q Where? A The morning of the eighth I was called to the Fifteenth Precinct, on Fifth street and Second avenue to find out if I could identify silks that were found that morning. I identified the silks as mine by certain marks on the packages, which we export and nobody else has those marks.

Q Were those goods returned to you? A They were partly.

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Others they kept in evidence at Police Headquarters.

Q How much of the goods were returned to you? A Eight thousand dollars worth returned.

Q So that approximately about twelve thousand dollars worth is still missing? A Yes.

Q That is all you know about this case? A Yes, sir.

Q You never interviewed the people, the people that were arrested with this defendant, I mean? A No, sir.

MR. ABRAMS: That is all.

CROSS EXAMINATION BY MR. TREACY:

Q What day was this, - what day of the week that you say you left your place of business? A April 7th.

Q What day of the week? A Thursday night. I think it was Thursday.

Q Is there anything that will aid your recollection in fixing the day of the week? A Simply I jotted the date down immediately that I should not forget it, because I was upset, for the simple reason I had a robbery four weeks previous to that.

MR. TREACY: I move to strike that out.

THE COURT: Motion denied. You asked for the reason.

MR. TREACY: Exception.

Q You mean Thursday was the seventh; you went home on the seventh? A Yes.

Q And the next morning you discovered your place had been

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burglarized? A Yes.

Q That was the night between the seventh and the eighth?

A Yes, sir.

BY MR. TREACY:

Q You say you came back Friday morning? A Yes.

Q Of course you talked about this day of the week with representatives of the District Attorney's office, and in the Police Department? A No, I have not talked the day over.

Q You talked about it? A Not about the day, but about the robbery, yes.

Q About the date on which it occurred? A Simply I jotted it down immediately.

Q Didn't you give that information to somebody up at the Police Department? A They had the information, because they called me.

Q Yes or no? A Yes, sir, I called up Police Headquarters.

Q You did give them the information? A Yes, sir.

Q And you gave them this date? A Yes, sir.

Q Did you tell them what day of the week it was?

BY THE COURT:

Q Do you remember whether you told them the day of the week?

A I did not tell them that. They knew the day.

Q It was not necessary to tell them the day of the week? A Yes.

Q You talked to them on the day you missed the property? A

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Yes.

Q And it was taken the night before? A Yes.

Q And you did not think the police lacked intelligence enough to be informed of the day of the week they were talking to you on?

A Yes, sir.

Q You assumed a policeman knows enough to know what day of the week it is? A Yes.

Q So that you did not tell them "this is Thursday" or "Friday"?

A No.

MR. TREACY: That is all.

ANTHONY EPISCOPIA, of 552 Broome street, a witness called and sworn on behalf of the People, testifies as follows:

DIRECT BY MR. ABRAMS:

Q What is your full name? A Anthony Episcopia.

Q And where do you live? A 552 Broome street.

Q Are you a married man? A Yes, sir.

Q And you live there with your family? A Yes, sir.

Q How many children have you? A Two.

Q Do you know the defendant, Iquinto? A Yes, sir.

Q How long do you know him? A Around the neighborhood.

Q How long? A About five or six years.

Q You know him quite well? A Yes, sir.

Q Do you know his full name? A Andrew Iquinto.

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Q You pleaded guilty before his Honor, Judge Mulqueen, in Part-I? A Yes.

Q Charged with what crime? A Criminal receiving.

Q Was that your plea? A Yes, sir.

Q You were indicted for burglary? A Yes, sir.

Q Do you remember the night of the seventh of April and the morning of the eighth, 1930? A Yes.

Q Did you see Iquinto at that time? A Yes, sir.

Q What time was it? A About 12:30 or 1:00 A. M. in the morning.

Q On the eighth of April, 1930? A Yes, sir.

Q Where were you at that time? A Home sleeping.

Q In bed? A In bed.

Q With your wife? A Yes, sir, with my wife.

Q Did you see Iquinto that morning? A Yes, sir. He came up the house and woke me up out of bed. He came up and knocked on the door. He said "I want to speak to you." So he told me, "There is an officer down stairs; you tell this officer that I borrowed money from you?" He told me to lie to the officer. I went down with my pants on, and put on a pair of slippers. I went down and told the officer that this boy Iquinto came up the house and borrowed money from me, just to lie to the officer.

BY THE COURT:

Q Tell us what you told the officer. Do not state any conclusions and do not answer anything but what you are asked.

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BY MR. TREACY:

Q Was your house locked? A The door from downstairs was. The officer opened the door for him.

Q Was your door locked? A Yes, sir.

Q You found that afterwards that the door was opened by the officer? A Yes.

MR. ABRAMS: Objected to.

THE COURT: That is excluded. Mr. Witness, do not answer when counsel objects. Strike out the answer.

Q Well you went downstairs, did you? A Yes, sir.

Q Did you have a talk with Iquinto? A Yes, sir.

Q What happened when you spoke to him? A He told me that he got five bags of silk all bagged up, "And I want you to load up the truck for me." Me, Angelo Palentino and him went around, and Louis Simone. We got Louis Simone.

Q Where did you get him? A In a pool room.

Q What pool room? A 97 Thompson street.

Q Simone was in that pool room? A Yes, sir.

Q Who else did you get? A There were a couple of guys playing there.

Q Was Simone one of them? A Yes, sir.

Q Who else did you get? A Nobody else.

Q You know a man named Visceglia? A That is the witness.

THE COURT: Just answer the question yes or no.

Q Who was he? A Nicholas Visceglia.

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THE COURT: (Addressing the witness). If you do not obey my orders, answer the question and then keep quiet, you will rue it in your sentence. This man must be tried properly and without confusion.

Q When you got downstairs with Iquinto, tell us all that he said to you? A He told me on the corner McDougal street and Spring - "I have five bags of stuff to be carried away" to load up the truck.

Q What did he tell you? A He told me to carry the stuff. He told me to load up the truck.

Q He told you he had five bags of silk? A Yes, to load up the truck.

Q Did he tell you where he got the five bags from or where they were? A He told me where they were.

MR. TREACY: Objected to as leading.

Objection overruled, and exception taken.

A He told me where they were.

Q Where were they?

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

A In this loft -

THE COURT: If you do not obey me you will be sorry. I have told you to keep quiet when anyone else talks.

MR. TREACY: He is saying something else than what he is asked.

Q When the Judge speaks or this gentleman speaks, you stop

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talking and just answer my questions. Now when Iquinto told you he had five bags of stuff and wanted you to load the truck, did he tell you where the stuff was? A Yes.

Q Where were they? A In the loft building.

Q What loft? A Watt street and Sullivan.

Q Do you know who occupies that building?

MR. TREACY: Objected to as incompetent, irrelevant and immaterial.

Objection overruled, and exception taken.

A No, sir.

Q Did you go with him to that building? A We went up the building, to take the bags.

BY THE COURT:

Q Did you go to the building? A No, sir.

BY MR. ABRAMS:

Q With Iquinto? A Yes, sir, we went there.

Q Before you got into the building did you go to get anybody else? A No, sir, we did not get anybody else.

Q Did you get Simone? A We had Simone already.

Q You had gone for Simone first? A Yes, sir.

Q After leaving your house? A Yes, sir.

Q Besides you and Simone and Iquinto, did you have anybody else? A Angelo Palentino.

Q Do you know where he is? A He is in the Tombs.

Q Did he plead guilty? A Yes, sir.

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Q Where did you get Angelo Palentino from? A He came right after me.

Q Where did you get him? A He came on the corner of Spring and McDougal.

Q That was near where you lived? A Yes.

Q So you and Palentino called around and got Simone? A Me and Angelo Palentino and Andy Iquinto. We went around together I mean Louis Simone.

Q You got Simone? A Yes, sir.

Q There were four of you then? A Yes, sir.

Q Did you get anybody else besides those four? A No.

Q Where did you go? A We went to the yard to get the stuff.

Q Where was the truck? A In the yard.

Q Was that in Watt street, I suppose? A Off Broome street side.

BY THE COURT:

Q Where was the truck? A On Broome street side; it was in the lot.

Q Whose truck was it? A Louis Simone's.

Q He had it in a lot on Broome street? A Yes, there is a stable there.

Q So you first went from the pool room to get the truck? A Yes - and Louis Simone --

THE COURT: I have told you to just answer the question.

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Q Answer yes or no? A Yes, sir.

BY MR. ABRAMS:

Q And you hitched up the truck, A Yes, sir.

Q Was it an autombbile or a horse drawn truck? A A horse truck.

Q Did you get on the wagon? A I did not get on the wagon.

Q Who did? A Louis Simone.

Q Who did you go with? A Iquinto and Palentino.

Q Where did the truck go? A We were following the truck.

The whole three of us followed the truck.

Q Did you know where you were going? A Angelo Palentino and Andy Iquinto told us to go up to 152 Rivington street. We brought it to Angelo Panentino's house and we carried it upstairs.

BY THE COURT:

Q Simone drove the truck to where? A To Rivington street.

Q Was the silk on the truck when you got there? A Yes, sir.

Q Did you see anyone load the silk on the truck? A We and Angelo Palentino loaded the truck from the warehouse.

Q The truck was not in the warehouse? A It was right in the lot tere. Here was the warehouse and here is the empty lot (indicating).

Q There is a lot adjoining the warehouse? A Yes.

Q That is where you found the five bales? A Yes.

BY MR. ABRAMS:

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Q Tell the jury who took you to that warehouse or lot? A Andrew Iquinto and Angelo Palentino.

Q And when you got there you had the horse and truck with you? A We did not have the truck loaded. We only had the truck ready. The stuff was ready, packed up when we went there. So I had to load the stuff on the truck.

Q Who loaded it? A Me and Angelo Palentino, and he was the look-out man.

Q You mean Iquinto? A Yes.

MR. TREACY: I move to strike that out.

Motion denied. Exception taken.

Q Under whose directions did you put those five bundles on the truck?

MR. TREACY: Objected to as calling for the conclusion.

THE COURT: Objection sustained.

Q Who told you to put the goods on the truck? A Andrew Iquinto.

Q You put them on when he told you to? A Yes.

Q Five bags? A Yes.

Q Burlap bags? A Yes, sir.

Q You did not see where those burlap bags came from? A No.

Q You simply saw them when you got there? A Yes, when they were ready, bagged up.

Q Where were the goods? A They were upstairs in the ware-

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house.

Q Who brought them down? A Angelo Palentino. I was down stairs.

Q Did you go in the warehouse? A At the first load, no.

Q On the second load? A On the second load he demanded I go upstairs to get the rest of the stuff, Angelo Iquinto.

Q So you went in to the building? A Yes, sir.

Q At 44 Watt street? A Yes, sir.

Q How many loads did you take away? A Two loads.

Q The first load you say was brought down in bags, five bags by Palentino? A Yes.

Q Then you took them to Rivington street? A Yes.

Q Then you drove back again to the warehouse? A Yes.

Q And you went in? A Yes, sir.

Q How many bags did you bring down then? A We brought down bundles of silk.

Q How many bundles? A About thirty-nine or forty bundles.

BY THE COURT:

Q When you brought down thirty-nine bundles of silk what did you do? A We loaded up the truck.

Q Is the truck there yet? A The truck was there to load.

Q Is it there today? A No.

Q What did you do with it? A We brought it to Angelo Palentino's house again.

