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**CASE**

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

-----X  
THE PEOPLE :  
against : Before  
ROBERT JEFFERSON. : HON. RUFUS B. COWING, J.,  
and a Jury.  
-----X

Tried, New York, February 9th, etc., 1905.

Indicted for Burglary in the Third Degree.

Indictment filed January 27th, 1905.

A P P E A R A N C E S.

Assistant District Attorney Keyran J. O'Connor for the People.

M. E. DUFFY, ESQ., for the Defense.

Frank S. Beard,

Official Stenographer.

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## THE PEOPLE'S TESTIMONY.

MARY F. LAKE, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q Your name is Mary F. Lake? A Yes, sir.

Q And you live where, madam? A 333 West 69th Street.

Q In the County of New York? A Yes, sir.

Q Were you living there on the 23rd day of January, 1905? A Yes, sir.

Q What floor do you live on in that house?

A Fourth floor, west side.

Q Front or rear? A Front.

Q How many rooms? A Three.

Q How many apartments on the floor? A Four.

Q Now, on the 23rd of January, 1905, did you leave your premises? A Yes, sir.

Q About what time of the day? A About fifteen minutes past twelve, I left my house.

Q And what did you do, when you left? A I locked my door, and I walked downstairs.

Q Did you take the keys with you? A Yes, sir. And I stopped at the janitor's and told her --

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Q No, never mind what you told her; you stopped at the janitor's? A Yes, sir.

Q And what did you do then? A I went out in the street.

Q And where did you go to? A Walked up to the corner, and went to the tailor's, between 68th and 69th Streets, and then went to the Western Union Telegraph office, and then went to 43 East 58th Street, and then went to Bloomingdale's, and to Ehrich's, and from there to Adams, and then home.

Q And when did you return home? A About 3:30. I stopped at the tailor's, on my way back. I got to the tailor's about 3 o'clock.

Q And, when you returned home, what did you find?  
A I found the padlock of my door had been wrenched off, and my door broken open; and I went into the house, and I looked into the front room, and everything was as I left it, except that the shades had been pulled up high, and I knew that I hadn't left them that way, and so I suspected something wrong, and I glanced into the bedroom, and I found the bureau drawers in my bedroom had been pulled out, and all my linen on the floor, and I rushed back into the back bedroom, and found the wardrobe open, and the clothing all scattered on the floor. And so I came out into the hall and I said "Oh, mercy,

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who did this?" And the old gentleman across the hall, he opened his door, and he said --

Q No. Don't say what he said. Did you see the defendant there? A No, sir.

Q What property was taken, if any? A A black velvet skirt, a black broadcloth skirt, a black silk waist, a pair of patent leather shoes, a pair of light trousers, a black coat, and a pair of rubbers.

Q And some of this property was yours? A Yes, sir.

Q And some of it was your husband's? A No, sir.

Some of it belonged to the gentleman that lodges there.

Q Well, did you ever know this defendant before that day? A Yes, sir; by sight. I had been seeing him for a year and a half out in the street.

Q Just by seeing him in the street? A Yes, sir; just by seeing him in the street.

Q Then you knew him only by seeing him on the street?

A Yes, sir.

Q And that is all you know about the case?

A yes, sir; about the case.

Q 333 West 69th Street is in the County of New York?

A Yes, sir.

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## CROSS EXAMINATION BY MR. DUFFY:

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

Q Where does he live? A 331.

Q Do you know what floor? A Top floor, rear.

Q Top floor, rear? A Yes, sir; east side.

Q You never spoke to him, did you? A Never.

Q Did you ever see him in 333 West 65th Street?

A I have; yes.

Q How often? A Well, I can't say how often I have seen him in there.

Q Did you ever see him on your floor? A Yes, sir. He visits in the back of my apartments, in the back of my floor.

Q And how often did you see him there? A I couldn't say how often.

Q You don't know? A No, sir.

Q Now you say that you left your house at 12:15?

A Yes, sir.

Q On January 23rd? A Yes, sir.

Q Do you recall what day that was? A Monday.

Q Monday? A Yes, sir.

Q And this expedition that you went on, this traveling through the city, it consumed about three hours? A Yes, sir.

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Q Did you walk or ride? A I rode.

Q When you left your apartments, on January 23rd, did you meet anybody on the way downstairs? A I did not.

Q You say there are four families on a floor?

A Yes, sir.

Q And you live on the fifth floor? A Fourth floor.

Q That is, next to the top? A Yes, sir.

Q Now, there are numerous people in that house?

A yes, sir.

Q It is the last house down near the river, isn't it?

A yes, sir; the last house before the river.

Q How many people would you imagine or think were in that house? A Well, I don't know; because a number of the people keep lodgers; and I don't know anybody in the house but the neighbors across the way from me.

Q And they are all colored people? A Pretty near. But there are white people living in the house.

Q One? A I know of one woman living in the house.

Q You know one white person? A Yes, sir.

Q And the building is occupied thickly by people?

A Yes, sir.

Q Every apartment has at least four or five persons?

A Yes, sir.

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Q So that there are about 150 to 200 people living in that house? A That I can,t tell you.

Q A number of young men hang out on the sidewalk and in the hallways; don,t they? A Not in that house.

Q Not in that house? A No, sir.

Q Oh, this house is an exception? A Yes; for that matter, it is.

Q There is a row of houses there? A Yes, sir.

Q And there are numerous people in the hallways and on the sidewalk? A No, sir; I can,t say that there are. There are only two houses there for colored people. The rest are Italians, on that block.

Q Don't you know that it has the reputation of being a pretty bad block? A No; I couldn,t tell you that.

Q How long have you lived there? A A year and about six months.

Q Are you married? A I am.

Q You live with your husband? A No, sir.

Q Have you but one lodger there? A Yes, sir.

Q What is your occupation? A professional maid, a theatrical maid. I have been with Miss Rose Coghlan for seven years, and now I am with Mrs. M. G. Byrnes, 43 West 58th Street.

Q You were formerly employed by Miss Coghlan?

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A For seven years, I was maid for Miss Rose Coghlan, the actress.

Q And all the articles which you have enumerated you purchased them all yourself? A No, sir. The velvet skirt, Miss Coghlan gave me.

Q She gave you that? A Yes, sir. The other things I purchased myself.

Q Excepting the men's clothes? A Yes, sir.

Q And you testified that some of these goods belonged to your husband? A No, sir, I did not. I said they belonged to the lodger.

RE-DIRECT EXAMINATION BY MR. O'CONNOR:

Q Your business allduring your life has been that of a professional maid? A Yes, sir; since I have been working, as a rule.

RE-CROSS EXAMINATION BY MR. DUFFY:

Q Are you home, every day? A No, sir, I am away sometimes, three or four months at a time. I lock up my house, and go away.

Q Well, do you make a fire there, or do you use gas?  
A Sometimes I do.

Q Well, do you use gas to cook when you are there?

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A No, sir; I make a coal fire.

Q You don't use gas? A No, sir, I don't use gas.  
I use a coal fire.

A R T H U R C O O P E R, a witness called on behalf of the  
People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q Where do you live, Mr. Cooper? A 220 West 64th  
Street.

Q What is your business? A Coal wagon, peddling coal.

Q Now, on the 23rd of January, 1905, were you in the  
premises No. 333 West 69th Street, in the county of New  
York? A Yes, sir.

Q Do you know Mrs. Lake? A Yes, sir.

Q Is she a customer of yours? A Yes, sir.

Q Do you deliver coal to her? A Yes, sir.

Q Had you delivered coal to her prior to the 23rd of  
January, 1905? A Yes, sir.

Q Did you go to her apartments on the 23rd of January,  
1905? A Yes, sir, I did.

Q What time of the day did you go there?

A Half past twelve.

Q In the daytime? A Yes, sir.

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Q Now, will you just state what you did, when you got up to the apartment, and who you saw there, if anybody?

A Yes, I will.

Q Please do. A When I got up there, the door was on a jar, and I rapped, and that young fellow there, he came to the door (indicating the defendant)

Q You mean the defendant? A Yes, sir. And he said, "Oh, you is the coal man?" And I said "Yes". And he said, "Well, come in," and I went in, and dumped the coal, and, when I went out, he sat down by the table, cross-legged, and begin to read the paper.

Q And you left the coal there? A Oh yes, I left the coal there.

Q Did you see Mrs. Lake there at the time?

A No, sir, she was out.

