

START

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CASE

CASE # 584

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

-----X
THE PEOPLE
vs.
MINNIE NIXON.
-----X

Indictment filed the 27th of April, 1906.

Indicted for Grand Larceny in the Second Degree.

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

For the People

ASSISTANT DISTRICT ATTORNEY MARSHALL.

For the Defendant

MESSRS. PENTECOST & CAMPBELL.

Tried before HON. THOMAS C. O'SULLIVAN, JUDGE, and
a jury, on the 9th day of May, 1906, etc.

Thomas W. Osborne,

Official Stenographer.

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The jury were duly impaneled on the 9th day of May, 1906, and then admonished by the Court in accordance with Section 415 of the Code of Criminal Procedure and an adjournment taken until the 10th day of May, 1906.

On the 10th day of May, 1906, a further adjournment was taken in the case until May 14th, 1906.

May 14th, 1906.

TRIAL RESUMED.

E L E A N O R B A I R D, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Where do you live? A 50 Morningside Avenue.

Q Where did you live on the 9th day of April, 1906?

A 50 Morningside Avenue.

Q Is that where this girl, the defendant, worked?

A Yes, sir.

Q Those are the premises? A Yes, sir.

Q When did this girl first come to work for you?

A About a year and a half she has worked for us.

Q What did she do there? A General work.

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Q You have the entire house? A Entire apartment.

Q It is an apartment? A Yes, sir..

Q How many rooms in that apartment? A Six rooms --
six rooms and a bath.

Q It is upon which floor? A On the fourth floor.

Q Fourth floor? A Yes, sir.

Q There are how many rooms? A Six rooms and a bath.

Q Did the defendant sleep on the premises? A No, sir,
she had a room in 99th Street.

Q That is where her room was, 44 West 99th?

A Yes, sir, she went home at night and came in the morning.

Q What were her duties there? A She did a little bit
of everything. She cooked and waited on the table -- general
girl.

Q Was she the only servant? A Yes, sir, the only one.

Q What happened in regard to your rings on the 9th day
of April, from the time you came into the house until you dis-
covered they were gone? A On the night of April I came in
rather late.

Q About what time was it? A I guess it was a little
after six, and took off my wedding ring and my two diamond
rings.

Q Where did you go when you came in? A Into my own room
in the back.

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Q You took off the rings and did what with them?

A Laid them on my bureau in a little jewel box where I always put them.

Q How big is this jewel box? A A little round box with a velvet top, about like that (indicating).

Q About three inches in diameter? A Opens on top -- pin-cushion on top and has a place underneath for rings.

Q It is about so big (indicating)? A Yes.

Q About three inches in diameter? A Yes.

Q Was the cover placed on top, if you recall; was the pin-cushion placed over it when you put your rings in there?

A Yes, sir, it was; it closes down.

Q It closes down tight? A Yes, sir.

Q Was there any other jewelry in there? A Nothing of any particular value. There were a few little odds and ends which were not touched -- simply the wedding ring and two diamonds.

Q After you put these little rings in this reticule -- what would you call it? A Jewel box.

Q After you placed your rings in the jewel box what did you do then? A They called me into the front and told me to come in to dinner, that was about quarter to seven.

Q The dining room is how many rooms away? A The dining room is in front of the house and my room is the last room

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EXHIBIT

1870

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in the back of the house.

Q Where is the kitchen? A Almost opposite my room, all but a few doors.

Q Is the kitchen on the opposite side of the hall?

A The kitchen is opposite my room, on the opposite side.

Q You went in to dinner? A Yes, sir, about quarter to seven.

Q Where was this defendant when you got in the dining room, where was she at that time? A I could not say. She was either in the dining room or kitchen. I don't remember.

Q Did she wait on you during dinner? A Yes, sir.

Q How many in your family at that time? A My mother and two sisters and myself.

Q When did you discover the rings were gone?

A I went into the front and ate my dinner and we stayed in the there until about eight o'clock, only time I left the dining room was to answer the telephone at twenty minutes after seven, in the hall. I went back to the dining room again and at eight o'clock one of my sisters called me and asked me if I closed my bed room door.

MR. PENTECOST: I object to what the sister asked her and move to strike it out.

Motion granted.

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BY MR. MARSHALL:

Q Your attention was called to your bed room door?

A Yes, sir, and I went in there and turned the electric light up and found that the room had been disturbed, all the bureau drawers -- there were three bureaus in the room -- were emptied out on the floor or pulled out. The window was open on the fire-escape and all my jewelry gone -- when I made search, two rings, my wedding ring, three silver mirrors, two brushes, an amethyst bracelet and pearl bracelet -- as near as I can remember that was what was taken.

Q What did you do? A I called my sister -- my sister was waiting outside and I called her in and showed her the condition of the room and then I called Minnie and told her we had been robbed.

Q What did Minnie say? A Did not seem to bother her much at all. I went out into the hall and called up the Police Headquarters. She wanted to know what I was doing that for, that the thing had been committed and what good did it do, and, in the meantime, my mother had gone down in the hall to tell the hall-boy about it. I went back in the room again and waited.

Q. Your kitchen is right next to the dining room?

A Well, there is a little butler's pantry in between.

Q After your dinner did you still sit in the dining room

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up to the time you went into your room? A Went in the parlor and some of us were in the dining room.

Q The parlor is where? A Next to the dining room on the same side.

Q You were all seated in the dining room? A Yes, sir.

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

Q Did not hear a sound? A No noise at all.

Q Have you talked with the defendant since? A No, sir.