Q You made the two trips? A Yes.

Q That is all? A Yes, sir, and he had more stuff.

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BY MR. ABRAMS:

Q That place you went up to get the load, that was at 44 Watt street, New York City? A Yes, sir.

Q That was on the morning of April eighth? A Yes.

Q About what time in the morning was it when you went up for the load? A About three or half past three.

Q You took that stuff to Palentino's house? A Yes.

Q Did you go back again the third time? A On the second time we had more stuff.

Q Did you go back a third time? A No.

Q Did you take up stuff to Palentino's place and leave it there? A Yes.

Q What did you do after that? A We were arrested after that.

Q By whom? A Officer Mahoney - I am not so sure.

Q Officer Cavone? A We were arrested about seven o'clock in the morning.

Q What were you doing when you were arrested? A We were in the toilet.

Q Where? A In Angelo Palentino's house.

Q You were arrested in Angelo Palentino's house after you delivered the second load? A Yes.

Q Who was with you then? A Angelo Palentino and Simone.

Q Was Iquinto there? A He scattered away.

MR. TREACY: I object to that.

Objection overruled. Exception.

THE COURT: Strike out the answer.

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Q Was Iquinto there? A No.

Q Had he gone to the house with you? A On the first load he came with us, but on the second load he told us to take it up there, he said, "I am going away." "I will be there in about five or ten minutes," and when we got arrested we did not see Andrew Iquinto.

Q He had not gotten there when you were arrested? A No, sir.

Q Did you at any time have any of those goods in your house?
A Yes.

Q Did you see them there yourself? A Me and Louis Simone, he saw us taking them down.

THE COURT: Strike out the answer. I have told you so often to answer the questions.

Q Did you have any of those stolen goods in the house? A
Yes.

Q How many pieces? A Ten pieces of silk and two rolls
serge.

Q When did you take it to your house? A The same morning.

Q Before you went to Palentino's house? A yes.

Q You stopped at your own house first? A Yes, sir.

Q And put that stuff in there? A Yes, sir.

Q Was Iquinto there with you at that time? A He was on the
corner.

Q How many pieces were there? A Ten pieces silk and two

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pieces, - rolls serge.

Q Did Iquinto tell you when he started with you, what he had done or was going to do there?

MR. TREACY: Objected to as leading.

Objection overruled and exception taken.

A He said that -

THE COURT: This witness is so stupid that I will allow leading questions.

A - he said "Take this load over there and I will be back in five or ten minutes."

Q When he asked you to go to Watt street, did he tell you he had gone in or was going to go in? A He got in before us.

MR. TREACY: I object to that as leading and suggestive on the part of the District Attorney.

Objection overruled. Exception taken.

MR. TREACY: I move to strike out the answer as not responsive.

Motion denied. Exception taken.

Q How do you know that he got in before? A Well, because the bags were all bagged up.

MR. TREACY: I move to strike out the answer.

THE COURT: Strike it out.

Q Did he tell you he had been there?

MR. TREACY: Objected to as leading.

Objection overruled. Exception taken.

A Yes, sir.

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Q What did he say? A He told me "I got five bags silk bagged up ready to take out."

MR. TREACY: I move to strike out the answer as not responsive.

Motion denied. Exception taken.

MR. ABRAMS: That is all.

CROSS EXAMINATION BY MR. TREACY:

Q Had you ever been on this place in Watt street before?

A No, sir.

Q Had you ever been there since? A Only that time with Anq Iquinto.

Q Had you ever been there since the morning of the eighth of April, this year? A April 8th only, that is all.

Q Had you ever been there since that day? A No.

Q You don't know what the number of the building was? A No, sir.

Q You don,t know anything about it? A I know about Iquinto brought me there.

Q That is all you know? A Yes, sir.

Q Now you were arrested on the morning of the eighth of April?
A Yes, sir.

Q Who arrested you? A About two or three officers.

Q Give me their names; you know them? A One officer is Mahoney.

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Q Was Officer Cavone there? A No, sir.

Q Do you know him? A Yes, sir.

Q You know Rocco Cavone? A Yes, around the neighborhood.

Q Have you seen him since April 8th? A No, sir.

Q You never saw him at all? A I did not see him at all April 8th.

Q Have you seen Officer Rocco Cavone since the eighth of April, 1920? A I always seen him around the neighborhood.

BY THE COURT:

Q You have been locked up since April the 8th, have you not?

A Yes, and I was out on bail since five weeks.

Q Then I put you in prison? A Yes.

Q And you are there yet? A Yes, sir.

Q You are in prison how long? A 32 days.

Q Did you see Officer Cavone since this occurrence or burglary? A I saw Cavone come up to the Tombs. He took me out of the Tombs to bring me to the District Attorney's office. That is the only time.

Q Did you ask Rocco Cavone to get you out of the Tombs? A No, sir.

Q Did you see Rocco Cavone since you were arrested? A Yes.

Q When? A In the Tombs.

Q What time? A About eleven o'clock.

Q What day was it? A The day you sent me in.

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Q You mean the day you pleaded guilty? A Yes.

Q And I committed you to the Tombs? A Then Rocco Cavone came up to get me.

Q And he brought you to the District Attorney's office? A Yes.

Q Did you see him before that while you were out on bail? A No, sir.

BY MR. TREACY:

Q While you were out on bail going around the neighborhood where you lived, did you see Rocco Cavone? A I did not see him.

Q When you went over from the Tombs to the District Attorney's office with Rocco Cavone, was that before you had pleaded guilty of receiving stolen property? A After pleading guilty.

Q You did not see him before pleading guilty? A No, sir.

Q How many times did you see him after pleading guilty? A Once. That is the time he brought me to the District Attorney's office.

Q How long after you pleaded guilty was that? A I don't remember how long.

Q Was it a week after? A I don't remember; about three or four weeks.

Q Do you remember the date you pleaded guilty? A May 19th, I think.

Q Do you remember the time of day? A I don't know.

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Q You know you were charged with burglary in the first degree, do you? A No.

Q Yes or no? A No.

Q Burglary in the third degree? A Yes, sir.

Q And you know that that was the charge made against you?

A Yes, that is the charge made against us.

Q You know you were also charged with grand larceny in the first degree? A Yes, sir.

Q And you were also charged with receiving stolen property?

A Yes, sir.

Q And you pleaded guilty to the last charge? A Yes, sir.

Q Did you have any talk with anybody in the District Attorney's office before you pleaded guilty? A After I pleaded guilty?

Q I asked you before? A No, sir.

Q After you pleaded guilty, did you have any talk with anybody in the District Attorney's office? A With the District Attorney.

Q Who? A District Attorney Swann.

Q Did you have any talk with anybody else? A No, sir.

Q Did you have any talk with Mr. Murphy? A Yes, sir.

Q Who else besides Mr. Murphy did you talk with? A That is the District Attorney, Mr. Murphy.

BY THE COURT:

Q Do you mean Mr. Murphy is District Attorney? A Is he?

Q Is it Mr. Murphy you mean? A Somebody in the District attorney's office.

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Q You never talked to Judge Swann himself, did you? A No, sir. I do not know who was in charge.

THE COURT: If you do not know, just say you do not know. You must listen to the questions and answer them. There is an Assistant known as Mr. Murphy upstairs.

Q You talked to a Mr. Murphy in the District Attorney's office?
A Yes, sir.

BY MR. TREACY:

Q When did you talk with Mr. Murphy? A In the afternoon, about one o'clock.

Q What date was it? A I don't remember the date.

Q Was it in April, May or June? A May.

Q How long after this burglary was it you talked to Mr. Murphy? A About a month or a month and a half.

BY THE COURT:

Q Cannot you tell us anything else that happened before you talked to Mr. Murphy?

BY MR. TREACY:

Q Was it before you pleaded guilty or after you pleaded? A After I pleaded guilty.

BY THE COURT:

Q You said that on the day after you pleaded guilty, Rocco Cavone brought you to the District Attorney's office and you talked there, is that true, Mr. Witness? A Yes, sir.

BY MR. TREACY:

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Q How many times did you talk to District Attorney Murphy after that day? A Once.

Q When was that?

BY THE COURT:

Q How many times in all did you talk to him? A Once, the same day I was down the office.

Q You say after the first talk you talked with him once more, do you mean that? A I don't understand it.

Q How many times did you talk with Mr. Murphy? A Once.

Q You understand me, do you not? A Yes.

Q You did not talk twice or three times? A No, sir.

BY MR. TREACY:

Q The time you talked to Assistant District Attorney Murphy was anything said about your testifying in this particular case?

A I testify against Andrew Iquinto? I don't understand it.

Q At the time you talked to Assistant District Attorney Murphy, was anything said about your testifying in this particular case? A No, sir.

Q Didn't you say anything about any testimony you would give against Andrew Iquinto? A Yes, sir.

Q Did you tell him then you would testify against Iquinto? A Yes, sir.

Q Now then was anything said at that time by you or to you about a recommendation for mercy in your case if you gave testimony against Andrew Iquinto? A There was nothing said to me.

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Q Did you say anything to anybody? A No, sir, I just testified.

Q You said you would testify? A Yes, sir.

Q Did you volunteer to do that? A Yes, sir.

Q Did anybody ask you to do it? A No, sir.

Q Up to that time you had not been sentenced, had you? A No, sir.

Q You have not been sentenced yet? A No, sir.

Q After you talked with Mr. Murphy did you see anybody else in the District Attorney's office? A No, sir.

Q Did you see anybody else besides Mr. Murphy? A I seen the Grand Jury.

Q You went before the Grand Jury? A Yes, sir.

Q Before you went before the Grand Jury, didn't you go up to the District Attorney's office again? A No, sir. I went to the District Attorney's office first and then to the Grand Jury.

Q Was it the same day you saw Mr. Murphy that you went directly before the Grand Jury? A I don't remember if it was the same day. I am not so sure.

Q Do you remember when it was you went before the Grand Jury?
A I don't remember.

Q Haven't you any idea at all when it was? A No, sir.

BY THE COURT:

Q How long after you first talked with Mr. Murphy did you go

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before the Grand Jury? A I don't remember if I went the same day;

BY MR. TREACY:

Q Do you remember that on the day you went to the Grand Jury, just before going to the Grand Jury room you went up and talked to one of the District Attorneys? A Yes, sir.

Q What District Attorney did you talk to? A Mr. Murphy.

Q The same man that you talked to before? A Yes.

MR. ABRAMS: This is quite obvious; counsel is trying to get this witness at cross purposes. He goes back to the original proposition and puzzles the boy up.

THE COURT: You are asked whether he talked to the same District Attorney again.

MR. TREACY: And he said yes, that he did.

BY MR. TREACY:

Q You told me before you talked to him only once? A Once I did.

Q Now you say you talked to him again? A I did not talk to him twice, just once.

Q Was it on the same day that you went before the Grand Jury? A I don't remember.

Q On the day you went before the Grand Jury did you go to the District Attorney's office and talk to anybody at all? A No, sir.

Q Did any police office go to the Grand Jury with you? A No, sir.

Q Did you see Rocco Cavone there? A Yes, sir.

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Q Didn't you talk to him? A No, sir.

Q Never talked to him at all? A No, sir.

Q Had you ever been convicted before of any crime? A I have been arrested but never convicted.