Q And he sat down at the table, cross-legged, like a gentleman, and read the paper? A Yes, sir.

CROSS EXAMINATION BY MR. DUFFY:

Q Do you sell coal by the ton or by the bag? A By the bag.

Q Now, since you have been delivering coal to Mrs. Lake, is it not customary for you to leave it on the sidewalk?

A No, sir.

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Q It isn't at all? A No, sir.

Q You carry it all the ways up? A All the ways up.

Q Now, when you rapped at the door, was the door locked?

A No, sir; it was on a jar.

Q Did you see anything broken about the door?

A Well, I didn't took notice about looking at the door.

Q You didn't notice that? A No, sir.

Q But you rapped at the door, and you walked in?

A No, sir. I rapped on the door, and that young man opened the door and said, "Come in" (indicating the defendant).

Q Now, which apartment does Mrs. Lake occupy?

A The fourth floor, front, west.

Q The fourth floor, front, west? A Yes, sir.

Q And you say that was at 12:30? A Yes, sir.

Q How long did you remain on the premises? A Well, I was there just long enough to deliver the coal -- about three minutes -- long enough to pour the coal out.

Q And that's all you know about it? A That's all I know about it.

Q Now don't you recollect saying to some person, in 69th Street, and, also, in 64th Street, that you thought you was mistaken about this man? A No, sir, I don't.

Q Didn't you make the statement that you were worry you went to the Police Court to testify against this man, the de-



fendant? A No; I didn't.

Q Didn't you make the statement that you would like to apologize for the mistake that you had made?

A No, sir.

Q You never made such a statement to anybody?

A No, sir, I did not.

Q Now, after you had left the premises, after delivering the coal, where did you go? A I went home.

Q You went home? A Yes.

Q You didn't deliver any more coal that day?

A No, not in that street. I went to 64th Street, to my lunch. That's where I live.

Q Did you meet anybody else on the stairway, going up and down? A No, sir, I didn't.

Q You never saw anybody else there? A No, sir.

Q Although that ~~is~~ is a densely populated locality?

A I didn't see anybody there.

Q Aren't there hundreds of people there, in that street, continuously? A (No answer)

Q Don't you know that this is a large building five stories high, with four families on a floor? A Why sure. But I know anybody else personally from him.

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

Q You never talked to him? A No, sir.

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Q Well, how are you so positive about his identity?

A Why, because I have been seeing him for going on two years.

Q But you never spoke to him? A No, sir.

Q Do you know where he lives? A Well, he lived in the next house. I don't know what number it is.

Q You don't know what number it is? A No, sir.

Q And you are positive that it was him? A Yes, sir; it was him.

Q Did he follow you down, after you left?

A No, sir. When I left, I left him setting.

Q In which direction did you go? A I came up Tenth Avenue.

Q You had no coal with you? A Oh, I had coal in the wagon.

Q And you went right along? A Yes, sir.

Q You are sure that he opened the door for you, when you rapped? A Why, sure I am sure. He opened the door, and he says, "Come in."

Q Now was there a light in the place, or was it dark?

A It was light.

Q Yes. Was it light or dark? A Well, the shades was up and it was light in there.

Q Which door did you go in of this apartment on the



fourth floor, west side, front? A I went into the kitchen door.

Q The kitchen door? A Yes, sir.

Q Now, is the kitchen in the rear part of the front apartment, or in the front or side? A What did you say?

Q As you go up the stairs, in what direction is the kitchen door? A When you go upstairs, you turn right to your right. The kitchen is there (indicating).

Q As you land on the top of the stairs? A No; when you land on the top of the stairs, you walk forward in the hall, and then rap on the kitchen door.

Q Now, when you got up on the landing on the fourth floor, in which direction did you turn to reach the kitchen door? A Why, you turn this way (illustrating), when you get into the hall far enough.

Q You turn to your right you say, when you get up on the landing? You say you turn to the right? A No; you turn to the left.

Q Now, you are sure of that? A Yes, sir.

Q And the stairs run up that way, don't they, in a slanting direction (illustrating)? A Yes, sir.

Q In the middle of the house? A Yes, sir.

Q And you are sure what you say is correct? A Yes, sir.

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Q And how far from the landing is the kitchen door?

A Well, I couldn't possibly tell that.

Q You couldn't tell that? A No, sir.

Q Could it be a foot? A Well, it is more than that, I guess.

Q Well, three or four or five feet; haven't you any idea of it? A I haven't any idea at all.

Q You can read and write; can't you? A Well, that ain't got nothing to do with that. I can't tell anything about that.

Q Well, but you have no idea of measurements?

A No.

Q You know people up there, in that locality, who look similar to him (indicating the defendant); don't you?

A No, sir.

Q Nobody else? A No, sir.

Q Now, how do you fix the time, that this was about 12:30 in the day? A How do I fix it?

Q Yes. A Well, she left home at twenty minutes after twelve, and I was there at half past twelve, in her apartment.

Q Did you see her leave? A No, sir, I didn't see her leave.

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Q Well, how do you know that she left there then?

A Well, because she said so.

Q Well, did she tell you that? A No, she didn't tell me that. I heard her tell you so. That's the only way I know.

Q And that's the way you fix the time? A No; I know the time I was in her apartment.

BY MR. O'CONNOR:

Q He wants to know how you fix it that you were there at that time, on that day? A Because the clock said so.

BY MR. DUFFY:

Q The clock in her apartment? A Yes, sir.

Q It said 12:30? A Yes, sir.

WILLIAM M. O'CONNOR, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q Now, officer O'Connor, you are a member of the Police Department of the City of New York? A Yes, sir.

Q Attached to what Precinct? A 26th.

Q Are you doing special duty in that precinct?

A Yes, sir.

Q Did you arrest the defendant? A Yes, sir.

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Q When did you arrest him, Officer? A On the 24th of January.

Q 1905? A 1905.

Q Where did you arrest him? A In his apartments, in the top floor of 331 West 69th Street.

Q And that house adjoins the premises No. 333?

A Yes, sir.

Q And what did you say to him, Officer, when you placed him under arrest? A I entered the premises with Mrs. Lake, the complainant, and she pointed him out as the man who the colored man said had been in her apartments.

And I told him that he was under arrest, and took him to the station house.

And he said, "Why, I didn't leave my apartments yesterday. I was in those apartments all day. I never went downstairs."

And, on the way to the station house, I told him that he had better tell me where those goods were, that Mrs. Lake was not anxious to make a complaint against him, if she would recover her goods, and he said, after a while, in the station house, he would tell me where the goods were.

And, in the Police Court, next morning, I tried to get the information from him that he had promised, and he said, well, he didn't know much about it; he couldn't tell me who

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had them.

And then, afterwards, he told me that he saw another colored man around the premises, who had been down from Elmira lately, and that he thought that, perhaps, he had taken them.

In the Police Court, when he was confronted by the evidence of Mrs. Lake and another gentleman, that is, that they were leaving Mrs. Lake's apartment about 12:15, and they saw him on the sidewalk, in front of his home, and then he admitted that he had left his apartments on that day; but, previously, he had said that he had never left his apartments on the 23rd of January.

Q And he never made good the promise that he would tell you where the goods were? A No, sir.

CROSS EXAMINATION BY MR. DUFFY:

Q When Mrs. Lake identified the defendant, in his apartment, what did she say? A She pointed towards him, and said, "That's the man."

Q Did she say any more, as to how she identified him?

A She said she had known him for two years, that he hung around the sidewalk, and used to shoot craps in front of her premises, on that block; that he never seemed to have any occupation, and that he played the banjo and shot craps, pretty

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near all day. She also knew him by his buttoned patent leather shoes, and described the other clothing that he always wore.

Q That is, for playing craps, he was known to wear patent leather shoes; is that what you mean? A No. He had been described to her by the colored man. The colored man described him as a light colored colored man, who wore patent leather buttoned shoes, and described his clothing; and, from that description she said -- she decided this was the man, and went into his apartment, and picked him out; and, at the station house, the colored man identified him as the man that he found there, in her apartment.

Q Then it was pure guess work on the part of Mrs. Lake identifying this man, on the identification of the colored man?

MR. O'CONNOR: objected to.

THE COURT: Why did you not ask her that?

MR. O'CONNOR: He did ask her, and she said that she knew the defendant for two years by sight, having seen him in that neighborhood.