Q Have not had any talks with her at all -- were you present when Officer Barnet came? A Mr. Barnet did not come first. One of the precinct men came first, and we had of course telephoned down to the Central Office and they sent somebody up.

Q Mr. Barnet came? A He came up and took a list of the articles.

Q When did he come up, the same night? A No, sir, I think the next day.

Q Were you present when he questioned the defendant?
A No, sir.

Q Were you present when the defendant was placed under arrest? A No, I was not there.

Q When did you go to Philadelphia? A The 18th of April I think I went to Philadelphia.

Q In response to what? A They telegraphed on and said

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my rings had been found in Philadelphia.

Objected to.

Answer stricken out.

Q In response to a telegram? A Yes, sir.

Q You went to Philadelphia? A Yes, sir.

Q In company with him? A With Detective Barnet.

Q Did you see your rings in Philadelphia? A Yes, sir,
and I identified them.

Q Where were they? A In the Central Office.

Q Central Office of the police in Philadelphia?

A Yes, sir.

Q Describe these rings to the jury and tell how you
identified them as your rings? A One was a small diamond ring
with the engraving on the inside F. A. R. to M. R. R., December
6, 1869. The other one, I knew my large ring from the setting.

Q Had a peculiar setting? A It was a high setting and
I knew it.

Q How long had you had the larger ring? A Five years.

Q And how long the smaller ring? A The smaller one
had been given to me by my mother; I had that some time.

Q You were perfectly familiar with the engraving on the
inside? A Yes, sir.

Q The larger ring you had five years? A Yes, sir.

Q Did this defendant ever speak to you about her brother?

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A Yes, sir, she told me she had a brother.

Q When did she speak to you about her brother, on how many occasions? A I could not say that. She mentioned him several times, as having a brother, a policeman, in Philadelphia.

Q Did she say what his name was? A Not that I remember.

Q This fire-escape that opened into your bed-room, where does that lead to? A Down into the court.

Q Inside court? A An inside court. That court goes out on a park, Morningside Park -- big gates there and if anybody went down the fire-escape, could go out that way.

Q You are sure about the time of night? A Yes, sir.

Q This was about eight o'clock? A Between seven and eight. We did not go into the back until eight.

Q Was there a light in the kitchen at that time?

A Yes.

Q Was there a light in the dining room? A Yes, sir.

Q And a light in the parlor? A Yes, sir.

Q A light in the hall? A Light in the front of the hall. There is a bulb in the back not lighted. There is a light in the bath room opposite my room.

Q Directly opposite your room? A Directly opposite my room. There was a light in the bath room.

Q Electric light? A Yes, sir, both, electric and gas.

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I do not know which was lighted, probably the gas, because I usually turn the bulb out.

Q Can you recall on that night whether it was the gas or electric light? A No, sir, I cannot, except that there was a light there.

Q There was a light when you went out to your dinner?
A Yes, sir.

Q And one when you discovered the burglary or the alleged burglary? A In the bath room, yes.

CROSS EXAMINATION BY MR. PENTECOST:

Q I understood you to say that you did not purchase either one of these rings yourself? A No, sir.

Q Have you ever purchased much jewelry of similar description? A No, sir.

Q I understood you to say there were in the apartment at the time you came in, about after six o'clock as you say, your mother and two sisters? A Yes, sir.

Q And this maid? A Yes, sir.

Q When you were all at your dinner about seven o'clock, between seven and eight o'clock, the defendant attended to her duties in waiting on the table, as usual? A Yes, sir, in and out the dining room ~~and~~ from the kitchen.

Q In order to reach the dining room from the kitchen, she

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would have to go through the hall? A No, sir, come right through the butler's pantry into the dining room.

Q Pass from the kitchen into the butler's pantry to the dining room, back and forth? A Yes, sir.

Q While you were in the dining room from seven to eight, did any one leave the room, either your mother or two sisters?

A I went to the telephone twice.

Q Are you the only one that left the room during that time? A As near as I remember -- I don't remember anybody else getting up from the table. I answered the phone on both occasions.

Q I understand you cannot state positively whether anybody else left the room except yourself? A I am almost positive. I would not say positively, because not being aware anything was wrong, I could not say whether anybody else left the room or not.

Q The house has an elevator in it? A Yes, sir.

Q And there are two elevator boys? A Yes.

Q How long had they been in the house? A Well, I can only say about one, he has been there about two years.

Q Longer than this defendant? A May be not quite two years.

Q Longer than the defendant? A Minnie had been with us about a year and a half, not quite a year and a half.

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Q The other elevator boy was he a new boy? A No, sir, he has been there about a year.

Q Were either of those elevator boys in the habit of coming into your apartment for any purpose during the week?

A Sometimes to brush clothes when we asked them to and take them up on the roof and brush clothes, that is all.

Q Access to the room could have been had through that fire-escape, by means of the fire-escape? A Not with the window locked on the inside, as we knew it had been all day.

Q Who locked it? A My sister.

Q Did you see her lock it? A No, sir, but she said positively -- I did not see her lock it, no.

MR. PENTECOST: I move that the testimony about the locking of the window be excluded and stricken from the record unless the witness saw the window locked.

MR. MARSHALL: You brought it out yourself.

BY THE COURT:

Q Did you see it locked? A No, sir. I saw the window locked in the afternoon, as it is always locked -- never opened except to air the room.

MR. PENTECOST: I move that the statement that the window was always locked and never opened except to air the room be stricken from the record.

MR. MARSHALL: She is only speaking within her own

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knowledge. The only time she noticed it, it was locked.