THE COURT: Strike that out; it is not a crime to be arrested. Anybody may be arrested. The jurors may be arrested but that does not reflect on them at all.

Q Have you ever been convicted of any crime? A No, sir.

Q You were never convicted by a Judge and sent to prison?

A I have been sent to the workhouse for six days.

Q On what charge? A Disorderly conduct.

Q When was that? A 1914.

BY THE COURT:

Q Why did you say you were never convicted? A I did not understand.

BY MR. TREACY:

Q You did not understand me? A No, sir.

Q You did not know what a conviction was? A No, sir.

Q Although you served six days in the workhouse? A Yes.

Q Besides that conviction, do you know of any other conviction? A No, sir.

Q You have no recollection of any other convictions? A No, sir.

Q Now you say Iquinto came up to your house on the night of the arrest. The same night you were arrested, is that the night Iquinto came to your house? A I was arrested and my wife told

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me, —

BY THE COURT:

Q Were you arrested in the night time or day time? A In the morning.

Q Did he come to you in the night or in the morning? A He came in the night about 12:30 in the morning, A. M.

BY MR. TREACY:

Q Are you sure about that? A Yes.

Q No question about that in your mind? A No, sir.

Q How do you know that? A I seen him call there.

Q Where did he call? A In my kitchen.

Q Was it light at the time? A I lit the gas, sure.

Q And looked at the clock? A Yes.

Q Did you go right from your bed room into the kitchen? A My bed room comes first, then the kitchen.

Q Did you want to know what time it was? A Yes, sir.

Q Why? A I got up out of sleep and I just looked at the time.

Q You say you had to get up to light the gas? A He knocked at the door so I got up to look at the clock, I was sleeping.

Q Was it dark when he knocked at the door? A Yes.

Q Was anybody with you in the room there? A My wife.

Q Did she get up? A No, sir.

Q Did she remain sleeping? A She was awake. She asked me the question, who was it.

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Q Was she awake, your wife? A Yes, sir.

Q Did she get up? A No, sir.

Q Was it light or dark in your room? A I lit the gas.

Q In your room? A Yes, sir.

Q Was it dark when this man came in? A yes, sir.

Q Did he stay there in your bed room where you and your wife were? A He stood in the hallway.

Q He went out as soon as he woke you up and stood in the hall?

A Yes.

Q And you were not mistakened about that? A No.

Q That as son as he woke you up he went out and stood in the hall? A Yes, he stood in the hall.

Q Is that correct? A Yes, that is correct.

Q After he got out did you get up and light the gas in your bed room? A Yes, sir.

Q And then did you go out to the kitchen and light the gas there? A yes.

Q How many rooms do you occupy? A Three.

Q On what floors? A Third floor.

Q How many people lived there in that apartment? A My wife and two kids.

Q On what street is that? A On broome street.

Q Frontor back? A In the front.

BY THE COURT:

Q What number Broome street? A 552 Broome street.

Q Near what street is that? A Near Clark and Garrick.

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Q Near what street is that? A Near Clark street.

BY MR. TREACY:

Q Well now then, did you have anything to do in the kitchen?

A I was awake. Andy Iquinto woked me up out of bed.

Q My question is whether there was anything that you had to do in that kitchen? A No, sir.

Q This man had awaken you and gone in the hall and he had, before going out into the hall, asked you to come out? A I came out of the door and spoke to Iquinto.

BY THE COURT:

Q What floor do you live on? A The third floor.

Q Did Iquinto come up ^{to} in your bedroom and woke you up? A Came up on the third floor.

Q Into the rooms? A Yes, sir.

BY THE COURT:

Q He is asking when Iquinto went out, what you did? A He spoke to me.

Q Did he speak to you before he went out or after? A Before going out.

Q Then he went out in the hall? A Yes.

Q Did you go right out with him? A Yes, I went out with him.

Q Who left the room first, you or he? A He did not come in my room. He spoke to me in the hall.

BY MR. TREACY:

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Q He just knocked on the door of your room? A Yes.

Q While he was in the hall? A Yes.

Q Your bedroom opens into the hall? A My kitchen door.

Q He knocked on the door of the kitchen? A Yes.

Q And stayed in the hall all the time? A yes.

Q Then you came out in the hall? A Yes.

Q Did you talk to him standing there? A yes, standing talking there about a couple of minutes.

Q Was anyone else there? A No, sir.

Q Then you went back into your house? A I went down with him.

Q Right away?

BY THE COURT:

Q Did you not brush yourself? A No I did not brush then.

Q Do you sleep with your clothes on and your boots? A He told me to come down stairs.

Q Do you sleep with all your clothes on? A No, sir.

Q I understood you were in bed when he came up and woke you up? A Yes.

Q And he knocked on the door? A Yes.

Q Did you jump right out in your night shirt and go out in the hall and talk to him? A Yes.

Q Then did you go down stairs in your night shirt? A Yes, sir.

Q In your bare feet? A yes.

Q And you stole all this stuff in your night shirt? A I went

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down to the hall and spoke to the officer, the way he told me to speak to the officer.

BY MR. TREACY:

Q I want to know what you did? A I went down stairs in my night clothes and came back again.

Q You went through the street? A No, in the hallway down stairs I went.

Q Did you speak to the police officer? A Yes, sir.

Q What was his name? A I don't know his name. I got his badge number, 7931.

Q You went down the street and saw the police officer? A In the hall I went.

Q You took his shield number down there in the hall? A I took it when I came out on bail. I took the shield number when I came out on bail because I recognized his voice in the hall.

Q Then you saw him again after you came out on bail? A Yes.

Q You talked to him then, did you? A I did not.

Q How did you get his shield number? A I recognized him in the hall when he came and opened the door for Andrew Iquinto.

Q You say you got his shield number after you got out on bail? A I recognized him.

Q How did you get the shield number? A It is on the badge.

BY THE COURT:

Q Was it the same number that is also on his collar? A That is the precinct.

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BY MR. TREACY:

Q You got the shield number of his shield? A Yes.

BY MR. ABRAMS:

Q That is on the hat too? A Yes, sir.

BY MR. TREACY:

Q Did you speak to this man while you were getting his shield number? A Which man?

Q The police officer? A No, sir.

Q You never said a word to him? A No, sir.

Q At no time? A No, sir.

Q Did you talk to the police officer in the hall of your house

A Yes.

Q Then you went up stairs and got dressed? A Yes.

Q Then you went out? A And met Andrew Iquinto.

Q And went around the street as you have told us? A yes, I met Andrew Iquinto.

Q When did you look at your clock in the kitchen? A When he knocked at my door.

Q You got up, lit the gas and looked at the clock? A yes.

Q Is that the only time you looked at it? A yes.

Q That is the only time? A yes, sir.

Q And that is how you fix the time that he called there? A yes.

Q Do you know that it is necessary to fix the time he called

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there. Did anyone ever tell that to you? A I don't understand that question.

Q Do you know that it is necessary to fix the time that he called there. Is there anyone ever told that to you? (Question withdrawn).

Q Do you know that it is necessary to fix the time that Iquinto called on you? A I did not fix no time. I looked at the clock and saw what time it was when he knocked.

THE COURT: Strike that out.

Q Did you know that it is necessary to fix the time that Iquinto called on you? A I don't understand.

Q Do you know that you are trying in this courtroom to fix the time that he called on you. You know that? A Sure. Yes, sir, 12:30 A. M.

Q Before you came in to the courtroom today did you ever tell anybody that it was 12:30 A. M? A No, sir.

Q You never spoke to anybody about that? A No.

Q Not to a single human being? A No, sir. I did not speak to anybody.

Q Either in the District Attorney's office or out of the District Attorney's office? A No, sir.

Q When you were arrested, did you notice what time it was? A It was about seven o'clock.

Q How did you fix the time then? A I seen it down in the police station.

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Q You did not see at your own clock again, did you? A
No.

Q When had you looked at the time by your own clock before
half past twelve mid-night? A I did not look, I went to bed
half past ten.

Q How do you know that? A I was playing pinnoche with my
cousin in the house.

Q In the kitchen? A Yes, sir.

Q And you looked at the clock then? A Yes. I went to bed
half past ten.

Q And you stayed in bed all that evening? A Yes, until
twelve-thirty.

Q You say you are a friend of this man Iquinto? A Yes, I
knew him around the neighborhood.

Q Were you a friend of his? A Yes, sir.

Q And you are still on friendly terms with him, are you?

A I don't understand that.

BY THE COURT:

Q Do you know what a friend is? A Yes.

Q Have you any friends? A Yes.

Q Who are they? A Cousins.

Q Are you on friendly terms with him, counsel is asking you?

A Yes, sir.

BY MR. TREACY:

Q You are still his friend? A Yes, sir.

Q You are not sore on him? A No, sir.

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Q You are not angry with him at all? A No, sir.

Q Sure about that? A I am sure about that.

Q You never had any dispute or any quarrel with him? A Yes
I had a fight with him.

MR. TREACY: That is all.

REDIRECT EXAMINATION BY MR. ABRAMS:

Q You were sent over to jail after you pleaded guilty before
Judge Mulqueen? A Yes, sir.

Q Then you were brought over after that to the District At-
torney's office? A Yes, sir.

Q After being over in the District Attorney's office you were
brought over to the Grand Jury room, weren't you? A Yes.

Q There you were asked questions? A Yes, sir.

Q You told all that you could tell, did you? A I told the
truth.

Q Since the counsel has asked you when you went down stairs
in your night shirt to speak to the officer, was before you dres-
sed? A Before I was dressed.

Q And was that to explain to him that you knew Iquinto? A
I knew Iquinto.

Q Did you go down to explain to the officer that? A yes,
I did.

Q And you did explain it to him? A Yes, sir.

Q Then you went back? A Yes, sir.

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Q Did Iquinto go back with you? A No, he was out with the officer. He was outside.

Q When you got dressed you came down? A Yes. I did not see anybody downstairs.

Q You got dressed and came downstairs? A Yes.

Q Where did you go then? A I went around to McDougal and Spring street and met Andy.

Q How did you know you would meet him there? A He told me.

THE COURT: Gentlemen of the jury, the Court will excuse you until two o'clock. Meanwhile remember the law forbids you to talk about this case to anyone who is not a member of the jury, and it also forbids you from discussing it among yourself at this time. The time for you to discuss it and decide it is at the end of the case after all the evidence is in, if the Court submits it to you, then you retire and decide it, but not before that. You must keep an open mind. Remember there are two sides to every story and you must listen to both sides before you decide it.

The Court declares recess until 3 P. M.

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TRIAL CONTINUED. 2:00 P.M.

ANTONIO EPISCOPIA, recalled by the People,
for further examination, testified as follows:

BY MR. ABRAMS:

Q When you went to the truck and loaded the truck, where was that truck standing with reference to the house that you entered? A On Watt street, - between Watt and Broome, in the lot.

Q The lot is on Broome street? A Yes, sir.

Q Adjoining the house on Watt street? A Yes, sir.

Q And that truck when you loaded it, did it have a horse on it? A No.

Q When you went into the building, how did you go in?

A We went up through the fire-escape.

Q Did anybody say anything to you how to get up? A Iquinto. He told us how to go into the place.

Q How? A Go up to the fire-escape, up the roof and go down through the skylight and we will find a rope, "and slide down there and you will go down the second floor and you will find the bundles there and get them and carry them down through the fire-escape."

