

START

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CASE

CASE # 625

COURT OF GENERAL SESSIONS OF THE PEACE,

Part I.

.....
THE PEOPLE OF THE STATE OF NEW
YORK,

-against-

CHARLES ARNOW.
.....

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Before:

HON. WARREN W. FOSTER, J.

and a jury.

Indictment filed December 28th, 1906.

Indicted for grand larceny in the second degree.

New York, January 30th, 1907.

A p p e a r a n c e s:

For the People:

ASSISTANT DISTRICT ATTORNEY HARFORD T. MARSHALL.

For the Defendant:

MR. JACOB M. KRAM.

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THOMAS GRADY, called as a witness in behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Where do you live, Mr. Grady? A 487 Wyke avenue.

Q These gentlemen away over here cannot hear you.

Where do you live? A 487 Wyke avenue.

Q That is in Brooklyn? A Yes, sir.

Q What is your business? A At the present time, nothing; not occupied at the present time.

Q Where were you working on the 31st day of July, 1906? A Levi, Sondheimer & Company.

Q How long have you been employed there by them?

A I was there about three months, as near as I can judge.

Q In what capacity? A It is a lace house.

Q What did you do there? A I was a clerk like, taking out errands and packages and so forth.

Q Now, Levi, Sondheimer & Company have an office in this county, have they not? A Yes, sir, they have a store at 514 Broadway.

Q 514 Broadway? A Yes, sir.

Q Now, on the 31st of July, were you in that store in the course of your duties? A Yes, sir.

Q Did you have on that day, any property entrusted to you for delivery or for anything else? A Yes, sir.

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Q What was the property, if you know?

MR. KRAM: One moment. I object to that unless it be shown that this witness packed that package, and knew the contents of it.

A It was supposed to contain ---

MR. KRAM: I object to what it was supposed to contain.

Q If you know? A It was a lace house.

Q Do you know what was in the package? A No, sir; I did not see the inside of the package; what the package contained I did not see.

Q Who gave you the package? A One of the clerks in this place in which I am employed.

Q What was his name? A Well, his name was Fluss, one of the representatives of the firm here present.

Q He gave you that package? A Yes, sir.

Q What were you to do with the package? A I was supposed to deliver it at a place in Leonard street.

Q How far away from your office? A Well, the place is located at Broadway and Spring street.

Q What was the name of the place on Leonard where you were going with the package? A Well, I ain't quite sure of the name at the present; I don't recollect.

Q You left your store about what time in the day?

A Around a quarter to ten.

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Q In the morning? A Yes, sir.

Q You went down Broadway? A Yes, sir.

Q On what side of the street? A On the lefthand side, going downtown.

Q Until you got to Leonard street? A Yes, sir.

Q Which way did you turn on Leonard street? A I turned to the right.

Q That is going west? A Yes, sir.

Q Where did you first see this defendant? A About half way between Broadway and Church street.

Q Did you have the package with you? A Yes, sir.

Q How big a package was it? A It stood about this high (illustrating).

Q Well, how big, was it as big as that table or that square? A About that long (illustrating).

Q About that long and about how high? A About that high.

Q A big box? A Yes, sir; a big box; but the package was not just one box, exactly, but a couple of boxes all tied around in one package.

Q Now, you met this defendant on the street. Had you ever seen him before? A No, sir.

Q Did you speak to him first or did he speak to you? A He spoke to me, sir.

Q What did he say? A He came up to me and he says,

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"You come from Levi, Sondheimer?" I pronounced that I did; he said, "I come from so-and-so, and they sent me after --"

Q He didn't say he came from so-and-so? A Well, repeating the firm from which he came.

MR. KRAM: I object to that and ask that it be stricken out?

THE COURT: Yes.

Q He said that he came from the firm to which the parcel was directed, where you were going? A Yes, sir.

Q But you don't remember the name of the firm? A No, sir, I do not. It is on the receipt book which he signed.

Q What else did he say to you? Tell us all the conversation that you had with the defendant? A He came up to me and he says, "I came from this firm", - but I don't recollect the name at the present time; he says I have been sent for the package, and they want it right away", and he handed me an envelope, which he said contained a check; he says, "We want the rest of the goods; we ordered some more goods, we want them right away. You better go right back and get them." I took out the receipt book, handed him the receipt book, and he signed the receipt book.

Q You went right back to get more goods? A Well, I had another package in another hand and I went forward with that and I got right back to the store, and I reported the case at the store.

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Q You had a conversation when you got back to the store with somebody? A I handed the supposed check ---

Q You had a conversation with somebody in the store, in your own store, of Levi, Sondheimer & Company? A I went back to the store, and the check which he had handed to me, what was supposed to contain a check I gave to the cashier.

Q The envelope? A Yes, sir.

Q What was it? A It was supposed to contain a check, and the cashier ---

Q What did he give you? A Which one?

Q The defendant, when you gave him the package and he signed the receipt, what did he give you? A He gave me an envelope which he said contained a check.

Q An envelope? A Yes, sir.

Q Was it sealed? A Yes, sir.

Q It was sealed? A Yes, sir.

Q Who was it addressed to? A Levi, Sondheimer & Company.

Q Where is the envelope, do you know? A I lost it in the confusion, sir.

Q What did you do with it? A I handed it to the cashier and he asked me where I got it.

Q Not what he said to you. You handed it to the cashier?
A Yes, sir.

Q Now, did you make a complaint to the police? A Yes, sir.

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Q Yourself? A Yes, sir.

Q When? A After handing him the check I went down stairs and inquired if there was more goods there, and they said "No"; and I went right out again to where I delivered that package, - I went to the firm the book described to see if it was received, and they said "No", they had sent nobody for it.

Stricken out by consent.

Q You went to the firm where this package was supposed to be delivered, or where you were to deliver it? A Yes, sir.

