

START

Additional  
MATERIAL

623A

CASE

CASE #623A

COURT OF GENERAL SESSIONS OF THE PEACE,

COUNTY OF NEW YORK,

PART I.

-----X  
THE PEOPLE OF THE STATE OF NEW YORK :

against :

WILLIAM LANG, :

Before Hon. :

: WARREN W. FOSTER,

: and a Jury.  
-----X

Indictment filed

Indicted for the crime of ROBBERY IN THE SECOND DEGREE and  
GRAND LARCENY IN THE FIRST DEGREE.

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New York, January 24th, et seq., 1907.

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

FOR THE PEOPLE:

Assistant District Attorney Joseph E. Corrigan.

FOR THE DEFENDANT:

Messrs. C. Fischer-Hansen and Alexander Michaelson.

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Peter P. McLoughlin,

Official Stenographer.

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MR. HANSEN (addressing Jury): Do you, any of you gentlemen, know Mr. Corrigan of the District Attorney's Office?

(No response.)

MR. HANSEN: Does anybody know the defendant at the Bar?

(No response.)

MR. HANSEN: Or anybody connected with my office?

(No response.)

MR. HANSEN: Has any one of you gentlemen been the subject or the object of a larceny?

Objected to; objection sustained.

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

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live, Mr. Tivoli? A. 116 East 91st Street.

Q What is your occupation? A. Cafe manager.

Q What cafe do you manage? A. 44th Street and Sixth Avenue.

Q Whose is that? A. The Fox Cafe.

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

Q How long have you known him? A. I saw him the night he robbed me.

Q Had you ever seen him before? A. No, sir.

Q What time was it when this occurred? A. Around three o'clock in the morning.

Q What day? A. The 4th of October.

Q Last year, 1906? A. 1906.

Q Where were you at the time you saw this defendant? A. I went to the Bank Hotel, 125th Street and Lexington.

Q What hotel? A. The Bank Hotel.

Q 125th Street and Lexington Avenue is in the City and County of New York? A. New York City, yes, sir.

Q Will you talk a little louder, please? You went into this hotel; what part of the hotel did you go into? A. The family entrance, hotel part.

Q What happened there? A. I went in there and had a drink and a cigar.

Q Were you alone or was some one with you? A. I was all alone.

Q After you had the drink and cigar, what did you do? A. I left the hotel. The defendant followed me out as far as 125th Street.

Q Did he leave the hotel with you? A. He followed me.

Q Was he in there when you went in? A. He was in there

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drinking.

Q Did he see you pay for your drink?

Objected to.

Q When you went to pay for your drink, what did you do? A.

I paid for my drink.

Q Did you pull a ten-cent piece out of your pocket or a hundred-dollar bill out of a roll? A. He walked off with \$118 that was in my pocket.

MR. HANSEN: I object to that, that "he walked off" and move to strike it out.

Stricken out.

Q Did you show any money in the cafe when you paid for your drink?

MR. FISCHER-HANSEN: Objected to, on the ground that the question is leading.

Objection sustained.

Q What did you do when you paid for your drink? A. I pulled out a roll of bills.

Q Did you pay for the drink? A. I did.

Q Where did you put the bills then? A. In my left hand pocket.

Q What did you do after you had your drink and paid for it? A. I left.

Q What did the defendant do? A. He followed me and start-

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ed a conversation as far as 125th Street, right on the corner.

MR. FISCHER-HANSEN: I object to that as a conclusion. State what he did; what did he say?

A. (contd) Gentlemen, he started a conversation and followed me as far as the corner.

MR. FISCHER-HANSEN: I object to the foregoing answer, and ask that the witness be directed to testify to what was said and not that he started a conversation.

THE COURT: That does not show what he said. What did he say?

THE WITNESS: When any one starts a conversation ---

MR. FISCHER-HANSEN: Objected to.

THE COURT: Your answer is an improper one.

Q What did the defendant say, as near as you can remember?

A. As near as I can remember -- I could not swear to what he said as he started a conversation and followed me.

Q How did he start it, did he say "Good morning" or "Go chase yourself"? A. He was sitting next to me in the cafe.

Naturally he followed me out of the place; he saw that I had money.

MR. FISCHER-HANSEN: I object to the remark "Naturally he followed me".

Stricken out.

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Q When he followed you what did he do? A. Just simply got hold of my throat.

Q What did he say to you; did he say anything?

MR. FISCHER-HANSEN: Objected to on the ground that the witness has already testified that he could not swear to what he said.

Q Give me the conversation, as near as you can, what he said?

A. We were speaking about betting in there at the time in the back room.

Q Go on. A. Of \$5.

Q On what? A. On the subject of \$5.

MR. FISCHER-HANSEN: Objected to, unless you state with whom you had the conversation.

MR. CORRIGAN: With the defendant, of course.

MR. FISCHER-HANSEN: Oh, no.

Q Who did you have the conversation with? A. With another party in the room.

MR. FISCHER-HANSEN: Objected to, and ask that that be stricken out.

Stricken out.

A. (contd) And the defendant butted in.

Q What did the defendant say? A. He said that I did not have \$5. That is the conversation started outside after he followed me; and then, why, the first thing I knew, I caught

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his hand in my left side pocket. He had my wallet, \$118.

As I made an outcry, he choked me and beat me and I was black and blue for two weeks.

Q Where did he hit you? A. On the left side here (indicating).

Q How far from the cafe did this happen? A. Right across the way.

Q On the same side of the street? A. Across the street.

Q 125th Street and Lexington Avenue is in the City and County of New York? A. Yes, sir.

Q The first thing the defendant said was that you did not have \$5? A. Yes.

Q Did you make any answer? A. I said I did, I had that and more.

Q Then you say you found his hand ---- A. I caught his hand in my left hand pocket. As he did that, he slipped another old wallet in my pocket, an old pocketbook in my coat pocket, and as I made an outcry, he choked me.

Q Did he strike you? A. After that I started to make a cry, yes.

Q Where? A. Right here (indicating). I was black and blue for two weeks.

Q After he struck you, what happened then?

Objected to.

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A. I was dumb; I could not speak; my tonsils were swollen for a week.

Q Did the defendant stay there or run away? A. A pal of his come up that was about ten feet away, after he done this.

THE COURT: Strike that out.

Q A man came up. What happened? A. He disappeared.

Q Who disappeared? A. He walked down towards Lexington Avenue.

Q The defendant? A. Both.

Q What became of your wallet? A. He had it.

Q How much was in it? A. \$118.

Q You say he put an old pocketbook in your pocket? A. Yes.

Q Where is that? A. I have not got that.

Q Has the officer got it? A. No, sir.

Q What did you do with it? A. I left it home; an old pocketbook anybody would throw away.

Q What pocket did he put it in? A. My coat pocket.

Q From what pocket did he take your money? A. Left hand trousers.

Q When was the next time you saw the defendant after that?

A. Down at 300 Mulberry Street.

Q How long after? A. On the 26th day of December.

Q This happened on the 4th of October? A. Yes.

Q Did you say anything to him at that time? A. I did not.

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Q Did he say anything to you? A. No.

Q Did you say anything in his presence? A. I did not.

Q When you saw him, did you say anything?

Objected to.

A. At 300 Mulberry, I simply went out and picked my man out.

Q Just tell the Jury how you picked him out? A. I stated my case as near as I could the next day ----

Objected to.

Q Mr. Tivoli, if you would please pay attention to my questions and try to answer them, I think we would get along better. I asked you how you picked out the defendant at 300 Mulberry Street on the 26th of December, or whenever it was. I did not ask you what you did the next day.

MR. HANSEN: Objected to, on the ground that there is no testimony to show that he ever did pick out the defendant.

THE COURT: Strike that out, because that is really a matter of opinion.

Q Just tell what occurred at 300 Mulberry Street on the 26th of December? A. I went down to 300 Mulberry Street and was led into another room. They 'phoned to my house, I described my man to 300 Mulberry Street months before that, and been looking for him all the time.

Objected to; stricken out.

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Mr. Tivoli, will you kindly answer my questions and not go into these other matters? You say the next time. Did I understand you to say that the next time after the 4th of October that you saw this defendant was at 300 Mulberry Street? A. Yes, sir.

Q What time of day was that? A. It was twelve o'clock in the day.

Q In the middle of the day? A. Yes.

Q You arrived at 300 Mulberry Street at twelve o'clock on the 26th of December? A. Yes.

Q When you arrived at the door of that building, did you go into the building? A. I went into 300 Mulberry Street.

Q You went into a room in the building? A. I did.

Q How many men were in the room? A. About eight men.

Q How were they dressed? A. Lined up.

Q How were they standing? A. In a straight line, dressed in all different shapes and manner.

Q In uniforms or citizens clothes? A. Citizens clothes.

Q All of them? A. All of them.

Q And what did you do? A. I simply went over and picked my man out, the man that robbed me.

Q Did you pick out the defendant? A. Yes, sir.

Q Did you say anything when you picked him out? A. I said that was the man, to the sergeant.

Q What did the defendant say? A. Nothing.

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## CROSS EXAMINATION BY MR. HANSEN:

Q What time did you say that you entered this hotel on

October 4th? A. Between three and four in the morning.

Q Where had you been during the night time, prior to three o'clock in the morning? A. Me?