THE COURT: I will exclude it. She does not claim to have seen him in her apartment. The only person who claims to have seen him is the colored man. When she returned, she found her apartment broken open, and her

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clothes scattered on the floor, and some of them stolen; and she does not know who did that, but the colored man says that he found the defendant in her rooms, in her absence, about half past twelve, on that day. I think that is the evidence you want to meet, counsel; that is the important evidence, rather.

MR. DUFFY: Very well, sir.

BY MR. DUFFY:

Q Now was the other officer with you, officer O'Connor?

A Yes, sir.

Q Both of you together? A Yes, sir.

Q And Mrs. Lake was with you? A Yes, sir.

Q And then you took him away, and nothing else was said, except what you have testified to? A Except what I have testified to. There were half a dozen colored men sitting around, and Mrs. Lake picked him out as the man that had been described to her.

Q That filled the description? A Yes, sir.

Q He told you that other people were standing around that door, that day; didn't he? Didn't he tell you that there were other people that he suspected? A Why, he told me that he didn't leave his apartments, his rooms, that day, at all.

Q What time did you make the arrest? A About 3:30

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in the afternoon, on the 24th.

Q In the afternoon? A Yes, sir.

MR. O'CONNOR: The People rest.

MR. DUFFY: If your Honor please, the evidence in this case simply shows, on the part of the complainant, on the part of the People here, that Cooper went on the premises, and, while delivering the coal, found the defendant there.

THE COURT: Well, do you not think that he ought to tell what he was doing there?

MR. DUFFY: Now, they don't show any breaking.

THE COURT: Oh, yes. She says that the padlock was broken off her door, when she got back home, and the door was forced open. I think it is up to the defendant, don't you, to explain what he was doing there, if he was there?

MR. DUFFY: Well, yes, I suppose that is right. I will call him.

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## THE DEFENSE.

ROBERT JEFFERSON, the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DUFFY:

Q Now, Jefferson, you are the defendant in this case?

A yes, sir.

Q Talk up, so that the jury can hear you.

A Gentlemen of the jury --

Q No. Hold on. I will ask you questions. You are the defendant in this case? A (No answer)

Q You are the prisoner? A Yes, sir.

Q Where do you live? A 331 West 69th Street.

Q On what floor? A Top floor, back, on the east side.

Q What is your business? A Asphalt, I work in the asphalt as a laborer.

Q Now, do you recollect january 23rd, 1905?

A Yes, sir.

Q Now, where was you, at about 12:15 P. M., of said day?

A 12:30 P. M., I was in my own apartment, top floor, back, east side, 331. Mr. O'Brien called to see me.

Q Never mind about Mr. O'Brien now. You are sure that

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you were there? A Yes, sir.

Q And do you recall this day, Monday? A Yes.

Q How do you fix the time that you were in your apartment? A I was in my apartment all day.

Q All day? A Yes.

Q Didn't leave at all? A No, sir; didn't go out.

Q Do you recollect the officer coming and arresting you?  
A Yes, sir.

Q And what did you say to him, when he arrested you?

A When he came in he says, "I want you," and one gentleman pulls a revolver out, one of the detectives. I looked at him and I says, "What are you doing that for?" And he said, "Oh, that's all right." And he put it back in his pocket. And this woman come in.

Q Mrs. Lake, you mean? A Yes, sir. And he said, "Is that the man?" And she said, "Yes, that's jefferson," and I said, "Yes, mam, what about me?" And she said, "Well, Mr. Cooper claims you broke into my apartment," and I said, "All right. I am willing to go with you. I don't know nothing about it."

And I told the Captain, in the station-house, that I didn't know nothing about it. And Mr. Cooper identified me, before they even brought me into the room, so that he could

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see me. He said, right away, before I got into the room, "That's him. That's the man."

And, about 11 o'clock that night, the two detectives came to my cell, and they said, "Do you know where this stuff is?" And I said, "No, sir;"

And they said, "If you will tell me where this stuff is, we will turn you loose, in the morning," and I said, "I can't tell you a lie, sir. I don't know where it is."

And they came to the cell, in the morning, before they brought me into court, and they said, "Do you know where this stuff is?" And I said, "No, sir. And I won't tell you no lie. I am an innocent man."

And they said, "Well, if you don't tell us, we'll press the charge against you," and I said, "Well, I am an innocent man, and you can do what you like."

Q Now were you in those premises on that day?

A No, sir.

Q Were you in Mrs. Lake's apartment at all on that day?

A No, sir.

Q Now, do you know this man, Arthur Cooper?

A No, sir; I doesn't know him.

Q Had you ever spoken to him? A No, sir.

Q Do you know what business he is in? Have you ever

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seen him? A No, sir; if I seen him I didn't know him.

Q And how long have you lived in 331 West 69th Street?

A Ever since '98, sir.

Q Since 1898? A Yes, sir.

Q Now, Mrs. Lake says that there were a number of articles taken out of her place. Do you know anything about those articles? A No, sir; I have never seen them.

Q Do you know Mrs. Lake? A Not personally.

Q And did you ever speak to her? A No, sir.

Q Now do you know whether or not another person, by the name of William Johnson, was arrested from the apartments, No. 333? A Yes, sir. William Johnson was arrested, Saturday night; and I seen him this morning. I seen him when he was going to Part I, this morning. He was arrested in 331, he told me.

MR. O'CONNOR: That is objected to, if your honor please. That has got nothing whatever to do with this case.

THE COURT: Objection sustained.

CROSS EXAMINATION BY MR. O'CONNOR:

Q You have been living in that neighborhood for nearly five years, or six years? A Yes, sir; since 1898.

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Q Yes, since 1898? A Yes, sir.

Q And Cooper has been delivering coal in that neighborhood for some time; hasn't he? A I don't know, sir, how long.

Q Did you ever see Cooper before? A If I did, I never took notice of him.

Q Well, he never spoke to you? A No, sir.

Q And Mrs. Lake has been living there for some time?

A I suppose so.

Q And you have been visiting in 333? A No, sir; I don't visit there.

Q In the rear of where Mrs. Lake lives? A No, sir, I never visits that house, at all.

Q Have you never been in that house? A No, sir; never been in there.

Q Never had occasion to go into that house, in eight years, living around the neighborhood, and next door?

A No, sir; because I ain't got no friends in there, sir.

Q Now you say you were at home, on that day?

A Yes, sir.

Q Well, then, you were not working on that day?

A No, sir. I advertised, that Saturday night, and I got a call. Mr. O'Brien came to my house, at 12:15.

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Q How do you remember the time so distinctly? Did you put it down? A Yes, sir; I looked at the clock when he was in there.

Q And you wrote it down? A No, sir; I didn't write it down. I say I looked at the clock.

Q And you say it was fifteen minutes past twelve o'clock? A Yes, sir.

Q You are sure about that? A Yes, sir.

Q And that the minute hand was exactly on fifteen minutes past? A Yes, sir; a quarter past twelve.

Q And the hour hand was exactly on twelve o'clock? A No, sir.

Q It was not? A Yes, sir, it was.

Q It was not fourteen minutes past? A No, sir; exactly fifteen minutes.

Q When did you have your breakfast that morning?

A 8 o'clock.

Q Sure it was at 8? A I suppose so; yes, sir.

Q Did you look up at the clock then, when you were having your breakfast? A Yes, sir.

Q And when you looked at the clock, the minute hand was exactly on the twelve? A Yes, sir.

Q And the hour hand on the eight? A Yes, sir.

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Q And when did you go to bed, the night before?

A I went to bed about 10 o'clock, sir.

Q Did you look at the clock then? A Yes, sir. I always look at the clock, before I go to bed, because I sets it.

Q And you made a memorandum of the time you had your breakfast, and the time the man came in? A Yes, sir.

Q You always look at the clock, whenever you talk business with anybody? A Yes, sir.

Q And you made a memorandum of that, in your own head? I don't say on paper. A Yes, sir. Whenever anybody comes in to do business, I always look to see the time.

Q Well, why do you do that? A Well, I always do that.

Q Well, why? A Well, it was a little business, the day Mr. O'Brien called. I said to Mrs. Harris, "It is funny I haven't got a call. It is 12 o'clock. I advertised, and haven't got a call," and it was a quarter past 12 o'clock, and Mr. O'Brien come in, and he said, "Do you want a fireman's place?" And I said, "No, sir. But I'll be the assistant janitor, because I haven't got a license."

And he said, "Will you work at night?" And I said, "No, sir. I just lost a job, on the 20th, from working at night."

And he said, "Well, I want a man to work at night," and

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I said, "Well, I think I've got a friend here that will do for you, and I'll call him."