Q And is that what you did? A Yes, sir.

Q At the time you went up, who went up with you? A Louis Simone.

Q Was Simone there when you loaded the truck? A Yes, on the second load.

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Q On the first load? A No, sir, not at the first load.

Q You had seen him before you went to load the truck? A Yes

Q After you got out on bail did you see the defendant Iquinto? A Yes, sir, in the pool room.

Q When? A Two weeks after I was out on bail.

Q You told counsel here you had a fight with Iquinto?

A Yes. He came into the pool room. I was standing by the pool table. He hit me and I was bleeding. I filled up three handkerchiefs with blood. Michael Marsiglia gave me his handkerchief and I had two of my own filled with blood and I could not get any more handkerchiefs.

Q What did he say at that time? A "What do you want to squeal at me for?" And he hit me. He said, "I am not going to give anybody a cent out of the stuff I sold." I said, "All right, I don't want any money out of it."

Q At the time you were arrested was Simone with you or Palentino? A Palentino was with me.

Q Do you know whether Simone was arrested before you?

A No, sir, I did not know it.

Q You and Palentino were where when you were arrested?

A In the toilet.

Q What toilet? A In Angelo Palentino's house.

MR. ABRAMS: That is all.

RE-CROSS EXAMINATION BY MR. TREACY:

Q You did not tell us anything this morning about climbing up the fire-escape and going down through the skylight, did you?

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A No, sir.

Q You did not tell me that? A No, sir.

Q And you did not tell us this morning that the defendant told you to climb up the fire-escape and go down through the skylight? A No, sir.

Q Now since you left the stand this morning, did you talk to anybody about the case? A No, sir, I did not talk to nobody.

Q To nobody? A I talked to the District Attorney.

MR. TREACY: I object to the District Attorney shaking his head at the witness.

MR. ABRAMS: It was done involuntarily.

Q Did you talk to anybody? A Yes, sir.

Q To whom? A To Mr. Abrams.

Q The District Attorney? A Yes, sir.

Q Where did you talk to him? A Down in the pen downstairs.

Q How long were you down there talking to the District Attorney? A About five or ten minutes.

Q Who was there with you talking to him? A Louis Simone.

Q That is the other crook, is that right, the other man that pleaded guilty? A Yes.

Q Was he talking about it too? A Yes.

Q Did you talk to him and did he talk to you? A We talked to the District Attorney.

Q The two of you did? A Yes, sir.

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Q Were you down there when the District Attorney came down?

A Yes.

Q Was Simone with you downstairs? A Yes, sir.

Q Were you talking to Simone at that time? A No, sir.

Q Who was it said anything first about the fire-escape?

A I did.

Q You spoke about that? A Yes, sir.

Q Did Simone say anything about that? A Sure he did.

Q That was after the District Attorney got down there, was it, downstairs? A Yes.

Q How long were you down there talking to the District Attorney? A About ten minutes.

Q You were down there all of recess hour, talking to him?

A Ten minutes I was talking to him.

Q When you went out of this house where you lived, as you say, with Iquinto, where was the first place you went to?

THE COURT: You have been all over that. I will exclude that as repetition. Just confine your cross-examination to the re-direct examination.

MR. TREACY: Exception, please.

Q When you got to this place where the truck was, was there anything on the truck? A No, sir.

Q Not a thing? A Not a thing.

Q Was the horse attached to the truck? A No, sir.

Q Where did you get the horse from? A We got the horses about half past three in the morning in the stable.

Q Did you get him yourself? A Louis Simone got them.

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Simone brought the horses.

Q Were you with him? A No, sir.

Q Where were you? A In the club room.

Q You were in the club room at half past three? A Yes, sir.

Q You told us you went up to the lot in Broome street?

A We were in the club room, Andy Iquinto, Palentino and me. We were waiting for Simone to answer if he got the horses out.

Q At half past three o'clock in the morning? A Yes, sir.

Q At the club room?, A Yes, sir.

Q Where was that? A 58 Thompson street.

Q What is the name of that club? A I don't know.

Q Is it a social or a political club? A I don't know.

That was my first time in that club.

Q What does it look like in there? A There is all benches around and a big table in the back and pictures on the wall.

Q Were there many other men there? A Yes, sir.

Q Who was there? A A fellow who was in here, he was there, and about seven or eight fellows playing poker.

Q Do you know their names? A No, sir.

Q Did you ever see them before? A No, sir.

Q Don't you know who they are? A No.

Q How long have you known them? A I know them by sight around the neighborhood.

Q How long? A I don't know how long, just to see their faces.

Q Have you known them a year? A I don't know.

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Q Have you known them two years? A I don't remember how long.

Q Have you known them more than a week? A I don't remember. I recognized the faces when I went in the club room who they were.

Q How long have you lived in that neighborhood? A Since I was a boy.

Q Have you known these men all that time? A No, sir.

Q Have you known them for ten years? A I know one fellow, he was over here. I don't know him by his name. We used to go to school together.

Q Do you know him by his nickname? A They call him "Pold,- Joe.

Q Give me the names of the other men, - any names you know them by? I don't care how funny they are? A I don't know who they are. I know them by sight. They were playing poker in the back. We were sitting in the front.

Q At half past three in the morning did you go around to the stable and get these horses? A No, sir.

Q Where did you go at half past three? A We followed the truck up at half past three.

Q After you left the club room? A We went with Angelo Palentino to bring the stuff up.

Q Was the truck at Palentino's house? A We followed the truck.

Q Was the truck at the club room? A No.

Q When you say you followed the truck, what do you mean?

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A We followed the truck.

Q When you left the club house? A The truck passed by us and we continued following the truck.

Q Did the truck pass the club house? A I don't remember.

Q How far away from the club house did you go before the truck passed you? A We were on the corner of Spring street. That is half a block.

Q Who was driving? A Simone.

Q Did you speak to him? A We all spoke to him in the club room.

Q Simone is the man that was in the club room? A He was with us before in the club.

Q Did he go ahead of you or with you? A He went ahead of us.

Q How long before he went out did you go out? A I stayed all the while in the club room.

Q What time did he leave the club room? A Maybe in half an hour he would leave..

Q He left it every half hour and came back again, you mean?
A Yes.

Q How many times in all did he go out? A About three times.

Q And his last visit was at half past three in the morning? A Yes.

Q Did he go to the loft with you? A Yes, sir.

Q And did he help you take it down, Simone? A Yes.

Q Did Palentino go up and help you take it down? A On the

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second load, no, sir.

Q On the first load?, A Yes, sir.

Q You helped with the first load yourself? A He went upstairs. I was down in the lot. He was throwing bags down to me.

Q You were getting them? A I was looking at him the way he was throwing them down, chucking them down.

Q You did not pay any attention to him at all? A No.

Q Didn't you help him put them on the wagon? A Yes.

Q What were they wrapped up in? A In burlaps, in bags.

Q Were they completely covered with the burlap bags?

A Tied up.

Q Did you see what was in the bags? A No, sir.

Q You don't know what was in the bag? A No. He told me it was silk inside.

Q Did you see at any time that night what was in the burlap bag? A I felt them.

Q Did you see what was in them? A At that time I did not see.

Q That night? A No, sir, I did not see.

MR. TREACY: That is all.

BY MR. ABRAMS:

Q You say Simone went out three times? A Yes.

Q Who sent him out? A Andy Iquinto.

Objected to. Objection sustained.

Q Did you hear any conversation between Simone and any one else before Simone went out? A The whole four of us

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talked.

Q Did you hear Iquinto speak to Simone before he went out?

A Yes.

Q Did you know what Simone went out for? A For the horses.

Q Did you hear what they said? A Yes, sir.

Q Who did? A Iquinto.

Q When he came back the first time did he have the horses?

A No.

Q Then did he go out the second time? A Yes, but he did not have the horses. The third time he got the horses.

Q Each time when he went out did you hear Iquinto speak to him? A Yes, he said, "Go ahead and see if you can get the horses."

Q Where is the house situated? A Right across the way from the warehouse.

BY MR. TREACY:

Q What did Iquinto say to him the first time Simone went out? A He told him to get the horses.

Q Repeat the words? A "Go and get the horses out."

Q And this man came back? A Yes, sir.

Q What was said then? A He waited there for awhile.

Then he told him again, "Go ahead, see if you can get the horses out."

Q When Simone came back the first time, he had no horses with him? A No.

Q Did he say anything? A He said he could not get the horses out, the stable was closed.

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Q When he came back the second time did he say anything?

A The same thing again.

Q And the third time? A The third time he had the horses out.

BY THE COURT:

Q You were not there? A We were in the club room when he got the horses.

Q It was in the club room he said he had the horses?

A Yes.

MR. TREACY: That is all.

LOUIS SIMONE, of 32 Thompson street, a witness called and sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Simone, talk up loud so that all the jurors can hear you? And if the District Attorney objects or if the Court speaks to you, stop. What is your full name? A Louis Simone.

Q How old are you? A Seventeen years old.

Q Where do you live? A 32 Thompson street.

Q Do you know Andrew Iquinto? A From the neighborhood.

Q Do you know him? A Yes, sir.

Q Where is he?, A There (Pointing to defendant).

Q The defendant here (Indicating)? A Yes, sir.

Q How long have you known him? A From the neighborhood.

Q How long? A About three years.

Q Do you know the premises 44 Watt street? A It is right back of my stable.

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- Q Do you know them? A Yes, sir.
- Q Where is your stable? A 553 Broome Street.
- Q Is that stable a sort of a lot on Broome street? A Yes, sir.
- Q There are horses there? A Yes, sir.
- Q Who do you work for? A For my father.
- Q Who runs the stable? A The stable man.
- Q Who owns it? A I don't know his name.
- Q Does your father work there? A No, he has got his own business.
- Q He has got trucks there? A Yes, sir.
- Q How many? A Two.
- Q And you work for your father? A Yes, sir.
- Q You say that place is adjoining 44 Watt street? A Yes.
- Q Do you remember the 8th day of April, 1930, the morning of that day? A Yes, sir.
- Q Where were you up in the morning? A In the pool room, 97 Thompson street.
- Q What were you doing there? A Playing cards with my friend.
- Q Who was that friend? A My friend, he has got a business at 171 Spring street - Sam. I don't know his name.
- Q While you were there did you see the defendant Iquinto?
- A Yes, sir.
- Q About what time did you see him? A Half past one.
- Q Was that in the day time? A Night time.

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Q Was he with any one at the time? A With the other two fellows.

Q What two? A Angelo Palentino and Tony Episcopia.

Q Did you have any talk with Iquinto there that morning?

A Yes, sir.

Q Did you talk to him alone or with the others there?

A With the other fellows there.

Q What other fellows? A The other two.

Q Did you speak to Iquinto? A Yes, sir.

Q And did Iquinto speak to you? A Yes, sir.

Q Were you standing alone or were you with the ^{other} people?

A Alone.

Q What was said? A He told me if I want to take some stuff to the east side for him.

Q What stuff? A Five bags.

Q What did he tell you about that? A If I would take them over to the east side for him.

Q Did he tell you where to get them from? A No.

Q Did he tell you where they were? A No, sir.

Q What did you say to him? A I said "All right."