Q Yes, you. A. I got through my business at 2:30 in the morning.

Q And where is your business downtown? A. 44th Street and Sixth Avenue.

Q That is a cafe? A. Yes, sir.

Q You got through there at half past two o'clock? A. Two or half past two.

Q Just describe to us how you got up to this hotel, if you walked or took a car? A. I took the Madison Avenue car. I go home with my boss.

Q Where is that, where does he live? A. I took the car at 44th Street and Madison Avenue.

Q Then you stopped at your boss's house? A. No, my boss lives in 123rd Street. I got off at 125th and I walked over to the Bank Hotel.

Q To the what? A. To the Bank Hotel.

Q Where is that? A. 125th Street and Lexington Avenue is the Bank Hotel.

Q About what time did you get there? You left downtown about

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two o'clock? A. I did not say that -- half past two.

Q What time did you get to the hotel? A. Around three o'clock, in the morning or after.

Q You have testified that this happened at about three o'clock in the morning, have you not? A. Between three and four in the morning, I said.

Q Were you alone when you entered this hotel? A. I was alone.

Q For what purpose did you go in there? A. To get a cigar, and I know the proprietor of the cafe.

Q Did you get anything to drink? A. Did I have a drink?

Q Yes. A. Yes.

Q How many did you have? A. I had one drink.

Q Did you drink with anybody? A. I drank all alone.

Q You were not with anybody at all? A. I was all alone.

Q Were you in the barroom? A. I was not.

Q Where were you? A. In the back room.

Q You were there all alone? A. Yes.

Q Did you stand up or sit down? A. Sat down.

Q Had your drink and had a cigar? A. Yes.

Q You spoke with nobody? A. I spoke with another party in the room.

Q When you got into the room you had a conversation with somebody? A. They knew me.

Q Just tell the Jury who you spoke to in the back room?

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A. I spoke to a party in the back room named Joe Peyser, and to the bartender.

Q And to the bartender? A. Yes.

Q Did any one of these two men or both of them join you at your table? A. This defendant sat across from me.

Q I am asking you if either the bartender or the other man that you met in the room, joined you at your table? A. Joined me for a drink?

Q Joined you for any purpose. A. (No answer.)

Q You were sitting at a table? A. I simply paid my way.

Q Were you having your drink at the table? A. Yes.

Q Seated at a table? A. Yes, sir.

Q You said you had a conversation with the bartender and also with another man? A. Yes.

Q Now, when you had this conversation, did they sit at the table with you? A. No.

Q Where were they? A. One was in one part of the room and the bartender was standing up waiting on other people.

Q In the room? A. Yes.

Q You had your conversation with them while you were sitting at the table and they were standing in a different part of the room? A. Yes, sir.

Q What did you converse about? A. What did I talk about?

MR. CORRIGAN: I object to what they talked about,

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on the ground that it is incompetent, irrelevant and immaterial.

MR. HANSEN: You brought out about betting.

Q What did you talk about? A. Some suggestion come up that I did not have \$5.

Q I ask you now what did you converse about with the bartender and the other gentleman? A. The bartender asked me how business was downtown.

Q What did you say? A. I said it was fair.

Q What else did he say to you? A. That is all.

Q Who talked about betting? A. This friend of mine.

Q What did he say? A. Well, he just simply brought that up that I did not have \$5.

Q What did he say to you and what did you say to him? A. What did I say to him?

Q What did you say to him and what did he say to you? A. He said to me that I did not have five; he was kidding me.

Q Who said that? A. Joe Peyser.

Q The man you conversed with said you did not have \$5?

A. Yes, sir. I said I did.

Q Had you known this Joe Peyser before? A. Yes.

Q How long have you known him? A. As long as I went in to the cafe there.

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Q Now, just tell the Jury the conversation that you had with this man Kaiser about betting; tell us what you said to him and what he said to you?

MR. CORRIGAN: I submit that that is irrelevant, incompetent and immaterial and I therefore object to it. We have gone in to that at some length.

THE COURT: Sustained. The objection is that your question calls for repetition. I sustain the objection.

MR. HANSEN: I have asked the question, but I have received no answer. It was brought out by the District Attorney.

THE COURT: Since he went into it, why, if you want to go into it, you can do so.

MR. HANSEN: I want to know what was said. It is very important.

THE COURT: How does that relate to this?

MR. CORRIGAN: It does not.

Q About how long did you converse with Mr. Kaiser? A. Oh, I was in there about ten minutes with Mr. Peyser -- not Kaiser.

Q You talked with him about ten minutes? A. Yes.

Q Did you talk with him after you had paid for your drink, or before? A. Before and after.

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Q Did you say that you had your money in a wallet? A. I did.

MR. CORRIGAN: In a wallet?

THE WITNESS: In a wallet.

Q Just describe to the jury what kind of a wallet? A.

A. Well, it was something like this, gentlemen, something like that (showing Jury a small wallet), only I had a rubber band around it and I had it in my left hip pocket.

Q Do you remember how much you paid for your drink and your cigar? A. 25 cents.

Q Do you remember the money you paid it in, the denomination, whether a dollar, a quarter or what? A. It was a dollar bill.

Q Where did you get that dollar bill?

Objected to.

A. I got it from this pocket (indicating).

Q What pocket? A. From my left pocket.

Q From the wallet? A. No.

Q How much money did you have, besides what you had in the wallet? A. Around \$25, outside the wallet.

Q Where do you live -- where did you live at that time?

A. 112 East 127th Street.

Q Did you give the address in the Magistrates Court as No. 160 East 91st Street? A. Yes, I live there now.

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Q You must have lived there the time you went to the Police Magistrate's Court to sign this affidavit, didn't you? A. I lived where I am living now. I lived there about three months. I moved around the 15th of October.

Q How many people were in the back room together with you and Mr. Peyser and the bartender? A. The room was full.

Q And about how many people? A. Oh, I should judge about twenty-five, thirty people.

Q Did you take particular notice of anybody in there? A. Well, I took notice of this defendant because he followed me.

Q I ask you, at that time did you take particular notice of anybody in that crowd of those twenty-five people, except this defendant? A. Outside of my friend that spoke to me.

Q That is all? A. That is all.

Q Could you to-day identify any one or any of those twenty-five people if you were to meet them in here? A. I would, yes.

Q I mean, I take it, people that you had never known and met before? A. Yes. I understand.

Q You could? A. Yes.

Q Describe to the jury just two or three of those men?

MR. CORRIGAN: Objected to, on the ground that it is incompetent, irrelevant and immaterial.

A. There is none here.

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Q I ask you if you could if they were here? A. I said yes.

Q You were there ten minutes talking with the bartender and Mr. Peyser ---- A. Ten or fifteen minutes.

Q And you would undertake to do -- to identify those twenty-five people that you never ---- A. I had been there before.

Q I ask you about people you had never seen before in there? A. Yes.

Q I ask you now if you could identify any of those twenty-five people that you had never seen before you saw them that night?

A. Yes, I could. I have served the public for sixteen years.

THE COURT: Strike that out.

Stop here, gentlemen, it is four o'clock. Do not talk about this case, gentlemen, or let anybody talk with you about it, not form nor express any opinion thereon until the case is finally submitted to you. Gentlemen, we will continue with this case as near to eleven o'clock to-morrow as circumstances will permit. You will take your seats in the box at that time.

(The further trial of the case was then adjourned to Friday, January 25th, 1907, at 11 A. M.)

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THE PEOPLE vs. LANE.

New York, January 24th, 1907.

## TRIAL RESUMED.

WILLIAM M. TIVOLI, a witness called on behalf of the People, resumes the stand.

BY MR. HANSEN:

Q Now, Tivoli, what salary did you earn in your employment at the time of this larceny?

MR. CORRIGAN: I object to that question.

A \$25 a week.

THE COURT: I sustain the objection.

Q The money that you had in your pocket on that night amounted to how much? A \$118 in my purse and twenty-five in the other pocket.

Q Did that money belong to yourself? A Yes, sir, personally.

Q Personally? A Yes, sir.

Q Do you keep your savings in your pocket?

MR. CORRIGAN: I object to that question, where he keeps his savings.

Q Do you always carry your money, all your money with you?

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MR. CORRIGAN: Objected to.

THE COURT: Objection sustained.

Q Are you in the habit of carrying over \$100 in your pockets?

MR. CORRIGAN: Objected to.

A Yes, sir; I am at times.

THE COURT: He has already answered. Mr. Witness, if you will just hold your answers when there is an objection. The question has been answered.

Q You were not intoxicated on this morning, were you?

A I was not.

Q You were not under the influence of liquor? A No, sir; I was not.

Q You are sure of it? A I said so.

Q Would you speak up so that we can hear you? A I was not intoxicated, gentlemen, I simply went and had one drink in this place; I had a few down where I was employed.

Q Now, in this room were there any women present, in this back room? A Yes, sir.

Q In the saloon? A Yes, sir.

Q About how many women? A I could not quite answer how many; I did not count everybody in the room.

Q About how many? A I don't think there was over two or three ladies.

Q What were the three ladies doing? A They were with

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gentlemen friends.

Q This was three o'clock in the morning? A Yes, sir, between three and four o'clock in the morning.

Q What were these ladies doing?