And I called my friend, Mr. Coleman, from the back room, but he wasn't there then.

And I told Mr. O'Brien to write his address down, and I would send my friend down to see him.

And Coleman came in at 1 o'clock, and I told him he can have the job, and he said, "No, I don't want it. I just got a job."

Q Now you have got on buttoned patent leather shoes, haven't you? A Yes, sir. And I have had them for several years. And there is many another man in New York has buttoned patent leather shoes.

Q I know that. And you have got a light overcoat; haven't you? A No, sir, I haven't.

Q And don't you shoot craps in that street? A No, sir; I don't shoot no craps.

Q Now, didn't you tell the police officers, at first, when you were arrested, that you hadn't been out of your house the whole of the day before, your apartment? A Yes, sir.

Q But, when Mrs. Lake and her boarder testified, in the Police Court, that they had seen you in front of your house, when they were coming out of their flat building, No. 333, at

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12:15, didn't you admit, then, that you had been out of your house on the previous day? A No, sir.

Q And didn't you say that you would tell where the goods were? Didn't you say that to the police officers?

A No, sir.

Q Did you tell the officers that Anderson, a man just out of Elmira, was around the house that day, and you suspected him of doing the burglary? A Yes, I did.

Q How did you know that he was around the house, if you didn't go out of your apartment all day? A Well, Mr. Anderson was just across the hall from me.

Q Oh, he lived just across the hall from you; did he?

A Yes, sir.

Q And you told the officers that Anderson had just come out of Elmira; didn't you? A Yes, sir.

Q And that you thought that he had done the job?

A Yes, sir.

Q Now, why did you tell the officers that?

A Because he robbed me last summer.

Q Oh, was it you that had Anderson sent away?

A No, sir. When I found out that Anderson had robbed me, it was too late, and I said, "I won't bother with it."

Q And then you thought that Anderson might have done the

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job? A Yes, sir.

Q Well now, Anderson doesn't look like you, does he?

A Well that I can't say. He is bigger than I am.

Q Yes. He is a big, strapping fellow? A Yes, sir.

Q And not the same color? A Well, he is a little lighter than I am, I think; or about the same color.

Q Now, you say you don't know Cooper? A No, sir.

Q And Cooper never had any trouble with you; did he?

A No, sir.

Q Now, do you know of any reason why Cooper, the colored man, should come here, and swear that you were the gentleman that sat down at the table in Mrs. Lake's apartment, and crossed his legs, and read the newspaper? A Well, he is telling something that is not the ungodly truth.

Q Oh, he is telling something that is not true, then, you claim? A Yes, sir.

Q And do you know of any reason why he should come here, and perjure himself by lying about you? A No, sir. I don't know him.

Q And do you know of any reason whatever for his doing that? A No, sir; unless he got some grudge against me.

Q Well, do you know whether he has any grudge against you, or not? A No, sir; I never spoke to him.

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Q Now, do you know why officer O'Connor should say here that you told him, first, that you had not been on the sidewalk, at all, on that day, or out of your apartment, and that afterwards you admitted that you were, when confronted with Mrs. Lake and the boarder, in the Police Court, admitted that you were out of the apartment, on that day, and were down on the sidewalk? A No, sir; I didn't tell him that.

Q Did you look at the time when you were locked up? A No, sir.

Q There was a big clock in the station house, wasn't there? A Yes, sir; but I was so worried I didn't pay no attention to the clock.

Q But here was the most important event in your life, and you were getting locked up for crime? A Well, I was getting locked up for nothing.

Q But you were being charged with burglary? A Yes, sir; and I thought I was going right straight back home.

Q Well, then, why didn't you look at the clock, to see what time you were going back home? A Well sir, I didn't have no time to look up at the clock, because I was getting locked up, innocent.

Q Did you ever hear of the word alibi? A No, sir.

Q Did you ever know that that was a defense, put up by

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people who committed a crime? A I don't know what you mean, sir, by alibi.

Q It is a word meaning elsewhere, a defense in the law, and people who resort to that defense always look at clocks, or try to say that they look at clocks, and fix the time exactly to the second. A No, sir. Every man that looks at a clock isn't a thief and a scoundrel and a burglar, sir.

Q I do not say that he is. A Because, sir, if a gentleman calls to see you, you look at your watch, you would take your watch, and look at it.

Q Did you ever see a watch where the hour hand didn't point exactly at the hour, to the second? A Well, this wasn't a watch.

Q Well, a clock, then? A Well, I am telling you what I seen. I swore that I seen that clock, at that time.

Q Might it not have been fourteen and three quarter minutes past twelve? A No, sir.

Q Did you look at the minute hand? Was there any minute hand or second hand on the clock? A Yes, sir.

Q And second hand on it? A No, sir, but there was a minute hand.

Q Now, you didn't know that you were going to be arrested on the 24th, did you? A I had no right to be arrested.

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Q I say, you didn't know that you were going to be arrested on the 24th; did you? A I hadn't a right to be arrested.

Q Well, did you look at the clock when it was half past twelve or twenty-seven minutes past twelve, on that day?

A I had no right to look at it.

Q Well, you said that you looked at it at other times, and when Mr. O'Brien came in, on the 23rd? A Well, yes, on them days I did, when I had people to call to see me.

Q Did you look at the clock on Sunday? A No, sir, I had no call to look at it then. Nobody came to see me, that day.

Q Now how long have you been across the street, in the Tombs, in the prison? A What is that?

Q How long have you been locked up? A I never was locked up before, sir.

Q How long have you been locked up, on this charge? A I have been locked up over two weeks.

Q And, during that time, you have had plenty of time to think of the 23rd of January, haven't you? A Well, I know it was on the 23rd of January.

Q (Question repeated) A Yes, sir.

Q And, now, you come in here, and you are going to tell

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this court and jury that you looked at the clock at fifteen minutes past twelve, and that the hour and minute hands were exactly over the proper places on the clock, and yet you can't say that you looked at the clock, on Sunday, the 22nd, and can't tell us where the minute hand and the hour hand were, then, on that day? A No, sir, I can't; because I don't know what you are talking about.

Q Well now, you know what an alibi is; don't you? I suppose you have talked it over, across the street. Accounting for yourself at some other place, at the time when you are charged with being in a certain place. A I don't understand you, sir.

Q I will try to make it plain. You are charged with being in Mrs. Lake's apartment, at 12:30 on the 23rd of January, 1905? A Yes, sir.

Q And now you say that you were in your apartment, at that hour? A Yes, sir.

Q Now where were you on the 21st of January, 1905? A (No answer)

Q Now quick. Where were you? Be as quick as you were about the 23rd of January. A The 21st was what? Sunday?

Q Sunday, you say. A I asked you, was it a Sunday?

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Q I am asking you the question. Now, why don't you answer as fast for the 21st as you did for the 22nd and 23rd of January?

MR. DUFFY: Objected to as incompetent. He might pick out any other day of the year, for that matter.

THE COURT: Allowed.

A Well, I am telling you.

BY MR. O'CONNOR:

Q Now, you are swearing to a mathematical certainty, as to the 23rd of January? A I can't tell you where I was on the 22nd.

Q No. Nor what time you got out of bed? A No, sir.

Q And you can't tell what you had for breakfast, on that day? A No, sir. No matter what I had for my breakfast. I had a different thing, every day for my breakfast. I don't eat the same thing every day.

Q Well, but you are swearing to a mathematical certainty here. A I swore that, at a quarter past twelve, on the 23rd of January, Mr. O'Brien come into the room, and that I had been in there all day.

Q And you can't tell how many cigarettes you smoked yesterday, either; can you? A No, sir. I have no right to tell you. Do I have a right to tell you how many cigarettes I smoked yesterday? I am only telling you the

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exact truth, nothing but the truth. I didn't come here to tell no lie, to get out, because I am innocent of this, sir; and those men that arrested me should have went <sup>and</sup> got the right man, sir.

Q Who is the right man? A I don't know who the right man is.

Q Well, then, why did you say that Anderson got the goods?  
A I didn't say so.

Q Then why should you say that those men should have gone and got the right man? Who is he? A I don't know.

Q And Cooper picked you out as the right man; didn't he?  
A Well, he got the wrong man.

Q And you told the detective that you would get the goods? A No, sir, I didn't.

Q But, when you got up in the Police Court, next morning, you got up against some wise gazaboo, and wouldn't tell where the goods were? A No, sir, I didn't.