Q Did you go with him anywhere? A I went to get my horses from the stable.

Q Did you go anywhere with him? A No, I was up the pool room at that time.

BY THE COURT:

Q Did you stay in the pool room? A Yes, they told me to wait half an hour.

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Q You waited half an hour in the pool room? A Yes.

Q Did you leave there after that half hour? A I left to get the horses.

Q You are not at the pool room now? A No.

Q So you must have left sometime. Now when did you leave the pool room? A Two o'clock.

BY MR. ABRAMS:

Q Where were your horses? A At the stable, 553 Broome street.

Q You say you went to get the horses? A Yes.

Q Did you have any conversation with Iquinto about the horses before you went? A Yes.

Q What? A To see if I could get my horses to deliver that stuff. I told him I will try to get them.

Q Do you know where the truck was at that time? A In the lots.

Q When you say "in the lots," you mean adjoining this building on Watt street? A Yes.

Q Did you go to get your horses? A I made three attempts to get them.

Q Did you come back each time? A Yes, sir.

Q And speak to Iquinto after each time? A Yes.

Q What did you say to him? A I said I tried to get the stable man up but I can't wake him up, so I went up to the club room at 58 Thompson street.

Q What did you do there? A They told me to make another attempt.

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Q How long did you wait at the club room? A Half an hour each time.

Q Who said anything about waiting half an hour? A He did, Andy.

Q He told you to wait at the club room half an hour?

A Yes.

Q Did you go with him to get the horses? A I did.

Q When you came back where was Iquinto? A Up the club room.

Q Where was Palentino? A Up the club room.

Q Where was Episcopia? A Up the club room.

Q Did you tell Iquinto anything about the horses? A I did. I told him I could not get them.

BY THE COURT:

Q Did you ever get horses there that night? A We were late that night.

Q Did you get the horses, or is the truck over in the lot?

A Yes, sir.

Q The truck is there now? A No, sir.

Q Did you drive the truck out of that lot that morning with anything on it? A I did.

Q How did you drive it; what did you have pulling the wagon? A Two horses.

Q Who got the horses? A I did.

Q That is what I am asking you, if you did get them that night? A After making three attempts I got them.

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BY MR. ABRAMS:

Q When you got the horses did you hitch them on the truck?

A Yes.

Q When you did that did you find anything on the truck?

A Yes, five bags of stuff.

Q Did you see who put them on? A No, I was not there at that time.

Q When you got your horses hitched on the truck with the five bales, you drove it out? A Yes.

Q Did you see whether Episcopia did anything with any goods? A On the second load I did.

Q Now with the first load what did you do? A The first load we delivered at 152 Rivington street.

Q Who is "we?" A Three of us, the four of us, and I drove.

Q Who else was with you on the truck, if anybody? A I was alone on the truck.

Q You drove the truck? A Yes, sir.

Q Where did you drive it to? A 152 Rivington street, Angelo Palentino's house.

Q Where was he when you drove the truck? A They were walking ahead.

Q Walking with whom? A With Tony Episcopia and Iquinto.

Q When you got to Palentino's house, who did you see at the house? A The two of them.

Q Was Iquinto there then? A He walked up the next street.

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Q He had left? A Yes, sir.

Q And Episcopia and Palentino came to the house there?

A Yes.

Q What did you do with the five bales? A I put them on the floor.

Q What do you mean, on the floor? A On the floor, on the sidewalk.

Q Were they taken in the house? A Yes, sir. Three of us went up with them, me, Episcopia and Palentino.

Q Did you go back to that place again? A Yes, sir.

Q With the same horses? A Yes, sir.

Q And the same truck? A Yes, sir.

Q How many horses? A Two.

Q When you got back to the place, to the lots with the horses and truck did you meet Iquinto? A Yes, sir.

Q Did he speak to you? A Yes, sir.

Q What did he say to you? A He told me to go, me and Tony Episcopio, to go up to 44 Watt street, through the fire-escape, and then up on the roof and there was a skylight and the window was broke and there was a big rope hanging down.

Q Who told you that? A Andy.

Q Did you do that? A Yes, sir.

Q Did you go into the loft? A Yes, sir.

Q What did you do when you and Episcopia got in there?

A We threw the stuff down in the yard.

Q How many pieces did you throw? A About 50 pieces.

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Q Do you know what they were? A No, sir.

Q Just fifty pieces of merchandise? A Yes, sir.

Q Were they in bales or bags? A In bundles.

Q Were they folded up in bundles, something like that (Indicating)? A Yes.

Q You threw about 50 bundles down from the fire-escape?

A Yes, to the ground.

Q Who was downstairs when you were throwing that down?

A Andy.

Q Where was Palentino? A He was there too.

Q After throwing those 50 pieces down, did you go downstairs again? A Yes.

Q The same way you went up? A Yes, sir.

Q What did you do with the goods? A We loaded the truck up, my wagon.

Q Did you help load it? A Yes, sir.

Q After you got it loaded what did you do? A We took a few pieces because we could not put any more on the wagon and put them across the street where Episcopia lives.

Q Where did he live with reference to where the truck was standing? A Across the way in Broome street.

Q How many pieces did you take over there? A Twelve altogether.

Q Do you know whether there were two pieces of woolens also? A Yes.

Q And the rest was what? A Packages.

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Q You took those over there? A Yes, sir.

Q Did you help Episcopia with them over? A Yes.

Q And he took them into his house? A Down the basement.

Q What did you do then? A I drove my wagon. I came back to get my wagon and drove away.

Q Where did you drive to? A 152 Rivington street.

Q Who went with you? A Episcopia and Angelo Palentino.

Q Were they on the wagon or on the street? A On the street. I drove. I was on the wagon all alone.

Q When you got to Angelo Palentino's house what did you do with the goods you had on, the 50 pieces? A I just about took two pieces off when Officer Mahoney got me. I think that is his name.

Q Did he get all three of you? A Just me alone he got.

Q Where did the other two go? A They went up the hall of 152 Rivington street.

Q Were they in the house? A Yes, sir.

Q Officer Mahoney arrested you? A Yes, sir.

Q Did you have any of the goods off the wagon that time?

A About two packages.

Q Where were they? A In the hallway of 152 Rivington street.

Q That is Palentino's house? A Yes, sir.

Q Do you know where Palentino was at that time? A No, sir.

Q Do you know where Episcopia was at that time? A No, sir.

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Q Were they arrested the same time you were? A No, sir.

Q You were arrested first? A Yes, sir.

Q You found out afterwards that they were arrested? A Yes, sir.

Q You pleaded guilty here before Judge Mulqueen? A Yes, sir.

Q Down in Part I? A Part III.

Q You knew you were indicted for burglary, grand larceny and receiving? A Yes. I pleaded guilty to receiving.

Q Did you afterwards appear before the Grand Jury? A Yes, sir.

Q Before you appeared before the Grand Jury, were you at the District Attorney's? A The same day.

Q The day you had a conversation with the District Attorney? A Yes, sir.

Q With what Assistant, if you know? A A short fellow, I don't know his name.

Q Mr. Murphy, was it? A I don't know his name.

BY THE COURT:

Q Mr. Murphy did not tell you what to say, did he? A No, sir.

Q You told him what you knew? A Yes.

Q Then you went before the Grand Jury and told them what you knew? A Yes.

Q What did I tell you when you pleaded guilty before me?
A To tell the truth.

Q I did not tell you what the truth was, did I? A No.

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Q I did not know anything about the case. I simply told you to tell the truth? A Yes, sir.

BY MR. ABRAMS:

Q Did you ever see me in your life before to-day? A To-day was the first time.

Q Where did you see me first? A In the Pen.

Q During recess hour? A Yes, sir.

Q When you were in the pen, Episcopia was there too? A Yes.

Q And I asked you questions? A Yes, sir.

Q And you told me the answers? A Yes, sir.

Q And they are the questions I asked you here? A Yes, sir.

MR. ABRAMS: That is all.

CROSS-EXAMINATION BY MR. TREACY:

Q Did you ever talk to any other District Attorney besides Mr. Abrams? A No, sir.

Q I mean besides Mr. Murphy and Mr. Abrams? A No, sir.

Q To any one in the District Attorney's office? A No, sir.

Q Or any police officers? A No, sir.

Q You told us you pleaded guilty to receiving stolen property, is that correct? A Yes, sir.

Q You took part in this burglary?

THE COURT: That was one of the counts of the indictment. He could plead guilty to any count in the indictment. I told him I would take a plea to receiving when they were arraigned before me, as they were willing to plead, and I took the lowest plea. I always do that when a man

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tells the truth against himself. I always take the lowest plea I can. Besides that is exactly the same as burglary in the third degree so far as punishment goes.

Q Now were you ever convicted of any crime before that?

A For truancy I was, in the Catholic Protectory.

Q How long were you there? A Thirteen months.

Q On this particular night that you were around the club room, you knew you were going out to commit burglary, didn't you? A No, sir.

Q You did not? A No, sir.

Q What was your belief? What did you think you were going out to do that time in the morning? A It was not half past three. It was half past one.

Q What did you think you were going to do at that time?

A I was playing cards with my friend.

Q While you were playing cards with your friend and some other friends came in and said to you they wanted you to go get the horses and truck to take away some goods, what did you think you were going to do? A They told me to do a favor for them and take it over for them, over to 152 Rivington street.

Q What place in 152 Rivington? A I did not know at that time.

Q Did you know it was a house? A They told me it was Angelo Palentino's house.

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Q What was your idea about that? What did you think you were going out on? A To take the stuff over.

Q Did you think it was stolen stuff? A No.

Q Were these men Palentino and Episcopia in business?

A I did not know. He was working for his father.

Q Didn't it strike you as very peculiar that you should go out at half past one in the morning and deliver merchandise to a tenement house? A No.

Q You saw nothing wrong about that? A No.

Q You saw nothing strange about that? A What, strange?

Q You know what the word "strange" means? A No.

Q Did you see anything unusual about it? A No.

Q Had you ever done that before? A No, sir.

Q And it did not strike you as being something out of the ordinary? A No, sir.

Q Did you ask him some questions about it? A They just told me to carry it over for him.

Q Did you ask him any questions? A No, sir.

Q Did you ask them where they got this merchandise? A No.

Q When you out two or three times to get the truck, was anything said about this merchandise again? A No, sir.

Q It was just simply to go and get the truck? A To take the stuff over.

Q You finally got your truck and went up to a place on Watt street? A Yes. The wagon was there already.

Q You went with the two horses? A Here is where the

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horses is (Indicating), and here is the stable, right next door to each other.

Q When you went out of the club on the last occasion you went up to the stable and got out two horses? A Yes.

Q And the stable is alongside of this lot? A Yes.

Q And the lot is right alongside this building, 44 Watt street? A Yes.

Q So all you did was to go out to the lot with your two horses, hook them up to the truck, is that it? A Yes.

Q The truck stood in the lot with the two horses? A Yes.

Q Right alongside this building, 44 Watt street? A Yes.

Q So that you did not come down to the club house again with the truck and two horses? A No, they were waiting on the corner of Thompson street till I passed.

Q You did not come down to the club house with the truck and horses? A Right off the corner I passed with the wagon.

Q You mean after the wagon was loaded? A Yes, sir.

Q After you hitched up the horses you began to load the wagon? A No, sir.

Q Who did? A The three of them did.