MR. CORRIGAN: Objected to as immaterial.

Q Were they drinking?

MR. CORRIGAN: Objected to.

A They were drinking with gentlemen, yes, sir.

Q About how large was that back parlor?

MR. CORRIGAN: Objected to.

MR. HANSEN: I want to show that if there were twenty-five people in the room it would be impossible for this man to take a mental photograph of this defendant. He says he did not know anything about anyone else.

MR. CARRIGAN: There is no such testimony in the case. I object to that question.

THE COURT: Objection sustained.

Q. It is not a fact, is it, that this money that you had in your pocket on this particular morning belonged to your employer?

MR. CORRIGAN: I object to that question as already answered.

A No, sir.

Q It is not a fact that you had been betting on the races and lost your employer's money?

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MR. CORRIGAN: I object to that question. Don't answer it.

Q Isn't that a fact? A No, sir.

THE COURT: He may answer that question.

THE WITNESS: No, sir.

Q So you had only been talking betting in this saloon; you had not been betting? A Yes, sir.

BY MR. CORRIGAN:

Q How long after you left the saloon did the defendant take you by the throat? A Why, it was about five or ten minutes after.

Q How far away from the saloon was it? A It was right across the way.

Q Was there a light around there? A Sir.

Q Was there light around there? A The opposite corner.

Q Then you are not mistaken about who took you by the throat, are you? A No, sir.

Q Sure it was this defendant? A Yes, sir.

BY MR. HANSEN:

Q Let me ask you this: When did you make your complaint to the Police Department? A The next morning.

Q The next morning? A Yes, sir.

Q How often between the date in October that this happened and the day that this man was arrested did you consult with anybody at Police Headquarters regarding this matter? A Why,

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every day I was there; I had two detectives after him all the time.

Q I asked you how often, every day? A Yes, sir, I kept it up for two or three weeks.

Q Did you come down frequently to try and identify the man? A (No answer.)

Q Were the police in the habit of sending for you when they had somebody that they thought corresponded with the man that you had given them? A (No answer.)

Q Were you in the habit of coming down to Police Headquarters by request? A No, sir.

Q To identify anybody? A No, sir; I was only called down once.

Q Once? A Yes, sir.

Q That was in what case? A That was in this case.

Q In this case here? A Yes, sir.

Q So you came down of your own volition the other times?

A I only went to Mulberry Street once.

Q I thought you said you went there every day? A I went to Police Headquarters, 126th Street.

Q What is that? A 126th Street.

Q The police station house, not the Headquarters, you went to the station house? A Yes, sir.

Q You were there about daily? A Yes, sir.

Q You are sure that on the morning, or on the day that you

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came to Police Headquarters to identify this man that you did not say that you believed him to be the man? A I described the man and they knew him.

Q And when you saw the man-- A I picked him out.

Q You picked him out? A Yes, sir.

Q There is no mistake about that? A No, sir; no mistake at all.

JAMES SULLIVAN, a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live? A Bank Hotel, 125th Street and Lexington Avenue.

Q Where is your voice? A Bank Hotel, 125th Street and Lexington avenue.

Q What is your occupation? A Bartender and general manager of the place.

Q Do you remember the night of October 4th of last year, or the morning rather? A I remember the morning; I don't know what date it was.

Q Do you remember the morning that the complaining witness, Tivoli, was in your place? A Yes, sir.

Q Did you see this defendant there? A Which one?

Q This defendant, is the only defendant here.

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A No, sir; never seen him, I don't think I seen that gentleman, not that morning.

Q Did you ever see him there? A Yes, sir; I seen him.

Q Did you ever see him follow Tivoli out? A No, sir; he used to come in the store; he is a customer there, that gentleman is.

Q Did you ever see him follow Tivoli out? A He was not there that night; I did not see him that night.

Q You say you don't remember the night, how do you know that he was not there? A I remember the night he claims it happened, I remember the day.

Q Who have you talked to about this case? A I ain't talked to nobody.

Q A friend of the defendant's? A No, sir; I ain't a friend.

Q How long has he been a customer of the place? A He has been coming in there since I have been in the place.

CROSS EXAMINATION BY MR. HANSEN:

Q How long have you been in the place? A Seven years.

Q What is your business? A Manager of the place and bartender.

Q Do you remember the night that the complaining witness in this case was robbed? A Yes, sir; I remember the night.

Q Did you see the occurrence? A No, sir; I did not.

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Q What do you remember regarding it? A Well --

Q If you did not see the robbery or anything --

MR. CORRIGAN: I object to that.

A I came downstairs at three o'clock and the gentleman was sitting in the corner.

Q Which gentleman? A Mr. Tivoli.

Q The complaining witness? A Yes, sir.

Q He was sitting in what corner? A In the corner right near the door, behind a pipe; he was sitting there drinking, he seemed to be feeling jolly and they were having a kind of an argument.

Q Who was he sitting there with? A Well, I could not tell you who he was sitting with; a lot of gentlemen there.

Q He was sitting with a lot of gentlemen there?

A Yes, sir.

Q Now, one word, have you discussed this case with the defendant or anybody from Mr. Fischer-Hansen's office?

A No, sir.

Q Or anybody in connection with this case? A No, sir; I have not.

Q Have you ever been in communication with the office of Carl Fischer-Hansen, or any employe of that office?

A I don't know the gentleman.

Q Have you discussed this case with anybody? A No, sir;

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I ain't talked with anybody, only Mr. Tivoli.

Q Now, let me ask you: You say he was there about three o'clock in the morning, Mr. Tivoli? A Yes, sir; it was three o'clock when I came down.

Q Was he under the influence of liquor? A He seemed to be to me; I asked him to go home.

Q You asked him to go home? A Yes, sir.

Q Did he go? A Well, not right away.

Q How long did he stay there? A I could not judge exactly how long he stayed there but he came back after and he told me about the case.

Q You mean to say that after he left at three o'clock he came back again? A Yes, sir; about five.

Q And told you about the occurrence? A Yes, sir.

Q Now, when you first saw him there about three o'clock, was he sitting or standing -- he was sitting, you say?

A Yes, sir; sitting down arguing.

Q Who did he argue with?

MR. CORRIGAN: Objected to.

MR. HANSEN: I beg to call your Honor's attention to the fact that the complainant testified that he sat at the table alone.

THE COURT: \ He may answer the question.

Q Who was he talking to? A I could not tell you; he was

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talking to a lot of gentlemen there.

Q About how many were sitting at the table? A Well, there was -- there was one sitting here and one sitting there; they were all sitting around.

Q Was he in conversation with them? A Yes, sir; he was in conversation with them.

Q So far as you know how many drinks did he have? A Well, I could not tell you; he had a drink standing in front of him when I came down; I didn't serve him with any drink.

Q You say you know this defendant? A I know the gentleman's face from coming in the store.

Q Was he in the place, in this particular back parlor on this particular morning when you saw the complainant sitting there drinking? A No, sir; he was not there that morning; I know his face.

Q You have been in that place for seven years? A Yes, sir.

BY MR. CORRIGAN:

Q How do you know he wasn't there that morning? A Because I know the gentleman.

Q Was he there the morning before? A No, sir; he was not there the morning before either.

Q Was he there the morning after? A Well, the morning

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after I could not exactly say, the morning after, because I don't come down until three o'clock; he might have been there before I came on.

Q He may have been there that morning before you came down there? A What morning?

Q Any morning? A Well, I could not swear.

Q You could not swear to that? A No, sir; when I was not there.

Q Has the defendant been in your saloon since that occurrence, since the 4th of October? A Yes, sir.

Q How many times? A Well, I seen him in there once.

Q Was he there between the 4th of October and the day he was arrested? A The day he was arrested? He has been there since this case has been on, since this thing occurred.

Q How many times? A I seen him once.

Q Was that when he was arrested, when he was out on bail?

A I don't think he was arrested; I don't know.

Q Did you notify the police he was there? A Who?

Q You? A Notify them about what?

Q That the defendant was there?

MR. HANSEN: I object to that question unless it is shown that this man knew that this defendant was suspected.

A I did not know.

THE COURT: He may answer.

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THE WITNESS: Did I tell the police? This Mr.

Tivoli came in that morning and told me and two officers came that morning and asked me did I see anything in there and I said "No, sir, I did not" -- two ward-men --

Q Did you tell the two ward-men that the defendant was not there? A Which defendant?

Q Why, the defendant on trial, of course? A No, sir; I did not tell them he was not there; they did not ask me about him.

Q Didn't they ask you about the case? A They asked me did I know anything about it.

BY MR. HANSEN:

Q You saw the complaining witness leave that room, did you not -- you saw him go out and come back? A Yes, sir; I was talking to him.

Q Well, Tivoli has testified that when he left the place he was followed by the defendant sitting here, is that so? A I could not tell you that; I did not see that gentleman there that night.

Q He was not there? A No, sir; I did not see him there that night.

Q You stayed there for how long? A I stayed there until four o'clock the next day.

Q Now, when the police officers, the wardmen came up to

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your place the next day to inquire about this matter, did they say anything to you about his taking this man's money?

A No, sir; they never mentioned his name to me.

BY MR. CORRIGAN:

Q What name did you know him by? A I know his face coming in there and heard them calling him "Bill".