THE COURT: Gentlemen of the jury, you will bear in mind my admonition to you, not to talk about the case, or form or express any opinions concerning the guilt or innocence of the defendant, until that question is finally submitted to you.

The Court will take a recess for one hour.

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## AFTER RECESS.

MR. O'CONNOR: I would like to have the defendant's witnesses retire, your Honor, as I understand that there are several of them, who are to be called to prove an alibi.

THE COURT: yes, they may step outside.

JOHN O'BRIEN, a witness called on behalf of the defense, being duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. DUFFY:

Q What is your business, Mr. O'Brien? A Superintendent, engineer, of an apartment house.

Q Where? A 353 West 57th Street.

Q And how long have you worked there? A 18 years, this coming July.

Q And do you know the defendant, Robert Jefferson?

A I seen him once.

Q Where did you see him? A At his home. I think it was 331 West 69th Street.

Q You only saw him once? A Yes, sir.

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Q How did you come to call on him? A He had an advertisement in the Sunday's World, and I went there on Monday, on the next day, on Monday.

Q And what time did you go there? A Well, I should judge it was about five minutes of twelve.

Q And did you see him? A Yes, sir.

Q And did you talk with him? A Yes, sir.

Q And this is the same man? A Thesame man.

Q Is this one of the slips about which you called to see him (indicating an advertisement)? A That is exactly the same.

MR. DUFFY: I would like to introduce it in evidence, to show how Mr. O'Brien came to call, and what this defendant's business was.

MR. O'CONNOR: Well, there is nothing in it to have in evidence. It is an advertisement, and he testifies to it.

MR. DUFFY: But I want to show the business that this man carries on.

MR. O'CONNOR: He said that he advertised for a job, and that this man called.

THE COURT: I think you have had all the benefit that the paper can give you, counsel.



BY MR. O'CONNOR:

Q This is not the advertisement that you saw in The World? A It is probably from a different paper. It reads the same.

THE COURT: I think that you have got all that the paper can prove, counsel.

MR. DUFFY: Very well, sir, I will not press it.

BY MR. DUFFY:

Q How long did you remain at this house? A Well, I should judge it was about 20 or 25 minutes past 12 o'clock when I left his house. I reached my house at 20 minutes to one.

Q And you know him to be in the advertising business, from what conversation you had with him? A He said he had advertised.

Q And what did you go there for? A To look for a fireman.

Q To look for a fireman? A Yes, sir.

Q Now what conversation did you have with the defendant concerning the fireman?

MR. O'CONNOR: Objected to as immaterial.

THE COURT: That is not material. The conversation would not be material. But that he went there, and saw

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him, and saw him about 20 or 25 minutes past twelve there, would be material. He says he went there to get a fireman.

BY MR. DUFFY:

Q And did you get a fireman? A No, sir; not there.

Q And what day was this? A It was on a Monday.

BY THE COURT:

Q Well, there have been a good many Mondays, since the world began. What Monday? A The 23rd of January.

Q What year? A 1905.

BY MR. DUFFY:

Q On that day, you were at his home? A Yes, sir.

Q From five minutes before twelve, until 25 minutes past twelve? A Yes, sir, exactly.

Q You remember that distinctly? A Yes, sir.

CROSS EXAMINATION BY MR. O'CONNOR:

Q How do you know that, Mr. O'Brien? A Well, just after I had got in there, the 12 o'clock whistle blew, and I was talking with him, and I looked at my watch to see if I had the right time.

Q How do you know it was the 23rd of January? A How do I know?

Q Yes.

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BY THE COURT:

Q Yes. That is, what circumstance fixes it in your mind?

A Because I wanted a fireman on that day. My fireman had left me.

BY MR. O'CONNOR:

Q When did he leave you? A On the 22nd.

Q What day of the week? A On a Sunday.

Q And have you anything to show that he left you on the 22nd? A Not with me I haven't.

Q No book or paper or anything? A No, sir.

Q Now how did you come to remember that he was there -- that you remained there until 25 minutes past twelve?

A Because I judged from the time I got home. I went directly home, and I know I was home at twenty minutes to one, because, when I got in the house, I said to my wife, "Has Francis gone back to school?" And she said, "Why, yes. He always leaves here at half past."

Q And had you ever seen this defendant before that time?

A No, sir.

Q Were there any other colored men there? A No, sir.

Q And when next did you see the defendant, after the 23rd of January? A This morning.

Q You think that, from your seeing him one time, that

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you are better able to identify him than people who have seen him two years? A That I couldn't say. I remember the man's face. I was in conversation with him for about --

Q You haven't conversed with him since, have you?

A No, sir.

Q Did you notice how he was dressed, that day? A He was in his shirt sleeves.

Q Well, what kind of a shirt was it? A A light shirt.

Q A white shirt; wasn't it? A Yes, sir; and no collar or tie on.

Q No collar or tie on? A No, sir.

Q And you got in, somewhere in the neighborhood of five minutes to twelve? A Yes, sir, about that time.

Q And then you left there, you say, in the neighborhood of twenty-five minutes past twelve? A Between twenty and twenty-five.

Q Well, all that you had to ask him was whether he wanted the job? A Yes, sir.

Q Now you heard him testify to all the conversation that took place between yourself and himself? A Yes, sir.

Q And you were in the court-room while he was testifying? A Yes, sir.

Q Now, you noticed that it didn't take him twenty-five



minutes to detail that conversation? A No, sir.

Q Well, how long do you think it took? A Well, I talked with him about where he had been, and looked over his records, and I told him it was a night position, and he said he didn't care for night work.

And I said, "Well, I want a steady man, to work the year around. I'm not in the habit of changing," and he said, "Well, I go away in the summer time. My mother and I go to work for some family that she has worked for."

And I said, "Well, that wouldn't suit me. I want a man to work steady," and he said, "Well, I know of a man in the house here, a fireman. Probably he would suit you. I'll call him."

And he stepped outside of the door, and was gone for about two or three minutes, and came back. I heard him whistling and calling in the hall, and he came back and said, "I can't find him. If you will leave me your address, I'll have him call on you."

Q Then you left? A Then I left.

Q Well, you don't think it took twenty-five minutes for that conversation; do you? A Well, I guess it did; very near.

Q And you have detailed all that took place? A Yes, sir.

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But it didn't transact quite as rapid as that.

Q Now have you got the newspaper that would show the date you saw the advertisement on? A Oh, no, sir. I didn't save the newspaper. I didn't think that I would ever have any occasion for it.

Q Now, didn't you see any other advertisements in the paper? A Yes, sir.

Q Did you go to any other place, to anybody else's house that day? A Yes, sir.

Q Where did you go to? A I went down on Tenth Avenue.

Q When did you go there? A Before I was to see him. And I was at 49 Columbus Avenue.

Q And you didn't get a fireman at either place?

A No, sir.

Q Did you go out on the next day, to look for a fireman? A No, sir; I had a man furnished to me by a friend of mine.

Q And this is the first time you saw the defendant, since the 23rd day of January, 1905? A Yes, sir.

Q And you are positive that this man was sitting in that room, around half past twelve? A Well, twenty-five minutes after; between twenty and twenty-five minutes and half past twelve.

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Q And you don't know where he went to, after you left, of course? A Oh, no, sir, that I couldn't say.

RE-DIRECT EXAMINATION BY MR. DUFFY:

Q And where did you go, in the apartment?

A Through the kitchen into this rear room, the setting room, I think it was.

FANNIE HARRIS, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DUFFY:

Q Where do you live? A I live 331 West 69th Street.

Q What floor? A Top floor, east side.

Q Which side? A On the east side.

Q Do you occupy a room where the defendant resides?

A Yes, sir; with his mother, Mrs. Mary Jefferson.

Q And do you recall the day that Mr. O'Brien called, January 23rd, 1905? A Yes, sir.

Q For a fireman? A Yes, sir.

Q Now, was the defendant on the premises at that time?

A Yes, sir, he was there, when Mr. O'Brien came in. He was lying down on the couch, all covered up.

And Mr. O'Brien said, "Why, is this Jefferson?" And I said, "Yes, sir."



And then he went into the front room, and commenced talking to Rob.

Q What time was this? A I don't know exactly the time.

Q About what time? A Well, it was between twelve and something after twelve.

Q And was you there, on the premises? In what room were you in? A I was in the kitchen, washing.

Q You were washing? A Yes, sir.

Q And did you see the defendant on those premises, during that day? A Sure. He was there all day.