Q There you had a conversation with some one? A Yes, sir.

Q As a result of that conversation what did you do? A Well, they said ---

Q Not what they said, what did you do after you had this conversation with some one in Leonard street? A I went down to the Leonard street station house and reported the matter there and they said they would send a man out ---

Q Not what anybody said. You made a complaint in the station house? A Yes, sir.

Q Now, when did you next see this defendant after that? A Well, when I was called to Headquarters to identify him.

Q How long after the 31st of July was that? A That was in November, as near as I can recollect at the present time.

Q The following November? A I don't know the date.

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Q In November? A Yes, sir.

Q Where did you see him at police headquarters? A In one of the rooms; I don't know which room it was.

Q How big a room was it? A Well, it was a room about fifteen feet square.

Q How many people were in it when you went into it?
A Well, I could not say.

Q How many, two? A No, sir.

Q More than two? A There was about, say about fifty as near as I can recollect.

Q A room full of people? A Yes, sir, all lined up around the room.

Q Lined around against the wall, were they? A Yes, sir, in the centre of the floor.

Q Where was this defendant? A He was in the centre of the floor, lined up with the other gentlemen, and I was supposed to lay my hand on ---

MR. KRAM: Objected to.

Q Not what you were supposed to do at all. You saw the defendant standing there? A Yes, sir.

Q Did you say anything to him? A No, sir.

Q What did you do? A The officers directed me ---

Q What did you do when you saw the defendant standing there? A Well, I put my hand --- I looked at him and took the exact dimensions in which he was standing when he was talk-

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ing to me, when he was getting the parcel, and I was told to lay my hand on him.

Q Not what anybody told you to do? A I laid my hand upon him.

Q You went toward him and laid your hand on him? A Yes, sir, when I was positive.

Q Then he was placed under arrest? A Yes,,sir.

Q Have you any doubt in your own mind but that this defendant is the boy that took the package on that day?

A No, sir, no doubt; positive he is the boy.

Q Positive that is the boy? A Yes, sir.

CROSS EXAMINATION BY MR. KRAM:

Q Now, Mr. Grady, how long have you been unemployed?

A At the present time?

Q Yes. A For about since the first of the year.

Q Where were you employed then? A The first of the year at John D. Murphy's, 502 Grand street, New York.

Q How long were you in their employ? A About three or four months.

Q What were your duties there? A I was a clerk there.

Q Did you leave voluntarily, or were you discharged?

A No, sir, I left voluntarily.

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Q Who were you employed with before that? A Levi, Sondheimer.

Q You say you were with them three months? A About three months.

Q You left voluntarily? A Yes, sir.

Q When did you enter the employ of Levi, Sondheimer & Company? A Well, I don't just remember the exact month.

Q Well, if you were there three months and you left in the early part of August, you must have entered into their employ about June? A I don't see how I could leave the early part of August when the 31st of August --- yes, about August, I left the latter part of August.

Q You must have entered their employ about June? A Somewhere about that.

Q Where were you employed before that? A In a grocery store, Overbeck Brothers, 561 Columbus avenue.

Q How long were you with them? A Five years.

Q Now, did you testify before the magistrate that the package was taken from you on Church street? A Church street -- well, --

Q Did you or did you not? A Well, in the present confusion I got mixed up in the street.

Q Did you or did you not testify in the police court before the police magistrate that the package was taken on Church street? A Yes, sir, first off.

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Q You testified in your direct examination that it was taken on Leonard street? A Yes, sir, I did.

Q That is correct? A Leonard street because it is only one block from what I was directed to, where the parcel was directed to.

Q Then you were mistaken when you testified before the magistrate that the package was taken from you on Church street? A Yes, sir, I was.

Q Have you made any other mistakes in this case?
A Not that I know of, sir.

Q Did you ever see this defendant before that day?
A No, sir.

Q You never saw him between that day and the time you picked him out in police headquarters? A No, sir.

Q Now, when you had that package in your possession was it addressed? A Yes, sir, it was.

Q This boy did not see the package before you finally gave it to him, did he? A No, sir.

Q Well, will you please explain to this court and jury how that boy knew that that package was addressed to the people you say it was addressed to?

Objected to.

THE COURT: He may answer that if he knows.

If he does not know he can say he does not.

A Well, the only object that I have in it ---

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Q We don't ask you your object. Please explain to the Court and jury how it was that that boy knew the addressee of that package? A Well, I cannot say that -- if I am asked the object in leaving the store -- I left the store ---

Q I don't ask you the object of leaving the store.

THE COURT: You have asked him to explain. Let him explain. You have opened the door.

THE WITNESS: On leaving the store I had quite a heavy package, and I had it over my shoulder. Corner of Howard street and Broadway there was a gentleman familiar with the neighborhood in which I live; he came up to me and put out his hand to shake. He says, "Don't you know me?" "Well", I says, "I kind of know you by sight from being around the neighborhood in which I live". And he said, "Yes." I had the package low, kind of, and he said "Where are you going?" I told him just about where I was going and he asked me where I was working and I explained where I was working, and so he says, "Well, I am in a hurry, now. I got to go up"; and he crossed across going uptown, and as he got across the street he went --- I turned around to look at something and he catecornered over and when I looked around again he was on the catecorner from which I was standing. When he saw that I seen him he waited for

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a car to come along and trucks and he got confused with them and went away. When I went down further I met him again, and he said, "I see we meet again." I said, "Yes"; he took a cigarette from his pocket, and he said won't you have one?" I said, "All right, I will take one." I stuck it in my pocket. When I got as far as Leonard street I met this gentleman here.

Q He wasn't the man that had this conversation and gave you the cigarette? A No, sir.

Q Were you watching this man all the time? A Yes, sir; watched which gentleman?

Q This man that came up and spoke to you? A I only seen him that once when he went catercornered.

Q You watched his movements? A Yes, sir, first off.