Q Did they describe to you the particular kind of a man who was supposed to have committed this crime?

A No, sir; they did not say anything to me about it.

Q Did they give you any clue that would lead you to suspect anybody that you knew? A No, sir; they did not tell me anything about it.

Q That is for them to say? A They came in and they said did I know anything about this Mr. Tivoli, it seems he went around to the station house and made a complaint.

Q Just tell us what they said? A He went around to the station house and made a complaint.

JOSEPH F. MEEHAN, a witness called on behalf of the People, being duly sworn, testified as follows:  
DIRECT EXAMINATION BY MR. CORRIGAN:

Q Meehan, you are a detective sergeant of the New York City Police Force, are you not? A Yes, sir.

Q Did you make the arrest in this case? A Yes, sir.

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Q Just tell the jury under what circumstances you made the arrest? A I arrested this man at 54th Street near Eighth Avenue, the West Side Police Court.

Q Did you have any conversation with him when you put him under arrest? A I asked him where he had been and he said he had been down on the west side, over in Hoboken, working; I told him he was wanted for a robbery in Harlem and he said he had done no robbery. I took him to Police Headquarters and telephoned for Mr. Tivoli. In the Detective Bureau we stood him up with four other men, five men in all, and Mr. Tivoli came in and looked at him.

Q What then? A Mr. Tivoli came in and looked at the five men and walked over and put his hand on this defendant.

Q On the defendant? A Yes, sir.

Q What did he say? A He said, "That is the man that robbed me".

Q What did the defendant say? A He said he did not.

Q Did he say he did not then? A Yes, sir.

Q Did you have any other conversation with the defendant at any time? A I asked him where he had been and he said he had been over in Hoboken, working over there.

Q Is that all? A Yes, sir; that is all the conversation I had with him.

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ID  
CROSS EXAMINATION BY MR. HANSEN:

Q About what date did you arrest this defendant?

A On the 26th of December.

Q About two and a half months after the occurrence?

A Yes, sir.

## RE-DIRECT EXAMINATION BY MR. CORRIGAN:

Q Did you know the defendant before you arrested him?

MR. HANSEN: I object to that.

THE COURT: He may answer that.

A Yes, sir; I have known him.

Q Under what name did you know him?

MR. HANSEN: I object to that.

A Under the name of William.

Q William Williams? A Yes, sir.

MR. CORRIGAN: The People rest.

MR. HANSEN: Now, if it may please the Court, I respectfully move that this Honorable Court direct the jury to acquit the defendant on the ground that the District Attorney has failed to substantiate the charge as made in the indictment. There is nothing here to show that except the unsupported testimony -- and I might say the contradicted testimony -- of the complaining witness. The complaining witness has testified that he was

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in this saloon on a certain morning at three o'clock; that he left this saloon; that he was followed by this man out of this saloon; that he had been sitting there during all the time and had not been drinking with anybody, simply talking to two men; that he walked out of the saloon, that this man followed him and that he was robbed and assaulted. Now, the District Attorney's own witness, this bartender in the very place, says that that is not so. He testifies that on this particular morning the complaining witness was there; that he was intoxicated; that he told him to go home; and that this man, the defendant, was not there; that he knows this man; that he has come to the place, but that this defendant was not in that place on this particular morning.

THE COURT: Mr. District Attorney, what charge do you want to submit to the jury?

MR. CORRIGAN: I will go to the jury on robbery.

THE COURT: Motion denied.

Exception.

Mr. Hansen opens the case on behalf of the defendant.

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## DEFENSE.

JAMES HURST, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HANSEN:

Q Mr. Hurst, what is your business? A I am in the trucking business.

Q Where is your place of business? A 405 East 101st Street.

Q How long have you been in business there? A Since 1901.

Q How long have you been in the trucking business?  
A Since I moved there.

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

Q How long have you known him? A I should judge about five years.

Q Do you know people who know him? A Sir?

Q Do you know people who know him, do you know others who know him? A Yes, sir.

Q Will you tell us what his reputation is for peacefulness, quietness, truthfulness and veracity, among those that know him, good or bad? A Well, he worked for me and proved satisfactory.

Q I asked you about his reputation for truth, veracity

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and honesty, is it good or bad? A Good, sir.

CROSS EXAMINATION BY MR. CORRIGAN:

Q Have you ever talked with anybody about his reputation? A No, sir; I have not.

Q Then how do you know whether it is good or bad?

A As far as I am concerned.

Q That is your personal opinion, isn't it?

A Yes, sir.

BY MR. HANSEN:

Q He has worked for you? A Yes, sir.

Q How long? A Three years; worked for me three years.

Q And proved honest during that time? A Yes, sir; I could not find any fault with him while he was with me; he worked for three years and everything was all right.

Q You say you know people who know him? A Yes, sir.

Q Have you ever heard anything against him? A No, sir.

BY MR. CORRIGAN:

Q What name did he work for you under? A William Lang.

Q Did you ever know him as William Williams? A No, sir.

Q Did you ever know him as William Smith? A No, sir.

Q Did you ever know him as Buttermilk Bill? A No, sir.

Q Never heard of any of these names at all? A No, sir.

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BY MR. HANSEN:

Q He was never known by the name of Roosevelt?

A No, sir; I don't know.

BY MR. CORRIGAN:

Q When did he work for you? A It was between 1901 and 1903.

Q That is two years then, isn't it? A Three years full.

Q Well, I don't see how you get that? A 1901, 1902 and 1903.

Q He worked for those three years for you? A Yes, sir.

Q As what? A Stableman.

Q At your place up there? A Yes, sir.

Q Have you ever seen him since 1903? A I have not seen him since.

Q You have not seen him since? A No, sir.

Q How did you come to be here to-day? A Well, I had a letter stating that they wanted me to come down and testify to his character.

Q Who was that letter from? A Mr. Lang.

Q Have you got the letter with you? A No, sir, I have not, I don't think so -- no, sir, I have not got it with me.

Q Now, you say you came down as a character witness?

A Yes, sir.

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Q About this man's reputation? A Yes, sir.

Q Did you ever hear that he had been in jail?

A No, sir.

Q Didn't you know he had been in the Penitentiary?

MR. HANSEN: I object to that on the ground that the witness already answered that he did not know that.

MR. CORRIGAN: I think I can show how much he knows about him.

THE COURT: He may answer.

A I have never known it.

Q Did you know his picture was in the Rogue's Gallery?

MR. HANSEN: I object to the District Attorney being permitted to put such question "Do you know his picture is in the Rogue's Gallery".

THE COURT: There is no objection to the question. Answer the question.

MR. HANSEN: I object to the question on the ground that it is irrelevant, immaterial, and is only being put for the purpose of influencing the jury.

Objection overruled. Exception.

Q Answer the question. A No, sir.

Q You did not? A No, sir.

Q You have not seen him since 1903? A No, sir.

Q Just got a letter asking you to come down and testify

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here? A Yes, sir.

Q Have you talked to anybody about the case?

A No, sir.

Q How did he know you would testify to his character?

A Well, I don't know.

Q Just he guessed it, I suppose?

MR. HANSEN: I object to that on the ground that it is impossible for the witness to know how this man knew.

Objection sustained.

JAMES GORMLEY, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HANSEN:

Q Mr. Gormley, what is your business? A Contractor and private cartman.

Q Where is your place of business? A I stable in 71st Street.

Q I beg pardon. A 408 and 410 East 71st Street.

BY MR. CORRIGAN:

Q Don't you know where your place of business is?

A That is my stable -- home is my place of business, where I transact business.

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BY MR. HANSEN:

Q Is that where you work around home -- that address is your stable? A Yes, sir.

Q That is where you have your office? A No, sir; I have my office home, 162 East 106th Street.

Q Is that your place of business? A My place of business is at my house, my office.

Q Where is your stable? A 410 East 71st Street.

Q Now, where do you live? A 162 East 106th Street.

Q How long have you lived there? A About five years.

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

Q At the bar? A Yes, sir.

Q How long have you known him? A About five or six years.

Q Has he ever worked for you? A On and off.

Q During the last five or six years? A Yes, sir.

Q Do you know people who know him? A Yes, sir.

Q What is his reputation for truth and veracity?

A I always found him out trustworthy.

Q What is his reputation? A Good as far as I know.

Q Have you ever heard anything bad about him?

A No, sir.

CROSS EXAMINATION BY MR. CORRIGAN:

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

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Q Don't you consider it bad to hear that a man is in the Penitentiary? A I never knew anything of it.

Q Did you ever know anything about that? A No, sir.

Q You are under oath? A I am well aware of the fact.

Q Have you been convicted of any crime? A No, sir; never; never arrested in my life.

Q Never arrested in your life? A No, sir.

Q Where is your place of business? A 162 West 106th street.

Q Do you own a house there? A No, sir.

Q What have you got, a flat? A Yes, sir.

Q Your office is there? A Yes, sir; receive all my mail there.

Q Where do you do this general trucking? A All over the city.

Q How many trucks have you? A I have got four trucks and four carts.

Q Do you own them yourself? A Yes, sir.

Q Where is the stable? A 410 East 72nd Street.

Q Is it 408 or 410? A Either one, I ain't sure of the number, it takes in two or three lots.

Q How long did this defendant work for you? A Two or three winters, on and off, driving an ash cart and working around the stable.