Q What did you do? A They told me to wait at the pool room half an hour.

Q You went away from the lot? A I was at the pool room.

Q I am talking about when you were there for the first time in the lot with your horses hooked up on the truck, what did you do then? A I got up and drove away the horses.

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- Q You took the horses out of the stable? A Yes, sir.
- Q And went into the lot? A Yes, sir.
- Q And you hooked them up to the truck? A Yes, sir.
- Q Was there anything on the truck then? A Yes, sir.
- Q Then you drove that load away? A Yes, sir.
- Q To somebody's house? A To 152 Rivington.
- Q Where Episcopia lives? A No, Angelo Palentino.
- Q Then you came back with your truck? A Yes, sir.
- Q To the lot? A Yes, sir.
- Q You brought it to a standstill there? A Yes, sir.
- Q It was empty at that time? A Yes, sir.
- Q What was the next thing you did? A I stood there until I got orders.

Q After somebody said something to you, what did you do next? A They told us to go to the building.

Q Did you go into the building? A Yes, I did.

Q How many flights did you climb up? A Five.

Q On the fire-escape? A Yes, sir.

Q Then did you go into the loft? A Yes, sir.

Q Then did you carry out stuff? A Yes, sir.

Q When you started out with this load on your truck, didn't you know you were engaged in committing a crime? A Yes, the second time I did.

Q The first load you thought was all right? A I didn't know nothing about it.

Q You thought the first was all right, to get a load of

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goods out of a loft in Thompson street or Broome street and drive it out to Palentino's house? A Yes, sir.

Q And you came back the second time and when you started upstairs in the loft you did not think that was all right, did you? A No.

Q You knew you were committing a burglary? A Yes, sir.

BY THE COURT:

Q Did you not know you were stealing all the time? A Yes, the second time.

Q You mean to say you went to a loft at two or three o'clock in the morning after trying two or three times to get a team of horses and you did not know you were committing a crime? A I did not know where they got the stuff.

Q You thought they bought it, did you, and you thought it was your business to take it to Palentino's house? A I don't know.

Q I am telling you to tell the truth? A I am.

BY MR. TREACY:

Q Is that as true as everything else you have told us to-day? A I am telling the truth.

Q And that is as true as the rest of your story? A Yes, sir.

Q After you were arrested where were you taken to? A I think it was the 5th street station house, and from there to Headquarters.

Q Did you talk to anybody up there? A No, sir.

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Q You finally got down in the Tombs? A Yes, sir.

Q How long were you in the Tombs before you went to the District Attorney's office? A About two months.

Q Did you see anybody come to see you from the Police Department while you were in the Tombs? A No, sir.

Q Did you ever see an officer named Rocco Cavone? A Once he took me to the District Attorney's office.

Q You know him, do you? A Yes, sir.

Q You knew him before you were arrested? A Yes, sir.

Q You were out on bail also, were you? A No, sir.

Q You were never admitted to bail? A No, sir.

Q Did you talk to Rocco Cavone when he took you to the District Attorney's office? A No, sir. I never said anything to him at all.

Q And he never said anything to you? A No, sir.

Q Did you talk to District Attorney Murphy about this case?
A He asked me questions and I told the truth.

Q You always told the truth? A Yes, sir.

Q You did that of your own accord, I suppose? A I wanted to tell the truth.

Q Had he promised you anything for telling the truth?

A No.

Q Did anybody promise you clemency if you implicated any one else? A No, sir.

BY THE COURT:

Q I made no promise, did I? A No, sir.

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THE COURT: I assure you I make no promises.

MR. TREACY: I know that, your Honor.

THE COURT: I am the only one who can promise clemency. I do not know whether any one else assumed to promise anything or not. No one has anything to do with my sentences but myself.

BY MR. TREACY:

Q Did any one promise you anything for testifying in this case? A No, sir.

Q Did anybody lead you to believe that you would be helped out in some manner if you testified? A No, sir.

Q Nobody ever did that? A No, sir.

Q No police officer? A No, sir.

Q Nobody in the world? A No, sir.

Q The only persons in the world you talked to about the case are Judge Mulqueen, District Attorney Murphy and District Attorney Abrams? A Yes, sir.

Q Those are the only persons? A Yes, sir.

Q You never talked to Episcopia about it after the arrest? A I can't see Episcopia.

Q Did you? A No, sir.

Q Did you ever talk to Palentino? A No, sir.

BY THE COURT:

Q When you say you talked to me you mean you were in open court standing by that rail and I was sitting here on the bench? A Yes, sir.

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Q And I told you what the charge against you was?

A Yes, sir.

Q And you said you were guilty? A Yes, sir.

Q And I took your plea and told you to tell the truth?

A Yes.

Q That is all the talk you had with me? A Yes, sir,
that is all.

THE COURT: ^{you} Know it is sometimes said that the Judge
takes these men in his room and does that. I would not
do that. I am not a part of the Prosecution.

MR. TREACY: Oh, I understand that fully, your Honor.

THE COURT: I have my talks in open court with these
people.

MR. TREACY: I know that very well.

BY MR. TREACY:

Q When the District Attorney talked to you he did not
talk to you in open court, did he? A Over in the office.

Q In his private office? A Yes, sir.

Q Who was there? A The District Attorney and the of-
ficer.

Q Officer Cavone? A Yes, sir.

Q Officer Cavone and Mr. Murphy? A Yes, sir.

Q Was Episcopia there? A The two of us went there to-
gether.

Q You and Episcopia? A Yes, sir.

Q Where was Palentino; was he there? A No, sir.

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Q Did you ever see him in there? A No, sir.

Q Did you ever go to the Grand Jury together? A No.

Q Who went with you to the Grand Jury? A One at a time we went.

Q From the pen? A From the private office.

MR. TREACY: That is all.

BY MR. ABRAMS:

Q When you went out that night and went upstairs on the fire-escape and got into the place and threw bundles out, you knew you were committing a burglary? A Yes.

Q When Iquinto spoke to you first and asked you to get the horses so as to take some goods to the east side, did you know where the goods were? A No.

Q Did you know where they were going? A No, sir.

Q How were you to find that out? A They were telling me in the club room.

Q That is what you mean when you say you did not know that there was anything wrong being done? A Yes.

Q But you found out afterwards that it was wrong? A Yes.

MR. ABRAMS: That is all.

BY MR. TREACY:

Q When this man told you to go up there, this defendant, as you say, did you say, "I do not want to go out on a job like that?" A I hesitated.

Q Did you keep on hesitating? A Then they forced me to go and I went up.

Q Did they take hold of you and force you? A No.

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Q Did they drive you out of the club house? A No, sir.

Q How long did you hesitate? A About ten minutes.

Q Then you went out? A Yes, sir.

Q And you came back again? A No, sir.

Q When did you do the hesitating, the first, second or third times? A Before I went out to take the stuff I hesitated.

Q Before you went to the fire-escape? A Yes, sir.

Q You were afraid of being caught? A Yes, sir.

Q And that is why you hesitated? A Yes, sir.

MR. TREACY: That is all.

ROSE DICESARE, of 139 Thompson street, a witness called and sworn on behalf of the People, through the Official Interpreter Mr. Villamena, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Do you know Tony Episcopia? A Yes, sir.

Q He is your son-in-law, is he not? A Yes, sir.

Q He is married to your daughter? A Yes, sir, he is married to my daughter.

Q Where do you live? A 139 Thompson street.

Q And where does your daughter live? A 552 Broome street.

Q Were your daughter and son-in-law living at 552 Broome street in the month of April, 1930? A Yes, sir.

Q Were you at your daughter's house on or about the 8th day of April, in the evening, 1930? A About half past nine, yes.

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Q Do you know Andrew Iquinto? A Yes, sir.

Q Do you see him here in court? A Yes, that is him
(Pointing at defendant).

Q Were you at your daughter's house on the 8th day of April, at half past nine, 1920? A Yes. At half past nine in the evening somebody called me to go over to my daughter's house, as she was afraid to stay alone because the husband was arrested.

MR. TREACY: I move that be stricken out.

THE COURT: Well, it does not do any harm.

Q You know when her husband was arrested? A Yes, sir.

Q Did you see Andrew Iquinto there that night? A Yes, sir.

Q Tell the Court and jury through the Interpreter all that Andrew Iquinto said and what he did that night? A He said to my daughter, "Don't be afraid, don't cry, it is true that your husband is arrested, but I got the stuff downstairs and I am going to sell the stuff and that money will help your husband."

Q Did you see any goods in your son-in-law's house that night? A When he came up and told my daughter not to cry, that he would sell the stuff and give the husband help, I went downstairs with him and down in the basement I saw the stuff. He came about eleven o'clock at night with an automobile and took the stuff away.

Q What did he take away in the automobile at eleven o'clock at night? A Two rolls of blue serge. I saw that.

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I went down in the basement and seen it.

Q What else? A Two bundles like this silk (Indicating by stretching out both arms), and some bundles like that (Witness indicating a distance of about eighteen inches with her hands).

Q Do you know how many bundles altogether besides the blue serge? A Two bundles of serge.

Q You saw him take two bundles of blue serge? A Yes, sir.

Q And besides that, did you see him take other stuff? A He took everything in the automobile.

Q So that he was there twice that night, is that right? A One time he came up to the house of my daughter and another time to my daughter's house. Another time he went out and he said he would take the stuff. I did not see him any more.

JUROR NO. 6: Who is this "he?"

Q When you say "he," came with the automobile and took the stuff, who do you mean by "he?" A That man there (Pointing at the defendant).

MR. ABRAMS: That is all.

CROSS-EXAMINATION BY MR. TREACY:

Q Where was this stuff you are talking about? A In the basement.

Q When you say "basement," do you mean the cellar of the house in Broome street? A In the hallway of the basement, yes.

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Q Was it just lying in the hallway? A In the hallway as they throw the stuff from the shaft, it remains right there on the floor.

Q Was this the cellar where all the tenants kept their stuff, whatever they had to keep there? A Yes.

Q And it was just lying there on the floor? A Yes, on the floor downstairs.

Q Did you see it brought there? A No, I did not see.

BY THE COURT:

Q When for the first time did you see it? A At half past nine when this defendant came up to the house of my daughter and he said he had the stuff downstairs, I went downstairs to see if he was telling the truth or not, and I saw the stuff.

Q And that was the night after your son-in-law was arrested? A The very same day, the very same evening.

Q Was it in the day time or evening when he came there?

A In the evening.

BY MR. TREACY:

Q Did you know who the stuff belonged to? A No, sir.

Q Did anybody tell you who the stuff belonged to? A I did not know. I only know that he came upstairs and told us that the stuff was downstairs, that he would go out and sell the stuff.

Q Did you know that your son-in-law had been arrested for stealing that stuff? A I do not know who did steal the stuff. I do not know if he stole it or my son-in-law stole it, but he was the one came up and told us about the stuff.

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Q Did you know at the time that this man came to your house, as you say, did you know at that time that he and your son-in-law had been together when the stuff was stolen?

(Question withdrawn).

Q Did you know at that time that he and your son-in-law had stolen this stuff? A Yes, sir.

Q So you went downstairs with him at half past nine and saw this stuff that you knew had been stolen? A Because he told me.