Q Did you see what he was doing; you saw him cross and recross, didn't you? A Seen him going across.

Q What was your object in watching his movements? A I don't know, just happened to turn around.

Q You say you watched him for how long? How long a time did it take him to cross and re-cross? A About a second or two seconds.

Q That was the only time? A Just enough to turn around back again; I don't know what drew my attention but I happened to see him there.

Q Did you see him after he gave you the cigarette and

left you that time you just testified to? A Not the last time, no, sir.

Q Now, you gave this defendant the package on the representation that he came from this firm to which the package was addressed? A Yes, sir.

Q Did you believe it to be your duty to inquire -- were you sent to deliver a package to a boy or to the place of business of the addressee? A The place of business, but he represented himself to me from the firm.

Q You thought that was sufficient? A He explained it so correctly that I took his word for it.

Q Did you open the envelope? A No, sir, I did not.

Q You gave him the package on the simple representation that he came from the place to which the package was addressed? A Yes, sir; I presented him the receipt book.

Q Have you got the receipt book? A One of the firm's representatives has it in his possession, present at this time.

Q How far away was this from the place of business of the firm to which this package was addressed? A Leonard street the place was.

Q This was on Leonard street? A Yes, sir, where he took the package from me.

Q How far away was it from the place of business?

A From where it was directed to? About a block.

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Q About a block away? A Yes, sir.

Q You didn't think it was your duty to make sure that he was at the proper party to whom the package was addressed?

A From the way he pronounced it I took his word for it.

Q How many packages have you delivered for the firm of Levi, Sondheimer & Company while you were in their employ?

A I cannot exactly state; I have no account.

Q Was it over one hundred? A I cannot account.

Q Was it more than two hundred? A I cannot account.

Q Can't you give us some idea of how many?

Objected to. Objection sustained. Exception.

Q Can you not recall the identity of any person other than this defendant that you delivered a package to while in the employ of Levi, Sondheimer & Company? A No, sir, not at the present time.

Q You cannot? A No, sir.

Q This defendant is the only boy you ever remember delivering a package to for that firm? A On the street -- in the office of the firm -- I met nobody, not on the street, no, sir.

Q You did not see this defendant until you saw him sometime in November in police headquarters? A Yes, sir.

Q You saw about fifty people in that room? A About that, yes, sir.

Q You testified, if I quote you correctly, "I was told to

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lay my hand upon him? A Yes, sir.

Q Is that so? A I was told this ---

Q Who told you that? A One of the officers.

Q Is the officer in Court, do you see him in court now?

A I could not recognize him at the present time, sir.

Q But some person told you to lay your hand on the defendant? A Yes, sir.

Q That is true? A Yes, sir.

BY MR. MARSHALL:

Q Now, what did the officer tell you?

MR. KRAM: One moment. He has testified that the officer said to lay his hand upon him.

Objection overruled. Exception.

Q What did the officer tell you or say to you when you went into the room? A He said, if I identified the man that took the parcel off me, to lay my hand upon him.

Q I show you this receipt book and ask you if you recognize it? A Yes, sir; that is the receipt book which I had in my possession at that time.

Q Now, looking at that receipt book and refreshing your recollection from it, can you tell us how where the package was to be delivered to? A Crouse & Company, Limited, 43 Leonard street. In the same building there was Leon Feldman.

Q What is the number on Leonard street? A 43.

Q How close to Church street is that -- how many doors

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from Church street? A Well, it is pretty near, down near Franklin street and West Broadway, near West Broadway.

Q Between Church and West Broadway? A Yes, sir; it is nearer to West Broadway.

Q That is how you came to say in the police court it was on Church street?

MR. KRAM: Why don't you let him testify to that.

MR. MARSHALL: He has testified to it. If you have any remarks to make address them to the court and don't talk to me. I offer the receipt book in evidence.

Q Is that the receipt book you presented to the defendant on that day? A Yes, sir.

Q Show us where he signed it? A The heavy margin there (indicating).

Q The heavy mark? A Yes, sir, the heavy mark, one there and this here.

The receipt book referred to is marked People's Exhibit No. 1.

BY MR. KRAM:

Q So that the only two times you ever saw the defendant in your life was the time he took the package from you and in police headquarters? A Yes, sir.

Q I just want you to look at the signature on this receipt book. Will you just show us on the receipt book where the

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defendant signed his signature? A (Witness indicating)
Where the heavy mark is there, the heavy margins, the heavy
marks on the two pages, that is one and that is the other.

W I L L I A M A. D E E G A N, called as a witness on
behalf of the People, having been duly sworn, testified
as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Where do you live, Mr. Deegan? A 221 West 121st
street.

Q Where are you employed? A Levi, sondheimer &
Company.

Q You were employed by them in July last?
A Yes, sir.

Q When did you first see this defendant? A Well, on
the day of his arrest in the police magistrate's court.

Q Did you hear him say anything there at that time?
A No, sir.

Q He never was employed by the firm of Levi, Sondheimer
& Company; you never saw him there in your life? A No, sir.

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

Q Now, do you know this particular package that was de-
livered to Thomas Brady on the 31st day of July, 1906?

A No, sir, I know what the package contained.

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Q How do you know that? A Well, because I ---

Q Did you see it packed? A I am the chief clerk there, and I saw the goods before they were packed.

Q You saw the goods before they were put in the package?

A Yes, sir.

Q What did they consist of?

Objected to as irrelevant, immaterial and incompetent.

Objection overruled. Exception.

MR. KRAM: This witness is about to testify to the contents of a package. He says he saw the goods before the package was packed. There is no evidence as to what happened to that package between that time and the time they were packed.

MR. MARSHALL: If I cannot connect these goods with the package why, that ends it.

BY MR. MARSHALL:

Q Where were these goods when you saw them? A In what we call our charging counter.