THE COURT: The statement about the sister will be stricken from the record, that is to say, that she knew it was locked because her sister had told her she had locked it. You may strike that from the record.

I deny the motion to strike from the record "It is always locked except when it is opened for airing the room."

MR. PENTECOST: I object and except to that as being a statement of a general custom and not applicable to this particular case.

THE COURT: It is a statement by a person who is a resident of and tenant of that same room.

MR. PENTECOST: As the record now is there appears to be some testimony that the window was locked, and I have moved to have the statement that the window was locked during the day or during that afternoon stricken from the record as being hearsay.

THE COURT: That portion which comes by way of information from the sister, that portion will be stricken out, but that portion which is direct testimony from the tenant of the room will not be stricken from the record.

MR. PENTECOST: My motion is to strike out all the evidence with regard to the window being locked.

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THE COURT: (To the stenographer) Read all the testimony upon that point).

(The stenographer reads all that testimony of the witness given in reference to the locking of the window).

THE COURT: Mr. Pentecost, I will grant your motion and strike out all the testimony as to the locking of the window, in order to straighten out the record.

BY MR. PENTECOST:

Q In the opening address to the jury, the learned District Attorney stated that a candle or piece of candle was found in the room, is that true? A Yes, sir.

Q Did that candle belong to you? A No, sir, I had never seen it before.

Q Can you describe it? A The candle was all burned. As near as I can say it was a plumber's candle, large candle, about that big round (indicating).

Q How long? A It had been broken off. It was not a whole candle.

Q It was burned? A The whole thing was burned out as though it had fallen back on my brush and comb tray and burned itself out before anybody came into the room.

RE-DIRECT EXAMINATION BY MR. MARSHALL:

Q Do you recall how long you were in at dinner, about

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THE COURT: (To the stenographer) Read all the testimony upon that point).

(The stenographer reads all that testimony of the witness given in reference to the locking of the window)

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RE-DIRECT EXAMINATION BY MR. MARSHALL:

Q Do you recall how long you were in at dinner, about

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how long? A We went in about quarter to seven and were sitting in the dining room and parlor until about eight o'clock.

Q Were you sitting in the dining room up to eight o'clock? A Some of us were in the dining room. I was in the parlor.

Q You personally was in the parlor? A I was in the parlor at the time.

Q What time did you finish your dinner? A At 7:30, as near as I can remember.

Q About half past seven? A About half past seven.

Q Were the things taken out then? A Yes, sir, the things were taken off the table.

Q Was the defendant in the room from half past seven until eight o'clock, in the dining room? A She was in the kitchen washing her dishes supposedly -- as I remember washing her dishes.

Q This larger ring without the engraving, contained what kind of stone? A Diamond.

Q Do you know of your own knowledge the size of that diamond, do you know how big it was? A About three and a half carat, three and a half to four. I have had the ring valued.

Q You have had the ring valued? A Yes, sir.

Q Where was that done? A At Schumann's.

Q Where is Schumann's place? A Broadway and 21st

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Street.

Q When was that done? A It has been done on several occasions. It has been in there several times being fixed and only recently I had it in there having the setting fixed.

Q Broadway and 21st Street? A 21st or 22nd.

Q Schumann? A Yes, sir.

Q Do you recall the name of the particular man that you dealt with in there? A I know Mr. Schumann myself.

Q It is Mr. Schumann? A Mr. Schumann personally.

Q What is his first name? A Carl.

Q As to the other ring, what was that? A The other was a solitaire, the same as the large one, two solitaires.

Q Do you know of your own knowledge how large the smaller ring was? A Much smaller than my large one.

Q How many carats? A I couldn't say that.

Q Have you ever had that ring valued? A No, except what my mother has had it valued.

Q Your mother has had it valued? A Yes. I know what the ring is worth. I do not know the number of carats.

Q How do you know how much the ring is worth, from what somebody told you? A Yes, sir, my mother told me the value of it.

Q Only from what your mother told you? A Yes, sir, I never had the little one valued myself.

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Q How often did these elevator boys come into your apartment, once a week or once a month? A It depended -- sometimes we had them up there shaking the rugs upstairs and polishing the floors for us and things like that.

Q They were not in your apartment that night, no elevator boy came in for any purpose whatever? A No.

Q What time was it that you saw this window locked on the inside?

MR. PENTECOST: I object. She has already testified that she did not see it locked.

MR. MARSHALL: She swore positively that she saw it locked on the inside on the afternoon.

THE COURT: I think that was stricken out. She can testify as to the condition of the window.

BY MR. MARSHALL:

Q During the afternoon of April 9th, did you have occasion to observe the condition of that window of your room, the one that opened on to the fire-escape, at any time during the afternoon? A We were all very nervous about that window for the simple reason it opens on the fire-escape.

MR. PENTECOST: I object as not responsive.

THE WITNESS: (Continuing) And I always look at it myself.

BY MR. PENTECOST:

Q Can you tell whether you looked at this window that

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particular afternoon or not? A I know absolutely that I did and I know the window was locked.

Q What time of the afternoon was that? A I could not say.

Q Did you go to a matinee in the afternoon?
A No, I was downtown.

Q What time did you go out, do you remember -- after lunch? A I do not remember.

Q It was sometime during the afternoon? A Yes, sir. I know the window was locked.

Q When you went out? A When I went out the window was locked.

Q That was in the afternoon? A Yes.

Q Sometime about one o'clock? A I couldn't say except it was in the afternoon that the window was locked, as it is always locked.

Q Let us get at the condition of this candle, where was it? A On my brush and comb tray, on my bureau.