Q You are positive of that? A I am positive of that. He was there all day.

Q Well, how does the 23rd -- how do you refresh your memory of the 23rd? Besides O'Brien, is there anything else that strikes you? A No; only I always know the date of the month.

Q You know the date of the month? A Yes, sir, I always keep account of it.

Q And you are sure it was Monday, January the 23rd?  
A Yes, sir.

Q And you are positive that the defendant was in the house, all day? A Yes. I got up, on Monday morning, about 8 o'clock, and commenced washing about 9; and I guess he

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got up at half past ten or something like that. I was in the house all day, and I can swear before God he was in the house all day; and he never left the premises all day.

Q Did you leave the premises? A No; I didn't go out. I got in all the things to wash, the Saturday before, because I had been working, and I didn't had time to do up some clothes of mine that had been lying about the house.

Q Do you know that man, Cooper, the coal man?

A No, sir; I don't know him.

Q He doesn't serve you with coal? A No; he doesn't furnish me with any coal.

Q Do you know Mrs. Lake? A No, sir; not personally; only just by seeing her around the neighborhood.

Q You don't know her to talk to her? A No, sir.

Q You never frequented 333, did you? A No, sir.

I have a cousin, she is the janitor on the ground floor. I go there sometimes to see her.

CROSS EXAMINATION BY MR. O'CONNOR:

Q And does the defendant ever go into your cousin's, the janitor's? A No, sir, he doesn't go in there.

Q He never went in there? A I am sure he didn't.

Q And how long have you been living there? A About four



years, in 69th Street.

Q And how long has he been living there? A About seven years, in the spring.

Q And you are sure about the 23rd day of January, about his being there all day? A Yes, sir. ✓

Q And that the defendant didn't go out at all? A Yes, sir, he didn't.

Q He didn't? A No.

Q Now when did you begin to think of what you had been doing on the 23rd day of January, 1905? A When did I begin to think?

Q Yes. A Why, I knew what I was doing. I didn't have to think.

Q You didn't have to think? A No, sir.

Q Now, will you tell us what you were doing on the 31st of January of this year, and tell us what day of the week it was? A Why, the 31st day of January was on a Tuesday.

Q Yes. And what were you doing on that day?

A If I am not mistaken, I went down to the Tombs, to carry him something for his mother, and, in the afternoon, I came back, and I ironed.

Q Yes. Now will you tell us what you were doing on the 29th of January? A Well, the 29th of January?



Q Yes. What day of the week it was? A Well, the 31st was on a Tuesday, and the 29th must have been --

Q I don't know what day it was on. I am going to find out. A Well, I don't know what I was doing that day, now.

Q Well, <sup>how</sup> do you remember the 31st day of January so well? A Well, because I know to-day is the 10th of February, and last Wednesday was the 1st.

Q And you have been visiting the defendant, over at the Tombs, every day? A Yes, sir.

Q Every day? A Yes, sir. I go on account of his mother.

Q And you know that you were there, then, continuously from the day he was arrested, or put in the Tombs?

A Yes, sir.

Q So if I asked you where you had been on the 26th of January, you would say you were down at the Tombs? A Yes, sir; his mother sent him something to eat every day. His mother thinks a great deal of him, and he doesn't have to steal, I don't think.

Q Now he wasn't locked up on the 16th of January; was he? A No, sir; on the 24th, on a Tuesday afternoon.

Q Do you know what day of the week the 12th of January was? A No, sir.

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Q Do you know where you were, that day? A The 12th of January?

Q Yes. A I don't recollect exactly.

Q But you know everything that occurred on the day the defendant was arrested, and you could tell me where you were by saying you were in the Tombs? A Sure, I was in the Tombs. I was working at Watson's Hotel, and I left there on the 21st of January, that was Friday, two weeks ago, and I was working there. I worked there, I guess, about two months, and I left there on Friday afternoon, and so I was at work, the other times.

Q And you are sure that you left there on the 21st of January? A Yes, sir.

Q And you are positive of that? A Yes, sir.

Q And that it was on a Friday? A Yes, sir.

Q Positive that you left there? A Yes, sir.

Q And you had worked there how long? A I worked there about two months.

Q And you know that Friday, the 21st of January, was the day you left? A Yes, sir.

Q You are positive now of that? A Yes, sir.

Q And can't be mistaken as to the day of the week, or the day of the month, or the month; can you? A No, sir.

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Q You swear to that?

MR. DUFFY: I think the prosecution has gone far enough.

MR. O'CONNOR: I am testing her memory.

A I left my place on a Friday, two weeks ago; but I am not sure it was the 21st, or not.

Q No. But you said you were sure. A I don't think it was the 21st, now.

Q You don't? A No, sir.

Q Now, do you remember that you were not in the house at all on the 23rd of January? A I was in the house. I was in the house all day, Monday, January 23rd.

Q Now who did you talk with, before you took the stand, just about twenty minutes ago, during the recess? A I didn't talk to any one.

Q Didn't you talk to any one, in this court-room, about what you were going to testify to? A No, sir.

Q Didn't you stand by that gate (indicating-), with Mr. Duffy, and didn't he say, "Now, if you go on the stand, will you testify that you were in the house all day?"?

A No, sir.

Q And didn't you see me pass that gate, and didn't he say to you what I have said, "Now, if you go on the stand, will

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you testify that you were in the house all day?" A No, sir.

Q Now didn't you talk to Mr. Duffy, at that gate (indicating)? A Yes, sir.

Q Now, tell the Court and jury what you said to him?

A I asked Mr. Duffy, "Do you think he will come out all right?" That's all I said to him.

Q Then why did you say you didn't talk to anybody, in this court-room, twenty minutes ago? A Oh, well, I said that, but I did talk to Mr. Duffy, but he didn't say anything concerning that.

Q Will you swear that I didn't overhear Mr. Duffy say to you, "Now, if you go on the stand, will you testify that you were in the house all day?" A No; he didn't say that to me.

Q Well, but you did talk to Mr. Duffy there?

A Yes, but he didn't say that to me.

Q But you swore positively that you didn't talk to Mr. Duffy at all, in this court-room? A Well, --

Q Didn't you? A I did talk to Mr. Duffy, but he didn't say that, at all, to me.

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J O H N C O L E M A N, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DUFFY:

Q Now, where do you live, Mr. Coleman?

A 331 West 69th Street.

Q And what do you work at? A Elevator.

Q Elevator? A Yes, sir.

Q And do you live in these apartments where the defendant resides? A Yes, sir.

Q And do you recall January 23rd, 1905? A Yes, sir.

Q Was you on the premises 331 West 69th Street, on that day? A Yes, sir.

Q Did you see the defendant there? A Yes, sir.

Q How long had you been in the premises, that day?

A All day.

Q All day? A Yes, sir.

Q And what were you doing there? A I wasn't doing nothing. I was only at home, doing nothing.

Q Did you see Mr. O'Brien call? A No, sir.

Q You didn't see Mr. O'Brien? A No, sir.

Q You know Miss Harris, and you saw her there; didn't you? A Yes, sir.

Q Was she there all day? A Yes, sir.

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Q Are you sure of that? A Sure of that.

Q You say that you didn't see the defendant leave the place at all? A I didn't see him leave the place, at all.

BY THE COURT:

Q Did you see him there at all? A Yes, sir.

CROSS EXAMINATION BY MR. O'CONNOR:

Q What were you doing there? A Why, I lived there.

Q Well how many did you live there with? A Well, myself, and his mother and this Fannie Harris and himself, four  
five,  
I think -- with his brother.

Q He has a brother; isn't that right? A Yes, sir.

Q His brother is younger than he is? A He is older than him, I think.

Q And how many rooms have you got there? A Three.

Q That is, the kitchen and the bedroom and parlor?

A That's right.

Q Now, O'Brien swore, on the stand, that the only person he saw there was the defendant? A (No answer)

Q He swore that, between five minutes before twelve and twenty-five minutes past twelve, he didn't see anybody else there but the defendant. Were you there, at that time?

A No, sir, I was not. I wasn't in the house, then.

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Q Well, why then did you swear that you were in the room, all day? A Not in the room. I went downstairs, for a few minutes.

Q And you don't know whether this defendant was out of the apartments between 12 o'clock or 12:25; do you?

A No, sir. That's the time he looked for me. He said that's the time he went downstairs to look for me.

Q Where did he say he went looking for you? A He said he whistled down the stairs.