Q Was there anything there to indicate where they were to go to? A A shipping ticket.

Q A shipping ticket there? A Yes, sir.

Q Did it have a name on it? A Yes, sir.

Q What was the name on the shipping ticket? A Krouse & Company, Limited, New Orleans, with a New York office and 43 Leonard street.

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Q That is the firm of A. Krouse & Company, 43 Leonard street? A Yes, sir.

Q How much lace was there? A It contained thirty boxes of torchon lace.

Q How long have you been in the lace business?

A Seven years.

Q Do you know what the market value of that lace was on the 31st of July, 1906? A No, sir; I don't exactly know.

Q Do you know or don't you know what the market value was?

A Well, I know the selling price, about eighty-five cents.

MR. KRAM: I ask that that be stricken out, if your Honor please, the market price.

Q Do you or don't you? A I don't know the exact price.

Q Do you know about the price, about the market price?

A About eighty cents a gross.

MR. KRAM: I object to that and ask that the answer be stricken out.

Q Do you know about the market value of that lace, yes or no? A Well, about eighty cents.

Q Tell me whether you know first or not. Answer yes or no? A That is about what I know.

Q Now, what was it?

Objected to as irrelevant, immaterial and incompetent, no proper foundation being laid for this witness testifying as to value. His testimony is that

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he has been seventeen years in the lace business;
that does not show his acquaintance with the reasonable
value of lace. He might have been in other capacities.

BY MR. MARSHALL:

Q Are you familiar with the sort of lace that was consigned
to Kreuse, this particular kind of lace? A No, sir, not any
more than I am with any of the rest of the laces.

Q Are you familiar with all the laces that Levi, Sondheimer
sold? A Yes, sir.

Q Familiar with the buying and selling of it? A Not
familiar with the buying of it, but familiar with the selling
of it.

Q Do you know what kind of lace this was? A Yes, sir.

Q You have seen a great deal of it? A Yes, sir.

Q Now, will you tell us what the reasonable market price
of this lace was that you saw there on their counter?

MR. KRAM: Objected to. May I interrogate this
witness, if your Honor please?

THE COURT: Yes.

BY MR. KRAM: Now, you had different kinds of torchon
laces in your business there haven't you? A Yes, sir.

Q They are all arranged by numbers, aren't they? A Well,
all arranged by numbers and prices.

Q And different values, are they not? A Yes, sir.

Q They are as low as what price? A Well, do you mean

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by the dozen or by the gross?

Q By the gross? A Different prices, the gross yards.

Q The gross yards? A Yes, sir.

Q Well, that was what? A 144 yards.

Q They are how cheap? A As cheap as eighty cents a gross.

Q You have laces as a higher price than that? A Yes, sir.

Q Then you don't know the number of this lace? A Of this particular lace?

Q That was in this package? A Yes, sir.

Q What was the number? A 115 line 1.

Q How long before the package was packed up did you see that lace? A Did I see it? Well, I noticed it that morning.

Q But you saw that lace on the counter there or in your shipping department with a shipping ticket attached to it?

A yes, sir.

Q How long before the package was packed?

MR. MARSHALL: I object to that. He is cross examining as to this man's expert knowledge.

THE COURT: This is not within your proper cross examination at this time.

Q Have you bought laces of the same kind as 115 line 1?

A 115 line 1.

Q In what capacity are you connected with Levi, Sond-

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heimer & Company? A I check the Levi, Sondheimer foreign laces and send out all their import orders, and I am familiar with prices.

Q You mean shipping? A No, sir, we have got a shipping clerk for that.

Q You are a salesman there? A What they call import clerk. Taking charge of all their orders coming in from their factories.

Q Your knowledge of values on these cases is simply what they charge? A Yes, sir.

Q You have nothing to do with the buying or selling?
A No, sir.

MR. KRAM: I object to this witness's testimony.

MR. MARSHALL: I think he is eminently qualified.

Objection overruled. Exception.

Q Answer the question. Now, will you tell us what the market value of the 32 gross of laces was that you saw on the counter, within a cent or so? A Well, now, of course, your Honor, this is private information; we have different selling prices to different people.

Q What is the reasonable market value? A I should judge between seventy and eighty cents; that is as near as I can get at it.

Q That is a gross? A Yes, sir.

Q Between eighty and seventy cents a gross? A Yes, sir.

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Q How many gross of laces were in the package? A Thirty gross.

CROSS EXAMINATION BY MR. KRAM:

Q You say you saw those laces in the shipping department with the shipping ticket attached to them before it was packed. Did you see it packed? A No, sir, I think not.

Q You did not? A No, sir.

Q You don't know how long before it was packed that you looked at the goods, do you? A No, sir, I do not; about half past eight in the morning, I could not tell you when it was packed.

Q You don't know when it was packed? A No, sir.

MR. KRAM: We submit, if your Honor please, that the testimony of this witness as to contents of that package should be stricken out.

MR. MARSHALL: The testimony of the witness makes the crime petit larceny. He says thirty gross at seventy or eighty cents. I will consent that his testimony in regard to the value be stricken out. I will submit it on petit larceny. Thirty gross at between seventy and eighty cents, even at eighty cents it would only be \$24, so I will submit the case as one of petit larceny.

THE COURT: The evidence may stand for what it is worth.

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STANLEY LIVINGSTON, a witness called in behalf of the Peoples having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Who are you employed by? A Krouse Company, Limited, and Leon Feldman.

Q They are joint concerns, is that it? A No, sir; they are concerns having the same office, New Orleans concerns having an office in New York.

Q They have the same New York office? A Yes, sir; the same New York office.

Q Did you ever see this defendant here? A I have seen him only in court.

Q You saw him once before in court? A Yes, sir.

Q Were you employed there on the 31st day of July, 1906? A Yes, sir.

Q Was the defendant employed there then? A No, sir.