Q That is a silver tray about as big as this?
A No, a china tray hand painted.

Q About so big? A Yes, sir, a little bit larger than that.

Q The candle was in what shape on that? A The candle was entirely melted out over the china tray.

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Q How much grease, candle grease, was on the tray?

A Nearly half.

Q Half of the tray? A Yes, sir, where it had melted.

RE-CROSS EXAMINATION BY MR. PENTECOST:

Q At what time on this particular day did you leave your house? A I could not say, Mr. Pentecost.

Q Are you not employed in business? A Yes, sir, I am a stenographer.

Q Where? A With Mr. E. E. Vreeland, 319 Broadway -- I am not there now.

Q On that day, the 9th of April, were you employed at that place? A Yes.

Q Were you in business all day? A I was down late that day.

Q You went down in the morning? A No, I did not.

Q You remained at home all the morning? A No, I was not in the house in the morning.

Q Where were you if you can remember? A I believe I went downtown. I am not quite sure exactly where I went.

Q In the morning? A Yes.

Q I merely want to know when you left the house that morning, about what time? A I think it was around noon-time. I am not sure.

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Q About noon? A Yes, it is so long ago I have forgotten, because I did not think anything about it at the time.

Q You did not return until after six o'clock? A It was around 5:30 or quarter to six. I got home a little bit earlier that night, than I usually do.

Q I understood you to say on your direct examination that you got home rather late that night? A Late for me -- probably -- sometimes my hours are not regular -- sometimes home at six and sometimes 5:30 and sometimes I am not home until quarter to seven, all depends upon my work.

Q We will go back to the locked window, you stated the case accurately when you said that you did not see the window locked? A What do you mean? I do not quite understand your question.

Q In your former answer when you said you did not see that window locked -- A I did not see anybody lock it.

Q You did not lock it yourself? A I did not lock it myself but I saw that the lock was turned on the top.

Q When you left the house? A Yes.

Q At noon that day? A Yes, sir.

Q That is the last you saw of the window? A Until I saw it open, that is the last I saw it locked.

Q So far as the afternoon is concerned, you personally, outside of what you have been told, know nothing about it?

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A No, sir, I do not know anything further than what I have told you.

Q The testimony is that you saw the window in a locked condition? A Yes, sir.

Q At about noon? A Yes, sir.

Q The next time you saw it was when you returned?

A Was when I came back, the window was down and I did not notice then whether it was locked or whether it was not.

Q The next time you saw it it was open? A Yes.

EDWARD C. BARNETT, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q How long have you been on the Police force?

A About ten years.

Q Did you arrest the defendant? A No, she was brought down by Detective Sergeants Darcy and Griffith.

Q Did you have an interview with her after the 9th of April? A On the next afternoon after the robbery was committed I went up to 50 Morningside Avenue and had a conversation with the defendant.

Q Where was it held? A In the apartment of Mrs. Baird.

Q What did she say -- and what did you say? A I asked

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her where she was at the time of the robbery and she said in the kitchen. I asked her what she was doing and she said washing dishes. I asked her if she had at any time during that day or the day previous been at that window and raised it and she said no.

Q She said she had not? A Yes, sir.

Q Where was this held? A In that bed room where the robbery had taken place. I asked her if she at any time had been near the window when her hands were wet and greasy and she said no, and she went to the window and I showed her some finger marks near the top of the sash. I said how did they get there. She rubbed them off that way (indicating) and said "I don't know how they got there."

Q She rubbed them off? A Rubbed them off.

Q What did she say after that? A She said she felt sick and wanted to sit down.

Q She sat down? A She sat down.

Q Did you have any further conversation with her?

A I asked her if she knew anything about the robbery and she said no.

Q Did she say anything to you about a brother?

Objected to as leading.

Q But did she say anything to you about any of her family?

A No, she didn't say anything about the family at that time.

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Q After the arrest on the 17th of April --

Objected to as leading.

THE COURT: The questions are leading Mr. Marshall and I sustain the objection.

MR. PENTECOST: I move that whatever the officer said be stricken out.

THE COURT: I will strike out both questions.

BY MR. MARSHALL:

Q Did you have any further conversation with her at any time? A Yes, sir, I had a conversation with her after the arrest. After I came back from Philadelphia and also at the Police Court.

MR. PENTECOST: I object upon the ground that there is no evidence he was in Philadelphia and the question is so uncertain -- did you have any conversation with her at any time.

BY MR. MARSHALL:

Q When was the next conversation you had with her?

A I had at the Police Court.

Q What did she say? A I asked her if she ever sent these diamond rings to her brother in Philadelphia and she said no. She said somebody else might have sent them. "I don't know who sent them. I did not send them, may be somebody else sent them".

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Q Had you been to Philadelphia in the meantime?

A No, that was the day she was brought down. I had a conversation after I came back from Philadelphia.

Q What was the conversation?

MR. PENTECOST: I do not get the drift of this witness' testimony. I understand him now to say the next day after the alleged burglary he asked this defendant if she had sent those rings to her brother in Philadelphia.

THE WITNESS: I did not say that. This is on the 17th of April.

BY MR. MARSHALL:

Q Eight days afterward?

MR. PENTECOST: In the Police Court?

THE WITNESS: In the Police Court.

BY MR. MARSHALL:

Q What was the conversation on the 17th of April?

A I asked her if she had sent those diamond rings to her brother in Philadelphia and I asked her if she would tell me what she did with the rest of the property she had taken and she said she did not take it and did not send the rings to her brother. I said, how did they get there, and she said, I don't know, may be somebody else sent them to him. I said, does he know anybody here, and she said, I don't know.