Q And then between that time, between five minutes of twelve and twenty-five minutes past twelve, he was out?

A He must have been out, if he was looking for me.

Q Well, where were you? A I was on the next floor.

Q What were you doing there? A I went down there to see a gentleman friend of mine.

Q Well you left up there? A Yes, sir.

Q And then you were not in the apartments all the time? A I wasn't in the apartment all day, because I was back and forward.

Q No. Then you don't know what time Jefferson went out? A No, sir, I don't know; because he was looking for me. He said up here that he was looking for me.



O S C A R L O G A N, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DUFFY:

Q What is your business? What do you work at?

A Tending furnace.

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

Q On January 23rd, 1905, did you call to see him at any time? A Well, I was there, I guess, about 11 o'clock.

Q About what time? A Somewhere around 11 o'clock I was at his house.

Q And did you go up to his apartment? A I live right across the hall.

Q Oh, you live in that house? A Yes, sir.

Q And were you on the premises between 12 and 1 o'clock, on that day? A Well, I was in there off and on, until about 4 o'clock, off and on, backwards and forwards, all that afternoon, until about 4 o'clock, and I goes around again.

Q Well, what would be the best time that you could state? to the best of your memory, when you see the defendant on the top floor, or in his own apartment? A Why, I can't say exactly what minute, but it was somewhere between 12 and 1, because there was a gentleman down there, to get him a job.

Q Were you there then? A I was out in the kitchen.

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Q You can't recall the exact time? A No. I don't know what exact time it was. I know it was between 12 and 1 o'clock.

Q The only way you can fix it is that a man came there, looking for a fireman? A That's all.

Q And you are sure that the defendant, at that time, was in his apartment? A Yes, sir.

CROSS EXAMINATION BY MR. O'CONNOR:

Q Three rooms the family occupy there?

A Yes, sir.

Q And the entrance from the main hall is into the kitchen? A Yes, sir.

Q And you enter through the kitchen into the apartment?

A Yes, sir.

Q You have got to go into the kitchen first?

A Yes, sir.

Q And if you were there, O'Brien would have seen you; wouldn't he? A Mr. O'Brien was in the front room, and I was in the kitchen. He was in there before I went in.

Q Well, O'Brien says that he saw no one there, except the defendant? A Well, he didn't see me.

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Q Where were you? A I was in the kitchen.

Q Well you could see from the little front room into the kitchen, couldn't you? A Why certainly, if you got by the stove.

Q Why certainly you could; couldn't you?

A Yes, sir.

Q Well you got in very quietly, did you?

A Yes, sir; certainly.

Q And you didn't go into the front room, did you?

A No, sir; I had no reason to listen to the conversation.

Q And where do you live? A Here is his door here, and here is my door here (illustrating)

Q Oh, you were on the opposite side of the hall?

A Yes, sir.

Q And where does Anderson live? A Oh, I don't know where he lives.

Q Doesn't he live in that house? A No, sir.

Q Doesn't he live in No. 331? A No, sir.

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Q But you are not sure that Jefferson never went downstairs that day, are you? A He didn't went down in that time, I know.

Q Well, do you know when he went down? Do you remember when he went down after his brother? A Oh, yes. He was on the bannisters, whistling for him.

Q Who was he whistling for? A He was whistling for his brother, to come upstairs.

Q Who is his brother? A John, his name is, I guess.

Q John what? What is his brother's name? A John Coleman.

Q John Coleman? A Well, it has been a good while since I have seen him.

Q Then this man's name is not Jefferson; is it?

A That fellow there (indicating the defendant)?

Q Yes. A His name is Rob Jefferson.

Q But didn't you say his brother's name was John Coleman?

A Oh, he had been away for a good while. I ain't seen him around the house.

Q Where has John been? A In the country, up the State, I guess.

Q Where? A I don't know whereabouts.

Q Where up the State? A I received a letter from a party--that is, I heard some letters came from a party.

Q How far up the State? As far as Westchester County?

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A Well, I don't know.

Q Well, you saw some letters come down? A Yes, sir.

Q Where did they come from? A I don't know.

Q Now, then, Coleman, who was on the stand here, is a brother of this defendant here? A Well, perhaps he is. It has been a long time since I seen him, I said.

Q Well, did you know him to be called his brother?

A Well, I ain't been acquainted with him. He had been living down in 69th street a long time, and the other one ain't been in this city very long.

Q Who, Coleman? A Yes, sir.

Q John Coleman, you say, is his brother? A That is what I heard them say.

Q Well, now, is your information as good about being there between 12 and one o'clock as it is as to his brother?

A Well, I can't swear that he is his brother.

Q (Question repeated.) A I know I was there.

Q Well, then, why don't you know whether Coleman is his brother or not? A Well, because he ain't been here for a long time.

Q Now, you testified, under oath, that John Coleman is the defendant's brother? A Well, I won't swear to that.

Q Well, but you won't swear, either, that you were in the apartment at 12 o'clock, or between 12 and one o'clock on

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that day, will you? A Well, it has been a long time since I see him in town.

Q How long do you know Jefferson? A I couldn't tell.

Q Five or ten years? A I couldn't say.

Q Can't you tell us whether you know him more than five years? A I couldn't say.

Q Do you know him more than a year? A I guess I have been, or a little over. I have been there over a year, a little over a year.

Q And you don't know whether Coleman is his brother or not? A No, I wouldn't swear to that.

Q Well, you know that Coleman lived there with him, didn't you? A Well, but he hasn't been there very long.

Q Well, but Coleman swears that he lived in that apartment, with his mother and Miss Harris and the defendant, and you lived on the opposite side of the hall? A No answer.

Q Can't you answer the question whether you know whether he is his brother or not? A I wouldn't swear, it has been so long since I've seen him. He was a small fellow, then.

Q Well, you only saw Coleman-- A He was a good size, when he came back.

Q You saw Coleman yesterday? A Yes, sir.

Q And while he was living in a partment with Jefferson, you saw him? A Why, he lives there now.

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Q He lives there now? A Yes, sir.

Q Well, didn't they talk about it, about his being his brother? A Well, I didn't listen to it if they did.

Q Well, when I asked you if he went downstairs for his brother, you said yes? A And he's got another brother, too.

Q Oh, he has got another brother; has he? A Yes, sir.

Q What's his name? A I guess he's at home.

Q Well, are you sure that he's got another brother?

A Well, I ain't sure whether he's got another brother, or not.

Q And then you are not sure whether you were there on the 23d of January, 1905, between 12 and one o'clock? A I'm sure I was there.

REDIRECT EXAMINATION BY MR. DUFFY:

Q But you know this man named Coleman as John Coleman?

A Yes, sir.

Q And he lives in that house? A Yes, sir.

Q And that is the only name you know him by? A Yes, sir.  
But you can't make me say anything I don't know here.

RECROSS EXAMINATION BY MR. O'CONNOR:

Q We don't make you say anything. You said he was his brother. You said that he went down after his brother, John Coleman? A Well, perhaps, he has got another brother.

Q And then you say he has got another brother, and then



you say that you guess he has. We don't want any guessing?

A Well, I say I won't swear to it.

Q But you have been swearing to that, right along?

A I wouldn't swear to anything but I was home there between 12 and one o'clock.

Q Well, but you know that you took an oath to tell the truth; don't you? A Yes.

Q And you swore that he had two brothers. Now, is that true or isn't it true? A Well, perhaps he has more at home. I can't swear whether he has got more brothers. Of course, I have some more too, but they ain't here.

WALTER S. WOODWARD, a witness called on behalf of the defence, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DUFFY:

Q What is your business, Mr. Woodward? A I represent a silk factory.

Q And where is your business carried on? A 85 Grand street.

Q How long have you been in that business? A Twenty-five or twenty-six years.

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

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Q How long have you known him? A I think it is since the fall of 1898.

Q Since 1898? A Yes, sir.

Q Did he ever work for you? A Off and on, at odd times. His mother has been in my employ continually during that time.

Q And, since you have known him, what has been his reputation for honesty? A So far as I know, it is as good anybody else's. He has always been honest.

Q And faithful? A Yes, sir.

Q And you say his character is good, too, to your knowledge? A Yes, sir.

Q And you would trust him, would you?

MR. O'CONNOR: Objected to.

A Yes.

BY MR. DUFFY:

Q And would you believe him?

MR. O'CONNOR: Objected to.

THE COURT: Objection sustained.