Q At no time within your knowledge has he ever been employed by A. Krouse Company? A No, sir.

Q Nor by Leon Feldman? A No, sir.

No cross examination.

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M I C H A E L J. G A L V I N, called as a witness on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Mr. Galvin, you are a detective sergeant of the municipal police, are you not? A Yes, sir.

Q You have been on the police force how long? A Going on fifteen years.

Q Did you place this defendant under arrest? A Yes, sir.

Q Where? A Corner of Leonard street and West Broadway, in that vicinity.

Q When? A About the 22nd of November, 1906.

Q What did you see him doing when you placed him under arrest? A We had been in the police court down stairs, previous to that, and we had two pickpockets that we arrested in the early part of the day and coming out ---

Q What did he say when you arrested him; did you say anything to him? A Yes, sir; placed him under arrest; he wanted to know what for; we asked him what he had been doing in the neighborhood, and he said nothing.

Q Had you ever seen this defendant before that? A No, sir.

Q Never had seen him before? A No, sir.

Q Well, go on and tell us the conversation? A Well, there had been a boy with Arnou and another boy.

MR. KRAM: Objected to.

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Q You were asked to state the conversation, just what the defendant said to you and what you said to him, that is all?

A Well, Arnow and another man by the name of Freedman was at Leonard street and West Broadway ---

MR. KRAM: I object to that.

Q You can't tell that. A I asked them what they were doing in the neighborhood, and they said nothing, so their answer was not satisfactory and we locked them up as suspicious persons.

Q In police headquarters? A Yes, sir.

Q Did you then send for the complaining witness Grady?

A No, sir; Inspector McLaughlin sent out a general alarm for all people who had lost packages within the past several months to come to police headquarters the following morning and see if they could identify anybody we had there as people who had stolen their packages, and amongst them was Grady.

Q In answer to that alarm the complaining witness Grady came there? A Yes, sir.

Q Were you present in the room when he identified the defendant? A Yes, sir.

Q Tell us what he did when he came in? A When Grady came in the room, Sergeant Dunn told him ---

MR. KRAM: Objected to.

THE WITNESS: He was in charge of the office at the time.

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MR. KRAM: We object to this may it please
Honor, on the ground that we are not bound by any
such conversation.

THE COURT: Please do not speak to the District At-
torney; speak to the Court.

Q You may tell us what the officer said to the defendant,
if anything? A Arnow was there ---

Q Where was this defendant when the complaining
witness Grady came into the room? A He was standing in the
assembly room in police headquarters, among ten other persons.

Q How far away from you was he when Grady spoke to you,
or when Sergeant Dunn spoke to Grady? A Maybe five feet.

Q Five feet away? A Yes; sir.

Q Now, I ask you to say what Sergeant Dunn said to Grady,
all the conversation that was carried on there in the presence
of this defendant? A Sergeant Dunn told Grady to look along
the line of prisoners, and if the man was there who had stolen
his package to go there and put his hand on him; he looked
the line of prisoner over, and he went to Arnow and put his
hand on his shoulder, and said, "That is the man."

Q What did Arnow say? A Arnow said nothing.

Q He was placed under arrest? A Yes, sir.

Q On the complaint of Mr. Grady? A Yes, sir.

Q Have any conversation with him after that? A Well,
Arnow denied it that he had ever seen Grady before, or knew

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anything about the package or anything like that. We took him downtown to the police court and had a regular complaint made against the defendant and he was held for trial.

CROSS EXAMINATION BY MR. KRAM:

Q The only reason you arrested this defendant was because his answer was unsatisfactory to you; is that right, yes or no? A Yes, sir.

Q Are you in the habit of arresting people whose answers are unsatisfactory to your questions? A In certain cases, yes, sir.

Q This was a certain case? A One of them.

Q What made you think he was a suspicious person at that time? A Well, we had been in this court downstairs here, in the afternoon with two pickpockets, whom we arrested in Nassau street; we had them discharged. We saw Arnow and this man Friedman standing across the street when we came out of the Court. There had been a boy passing them who was carrying a package on his shoulder. Friedman went over and looked at the package, and came back and spoke to Arnow. The suspicious nature of the transaction at the time attracted our attention. We followed them through this street here over to Leonard street and West Broadway. When the boy with the package on his arm got to --- I don't recollect the number now -- Leonard and West Broadway, he was about to enter

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the building and Arnow spoke to him, and the boy went in the building about his business. Then we went to Freedman and Arnow and asked them what they were doing there, asked them what they were trying to do with the boy; they wouldn't give them any satisfactory answer, and we locked them up.

Q What do you call an unsatisfactory answer? A They denied following the boy, denied they had been on this corner in the street or in this vicinity.

Q The only reason you arrested them was because they had a conversation with a certain boy having packages? A With this boy.

Q You didn't hear it? A No, sir.

Q They didn't take the package from the boy? A No, sir.

Q How many times was this boy arraigned in the police court? A I think about two or three times.

Q Wasn't he arraigned about six or seven times?

Objected to.

Q How many times did this defendant appear in the police court in answer to the charge before the magistrate? A The morning we arraigned him down there at the request of the counsellor he had there, the case was adjourned forty-eight hours.

Q Who was the counsellor? A Nolan.

Objected to as immaterial. Objection sustained.

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Exception.

Q Isn't it a fact that you sent a counsellor by the name of Nolan to see this defendant in the Tombs? A No, sir.

Q You know a counsellor by the name of Nolan, do you not?

A Yes, sir.

Q A friend of yours, isn't he? A No, sir; not exactly a friend. I know him as a counselor at law.

Q Has he appeared in cases wherein you testified for the People?

Objected to. Sustained. Exception.

Q Did you hear the complaining witness testify that somebody told him --- that somebody told the complaining witness to put his hand on the defendant? A I heard him so testify, yes, sir.

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

Q Did anybody tell him that? A No, sir.