Q Did you go at any time to 44 West 99th Street? A I

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went there in company with Detective Sergeant Darcy.

Q How did you come to go there? A She told me that was where she lived.

Q You went there in response to a statement that she lived there? A Yes, sir, she said she worked during the day-time.

Q When did she say that? A At the time when I was there the day after the burglary, she said she worked there during the day, and at night she lived with Mrs. Goldie at 44 West 99th. I went there on the 17th, after the arrest, and we searched the premises and underneath her sofa in her room we found this post office receipt from Philadelphia.

MR. PENTECOST: I object and move to strike it out from the record the description of a paper handed by the witness to the District Attorney.

THE COURT: Yes.

BY MR. MARSHALL:

Q You found these papers? A Yes, sir, and also these, and also this and that.

Q A photograph card --

MR. PENTECOST: I object and move to strike out the description.

THE COURT: Motion granted.

MR. MARSHALL: The witness can designate that as a

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card with a photograph on without injuring his client.

MR. PENTECOST: I object and move to strike it out.

MR. MARSHALL: I withdraw it and consent that it be stricken out.

BY MR. MARSHALL:

Q You found these things? A Yes, sir, and that piece of sealing wax was on the defendant at Police Headquarters when she was searched, in her purse.

Q Was there any other property found? A The other property was found a day later after we came back from Philadelphia -- a couple of days later.

Q That is this property (indicating)? A yes, sir, and Mrs. Baird was there with us and she picked that property out.

Q Did she make any other statement to you at any time after that in regard to this transaction? A She denied all knowledge of it.

Q Did you go to Philadelphia with Mrs. Baird?

A I did.

Q When was that? A On the 18th of April.

MR. PENTECOST: I object as incompetent, irrelevant and immaterial whether he went to Philadelphia or not.

MR. MARSHALL: Mrs. Baird has sworn that she went to Philadelphia and identified her rings there and if I cannot corroborate my own witness I do not know what I

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can do.

Objection overruled. Exception.

BY MR. MARSHALL:

Q Did you go to Philadelphia with Mrs. Baird? A I did.

Q Where did you go when you got there? A Went to the Detective Bureau.

Q What did you find there? A We were shown a couple of diamond rings.

Q Who by? A By the Captain in charge of the Detective Bureau.

Q You were shown a couple of rings? A Yes, sir.

Q Did Mrs. Baird look at them? A She looked at them and identified them as her rings, as being taken the night of the robbery.

BY THE FIFTH JUROR:

Q Whose signature is that on the postal card?

MR. PENTECOST: I object as incompetent, irrelevant and immaterial.

BY MR. MARSHALL:

Q I hand you this card and ask you if you found that on the premises occupied by the defendant? A I did.

MR. MARSHALL: I offer it in evidence.

Objected to as incompetent, irrelevant and immaterial.

MR. MARSHALL: If not connected I will withdraw it

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from the consideration of the Court and jury.

MR. PENTECOST: I object to it at this time.

THE COURT: I think perhaps that while the Court might be ready to rule upon it now, it might be well to defer the presentation of it for a little while any way. I will sustain the objection at present.

MR. MARSHALL: If your Honor please it simply is a matter which officer I offer it by.

THE COURT: I will sustain the objection to it now.

BY MR. MARSHALL:

Q If your Honor will state the ground of your ruling --

THE COURT: You are waiting you say to adduce more testimony to make that acceptable.

MR. MARSHALL: The evidence I have so far is that this is a piece of paper --

MR. PENTECOST: I object to any statement made by the District Attorney in connection with the card.

THE COURT: I will sustain the objection at present, and I think further discussion upon it is unnecessary.

MR. PENTECOST: I ask Mr. Marshall to take the card away from the presence of the jury.

MR. MARSHALL: I beg your pardon Mr. Pentecost. It was not put there for any such purpose.

(No cross examination)

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P A T R I C K J. D A R C Y, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

BY MR. MARSHALL:

Q Did you go to Philadelphia? A No, I did not.

(Further examination of this witness is suspended for the present)

E D W A R D C. B A R N E T recalled:

BY MR. MARSHALL:

Q Did you see in Philadelphia one James Bowers?

Objected to as incompetent, irrelevant and immaterial.

MR. MARSHALL: Subject to being connected.

Objection overruled. Exception.

THE WITNESS: I did.

Q What did he look like? A He was a colored man.

They said he was --

Q He was a colored man? A Yes, sir.

Q Say what his name was? A James Bowers.

Q Did you have a conversation with this defendant in regard to your trip to Philadelphia? A Yes, sir.

Q What was the conversation? A I told her that her brother was arrested out there.

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MR. PENTECOST: I object upon the ground that the time of the conversation is not inquired for.

Objection overruled.

Exception.

BY MR. MARSHALL:

Q Make it definite? A I had the conversation with her. I said now your brother --

Q When did you have the conversation, about when?

A I had it over in the Tombs with her.

Q When was that? A That was -- she was arrested on the 17th and may be after I came back from Philadelphia, on the 18th -- may be about the 21st or 22nd.

Q What did you say to her in the Tombs? A I said your brother is under arrest in Philadelphia for receiving them diamond rings from you and the best thing you can do is to tell me what you did with the rest of the property so I can tell the judge and that will help you out.

Q Did you mention the name of her brother at any time?

A Yes, sir, I told her that her brother James Bowers, the policeman there in Philadelphia.

Q Did she mention his name to you at any time?