Q It was at that time that he said, "I will come back and get the stuff and sell it and get your son-in-law out?"
A He came only once to my house, the house of my daughter, and that is the time he said he was going to sell the stuff. I want to say another word. He said to me and my daughter, "It is most of his fault, because if he would have listened to me when I told him to hurry up a little earlier, this thing would not have happened, they would not have caught him, but he wants everything for himself, and that is why he got it."

Q Who told you that? A That man there, the defendant.

Q That was before he went downstairs in your house with you to get the goods? A Yes, before going downstairs.

Q Then you went downstairs with him? A He went to get, God knows what, and I went downstairs and looked at the stuff.

Q Was he downstairs there while you were looking at the

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stuff? A No, sir.

Q When this defendant said to you upstairs, "I will sell the stuff that I and your son-in-law stole," what did you say?

A I did not answer a word. He was talking with my daughter, and I made believe that I did not know it.

Q Did he speak to your daughter in Italian or in English?

A In English. My daughter was crying.

Q And all this talk took place in English, did it not?

A Yes.

Q And of course you understand English well? A I can understand everything in English. The only trouble with me is I could not speak English well. I am twenty-eight years in this country. You talk too much because you get paid.

THE COURT: The jurors will disregard those ^{last} remarks.

Q Were you there at half past eleven that night when you say the defendant took the goods away in the automobile?

A It was about half past ten or eleven o'clock, and I and my daughter were at the window watching to see what he was going to do.

Q Did you see him take the goods away? A Yes, sir.

Q Did you say anything to him then? A I was at the window. I could not say nothing to him.

Q Did you say anything? A No, sir.

Q Have you ever talked to anybody and told them this story that you are telling us to-day in court? A I only spoke to the boss of the goods, that owns the goods, the owner of the goods.

Q The man that owned the stolen property, he is the only one you spoke to, is that right? A Yes, the day before yesterday.

Q That is the first time you ever spoke to anybody about this; that is the first time you told anybody the story you are telling us now? A I even told it to the father of my son-in-law, what I know about it.

Q When did you tell your son-in-law's father? A Always.

Q Did you tell anybody else about it? A I told the same story to the lawyer.

Q Did you ever tell the District Attorney that story?

A Yes, the owner of the goods took me up to the District Attorney's office and examined me over there.

Q When was that? A The day before yesterday, I think.

Q Have you talked to your son-in-law since he has been arrested? A Yes.

Q Have you talked to him about this story that you are telling us now? A Yes.

Q What were you going to do with the money that you got for the sale of these stolen goods? A He said he would get a lawyer and pay the lawyer to defend the one that was arrested.
BY THE COURT:

Q Who said that? A That man there, Andrew, (Pointing to defendant). I don't know his second name. He said that "I stole the stuff and with the money I will help the one that is arrested."

Q Did you ever see him again after that night? A No,

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sir. I see him now.

Q Did you ever go up to his home where he lived? A No, sir.

Q Did you ever go up to his home to see any of his family? A I do not know one of his family.

Q Do you know his wife or his sister? A I met the wife or sister the three or four days I have been here outside in this court room.

Q And you never had seen them before that time? A I do not know them.

MR. TREACY: That is all.

MRS. FANNIE EPISCOPIA, of 552 Broome street, a witness called and sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Mrs. Episcopia, you are the wife of Episcopia that was here in court before? A Yes, sir.

Q What is your husband's name? A Antonio Episcopia.

Q And he is in jail now? A Yes, sir.

Q How long have you been married? A Four years.

Q How many children have you? A Two.

Q Where do you live? A 552 Broome street.

Q That is your mother that just left the stand? A Yes.

Q Where does she live? A 139 Thompson street.

Q What floor do you live on? A The third floor.

Q How many rooms have you? A Three rooms.

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Q You all live there with your husband and two children?

A Yes.

Q Before he went to jail? A Yes, sir.

Q Do you know Andrew Iquinto? A Yes, sir.

Q How long do you know him? A About four years.

Q Do you remember the night of April 7, 1920? A Yes, sir.

Q Were you home that night? A Yes, sir.

Q Did you see Andrew Iquinto that night? A I did not see him but I heard his voice in the hall.

Q Where were you at the time? A In the bed room.

Q And who were you in bed with? A My husband.

Q Where were the children sleeping? A In the bed room.

Q In the same bed room? A Yes, sir.

Q In the same bed? A Yes, sir.

Q You all four sleep in one bed? A No, I had a crib besides the bed.

Q And the children were in there? A One.

Q Where was the other one? A In the bed, the smaller bed.

Q Had you spoken to Andrew Iquinto during the four years you knew him? A No. I only seen him by sight. I know him by sight.

Q Had you heard him speak? Did you know his voice?

MR. TREACY: Objected to as leading and suggestive.

THE COURT: She has testified without objection that she did not see him but she heard him in the hall.

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BY THE COURT:

Q Where were you when you heard Iquinto in the hall?

A In the bed room.

Q Was your husband with you? A Yes, sir.

Q What did your husband do? A He was sleeping, and he knocked at the door, and he said, --

Q You heard a voice at the door? A Yes, my husband said "Who is it?" He said, "Andy."

Q You heard that? A Yes, sir.

Q What did your husband do? A He got up and talked to him and they went down. Then I did not see him any more.

Q You did not hear what was said? A No, sir.

Q What was the next time you saw Andrew Iquinto? A He came up in my house about nine or half past nine and told me "Don't worry."

Q The same night? A Yes, sir.

BY MR. ABRAMS:

Q That is this man, the defendant? A Yes, sir.

Q Were you home at the time? A Yes, sir.

Q Was your mother there? A Yes, sir.

Q What did he say to you? A He said, "Don't Worry, I will sell the goods and I will help your husband out."

Q Was anything else said? A No, sir.

Q Do you know anything about any goods? A No, sir.

Q Did you see any goods? A No, my mother seen them.

Q Did you see them? A No, sir.

Q Did you see him again after nine o'clock? A No, sir.

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Q Were you there when he came in an automobile? A Yes, I was sleeping.

Q You were in bed? A I was taking care of the children.

Q Did you look out of the window? A No, sir.

Q Was your mother in the house at the time? A Yes, sir.

Q Was she in bed? A No, sir.

Q Where was she? A She was in the front room.

Q Does that look out on the street? A Yes, sir.

MR. ABRAMS: That is all.

CROSS-EXAMINATION BY MR. TREACY:

Q Had you ever spoken to Andrew before this night? A No.

Q I am talking now about the night he came there and he said he would sell the goods? A That is the only time.

Q That is the first time you ever spoke to him? A Yes.

Q That is the first time you ever spoke to him in your life? A I said "Hello," that is all. I saw him in the street and said "Hello." I never spoke to him.

Q And he never spoke to you? A Yes.

Q When was your husband arrested? A That night.

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

Q Was he home at the time he was arrested? A No, sir.

Q How did you know that he had been arrested? A They came and told me in the day.

Q Who came and told you? A Two cops searched my house.

Q Who were the policemen? A I don't know.

Q Did you ever see them before? A No, sir.

Q Did they tell you what he had been arrested for?

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A For robbing.

Q For a burglary? A Yes, sir.

Q Did they tell you what he had stolen? A No, sir.

Q Did they go through the house looking for the stolen property? A They see the house and they did not find nothing.

Q They found nothing in your apartment; did they look through your apartment? A Yes, everything.

Q Did they go downstairs to the basement? A I don't know. I only seen them when they looked in my house.

Q How did you know that any goods were in your house?

A He came and told me that night.

Q He said the stolen goods were in your house where you live? A Yes. I don't know if it was in my house. I didn't go down the basement.

Q Did you go down to the basement? A No, sir.

Q Did Andrew tell you they were in the basement? A He told me they were in the basement.

BY THE COURT:

Q What did Andrew tell you? A He only told me, "I sell the goods and help your husband."

Q Did he tell you where the goods were? A No, sir.

Q Did he tell you they were downstairs? A He did not tell me they were downstairs. He said, "I will sell the goods and help your husband."

Q Where were you born? A I was born here.

Q How old are you? A Twenty-two.

Q What language do you speak every day? English or It- 5

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alian? A Italian, because I went back to Italy.

Q If you do not understand questions just tell us. We only want the truth and I do not want any witness to answer any question unless she fully understands the question.

BY MR. TREACY:

Q What language did you speak that night after the arrest when you and Andrew were talking? A He was speaking in English.

Q And you understand English? A A little bit.

Q All he said to you was "I will sell the goods and help your husband out?" A Yes.

Q He did not say where they were? A No, sir.

Q Was your mother home during all the time? A Only that night.

Q All the time that Andrew was talking with you? A Yes.

Q She was there all the time? A Yes, sir.

Q And that is the only thing that was said? A Yes, sir.

Q You understand me, do you? A Yes, sir.

MR. TREACY: That is all.

RE-DIRECT EXAMINATION BY MR. ABRAMS:

Q Did your mother go downstairs that night after Iquinto left? A Yes.

Q After Iquinto left did your mother go downstairs? A Yes.

Q Did she come back again? A Yes, sir.

BY MR. TREACY:

Q Mrs. Episcopia, Andrew said nothing while you were there

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about him and your husband stealing the goods, did he? A No.

Q You were there all the time? A Yes, sir.

MR. TREACY: That is all.

ROCCO CAVONE, an officer of the Fourth Precinct Detective Bureau, Shield No. 13, called and sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q Officer Cavone, you are a member of the Municipal Police Force of the City of New York? A Yes, sir.

Q How long have you been in the Department? A Going on seventeen years.

Q What is your grade? A Detective of the First Grade.

Q Were you the arresting officer in this case or any part of it? A Yes, sir.

Q Who did you arrest? A Iquinto, the defendant.

Q Andrew Iquinto? A Yes, sir.

Q When? A I don't remember quite the date.

Q Have you any memorandum of it? A Not with me, no.

Q Where did you arrest him? A On 14th street, between Third and Fourth avenues.

Q Was that arrest made sometime the end of May, 1930?

A Yes, sir.

Q At the time you made the arrest were you accompanied by anybody? A No, sir.

Q Do you know any of the other defendants, Episcopia, Simone or Palentino? A Yes, I know the three of them.

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Q Did you make the arrest of any of them? A No, sir.

Q Do you know the officer that made the arrest in that case? A Yes, sir.

Q What is his name? A One of them I think his name is Mahoney, and the other, I do not know his name.

Q What precinct is Mahoney in? A 15th,

Q Do you know whether the other officer is in the same precinct? A Yes.

Q Is Mahoney here now? A I do not see him in the room.

Q What is Mahoney's first name? A No, sir, he is not here.

Q Have you seen him outside? A No, sir. I do not know whether he is here or not.

Q At the time you made the arrest of Iquinto did you have any talk with him? A Yes, sir.

Q Tell us what he said? A The night I placed him under arrest I said to him, "What do you know about this case?" He said, "Well, I don't know anything, Officer, with the exception I knew the job was going to be pulled off, and that is all I know."

Q When you spoke about this case, what did you mean? A I mean the burglary at 44 Watt street.

Q Did you ask him about that? A Yes, sir.

Q And he said he did not know anything about it except he knew it was going to be pulled off? A Yes, that is all he said.

Q Did you recover any of the goods? A No, sir, but I

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recovered some of the wrappers in the basement of the cellar, 450 Broome street.