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Q When was the last time? A About two years ago.

Q Have you seen him since? A Yes, sir.

Q When have you seen him last? A I met him on and off on different occasions; I could not swear when I seen him last.

Q Do you know where he lives -- where did he live when he worked for you? A In 72nd Street.

Q Do you know where? A Some place between First and Second Avenue, I don't know the address.

Q Did you ever discuss this man's reputation with anybody?  
A No, sir.

Q Never talked about him to anybody? A No, sir.

Q So you are giving us your opinion, isn't that all, how he worked for you? A He worked for me and worked honest; I let him go in and out of Vanderbilt's house, carrying out ashes, and never seen him do anything wrong.

MR. CORRIGAN: I object to that and move to strike out the witness' testimony.

THE COURT: I will let it stay in for what it is worth.

Q What name did you know him under? A William Lang.

Q How did you happen to come down here? A His wife sent up and asked me to come down.

Q Have you talked to anybody about the case? A No, sir.

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Q Did you ever know him under any other name but Lang?

A No, sir.

Q As William Williams, William Smith or Buttermilk Bill?

A No, sir.

Q None of those names? A No, sir.

Q He worked for you as William Lang? A Yes, sir.

Q Have you a pay roll? A I never kept a pay roll.

Q How is he entered in your book? A William Lang -- I never carried the men's names on my book since I entered into business.

Q His name is entered as William Lang? A He ain't entered on no book.

Q Why you just told me he was entered in your book as William Lang. A I said I never put a man's name down that ever worked for me.

Q You said he was entered as William Lang? A I said he worked under the name of William Lang; I never kept no men's names on a book; I did not understand the question rightly; if you put it to me in a more distinct manner I would answer you in a more distinct way.

BY MR. HANSEN:

Q You say he had been working for you off and on and you sent him up to the Vanderbilt house? A That is my business, private ash man, where he goes into all these kind of houses.

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ANNIE WILLIAMS, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HANSEN:

Q Are you the wife of the defendant at the bar here?

A Yes, sir.

Q Now, you have got to speak up so that we can hear you. A Yes, sir.

Q You are? A Yes, sir.

Q Where do you live? A I live at 140 West 112th Street.

Q Look at the jury and speak out loud. A 140 West 112th Street.

Q How long have you been married? A 16 years.

Q 16 years? A Yes, sir.

Q Where did you live on October 4th, 1906?

A In 72nd Street.

Q What number? A I lived at No. 537 East 72nd Street.

Q Do you remember if during the month of October, your husband was absent from his home during the night-time any night? A No, sir; he was at home.

Q He was at home every night? A Yes, sir.

Q In October? A Yes, sir; he was at home for about seven months right along; he has not been out that I know of.

Q What time would he come home in the evening?

MR. CORRIGAN: I object to that question as incom-

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petent, immaterial and irrelevant.

A He would come home --

THE COURT: Objection sustained.

MR. HANSEN: May I address the Court?

THE COURT: No, sir, you cannot by way of argument .  
Ask a question.

MR. HANSEN: Well, may it please the Court --

THE COURT: Put another question, sir.

MR. HANSEN: I don't know what question to put to  
this witness.

THE COURT: I will not hear any argument. If you  
have no further questions dismiss the witness and call  
another.

BY MR. HANSEN:

Q Are you sure that your husband was at home during  
the night, every night during the month of October?

A Yes, sir.

MR. CORRIGAN: Objected to.

THE COURT: That may be answered.

Q It has been testified here that on October 4th, 1906,  
he was in some saloon uptown at about three o'clock in the  
morning. Do you know of your own knowledge whether your hus-  
band was absent from his home during the morning of the 4th  
of October, at about three o'clock in the morning? A No, sir;

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THE WITNESS: I don't know, I can't say.

MR. CORRIGAN: It is conceded.

THE COURT: It is received by consent.

(The signature referred to is marked people's  
Exhibit A)

Q What is your husband's business? A In the horse  
business.

Q Horse dealer? A Yes, sir.

Q Buys and sells horses? A Yes, sir.

Q Any other business? A No, sir.

Q Where is his place of business? A He is working all  
over for people; he has not got any place of business now.

Q He was a horse dealer, he was not a truckman?

A He used to be in the truck business too, sell a wagon now  
and then.

Q Was he an ash man? A No, sir; well, he used to be  
in the truck business.

Q How long ago is that? A Well, he has been in it  
since I have known him.

Q Do you know the last witness who was on the stand?

A No, sir -- the last witness?

Q The last man who testified here? A Yes, sir.

Q How long have you known him? A I have known him for  
some time.

Q Do you know the first witness who was on to-day for

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the defense, Mr. Hurst? A Yes, sir; I know him to work for this man.

BY MR. HANSEN:

Q Do you know that your husband was born in the house 513 that he testified he lived at; did you know he was born there? A Well, I knew he lived in one of these houses down there, 513, but the address I could not tell you.

Q You don't know that he was born in 513, and lived there up to the time that he married you? A Yes, sir.

BY MR. CORRIGAN:

Q Now, you say you remember the 4th of October?

A Yes, sir.

Q What day of the week was that?

MR. HANSEN: Objected to on the ground that there is no testimony to the effect that this lady remembers the 4th of October. She testified that her husband was home every night during October and, therefore, could not have been absent on the 4th.

BY MR. CORRIGAN:

Q What day of the week was it? A I don't remember, sir.

Q What day of the week was the 1st of October?

A I don't remember that.

Q Was your husband working at that time? A Yes, sir.

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Q For whom was he working then? A He was working for Mr. Gormley.

Q Who is he? A The witness that was standing up here last.

Q The last witness? A Yes, sir.

Q Working for him? A To my knowledge.

Q What time would he go to work in the morning?

A 7 o'clock in the morning.

Q What was he doing for Gormley? A Well, he used to--

MR. HANSEN: I object to this unless it be shown that this witness was present at the time when he worked.

Q What was he doing for Mr. Gormley? A I don't know; he had charge of carts and horses there, that is all I know.

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

Q Who have you talked to about this case? A Just spoke to Mr. Gormley; asked him to come down, that is all.

Q Who else? A No one else.

Q You have talked to the counsel, haven't you?

A No, sir.

Q Your husband's counsel? A No, sir.

Q Haven't you talked to him? A No, sir.

Q Didn't you tell him that you were going to testify that your husband had not been away any night during October?

A I just simply said he was home; that is all.

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Q Who was that? A I told it to Mr. Gormley.

Q Who else did you tell it to? A That is all I did.

Q Didn't you tell it to Mr. Hansen? A I told him in regard to the case, yes, sir.

Q Then you did talk to Mr. Hansen about the case?

A Told him he was home that night, all that month, told him he was home then.

Q Told Mr. Hansen that? A Yes, sir.

Q Why did you deny it when I asked you first? A I did not deny it; I did not deny it; I just simply said he was home.

Q You denied talking to Mr. Hansen about it, didn't you? A I did not tell him this story --

Q To whom? A To Mr. Hansen.

Q Didn't you tell me a minute ago that you had not spoken to Mr. Hansen when I first asked you that? A He asked me where he was that night and I told him he was home; he had been home.

Q When did you first hear about the 4th of October?

A The night after Christmas when I got word he was arrested.

Q You got word he was arrested? A Yes, sir.

Q Who told you he was arrested? A He sent me word.

Q Where was he living at that time? A In the Tombs.

Q I mean before he had been in the Tombs, where was he

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living? A West 112th Street; I was 140 West 112th Street; I was living there after I heard he was arrested; he had lived in 72nd Street when he was arrested; I had to break up house-keeping.

Q Where were you living at the time you heard he was arrested? A 537 East 72nd Street.

Q Where was the defendant living? A He was living with me.

Q You don't mean to say that he was home every day during the month of November and December, do you; did he come there every day? A Yes, sir.

Q Are you sure about that, Madam? A Yes, sir.

Q Every day during November and December? A November and December up until the 26th, till I heard he was arrested, that is all.

Q Had he been home every day before that? A Yes, sir.

Q Where was he working at that time? A With Mr. Gormley

Q Right up to the time of his arrest? A Yes, sir, to my knowledge.

Q Sure about that? A Yes, sir.

Q Wasn't he working in Hoboken? A Well, that I don't know.

BY MR. HANSEN:

Q First you testified that you had not spoken to Mr.

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Hansen, and then you testified that you had spoken to Mr. Hansen. Can you pick Mr. Hansen out in this court-room. Is he in here? Just point out Mr. Hansen to us. A No, sir; I cannot.

Q Have you ever spoken to me in your life before?

A No, sir.

Q Have you ever spoken to this gentleman, Mr. Michaelson?

A No, sir.

Q I ask you have you or have you not? A No, sir.

Q What did you mean when you said you had spoken to Mr. Hansen? A I was speaking to a gentleman by the name of Hansen.

Q Well, I am Mr. Hansen. A I never spoke to you.

Q Did you ever have a conversation with me? A No, sir.

Q Did you ever have a conversation with this man?

A No, sir.

Q Did I ever write you a letter? A No, sir.

Q Did you ever come to the office of Carl Fischer-Hansen?

A No, sir.

Q Did you ever see anybody from our office in connection with this case or any other case? A No, sir.