A At Headquarters, the day she was arrested, we told her her brother was arrested there.

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BY MR. PENTECOST:

Q "We told her"? A Yes, sir, Sergeant Dunn and myself, both, both told her, the best thing she could do was help her brother out by making what restitution she could.

BY MR. MARSHALL:

Q What did she say? A She said I don't know nothing. I don't know nothing.

MR. PENTECOST: I move that all that testimony be stricken out as not binding upon this defendant.

MR. MARSHALL: It is her own conversation.

MR. PENTECOST: It is not. He went in the Tombs and had a little colloquy in the presence of this defendant.

THE COURT: His conversation was addressed to this defendant.

MR. PENTECOST: Yes, but it does not bind the defendant.

THE COURT: I will let it stand. I will overrule the objection.

Exception.

BY MR. MARSHALL:

Q I hand you this card and ask you if the name of James Bowers is on that card? A Yes, sir. James Bowers is on this.

Q What other name is on it? A Minnie Nixon, 44 West

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99th.

Q That is the name of the defendant? A Yes, sir.

Q What is the card?

Objected to as incompetent, irrelevant and immaterial unless this witness is an expert.

BY MR. MARSHALL:

Q You are familiar with post office cards of that description? A Yes, sir, I showed this to James Bowers in Philadelphia and he said --

Objected to.

BY MR. MARSHALL:

Q Not what he said.

THE WITNESS: This is a receipt.

Objected to. Objection sustained.

MR. MARSHALL: Will your Honor permit me to ask what this card is?

BY MR. MARSHALL:

Q What is it?

MR. PENTECOST: I object.

Objection sustained.

MR. MARSHALL: Now I offer it in evidence.

Objected to. Objection overruled. Exception.

The card is marked in evidence People's Exhibit 1.

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PATRICK J. DARCY recalled, having been previously sworn, testified as follows:

BY MR. MARSHALL:

Q Did you place the defendant under arrest? A Yes.

Q When? A At about 10:30 or 11 a.m. on April 17th.

Q Where? A 50 Morningside Avenue.

Q What did she say? A I charged her with --

Q What did you say? A I placed her under arrest and told her that some jewelry located in Philadelphia, that her brother had in his possession, and asked her if she had a brother in Philadelphia by the name of James Bowers and she said she had and I said he was also under arrest for having this stolen property of Mrs. Baird's in his possession. She denied taking the jewelry.

Q Did she say anything else at any time since her arrest? A Only denials.

Q Were you with Officer Barnet when he went to 44 West 99th? A Yes.

Q Were you with him when this property was found?
A Yes, sir.

Q Card? A Yes.

Q And clothes? A Yes, sir, and bracelets.

Q Bracelet and spoon -- were you present when she was searched at headquarters? A Yes, sir.

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Q Did you see the sealing wax found upon her?

A Yes, sir.

Q And these papers? A Yes.

Q Which you recognize as having been found in her place? A Yes, sir.

Q And the book? A The book in her possession.

Q The book was ~~in her~~ possession? A Yes, sir.

(No cross examination)

The Court admonishes the jury in accordance with section 415 of the Code of Criminal procedure and takes a recess until 2 o'clock.

AFTER RECESS.

Trial resumed.

ELEANOR BAIRD recalled for further direct examination:

BY MR. MARSHALL:

Q I hand you these things -- I do not know what you call them? A Yes, sir, those belong to my mother.

Q You identify those as belonging to your mother?

A Yes, sir.

MR. PENTECOST: I object to the evidence in regard

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to these articles as not being mentioned in the indictment.

MR. MARSHALL: We offer them to prove intent, not for the purpose of proving any other crime or any other larceny. They are property belonging to the complainant found in the constructive possession of the defendant and they are offered simply to prove intent.

Objection overruled. Exception.

Q I hand you these towels and ask you if you know where they come from and whose they are?

Same objection, ruling and exception.

A They belong in our apartment, Mr. Marshall -- belong to my mother.

Q Were you present when they were purchased? A Yes, sir, I was with her the day she bought them.

Q I hand you this garment and ask you if you identify that? A Yes, sir, these are mine.

Same objection, ruling and exception.

Q And this (indicating)? A That is mine also, both of them.

Same objection, ruling and exception.

MR. MARSHALL: I offer this package of dry goods in evidence.

MR. PENTECOST: I object to receiving the goods in

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evidence, not only upon the ground hitherto stated, but upon the ground that some of the goods identified here are not the property of the complainant, nor were they in the possession of the complainant and hence they are incompetent and irrelevant and immaterial.

MR. MARSHALL: What is the difference on the question of the intent. If they were offered to prove some crime, then the property of the complainant would be entirely material, but where they are offered to show intention, if she knows they are not the property of this defendant, I think it is entirely relevant.

MR. PENTECOST: If this is supposed to prove that this defendant stole some property belonging to this complaining witness' mother, it unquestionably proves a separate and distinct crime and has nothing to do with this indictment.

MR. MARSHALL: I concede that, but it is not offered for that purpose.

THE COURT: It is not necessary for further argument. The question has been ruled upon and it will stand as it is.

Objection overruled.

Exception.

The bundle of goods referred to are marked in evi-

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dence People's Exhibit 2.

BY MR. MARSHALL:

Q I hand you a bracelet and ring and ask you if you recognize that?

Same objection, ruling and exception.

A I do.

Q That was the property of whom? A One of my sisters, that they wore at a masquerade.

Q Your sister lived with you in the apartment where this defendant was a servant? A Yes, sir.