Q Is that where Episcopia lived? A Yes, sir.

Q Have you those wrappers? A I got them in the office.

Q Why didn't you bring them with you? A I can get them for you. I can call up the office and get them.

Q You can bring them? A Yes, sir.

Q Do you know whether any of the goods that were the proceeds of the burglary are at Police Headquarters? A I know nothing about the rest of the case.

Q Officer, will you please bring those wrappers with you to-morrow morning? A Positively.

BY THE COURT:

Q Officer, 552 Broome street is the house, is it not; you said 450? A Yes, it is the house of Episcopia, wherever he lives.

THE COURT: You should not have given the number unless you knew it.

BY MR. ABRAMS:

Q Will you bring your memorandum with you? A Yes, sir.

Q Did you make any memorandum? A Just a few notes on a piece of paper.

Q Will you also see to it that Officer Mahoney and his brother officer is here to-morrow? A I will try to get them if you subpoena them.

Q Were you asked by the District Attorney of New York County or any one connected with his office to go to the Tombs

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to get Episcopia and Simone from the Tombs? A Yes.

Q Did you bring them over at that time? A Yes.

Q And to whose office? A We had them in the Grand Jury room.

Q Before that did you bring him to some Assistant District Attorney? A Yes, sir, to Mr. Murphy:

Q Was that the same day or next day they went before the Grand Jury? A The same day.

Q And spoke to Mr. Murphy first? A Yes, sir.

Q That was after they had pleaded before Judge Mulqueen?
A Yes, sir, I believe so.

Q That is all you know about this case? A Yes, sir.

MR. ABRAMS: That is all.

BY THE COURT:

Q Did you arrest the defendant before he was indicted or after he was indicted? A Before he was indicted.

Q You don't know what date? A I don't quite remember. I can give you all that to-morrow.

MR. TREACY: I would rather cross-examine him to-morrow, your Honor.

THE COURT: Well, we will suspend the examination of the officer until to-morrow.

M I C H A E L S I M O N E, of 12 Amity street, a witness called and sworn on behalf of the People, testified as follows; through the Official Interpreter, Mr. Villamena:

DIRECT EXAMINATION BY MR. ABRAMS:

Q How are you related to Louis Simone, the young man now

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in jail? A He is my nephew.

Q Do you know Andrew Iquinto? A No, sir. If I see him I may recognize him.

Q You know this young man sitting here (Pointing to the defendant)?

MR. TREACY: I object to that method of identifying him.

Q Did you ever see him before? A No, sir.

MR. ABRAMS: No further questions.

SALVATORE MARSIGLIA, of 78 Thompson street, a witness called and sworn on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS:

Q You are here under subpoena, aren't you? A Yes, sir.

Q You were subpoenaed by the defendant? A Yes, sir.

Q Do you know Tony Episcopia? A No, sir.

Q You do not know him? A No, sir.

Q You never met him? A No, sir.

Q Do you know Iquinto? A I know him.

Q Were you in a pool room one day when Iquinto had some trouble with a young man? A Yes, we had a special meeting that night.

BY THE COURT:

Q Do you know Iquinto? A Yes.

Q How long have you known him? A For a good while, nine or ten years.

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BY MR. ABRAMS:

Q You and he are pretty good friends? A Yes.

Q Close friends? A Yes, sir.

Q You saw the trouble he had that night? A No, sir, I did not.

Q Didn't you just say you were present when they had a fight? A We had a meeting that night.

Q Did you see anybody hit that night? A No, sir.

Q Do you remember any occurrence between Iquinto and anybody else which was a fight? A No.

Q At any night there during April or May? A No, sir.

Q Do you know Simone? A No, sir.

BY THE COURT:

Q You must tell the truth, young man? A I am telling you the truth.

BY MR. ABRAMS:

Q I asked for Versiglia? A That is my name, Marsiglia.

Q What is your first name? A Salvatore.

Q I am talking about Nicholas Virsiglia. Who is Nicholas Virsiglia? A I don't know.

BY THE COURT:

Q Look at that man, Episcopia; did you ever see him before? A No, sir.

Q You do not know him at all? A No, sir.

Q Do you know this man (Indicating) Simone? A No, sir.

Q Did you ever see him? A No, sir.

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MR. ABRAMS: That is all the witnesses I have here, your Honor; perhaps we can adjourn now until to-morrow.

THE COURT: Gentlemen of the Jury, the Court will excuse you until to-morrow morning at half past ten. Meanwhile remember the injunction that the law compels me to give you; that is the only reason I do it. We must obey the law, and that is that you must not talk to any stranger about this case and you are also forbidden to discuss it among yourselves at this time. This is not the time for the jury to talk about it. It is your duty to listen to the evidence, and then if the Court submits it to you when all the evidence is in after you have heard both sides, you will retire and then talk about it and decide it, but until that time the law requires you to keep an open mind and to refrain from discussing the case or forming any opinion about it.

(The Court takes a recess until 10:30 o'clock to-morrow morning, July 23, 1920).

TRIAL CONTINUED. July 23rd, 1920.

ROCCO CAVONE, recalled for further direct examination, testified as follows:

DIRECT EXAMINATION BY MR. ABRAMS (Continued):

Q Officer Cavone, did you in response to my request produce certain wrapping papers you spoke of yesterday? A Yes.

Q Have you them here with you? A Yes, sir, (Producing papers).

MR. ABRAMS: I ask that those three wrappers be marked

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for Identification).

(Papers marked People's Exhibit 1 for Identification).

Q Where did you find those papers? Will you please tell us where you found those?

MR. TREACY: I object to that.

BY THE COURT:

Q Those are the papers you spoke about yesterday? A Yes, sir.

BY MR. ABRAMS:

Q As found in Palentino's house? A Not Palentino's, in Episcopia's house in 552 Broome street, in the cellar of the building.

MR. TREACY: Exception, please.

Q When? A On the 8th day of April, 1920.

THE COURT: The papers are not in evidence yet. This testimony does not prejudice the defendant unless they are admitted in evidence. Any paper may be marked for Identification. We want to know what the paper is, that is all.

MR. ABRAMS: That is all.

CROSS-EXAMINATION BY MR. TREACY:

Q How long are you in this country, Mr. Cavone? A Forty years.

Q Were you born here? A I was a year old when I got here.

Q Where were you born? A In Italy.

Q In what part of Italy? A A province named Potenza.

Q Is that in Sicily? A No, sir.

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Q You were the officer that arrested the defendant?

A Yes, sir.

Q When did you make the arrest?-- don't you remember that without looking up any notes? A No, I have not got the notes with me. I mislaid them this morning. The latter part of May, I believe it was.

Q What part of May? A The latter part of May. I don't know exactly the date.

Q What day of the week was it? A I don't remember.

Q What time of the day? A About half past eight in the evening.

Q Was it out in the street that you made the arrest or some building? A Right in the street.

Q You knew this man, the defendant, did you not? A Yes.

Q You have known him for some time? A Yes.

Q I notice yesterday, you were asked when you placed him under arrest if he said he had anything to do with the burglary?

A Yes.

Q And he said to you, "I had nothing to do with it but I knew it was going to be pulled off." A Yes.

Q That is just what he said? A Exactly.

Q He said that in one sentence, just as you have told us?

A Just as I said.

Q Just as you have told us, that is the way he said it?

A That is the exact words he used.

Q In other words he volunteered that statement to you

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that he knew it was going to be pulled off? A It was, after I questioned him what he knew about it.

Q But he said that in one sentence, "I had nothing to do with it but I knew it was going to be pulled off?" A Yes.

Q You had been working on this case for some time, had you not? A Yes.

Q How long? A Since the day of the occurrence, April 8th.

Q When did you first go to work on this case? A April 8th.

Q You interviewed the criminals, Episcopia and Palentino, I suppose? A No, I did not.

Q Didn't you see them at all? A I seen them in court.

Q I mean shortly after you started working on the case, didn't you see them? A I seen them in court and I seen them again when I brought them from the Tombs into the Criminal Courts Building, upstairs.

Q Directly after the time they were arrested did you see them? A I seen them in the First District Magistrate's Court.

Q And you spoke to them? A Yes, sir.

Q And you talked about the crime? A Yes, sir.

Q You talked to them and they talked to you, is that correct? A Yes. I spoke to two of them.

Q You spoke to Episcopia? A Yes, and Simone.

Q That was on the morning of the 9th of April? A On the morning of April 8th.

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Q And you asked them whether they had committed this burglary? A I don't remember the exact words I asked. I know I had a conversation with them.

Q Well, was it about the weather? A About the burglary.

Q When since the time you talked to Episcopia and Simone about the burglary after the 8th of April? A That was the day I went over to the Tombs and brought them before District Attorney Murphy.

Q How many men did you bring over? A Two.

Q Episcopia and Simone, is that all? A Yes, sir.

Q That was about when? A About the latter part of May.

Q Now then I suppose that on the day you spoke with them in the Police Court, the day of the 8th of April, 1930, they admitted to you that they had committed this burglary? A Oh, yes.

Q And then you went out and worked up the case, did you not? A Yes, sir.

Q You know, don't you, that you can't get a conviction against this defendant or any defendant, on the testimony of the man who had committed the crime?

MR. ABRAMS: Objected to as improper.

THE COURT: Objection overruled.

A Well, what you say is correct.

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

Q And you knew that before you arrested Iquinto, did you not? A Yes, sir.

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Q And you have known it for many years, haven't you?

A Yes.

Q And you have testified in many cases, haven't you?

A Yes.

Q And you have given testimony as to alleged confessions of criminals many times?, A Yes.

Q And you consider that as a necessary part of the case?

A I do.

Q Now having in your mind that that is a necessary part of the case, you went out to work on the case, did you not?

A Yes, sir.

Q Whether your idea was correct or not, it was your idea that you had to bring into this court testimony of a confession in order to convict the defendant? A Well.

Q Yes or no? A I had to have something legal.

MR. TREACY: I move to strike out the answer as not responsive.

Motion denied and exception taken.

Q Officer, answer yes or no. I do not care which you answer? You knew that in order to convict the defendant, or you believed that in order to convict the defendant you had to give testimony of a confession?

MR. ABRAMS: Objected to as already answered.

THE COURT: Objection sustained.

MR. TREACY: Exception, please.

THE COURT: I presume you have reference to corroboration. It is not testimony of a confession that is nec-

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essary to convict. You have to have corroboration, some other testimony besides that of the accomplice. It is not necessary to get a confession. If you get a confession, well and good.

Q Well, did you believe that you had to get a confession before there could be a conviction of this defendant? A No, sir.

Q You did not believe that?, A No, sir.

Q Did you believe, that if you had no other evidence of any kind except the testimony of the burglar, that you had to get a confession? A Well, we may try to get a confession if possible, but if we get other evidence then we act.

Q Did you believe that if you had no other evidence except the testimony of these two burglars, no other evidence whatever, that then in order to convict the defendant you had to get testimony of a confession?

MR. ABRAMS: Objected to as already answered.

Objection overruled.

A Well, I would not place them under arrest unless I had other evidence.

Q I ask you to answer the question? A I am trying to give you an answer, the best I know how.

Q (Previous question repeated by stenographer). A I did not have to get testimony of the confession, no.

Q If you had no other evidence? A If I had no other evidence.

THE COURT: That is as far as you can go on that point.

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