Q Has anybody from my office conversed with you to-day or yesterday? A No, sir.

BY MR. CORRIGAN:

Q The question is this: This witness has testified +

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she spoke to Mr. Hansen. Who was the Mr. Hansen that you testified you spoke to? A Well, a friend of my husband's, not the counsellor.

Q Didn't you tell me that you had talked to your husband's counsel, Mr. Hansen, yes or no. A I said yes, but I was --

Q Was that true? A No, sir.

Q Why did you tell an untruth. Don't you know, Madam, that you are under oath?

MR. HANSEN: Objected to.

THE COURT: I am going to give you a chance to question further.

Q Why, Madam, did you tell me an untruth?

Objected to. Objection overruled. Exception.

Q Answer that question. A Well, I thought it was the lawyer I spoke to one day outside, that's why.

Q Now, Madam, is that the truth now? A Yes, sir.

Q How do you know that it was not the lawyer you spoke to outside? A No, sir; I don't know.

Q You don't know anything about it, do you?

A No, sir.

Q Wasn't the reason you told me an untruth because you thought it would help your husband? A No, sir.

Q Did you think it would hurt him? A I don't know.

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BY MR. HANSEN:

Q Now, you mean to say to the jury that you spoke to somebody out in the hall this morning? A No, sir.

THE COURT: You are leading this witness.

BY THE COURT:

Q Who did you talk to, if any one? A I spoke to a man; I thought it was Mr. Hansen; he was not introduced to me as Mr. Hansen but I thought it was.

WILLIAM LANG, the defendant, called in his own behalf, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HANSEN:

Q What is your business, Lang? A Dealer in horses.

Q Lang, you are the defendant here? A Yes, sir.  
BY THE COURT:

Q You have heard the testimony against you, haven't you? A Yes, sir.

Q Did you rob the complaining witness? A No, sir; I never seen him.

Q What, if anything, did you do to him? A Never seen him in my life.

Q Then his story of your attacking him and robbing him is false from beginning to end, isn't it? A Yes, sir.

Q You deny every word of it? A Yes, sir; never remember seeing the man in my life.

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THE COURT: Isn't that about all you want to prove?

MR. HANSEN: This is a very serious charge, your Honor.

THE COURT: I know the penalty of robbery.

BY MR. HANSEN:

Q Well, did you ever live in the house No. 513 East 72nd Street? A I was born there 43 years ago.

Q How long did you live there? A Till about 15 years ago.

Q And 15 years ago did you marry? A 16 years ago.

Q You married? A Yes, sir.

Q Have you been in the horse and truck business ever since? A Yes, sir; off and on all my life I have been in the horse business; I ran horse stables and trucking.

Q Did you work for the two men who testified in your behalf this morning? A Yes, sir; several times; several different occasions for both gentlemen.

Q Did you write to these men to come down and testify to your character?

Objected to.

A I did.

Objection sustained.

Q Now, on the 4th day of October, 1906, were you up in the saloon at 160 East 91st Street? A No, sir.

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Q You were not? A No, sir. Where did you say?

Q Lexington Avenue and 125th Street? A No, sir.

Q The hotel where it was testified you had been drinking with somebody? A No, sir.

Q On the morning of the 4th? A No, sir; I was not there.

Q Have you ever met or seen the complaining witness before? A Never in my life, not to my knowledge.

Q You do not know him? A No, sir; never knew him.

Q When did you first see him? A In Police Headquarters.

Q Tell me the circumstances under which you saw him?

A Well, I was arrested in the 54th Street Court by the officer in this case; he brought me down to Police Headquarters from 54th Street Court, took me between two men, called in this complainant; he came over and put his hand on my shoulder, and that is all, he did not say anything at all; he just put his hand on my shoulder.

Q Did you hear any conversation between the police officer and the complaining witness? A No, sir.

Q Down in Police Headquarters? A No, sir; didn't see them speak at all.

Q Now, what is the date when you were arrested?

A What was the date?

Q When you were arrested? A The 26th, Wednesday the

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26th of December.

Q Where were you arrested? A 29th Street and Eighth Avenue.

Q Now, will you tell the jury the circumstances under which you came to be arrested? A I was leaving some friends about five o'clock Wednesday morning on the 26th of December, the day after Christmas; I was walking up along Eighth Avenue and in 29th Street I went in to have a drink in a saloon, 29th Street and Eighth Avenue.

Q In a saloon? A Yes, sir; the corner saloon; and when I walked into the saloon --

Q About what time? A Five o'clock in the morning.

Q What date? A When I walked into the saloon there was a bar-room like in the back room; seemed to me that there was some young fellows in a muss in there; I didn't know any of them; and it seemed to me one young fellow got hit; there was a half a dozen in it, and they wanted to go out through the side door and some of the friends of the man who got licked, beat up, went out, and got an officer. While he was out for the officer two other men came in and had a drink at the bar; the man that got beat came back with two policemen in uniform and they placed us under arrest, would not leave us go out.

Q December? A Yes, sir.

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Q What date? A The 26th, Wednesday morning.

Q What happened then? A So there was two together that went to go out, one said he was going and these two would not let him go out and so he insisted on going out and one of these officers hit him across the head, split his head open.

Q What did they do to you? A They beat us after they put us all under arrest.

Q Where did they take you? A To the West 37th Street station house.

Q What happened there? A They took my name and address; I gave in the name of William Lang there.

Q What did they charge you with? A There was no charge only disorderly conduct that I saw; there was no complainant against me.

Q What happened in the case? A I was -- the case was discharged the next morning in court.

Q Were you discharged? A Yes, sir; I was discharged.

Q Where were you arrested then? A Mr. Meehan arrested me in 54th Street court.

Q You were arrested in the court? A Yes, sir; I was arrested in the court.

Q After being discharged you were taken down? A Yes, sir.

Q Then where were you taken? A To Police Headquarters;

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I went down in the car with Mr. Meehan.

Q That is how you came to be arrested in this case?

A Yes, sir.

CROSS EXAMINATION BY MR. CORRIGAN:

Q Ever been convicted of any crime? A Never.

Q What is that? A Never been convicted of any crime.

Q Did you ever plead guilty? A No, sir.

Q Never been locked up? A Several times.

Objected to. Objection sustained.

Q Were you ever convicted of anything, whether you believed it to be a crime or not? A No, sir; never convicted of crime in my life.

Q What have you been convicted of, if anything?

A I was convicted about four years ago in the Special Sessions of petty larceny, I believe.

Q Isn't that a crime? A A conviction? I don't know.

Q What do you call a crime? A I thought you meant here before a jury.

Q I mean any place? A No, sir.

Q Were you ever convicted of anything anywhere?

A Outside of this time in the Special Sessions.

Q What else? A Nothing else.

Q What punishment did you get in Special Sessions?

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A Three months over on the island.

Q For petit larceny? A Yes, sir.

Q Under what name? A I believe it was my right name, William Williams.

Q What is your right name? A William Williams.

Q How long ago was it that you were convicted in Special Sessions? A About four years ago I think, in May, I don't just remember -- or September.

Q Did you ever give any other name beside William Lang and William Williams? A No, sir.

Q Don't they call you Buttermilk Bill? A No, sir; never heard of it; never knew of it; it is a pretty healthy name but I was never known by it.

Q When did you last work for Gormley? A I worked for Mr. Gormley off and on, several times, at different times for the last five years.

Q When was the last time you worked for him?

A The last time?

Q Yes? A Over a year ago to my knowledge.

Q Now, you heard your wife testify here that you worked for him? A My wife don't know who I worked for.

Q She don't? A No, sir.

Q When did you last work for Hurst? A Well, three years or more.

Q Three years or more ago? A Yes, sir; since I have

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worked for him.

Q Since you have worked for him? A Yes, sir.

Q What were you working at when arrested? A I was speculating, dealing in horses at Bulls Head.

Q 24th Street? A Buying and selling horses around 24th Street.

Q At five o'clock in the morning what had you been doing? A I had been for 25 years -- I was over along Eighth Avenue and had been drinking.

Q What were you working at when you were arrested?

A I thought you meant up to the time I was arrested; I wasn't working at anything when I was arrested; I had been drinking.

Q How long had you been drinking? A From Christmas morning about 10 o'clock, I started in to drink; the first I drank in eight months.

Q Before that what did you work at? A Dealing in horses.

Q Speculating? A Yes, sir.

Q Why did you tell the officer that you had been working in Hoboken? A Not that I know of; I never spoke to the officer.

Q Didn't you tell Meehan that? A Not that I know of.

Q When Meehan arrested you didn't you say you had been in

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Hoboken? A Not that I know of; I don't remember telling him; I was drunk.

Q Why did you give a false name in the Magistrate's Court? A From my being arrested in a bar room fight over on Eighth Avenue; one man was sent to the hospital from there.

Q Why did you say you lived at 513 East 72nd Street and lived there for 35 years? A Well, I have lived there up until when I got married and took up house for myself.

Q 16 years ago you were married? A Yes, sir.

Q Why did you say you lived there now? A Why did I say it?

Q In the Magistrate's Court? A Well, I don't know said that I lived at 513 when I was arrested or in the Magistrate's Court.

Q Did you live at 513 when arrested? A No, sir; 537 East 72nd Street; I was born at 513.