Q He was mistaken about that? A When he was told he put his hand on this one particular man -- he misunderstood your question.

Q Never mind about that; nobody told him to put his hand on the defendant? A Not on that particular man.

Q You had no conversation with the complaining witness about this particular defendant? A When?

Q At that time? A No, sir.

Q How many people were in the room at that time? A There

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were quite a few.

Q You said ten on your direct examination? A I said ten on the line, and that there were forty or fifty; it was right after roll call in the morning and we have over two hundred men.

Q This line of ten, did that consist of people you had arrested on suspicion?

Objected to as immaterial. Objection sustained.

Exception.

DEFENSE.

C H A R L E S A R N O W, the defendant, sworn as a witness in his own behalf, testified as follows:

DIRECT EXAMINATION BY MR. KRAM:

Q At the time of your arrest in November last, whom were you living with? A My mother.

Q Did you support your mother at that time? A Yes, sir.

MR. MARSHALL: I object to that as immaterial. We are not trying the mother.

THE COURT: Objection sustained.

Q At the time of your arrest were you engaged in any business? A Yes, sir.

Q With whom? A Mr. H. C. Arnow.

Q Who is he? A My brother -- in the real estate business and life insurance.

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Q Where was his office? A On 150th street and Westchester avenue.

Q How long have you been employed by your brother? A For the past two years.

Q Does your business require you to leave the office?
A Yes, sir.

Q Do you remember where you were on the 31st day of July, 1906? A It is impossible for me to remember just where I was on that day.

Q Were you on or about that time on Leonard street, Church street near Leonard street?

MR. MARSHALL: Objected to. He says it is impossible for him to remember.

THE COURT: He may answer.

Q Were you? A No, sir.

Q Did you see this complaining witness on the stand?
A Yes, sir.

Q When did you see him for the first time in your life?
A In headquarters.

Q Had you ever seen him before? A Never seen him before.

Q Did you ever take a package from him containing certain laces? A No, sir, I never did.

Q Did you ever represent or say to him that you were employed by a firm named Krouse & Company, and that they had sent you for a package? A No, sir; I never seen him and never

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spoke to him.

Q I show you People's Exhibit 1 in evidence. Look at the signature and the blank lines, and see whether you ever signed that? A No, sir.

Q I ask you to take this piece of paper and try and make some line like it?

MR. MARSHALL: I object to that as immaterial.

THE COURT: Objection sustained.

Q Do you remember the day you were in police headquarters when this complainant put his hand on you -- the time you were picked out by this complaining witness? A I think it was the 22nd.

Q Do you remember the day, I don't mean the date?

A It was on the ---

Q Do you remember the time? A On a Thursday.

Q How many people were in line on that day at that time?

A Well, there was just about five in line with us, that is three central office men, me and this Mr. Freedman was there. I don't know him. Never seen him before.

Q Did you hear anything said to this complaining witness immediately before he placed his hands on you by anybody?

A I heard a conversation "Point that fellow out on the end with the blue suit."

Q Were you at the end at that time? A Yes, sir, I was on the end.

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Q Did you have a blue suit on? A Yes, sir, I had a blue suit on.

Q Do you see anybody in this Court room now who told the complaining witness to point you out? A No, sir, I don't.

Q While you were in the Tombs did a lawyer by the name of Nolan call on you? A Yes, sir.

Q Did you have a certain conversation with him? A Yes, sir.

Q You were in the Reformatory, were you not, or in the House of Refuge? A Yes, sir.

Q How long were you there? A I was there about five or six months.

Q What for? A For Grand larceny.

Q Were you in the House of Refuge again after that?
A No, sir; never was.

Q Did you send for this Mr. Nolan? A No, sir; I didn't send for him.

CROSS EXAMINATION BY MR. MARSHALL:

Q Think it over again, you have done two bits? A No, sir; I was convicted once about ten years ago in the New York Juvenile Asylum, because I did not go to school, and I did go there for taking something.

Q What did they do with you? Did you take something?
A Yes, sir, some iron.

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Q You took something? A Yes, sir.

Q You have been away twice to the Juvenile Asylum, and once to the House of Refuge? A Yes, sir; I was there six months. I was sent there for eighteen, I guess, but I done five months to prove my innocence.

Q That is the way we prove our innocence, to do our time. Now, what kind of business does your brother carry on? A Life insurance and real estate.

Q What kind of life insurance did you do? A I was working for him in his office.

Q What did you do in his office? A I used to deliver different policies to different companies.

Q Name some of the companies that you delivered policies to? A The Metropolitan Life Insurance Company.

Q Where is their office? A 150th street and Westchester avenue.

Q Some of the other companies? A The Metropolitan Identity Company.

Q Where is their office? A 80 and 82 William street.

Q What did you go there for, to be identified or to take a policy? A To take a policy there.

Q What do you do in the real estate end of the business? A Well, I used to go around for him once in a while to insure lives and deliver policies for him.

Q What did you do in the real estate end of it? You

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say his business is life insurance and real estate. Now, you have described what you did with the life insurance end of it. Get down to the real estate end? A I just ---

Q Can't you tell us what you did in real estate? A I used to run errands for him, put in the policies, and I used to go to different companies.

Q You said real estate and insurance? A Well, that was his business.

Q What did you do in the real estate business? A Well, I don't know. Of course I don't remember about his business, but I used to take errands for him, go to the different companies.

Q Now, let us get down to the day you were arrested. What was the errand you were doing at the corner of Church and Leonard street? A Well, I was not there -- I went on an errand.

Q Where were you when you were arrested? A I went on an errand from 150th street and Westchester avenue to No. 50 Wall street.

Q Now, wait. You say the officer did not see you down stairs here at all? A Didn't see me where?

Q When two pickpockets were discharged you were not down here at all? A Here?

Q Yes, in this building? A I was in the police court after that.