CROSS EXAMINATION BY MR. O'CONNOR:

Q Mr. Woodward, counsel should have asked you if you knew other people who knew the defendant, in the community in which he resides? A I don't understand that question.

Q Do you know other people in the neighborhood in which

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he resides? A I do not.

Q Then you don't know what his general reputation is for honesty, in the community in which he resides? A The only part that I know is so far as my personal knowledge is concerned.

Q And that is all you know about it? A Yes, sir.

Q What he does outside of while he was working for you, you know nothing about? A No, sir.

Q And it was only while he was working with you that you found out that he did nothing wrong? A Yes, sir.

Q And that is all you know about him or his reputation?  
A Yes, sir.

REDIRECT EXAMINATION BY MR. DUFFY:

Q When did he last work for you? A I think it was last summer, some time, to the best of my knowledge.

Q You never heard anybody say anything about him?  
A No, sir.

MR. DUFFY: The defence rests.

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## REBUTTAL.

J O S E P H   S .   D A V I S ,   a witness called on behalf of  
the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q   You are an officer of the Police Department of the  
City of New York?   A   Yes, sir.

Q   Attached to what precinct?   A   Twenty-sixth.

Q   Now, were you present at the Station House when the  
defendant was brought in there, with O'Connor and the rest of  
the people?   A   Yes, sir.

Q   Who was there?   A   Mrs. Lake was there and the defend-  
ant was there, and Mr. O'Connor and I.

Q   Now, what was it the defendant said, in the Station  
House, to you and O'Connor?   A   I told the defendant, "You  
might as well tell us where those goods are. We have got a  
man who saw you in the flat," and he said, "Well, if that man  
identifies me I'll tell you where the goods is."

And I says, "All right. He will identify you."   And  
when Coleman came in, he did.

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Q And what did the defendant then say? A He said he wasn't in the flat.

Q And then what did you say to him about the goods?  
A That was afterwards, in the night, about 10 o'clock. And I said to him, "Now, this man has identified you, and Mrs. Lake doesn't want to press the complaint. Now, tell me where those goods are, and we will see that you get out, in Court, afterwards," and he said, "I don't know where the goods are, and I ain't going to tell you nothing."

Q Were you present in the Police Court, on the following day? A Yes, sir.

Q And what did he say about not being out on the street, that whole day? A Yes, sir. And then Mrs. Lake said that she saw him, when she left her apartments at 333, and he was standing then on the stoop of 331, in his shirt sleeves, and then he admitted that he was down there, after his little brother.

CROSS EXAMINATION BY MR. DUFFY:

Q You say Mrs. Lake saw him going out of 333? A No, sir; I didn't say so. I said that he was standing on the stoop of 331.

Q Standing on the stoop? A Yes, sir.

Q Mrs. Lake says so? A Yes, sir.

Q She said so in the Police Station, I mean? A Yes, sir.

And he admitted it, himself in the Police Court.

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Q Now, when you and Officer O'connor made the arrest, and took him down to the Station House, this witness Cooper was there? A No, sir.

Q Cooper wasn't in the Station House? A Not then. We sent for him, and he came.

Q Did he ever arrive at the Station House? A Yes; about three minutes after we got in the Station house.

Q And did he see the defendant there? A He did.

Q Was Mrs. Lake there? A Yes, sir.

Q And who identified the defendant? Mrs. Lake or Cooper? A Mr. Cooper.

Q He did? A Yes, sir.

Q But Mrs. Lake didn't identify him? A Well, what do you mean?

Q There was no identification of the defendant by Mrs. Lake? A She knew the man as Jefferson.

Q She knew him as Jefferson? A Yes; as the man that was on the stoop of 331, when she left her apartments at 333.

Q Now, when he was standing there, you didn't put a number of people there, for him to be identified in the usual form? A Well, we could hardly do that, because he was the only colored man in the Station House.

Q And was he also identified in the Police Court?

A He had already been identified in the Station House.

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Q Except by Cooper and Mrs. Lake? A By Mrs. Lake and Cooper. Mrs. Lake identified him as the man that stood, in his shirt sleeves, on the stoop of 331.

Q And you heard her say that? A Yes, sir.

Q And she only knows him under the name of Jefferson?

A Yes; that's what I understand.

MR. DUFFY: I would like to ask Mrs. Lake a few questions, if your Honor please.

THE COURT: She may be recalled for further cross-examination.

MARY F. LAKE, being recalled for further cross-examination by counsel for the defendant, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. DUFFY:

Q Did I understand you to testify that, when you passed out of 333 West 69th street, at 12:15, when you left your house, that you saw the defendant and another man standing on the stoop of 331 West 69th street? A No other man. I saw the defendant standing in the doorway.

Q You are positive that this is the man? A Positive. And, the next morning, in the Police Court, he said he wasn't downstairs, and I said, "I saw you, at 12:15, when I passed,"

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and he says, "Yes. And I was in my shirt sleeves, wasn't I?" And I said, "I don't know about that, but you had your hat on." Then he admitted that I saw him in the doorway of 331, when I passed out.

W I L L I A M O. P A I N E, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q What is your business, Mr. Paine? A Inspector in the Department of Water Supply.

Q In the City of New York? A In the City of New York.

Q Now, were you present in the Police Court when this prisoner was arraigned there? A Yes, sir.

Q Did you hear the testimony given by Mrs. Lake, as to the defendant having been on the stoop of 331, when she came out, that day? A Yes, sir.

Q The 23d of January? A Yes, sir.

Q And did you hear what the defendant said? A I did.

Q What did he say? A Mrs. Lake stated that, when she passed the house--or, rather, the defendant making a statement, and he said, "I haven't been out of the house all day." Mrs. Lake turned to him, and said, "Why, I saw you when I came out

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of my house, this morning," and he said, "Well, yes, I was on the stoop, I admit, but I was in my shirt sleeves; wasn't I? I was downstairs. I went downstairs to look for my brother."

At the Police Station, the night of the arrest, Officer O'Connor said to him, after Cooper had identified him, "You said that, if this man identified you, you would tell me where those goods were," He said, "I did."

Then he said, "Well, now, tell me," and he said, "Well, I didn't take them. Charlie Anderson has got them."

I then wanted Officer O'Connor to arrest this Charles Anderson, because some of my goods were taken, at the time.

The officer stated to me that he hadn't any evidence against this Anderson, except the statement made by this man Jefferson, and he couldn't arrest him on that evidence, but he would see if he could find the goods, and locate them, and find out who had them; and, if he found out that Anderson had taken the goods, he would arrest him--not that Anderson had taken the goods, but that if he was implicated in it, he would arrest him.

CROSS EXAMINATION BY MR. DUFFY:

Q Now, I understand you to say that you were in the Police Station? A I was.

Q And now how about the testimony given by the officer, that only Mrs. Lake and Cooper and the two officers, and the

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defendant, were there? Now, how about that statement?

A I don't know anything about that.

MR. O'CONNOR: I don't think he said that they were the only persons. You asked him who were there, and he told you who were there.

BY MR. DUFFY:

Q Now, you said that Mrs. Lake said in the Police Court--you were there, too? A Yes, I was.

Q And, when the question arose as to where the defendant was, that Mrs. Lake said to him, "You was there, because I see you on the stoop, in your shirt sleeves, this morning"?

A She didn't say so, nor did I testify to that effect. I testified to the effect that she said, "Why, I saw you, when I passed the stoop, this morning," and he said, "Yes. I was in my shirt sleeves."

Q Well, where did this argument take place? You say she said, "This morning." Now, where was this said; in the Police Court? A In the Police Court.

Q Now, are you sure of that? A As saying "This morning," I won't be positive as to that.

Q Oh, but you were positive, all right? A But I am certainly positive of the remark that she made.

Q Yes, "This morning"? A No; not "This morning," but she said, "I saw you when I passed."



MR. O'CONNOR: The People rest.

MR. DUFFY: This case, I believe, is for larceny and burglary, your Honor?

THE COURT: Yes. I will submit it as burglary, burglary in the third degree.

MR. DUFFY: Very well, sir.

THE COURT: Gentlemen of the Jury,

You will remember my admonition to you not to talk about the case, or form or express any opinions concerning the guilt or innocence of the defendant, until that question is finally submitted to you.

The Court will stand adjourned until to-morrow morning, at half past ten o'clock.

(The trial was then adjourned to Friday morning, January 10th, 1905, at 10:30.)

*(The Jury found the Defendant,  
Guilty of Burglary, 3rd Degree)*

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