Q What did you say to the officer just before you were sworn there? A What officer?

Q That officer standing there? A He asked me what was my name and I said "My right name is William Williams."

Q Why did you go on the stand and have yourself sworn as Lang? A I was under the name of Lang here.

Objected to. Objection overruled.

MR. CORRIGAN: I move to amend the indictment by

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inserting the true name of the defendant.

THE COURT: Yes. Amend the indictment.

WILLIAM M. TIVOLI recalled:

BY MR. HANSEN:

Q Do you know this man Peyser you were talking to in the saloon on the morning of the 4th of October, 1906?

A I met him a few times.

Q Do you know where he lives? A No, sir.

Q Have you made any attempt to find him? A No, sir.

Q You have not tried to find him? A No, sir.

Q Did you inform the District Attorney?

Objected to.

Q Have you seen Peyser since the night or morning of October 4th, 1906?

MR. CORRIGAN: I object to that question.

THE COURT: He may answer.

Q Have you? A Yes, sir; I have seen him a few times since.

Q You have? A Yes, sir.

Q Did you ask him to come down and testify to the effect that you had been talking with him that morning? A I did not.

Q Why didn't you? A Well, I didn't know it was needed.

Q The most material witness to substantiate your story

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in New York?

THE COURT: That is your testimony.

MR. HANSEN: That is all.

MR. CORRIGAN: I want to ask to re-open the case, I would like to put Peyser on the stand for one question. I would like to call him in rebuttal.

THE COURT: If this case goes over, gentlemen, it goes over until Monday morning.

J O S E P H P E Y S E R, a witness for the people in rebuttal, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live, Mr. Peyser? A 134 East 125th Street.

Q What is your occupation? A I work in the race track.

Q Bookmaker? A No, sir; clerk.

Q Clerk for a bookmaker? A Yes, sir.

Q Do you remember the 4th of last October? A I don't remember the date.

Q Do you remember being in a saloon on 125th Street and Lexington Avenue with Tivoli, the complainant?

A That is the first night I ever met him.

Q The first night you ever met him? A Yes, sir.

Q Do you remember the night he was robbed, or do you

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remember that he was robbed? A I don't know if he was robbed or not; I just met him in there.

Q Do you remember having a conversation with him there?

A Sitting in another part of the room.

Q Did you see the defendant there that night? A No, sir.

Q Are you sure about that? A Yes, sir.

Q Do you know the defendant? A Certainly.

Q How long have you known him? A Known him for ten years, I guess.

CROSS EXAMINATION BY MR. HANSEN:

Q You are sure he was not in that room that night?

A No, sir.

Q So when the complaining witness testified here that he was talking with you and that this man was sitting next he testified to what was not so? A He was talking to me on the other side of the room; he was sitting talking to me.

Q You knew this man at that time? A Yes, sir; I knew him.

Q Could he have been there without your seeing him?

A No, sir.

BY MR. CORRIGAN:

Q Did you see the robbery on the street? A No, sir.

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Q So you don't know who committed it? A No, sir.

BY MR. HANSEN:

Q One more question: Do you remember if the complaining witness on that particular morning was under the influence of liquor? A Why he was terribly drunk.

Q He was terribly drunk? A Yes, sir; didn't know what he was doing.

BY MR. CORRIGAN:

Q Still he knew enough to talk to you? A Yes, sir.

THE COURT: If you wish to sum up this case it must go over until Monday morning. If you will submit it I will give it to the jury now.

MR. HANSEN: I feel that I ought to do justice to my client.

THE COURT: I must be fair not only to the jury but to the witnesses who are in court and who have been here awaiting the trial of this case which has been protracted beyond the length of time I supposed it would take.

MR. HANSEN: I prefer to have the case go over because I desire to sum up.

THE COURT: Well, gentlemen, you have to be here Monday morning any how and we have sentences and ex parte matters which will occupy the entire afternoon. If I

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gave you the case late in the afternoon it would result, perhaps, in your being kept together until a late hour. Do not talk about this case among yourselves or form or express any opinion thereon until the case is finally submitted to you. I must ask you to take your places promptly at 11 o'clock Monday morning.

(The Court then adjourned the further trial of the case until Monday morning, January 28th, 1907, at 10:30 o'clock).

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People vs. Lang.

New York, January 28th, 1907.

Trial resumed.

MR. CORRIGAN: If your Honor please, I have had an investigation made in this case by the Detective Sergeant, and the information that he gives me indicates that there has been a great deal of untruth told in this case.

MR. HANSEN: What is that?

MR. CORRIGAN: It indicates that there has been a great deal of untruth told in this case, not only by the wife of the defendant, who has been a confession to the Detective Sergeant, but also by the defendant himself. Now, the defendant has been on the stand and has been subjected to cross examination and I ask the privilege of recalling him to ask him one or two further questions.

MR. HANSEN: No objection. May it please the Court, the District Attorney said that the wife had made a confession. Now, if any confession has been made, I don't know what he means by that, but I think that she should also be called by him.

MR. CORRIGAN: I should like to have her here.

THE COURT: I have granted the District Attorney this motion.

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MR. HANSEN: Will your Honor direct the District Attorney to call the wife?

THE COURT: If you have any motion to make I will entertain it in due course.

WILLIAM LANG, the defendant, resumes the stand:  
CROSS EXAMINATION CONTINUED BY MR. CORRIGAN:

Q Now, Lang or Williams, your wife has been to see you in the Tombs, almost every day, hasn't she? A Yes, sir.

Q And you asked her to come down here and testify for you, didn't you? A Yes, sir.

Q You asked her to say you had been home every night, didn't you? A I did not ask her; she knew that; I did not have to ask her.

Q Now, did you ever, in your life, live at 537 with your wife? A Yes, sir.

Q When? A For the last 15 years back.

Q Now, remember, Lang, or Williams, you are under oath?  
A I was living all my life in the one street.

Q East 71st or 72nd? A 72nd Street; they don't live in no apartment houses on that side of 71st Street.

Q Did you live there with your wife? A Yes, sir.

Q In the month of October, 1906? A Yes, sir.

Q The whole month? A Yes, sir.

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Q Don't you know, as a fact, that she has lived with her father for the last three or four years; and you have only lived with her off and on? A No, sir.

Q If she testified to that it is not true? A She has lived with her father -- she has lived there since I have been in the Tombs.

Q Before that? A No, sir.

Q She was living there before October? A No, sir; not in October the whole time she has not.

Q You had better tell the truth on this? A I am telling the truth; she has not lived with her people --

BY MR. HANSEN:

Q Now, Lang, this is a very serious matter. Now, I want you to be perfectly truthful with the jury. If you have made any statements here on the trial last week that you would like to retract now do so. If you have made any errors voluntarily or involuntarily? A Not that I know of.

Q I want you to be perfectly frank and truthful and tell the jury all about it. Now, we want to get at the facts?

A Yes, sir.

Q At the facts. A I don't know of any untruth that I have told.

Q I tell you, as your counsel now, that if you have concealed anything, if you have made any statements that are

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false -- A Not that I know of.

Q This is your opportunity, and I advise you, as your counsel, that you tell the gospel truth to this jury and to the Court. A I have told the truth, everything I have said is the truth.

BY MR. CORRIGAN:

Q Do you mean to say that you lived at 537 East 72nd Street with the woman who testified here, as your wife, during the month of October, 1906? A Yes, sir.

Q Do you mean to say you were at home every night during that month with her? A Yes, sir; I know it, because I ain't no drinking man; I haven't drank anything in eight months.

Q Yes or no.

MR. HANSEN: I submit that the witness be permitted to answer in his own way the questions of the District Attorney. The District Attorney is no more anxious than I am to have the facts in the case and nothing else.

THE COURT: He may answer.

BY MR. CORRIGAN:

Q Didn't your wife visit you in the City Prison?

A Pretty near every day.

Q Didn't you tell her to go on the stand and say you were at home? A No, sir; I did not have to.

Q You testified that you worked for Hurst and Gormley?

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A Yes, sir.

Q Under what name did you work for them? A Well, they didn't know me -- they called me "Big William" around the horse business; I have been around the horses all my life, off and on, and these men are dealing in horses, didn't make it a business, I have worked for them off and on, different winters

Q Did you work for them as Big William, William Williams or William Lang? A Well, I don't know as to what name I worked under.

MR. HANSEN: The witness has answered that he gave no name in particular, he didn't have to.

THE COURT: Is there something for me to pass on or not?

MR. CORRIGAN: I don't know, your Honor.

THE COURT: Proceed, please.

BY MR. CORRIGAN:

Q Did you work for Hurst and Gormley under the name of William Williams, Big William or William Lang? A Well, they always called me Lang or William, Big William.

Q Which was it? A William.

Q Which was it? A Big Bill or Big William, all around, there never was no name, no pay roll or anything, it wasn't necessary like that; they never would put down a name that I know of.

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Q For whom were you working when, as you testified, you were arrested and sent to the Penitentiary from the Court of Special Sessions? A For who was I working?

Q Yes. A Well, now, I don't know; I am positive that I was working for Mr. Hurst at the time, if I ain't mistaken, of course, I speculate a whole lot, off and on, in horses.

BY MR. HANSEN.

Q Well, you think so, but you are not sure; you would not swear exactly where you were working? A No, sir; I buy and sell horses myself.