Same objection, ruling and exception.

Q And this (indicating)? A Yes, sir, that was worn at the same time.

Same objection, ruling and exception.

Two bracelets are offered in evidence, having been identified by the complaining witness, and are received and marked People's Exhibit 3.

Q I hand you this spoon and ask you if you can swear positively as to who that belongs to? A Yes, sir, it belongs to my mother.

Same objection, ruling and exception.

Offered in evidence, received and marked People's Exhibit 4.

Q And the hat pin? A That is mine.

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Same objection, ruling and exception.

The hat pin is offered in evidence; received and marked People's Exhibit 5.

Q Do you recall the condition of the weather on the night of April 9? A Yes.

Q 1906? A Yes, sir, raining very hard, a very wet night.

Q Was it raining when you came in? A Had been raining all day.

Q Was it raining at 8 o'clock? A Yes, sir, it rained all the evening up to the time I went to bed.

Q There are different degrees of rain, was it raining hard or soft? A Very hard.

Q How long was it after you discovered the burglary before the police officer came in in uniform? A I should say about a half an hour.

Q Do you recall the condition of his garments? A Yes, sir, he had a rubber coat on which was drenched with rain.

Q Now did you examine, between the time you discovered the burglary and the entrance of the officer, the condition of the carpet in your bed room?

Objected to as leading.

Q Did you examine the carpet?

Objected to.

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Objection sustained.

THE COURT: Ask her what she did.

BY MR. MARSHALL:

Q What did you do with regard to the carpet? A I simply noticed there were no marks on the carpet. The carpet was perfectly dry. That is you mean when the man came in -- the man with the coat?

Q No, between the time you discovered the burglary and the entrance of the man with the coat? A At the time I went out of my room the carpet was dry. After the man had been in there the carpet was wet.

Q Between the time you discovered the burglary and the entrance of the police officer, did you examine the carpet?

A I noticed it was not wet.

Q It was not wet? A It was not wet, not a spot on it.

Q This inner court, are there other apartments around on the different sides? A Just on one side, that is apartments that face opposite ours, in the rear.

Q Directly opposite? A Yes, sir, the windows look directly in the windows on the opposite side of the court.

Q How far is it across this court about? A That I could not say except that you can see in the windows. It is near enough to see in the windows very plainly.

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Q Into the opposite apartment? A Yes, sir, into the opposite window.

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

DIRECT EXAMINATION BY MR. MARSHALL:

Q You are a Police officer of the City and County of New York? A Yes, sir.

Q Were you present when the defendant was placed under arrest? A Yes, sir.

Q Where was it? A 50 Morningside Avenue.

Q What did she say? A We accused her of stealing some diamond rings.

Q Who was with you? A Detective Sergeant Darcy.

Q Who did the talking? A Detective Sergeant Darcy at first.

Q What did he say? A Asked her if she had taken these rings and she said no.

Q Give the entire conversation as near as you remember it. A We went to the house No. 50 Morningside Avenue and there we saw the defendant and Mrs. Baird and her two sisters and mother. And they spoke about losing these diamond rings and the first thing I done was to examine the window to see if

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anybody had come in from the outside. There were no marks --

BY MR. PENTECOST:

Q What date was this? A April 17th.

THE WITNESS: (Continuing) There were no marks on the outside of the window.

BY MR. MARSHALL:

Q Have you got that date right -- the alleged burglary was on the 9th -- how long after was it? A This was on April 17th.

Q That you went there first? A That was the first time I went there.

Q That was eight days after the larceny took place?
A Yes, sir.

Q What did you do? A We saw the defendant and we placed her under arrest and took her to Police Headquarters.

Q What did she say at Police Headquarters if anything?
A We arraigned her before the desk and charged her with the larceny of these two rings valued at something like \$850 I think and Sergeant Dunn came out then and said to her "You have got your brother into a whole lot of trouble in Philadelphia -- what did you do with the rest of this property, what did you do with those rings" and she stated "I did not take them, boss. I don't know anything about them."

Q Anything else said there at that time? A That was all

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I remember.

Q Were you present in the Tombs when Officer Barnet had a talk with her, were you with Barnet in the Tombs?

A I remained downstairs.

(No cross examination)

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

DIRECT EXAMINATION BY MR. MARSHALL:

Q What is your business? A Jeweler.

Q Where? A 937 Broadway.

Q How long have you been in the jewelry business there?

A 15 years.

Q Do you know Mrs. Eleanor Baird, the complainant?

A Yes, sir.

Q How long have you known her? A About nine years.

Q Do you recall a certain solitaire diamond ring which she brought to your place on several occasions? A Yes, sir.

Q You are familiar with that ring? A I am.

Q Can you state to the jury what the market value of that ring would be?

MR. PENTECOST: I object unless the witness is prepared to state that the ring about which he is now talking

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is the ring that he knows to have been lost by Mrs. Baird on the 9th of April and identified by her in Philadelphia subsequently.

BY MR. MARSHALL:

Q How can he tell all that. Mrs. Baird testified that she took this ring --

THE WITNESS: I can identify it. I can swear to it if I see it.

MR. MARSHALL: The ring is in Philadelphia.

MR. PENTECOST: I move that the learned District Attorney's remark that the ring about which he is asking the witness is in Philadelphia be stricken out.

MR. MARSHALL: I will withdraw that. Anything that Mr. Pentecost objects to I withdraw and ask the Court to instruct the jury to disregard it. Mrs. Baird testified that she had taken this particular ring -- if it is necessary I can recall her as to any other ring she may have taken to Mr. Schumann -- and identify the ring in that way, if your Honor thinks it advisable to do that, but your Honor will remember that Mrs. Baird's testimony is that she took this particular ring in to Mr. Schumann, this particular solitaire ring and it was the only one she had.