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Q No, the officer said he saw you outside of this Court House, and a man or a boy came by with a package, and Freedmann ran after him and looked at the number on the package for the name, and then ran back to you? A I was on my way there when I was arrested.

Q You were on your way downtown? A Yes, sir, I was on my way downtown.

Q Well, where were you going? A I was going to 50 Wall street.

Q To see whom? A On an errand for my brother.

Q Well, what was the errand? A To go and get some policies from that company.

Q From whom? A From the Royal Fire Insurance Company.

Q From the Royal Fire Insurance Company? A Yes, sir.

Q At 50 Wall street? A Yes, sir.

Q Did you go down there? A No, sir, I was arrested on my way.

Q Where were you arrested? A I was arrested on Leonard street, Leonard and Broadway.

Q Leonard and Broadway? A Yes, sir.

Q Where? A On Broadway, not on the corner.

Q You went down Leonard street, didn't you? A I went down and right on the corner of Broadway and Leonard street I was going to go up to Greenwich street, and going up Greenwich street to go to 50 Wall street, I go through

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Leonard street ---

Q Why didn't you go by way of Central Park? A I came down Broadway.

Q You came down Broadway, you got to Leonard street, and you went down Leonard street to go to 50 Wall street? To go through Greenwich street? A There was some accident there at Broadway and Leonard street.

Q What was the accident, somebody drop a package?

A No, sir.

Objected to.

Q What was the accident? A Somebody got hurt by a truck or a car.

Q Where? A Right on Leonard street and Broadway.

Q Right on the corner? A Yes, sir.

Q Is that what made you go down Leonard street to Greenwich? A No, sir; I always do. I just had come up through Broadway, and so I got to Leonard street, I went up right to Leonard street and went to West Broadway, and I went down through Wall street when the officer came and arrested me.

Q You went west on Leonard street? A Yes, sir.

Q Then into Wall street? A Down Greenwich, down West Broadway.

Q Which was it West Broadway or Greenwich street?

A West Broadway.

Q You went down West Broadway to where? A To Wall

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street.

Q To Wall street? A Yes, sir.

Q I thought you said you were coming back from Wall street? A No, sir; going down to Wall street.

Q Going down to Wall street on West Broadway?

A Yes, sir.

Q Where were you arrested? A On Leonard street just as I was going through West Broadway.

Q If you were arrested corner of Broadway and Leonard street how did you get down onto West Broadway -- did you drag the officer after you? A No, sir; the officer arrested me on Leonard street and Broadway just as I was about to turn into West Broadway.

Q Then you didn't go down that way but you meant to go down there? A I had got all the way down to the corner of West Broadway and Leonard street.

Q Where were you arrested, corner of West Broadway or Broadway? A On Broadway, right on Broadway and Leonard street.

Q Did the officer drag you down to Leonard street and West Broadway? A No, sir; from Broadway, when he arrested me on Broadway and Leonard street, he walked down with me, down to West Broadway and Leonard street.

Q What for? A He looked in some building there.

Q What for? A Well, I don't know.

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Q Did he tell you what for? A No, sir.

Q Did you ask him what he was taking you down there for? A Yes, sir, I asked him what he was arresting me for.

Q Did you tell him there was some building down there that you had been in? A No, sir, I did not. I was not in any building there.

Q Now, you don't know this man Freedman at all do you?
A No, sir, I never seen him before.

Q Did you ever see him before until you came up for trial here? A I don't think so.

Q Now, think it over again. A No, sir, never seen you before.

Q Don't remember me at all? A No, sir.

Q Sure about that? A Yes, sir; sure.

Q The first time you ever saw me was when you were brought up for trial to-day? A That is the first time.

Q You don't know Freedman at all? A No, sir, never seen him at all.

Q haven't any idea what his name is, have you?
A Well, I don't remember. I heard them pronounce his full name, but I don't exactly know Freedman.

Q What did he say his full name was? A When they brought us into Headquarters ---

Q Sammy Freedman, wasn't it, isn't that what you heard? A I don't know.

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Q Doesn't that sound familiar to you, Sammy Freedman?

A No, sir.

H A R R Y A R N O W, called as a witness for the defendant,
having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. KRAM:

Q Mr. Arnow, you are a brother of the defendant?

A Yes, sir; I am a brother of the defendant.

Q What is your business? A Real estate and insurance
broker.

Q On the 31st of July, 1906, what was your business?

A Real estate and insurance broker.

Q Where was your office? A 150 street and Westchester
avenue.

Q Was the defendant in your employ at that time?

A He was.

Q How long had he been in your employ? A About a year
and six months.

Q What was his duty? A Well, to attend to some of my
business, such as going down to different companies, getting
policies for me, delivering applications for policies.

Q Did you pay him any salary? A I did.

Objected to as utterly immaterial.

Objection sustained.

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Q Do you remember where he was on th 31st of July last?

A Well, he was ---

Q Do you remember? A Yes, sir.

Q Do you recall where he was on that day? A Yes, sir.

Q Where? A He was at 150th street and Westchester avenue, at nine o'clock that morning.

Q Do you know where he was in the afternoon of that day? A Well, I sent him down to a place on Broome street, to a plumber, and from there down to another insurance company, I think it was the Hanover on Pine street.

MR. MARSHALL: Why, you just sat in Court here and heard him say he was going to 50 Wall street.

MR. KRAM: That was on the day he was arrested.

CROSS EXAMINATION BY MR. MARSHALL:

Q When was your attention first called to the 31st day of July? A When was my attention first called?

Q Yes. A Well, when I was notified that my brother was arrested.

Q That was three or almost four months afterwards, wasn't it? A Yes, sir; some time in November.

Q Who told you that it was the 31st day of July that he was accused of committing a crime on? A Well, I came to see him at the Tombs, and he told me that he was arrested for

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being accused of taking some package on the 31st of July.