Q Now, I want you to tell it again -- I didn't get it clear myself the other day. State to the Court and jury the circumstances under which you were arrested in this case?

A Yes, sir.

Q You remember you stated that you had been in a saloon?

MR. CORRIGAN: He stated that fully. I have it in the minutes.

MR. HANSEN: I haven't got them here.

BY MR. HANSEN:

Q Will you please re-state that to the jury? A When I was arrested this time?

Q Yes, just tell us how you were arrested in this saloon and taken to the station house. Tell us what happened in the

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saloon? A I was in 29th Street.

Q Will you tell us that? A I went into a saloon, corner of 29th Street and Eighth Avenue about 5 o'clock in the morning, December 26th, the morning after Christmas.

Q What happened there? A There was a fight in the back room.

Q What is that? A A fight in the back room among some young fellows in there; I was out at the bar; it was on when I walked into the place.

Q What happened? A One young man came into the back room of the bar room and he was bleeding; he had been in a fight with these friends of his in the back and they had beaten him up; he went out to get an officer. Meantime whoever he was fighting with went out the back way, or some way or other, and he came back with two policemen.

Q The man who had been beaten? A Yes, sir; he was away about two or three minutes.

Q When he came back with the police what happened?

A That is all; there was two other young men came into the saloon meantime when he was out.

Q What happened then? A They placed us all under arrest.

Q Then you were discharged the next morning? A Yes, sir; in the 54th street court.

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Q You had not been in the fight in the back room at all?

A No, sir; I ain't known in the place.

Q Do you remember if any charge of robbery was made in connection with that arrest? A No, sir; there was not.

Q Simply fighting? A Yes, sir; fighting, that is all; there was no complaint made in the Police Court.

MR. CORRIGAN: Now, if your Honor please, I have sent the detective with a forthwith subpoena to produce the wife of this man. I should like to have your Honor grant me a continuance until say 12 o'clock when I think she will probably be here -- or say half past twelve.

THE COURT: Well, if you are not certain about the matter why not let this jury go until 2 o'clock.

MR. CORRIGAN: Very well.

THE COURT: Impanel another jury. We might as well save the time.

MR. CORRIGAN: I think she will surely be here by 2 o'clock. She lives in 112th Street.

THE COURT: Gentlemen, the District Attorney asks that I adjourn this case until a quarter before one; that would necessitate your losing time because we adjourn at one o'clock for recess; therefore, I will let you go until 2 o'clock. In the meantime you must not talk about this case or permit any one to talk with you

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about it nor form or express any opinion thereon until the case is finally submitted to you. You may go hence about your business and return here at 2 o'clock precisely.

(The court then adjourned the case until 2 o'clock)

After Recess.

MR. HANSEN: I understood this case had been adjourned in order to give the District Attorney an opportunity to produce the wife of the defendant and not for any other purpose. He is now about to call another witness. This case was closed on Friday by both the District Attorney and myself.

MR. CORRIGAN: I sent to the house where the defendant's wife said she lived, and the report I received from the detective is that she is away and will not return until 5:30. I also sent for the janitress of the premises 537 East 72nd Street, I have her here in court and I wish to put her on the stand.

THE COURT: I will permit you to do it.

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JOHANNA MAUER, a witness called on behalf of the people in rebuttal, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live, Mrs. Mauer? A 535 72nd Street.

Q Are you the janitress for 535 and 537 as well?

A Yes, sir.

Q Did you ever see this defendant before? A No, sir; never in my house.

Q How long have you been janitress there?

A Three years.

Q Did he ever live there? A No, sir; I can show you the books.

Q See if you recognize him. Did he ever live there?

A No, sir.

Q Not in the last three years? A No, sir.

MR. HANSEN: No questions.

MR. CORRIGAN: I now rest my case, your Honor.

THE COURT: Now, how long do you want to sum up your case, Mr. Hansen?

MR. HANSEN: I should say fifteen or twenty minutes.

THE COURT: proceed.

MR. HANSEN: May it please the Court, I desire to make a motion. I respectfully request the Court to direct the jury to acquit the defendant on the ground that

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the charge named in the indictment has not been sustained; and that it would be impossible, from a legal point of view, to render a verdict of guilty in this case. The District Attorney has produced the complaining witness and two other witnesses, and the two other witnesses have testified, under oath, and I take it he cannot impeach his own witnesses, that this man was not there.

THE COURT: That raises a question of fact for the jury. On which count do you desire to go to the jury?

MR. CORRIGAN: I will go on the count of robbery.

THE COURT: No other charge? *am*

MR. CORRIGAN: The other count, I believe, is larceny. I am willing to stand on the robbery -- robbery in the second degree.

THE COURT: Now, you simply wish to submit the case to the jury on the count charging robbery?

MR. CORRIGAN: I do.

THE COURT: Very well. I will submit the count charging robbery and with the District Attorney's consent the other counts are withdrawn from the consideration of the jury.

MR. HANSEN: As I understand it, the Court denies the motion?

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THE COURT: Yes. "I deny your motion except in so far as it has already been granted.

MR. HANSEN: I take an exception.

Mr. Hansen closes the case on behalf of the defendant.

Mr. Corrigan closes the case on behalf of the People.

During the summing up of Mr. Corrigan he referred to the defendant as "Buttermilk Bill".

MR. HANSEN: I object to the District Attorney calling the defendant "Buttermilk Bill".

Objection overruled. Exception.

MR. HANSEN: May I ask that the District Attorney do not impeach his own witnesses before the jury. He called them as his witnesses and not ours.

THE COURT: The District Attorney will proceed.  
Exception.

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## THE COURT'S CHARGE.

FOSTER, J.

Gentlemen of the jury: The issue of fact in this case may be difficult for you to decide, because there is much of conflicting testimony here; but the law is simple.

There is but one crime charged against the defendant, robbery in its second degree, because the other counts have been withdrawn from your consideration upon the motion of the District Attorney.

Robbery is larceny that is accomplished by force and fear. It is a violent taking away, against the will of the complaining witness, of his personal property, intending to deprive him of the use and benefit of it. Force must be used, so far as this case is concerned, to constitute the crime of robbery. So that if you believe that the complaining witness had taken from his possession the property which the defendant is alleged to have stolen, and that the defendant took it by force, using force to overcome resistance on the part of the complaining witness, then convict him of robbery in its second degree.

If there is any reasonable doubt it give the defendant the benefit of it. That is all there is in the case.

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gentlemen. It is with you.

MR. HANSEN: May I ask your honor to charge the jury that if they shall find, or come to the conclusion, that any witness in this case has wilfully lied, as to any material fact, they are then at liberty to disregard that witness' entire testimony.

THE COURT: Well, that is a very good rule of civil law, but the rule of the criminal law is different. Gentlemen, the amount of credence that you are to give to the testimony of the witnesses in this case is for you and you only to determine. You may refuse to believe any witness you choose. That is the rule of the criminal law. If you believe a witness is lying in one particular it is for you to say whether you will believe anything else that witness has said. If for any reason you don't believe they are telling the truth you have a right to disbelieve them. In other words, in criminal actions, the facts are all for the jury to pass upon.

MR. HANSEN : Did I understand your Honor to deny my motion?

THE COURT: I do not deny your motion. I went further than you asked me to go. The rule of the criminal law is broader than it is in the civil law.

MR. HANSEN: I ask your Honor to charge the jury that

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they are to disregard, for the purpose of coming to a conclusion in this case, entirely, the evidence about former convictions.

THE COURT: The evidence touching a former conviction, gentlemen, was received as bearing upon the credibility of the defendant who took the stand in his own behalf, and it is proper for you to regard it for that purpose and that only.

MR. HANSEN: I also ask your Honor to charge the jury that good character, that is testimony as to good character may, of itself, raise a reasonable doubt.

THE COURT: Well, that is the law, of course.

MR. HANSEN: I ask your Honor to charge the jury that every accused person is presumed, in law, to be innocent until found guilty.

THE COURT: Yes, that is the law.

MR. HANSEN: I ask your Honor to charge the jury that in order to find this man guilty they must find him guilty beyond a reasonable doubt.

THE COURT: I have already stated that once.

MR. HANSEN: Then may I ask your Honor to charge the jury that the District Attorney is bound by the testimony of his own witness and cannot impeach his own witness.

THE COURT: I do not think that that applies to this

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case. That is an abstract principle of law.  
as it does not apply to this case I decline to  
it.

Exception.

MR. HANSEN: May I ask your honor to charge that the  
burden of proof that this man is guilty is on the Dis-  
trict Attorney?

THE COURT: Yes.

MR. HANSEN: And not upon the defendant?

THE COURT: Yes, that is the law.

MR. HANSEN: May I also ask your Honor to charge the  
jury that when either the District Attorney, or the  
attorney for the defendant, omits to call a witness that  
might easily have been subpoenaed, the presumption is  
that this witness, if called, would have testified ad-  
versely.

THE COURT: I don't know of any proof in this case  
from which that inference might properly be drawn.

MR. HANSEN: yes, sir, the employer of this man  
Tivoli, whom he said he travelled with on that night.

MR. CORRIGAN: there is nothing to that effect  
at all in the case.

THE COURT: I don't know where he is.

MR. HANSEN: He is not here.

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