Q Then that made you remember four months back that on that very particular day you sent him down to a plumber on Broome street and Pine street? A I looked up some records.

Q What records did you look up? A I traced him back to July 31st. It was on a Tuesday.

Q What did you trace, what books did you look at to show you that he went to a plumbers on Broome street and to Pine street? A There was a fire insurance policy to be delivered to a party named Weiss, at 191 and 193 Broome street.

Q Is that the plumber? A Yes, sir, that is the plumber, and from there I sent him---

Q What was the record, what kind of a book was it that had the record in it? A The book I keep home.

Q What do you call it? A Applications, entering applications and policies that I receive and deliver.

Q Do you keep a record of the errands you send the defendant on? A Well, I do remember keeping a record of the policy—that was not delivered on that day

Q When are the policies delivered? A Well, that one particular policy was delivered on July 31st to John Weiss.

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Q What is the record in the book? A One fire insurance policy \$500.

Q What else, anything else? A Well, that is not paid for and when I received the payment for it, I marked it so.

Q Do you deliver policies on the day the policy is in force? A No, sir.

Q Or some time before it goes in force? A No, sir; after.

Q How long after? A Well, it all depends on my condition. Sometimes four days.

Q Was there any day set when this policy was in force in your book that you keep at home? A That policy was dated July 23 or 24; I delivered it on the 31st of July; I gave this to my brother, I gave him that policy to deliver and he took the policy down to the Hanover Fire Insurance Company.

Q Isn't it a fact that you are employed by a fire insurance company on a salary? A No, sir.

Q What is the insurance company you are employed by?
A The Metropolitan Life Insurance Company.

Q Employed by them? A On a commission basis.

Q No salary? A No, sir.

Q If you don't do any business you don't get any money?
A No, sir.

Q What was the number on Broome street where Weiss's place is? A 191 and 193.

Q When you saw that book that you keep at home you knew immediately that you sent the defendant down there? A Yes, sir.

Q What time did you send him? A He left my office between nine and ten, and he came back that afternoon about half past five.

MR. MARSHALL: I would suggest that your Honor does not send this case to the jury to night.

THE COURT: Very well; do you want to sum it up in the morning?

MR. MARSHALL: I would like to sum it up very briefly for five minutes.

THE COURT: How much would you want?

MR. KRAM: I would like ten minutes, if your Honor please.

MR. MARSHALL: I will take half as long as he takes.

THE COURT: You may have ten minutes, but that does not mean fifteen. Mr. Marshall, you can have five. We

will take this up as near eleven o'clock as possible.

The Court then admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until tomorrow, January 31st, 1907, at 10:30 o'clock.

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Amf
PEOPLE vs. ARNOW.

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New York, January 31st, 1907.

TRIAL RESUMED.

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

THE COURT: It is so near 1 o'clock, gentlemen, that I shall not deprive you of your lunch by giving you this case now. Do not talk about it, or permit anyone to talk with you about it, and do not form or express any opinion thereon until the case be finally submitted to you. We will take a recess until 2 o'clock when I will submit this case to you.

(Recess.)

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THE COURT'S CHARGE.

Grand larceny - second offence - circumstantial evidence - motives of witnesses - motive of defendant - reasonable doubt.

FOSTER, J.: Gentlemen of the jury: The question of fact submitted to you for your determination in this case is a simple one.

The law is simple and I will bring it to your attention in a very few words. You must be guided and controlled by the law that I will lay down to you but with the determination of the facts you, alone, have to do.

The defendant at the bar, Charles Arnow, is charged with grand larceny in its second degree.

Larceny is what, in lay language is known as stealing. The law defines it as the taking of personal property from the true owner, with intent to deprive the true owner of its use and its benefit.

The distinction between grand and petit larceny is dependent, so far as this case is concerned, upon the value of the property stolen. If more than \$25 is stolen it is grand larceny in its second degree. If less than \$25 is stolen it is petit larceny.

Now, while the charge here is grand larceny in its

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second degree the District Attorney has failed to prove the value to be greater than \$25 and, therefore, it remains for you to determine this one question: Is the defendant guilty of petit larceny, in stealing this property from Levi, Sondheimer & Company, the complainant. If so, convict him of petit larceny; if not, acquit him.

If you entertain any reasonable doubt about the guilt of the defendant, give him the benefit of it and acquit him.

This case differs from the ordinary case of larceny in this, that the possession of the property, it is claimed, was obtained by this defendant by false representation. A false representation in order to be the basis of larceny must be as to an existing fact, and the People claim here that this defendant falsely pretended that he was a clerk of the corporation known as Krouse & Company, and that as such clerk he was authorized to receive the package in question, the subject of the larceny. And the People claim that that statement was false and untrue and that it was made with intent to obtain the possession of this property for the purpose of stealing it. If you find that, from the evidence, and that pursuant to the false representations that he did steal this property you then, properly, will convict him of petit larceny, but if these elements have not been proven, beyond a reasonable doubt, you may acquit

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him.

That is all there is in the case, gentlemen.

The jury retired.

After 4.10 P. M. the jury returned to court.

THE CLERK: Have you agreed upon a verdict?

THE FOREMAN: We have not.

THE COURT: Do you think you can agree?

THE FOREMAN: No, sir; we cannot.

THE COURT: You have now had three full hours to deliberate on this case. If you cannot agree there is no use in keeping you longer together. If there is any question of fact troubling you I will have your memory refreshed by the Stenographer reading to you the testimony.

If there is any question of law that is troubling you I will be glad to give you further instruction. Do you know of any question that you desire to ask?

THE FOREMAN: No, sir; I do not.

THE COURT: Has any gentleman any question he desires to ask?

THE FOREMAN: No, sir.

THE COURT: Then, gentlemen, there is no use in keeping you longer together and I discharge you from further consideration of this case.

(The defendant was remanded.)

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