THE COURT: I think you had better recall Mrs. Baird.

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E L E A N O R B A I R D recalled:

BY MR. MARSHALL:

Q You testified on your direct examination that you took the ring mentioned in this indictment to Mr. Schumann?

A yes, sir.

Q Did you ever have any other ring in your possession that was anything like this particular ring that is mentioned in the indictment? A No, only that one.

Q That is the only one you ever took of that description to Mr. Schumann? A No, I think Mr. Schumann re-set my little one for me. I know he did the smaller one of the two.

Q And the large one was how many carats did you say? A I should say three and a half, as near as I know. I do not know enough about rings according to the carat of them, to know how many carats it was.

MR. PENTECOST: Then I move that the testimony be stricken out as to the size of this ring.

MR. MARSHALL: She does not testify positively. She says about three and a half carats.

MR. PENTECOST: She says she does not know.

MR. MARSHALL: I will consent that the number of carats be stricken out.

BY MR. MARSHALL:

Q What was the relative size of these two rings -- if you

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handed them to me, what was the relative size of them?

A What do you mean?

Q What would be the relative size of these rings?

BY THE COURT:

Q How did they compare with each other? A One was very much smaller than the other.

BY MR. MARSHALL:

Q Different setting? A They were set very much alike, rather a high setting, I should say, but one was much smaller than the other one. My engagement ring was a very large ring.

BY THE COURT:

Q They were the only rings you ever brought to Mr. Schumann for re-setting? A Yes, sir.

BY MR. MARSHALL:

Q Were those two rings? A Yes, sir, those two rings.

CROSS EXAMINATION BY MR. PENTECOST:

Q You had no other rings? A I had smaller rings at different times but not valuable rings.

Q Are these the only rings that you ever took to Mr. Schumann? A Yes, sir, they are the only rings I ever took to Mr. Schumann belonging to me.

Q Belonging to you? A Yes, sir: I did not take anybody else's rings there. My sisters have had their rings there be-

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ing examined, the same as I have.

Q Did you ever take any of your sisters' rings to Mr. Schumann to be examined? A No, I did not.

Q That was a slip of the tongue, when you said these were the only rings you ever took belonging to you? A I did not mean it in that sense of the word. I misunderstood your question.

BY MR. PENTECOST:

Q Is this the Mr. Schumann you refer to (indicating the last witness)? A Yes, sir.

CHARLES WILLIAM SCHUMANN recalled:

BY MR. MARSHALL:

Q Tell us the market value of the solitaire diamond ring which Mrs. Baird brought to your place? A About \$325.

MR. PENTECOST: I object as before, that the rings are not here to be identified by Mr. Schumann.

MR. MARSHALL: That is not our fault.

Objection overruled. Exception.

BY MR. MARSHALL:

Q About how much? A About \$325.

Q Do you recall the value of the smaller ring?

A Only indistinctly. It was quite a small stone, probably worth \$75, in that neighborhood, as near as I can remember.

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I have papers to show it though.

Q You have papers? A Yes, sir, I have papers to show.

Q And papers which would show the value of the larger ring? A Yes, sir.

(No cross examination)

MR. MARSHALL: Now, if your Honor please, there is one witness who is out of the state that is very material for the People. I shall not state now what the witness is. Your Honor is familiar with the fact, and it is quite necessary for me to produce him, and I am unable to do so at this time. I therefore ask for such a reasonable adjournment, so that I may produce him here. The witness is in Philadelphia.

MR. PENTECOST: I shall object to this adjournment. Is the motion now before the Court?

MR. MARSHALL: No, I withdraw my motion for the present and will wait until I have examined one more witness, Mr. Pope.

CHARLES L. POPE, called as a witness in behalf of the people, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q What is your business? A Druggist.

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Q Where? A 439 Manhattan Avenue.

Q Do you recognize this defendant as ever having seen her before? A Yes.

Q When did you see her? A I don't remember the date.

Q Is there any book or document which will refresh your recollection as to the date? A Yes, sir, the registry book.

Q Will you get it please -- now look at your book and tell us if you can from refreshing your recollection, what date it was?

BY MR. PENTECOST:

Q Is the memorandum ~~about~~^{about} which you are to look at something that was made by you at the time? A Yes, sir.

Q As a druggist? A As a clerk, post office clerk.

Q Then you are a clerk in the post office department?

A Yes, sir.

Q Authorized by the United States government to make the entries you are now going to look at? A Yes, sir.

Q You are a sworn officer of the United States government?

A Yes, sir.

BY MR. MARSHALL:

Q Now look at your memorandum and tell us the date?

A It was on April 11th, 1906.

Q Is there any memorandum there which will tell you about what time of the day it was, or can you tell us what time of

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the day it was to your knowledge? A It was in the morning.

Q About what time in the morning? A It was between 7 and 9 o'clock in the morning.

Q What did the defendant do at that time? A She came in the store and registered a package.

Q Will you tell us the number of that package?
A The package was 510.

Q Where was it directed to? A To Mr. James Bowers, Philadelphia.

Q Is there the street address? A I have not got it here.

Q That does not appear? A No, it does not appear.

Q Do you recall the size and appearance of the package?
A Not distinctly, no, small package.

Q The number of the package was 510? A Yes, sir.

Q I hand you people's Exhibit 1 and I ask you if the number on that corresponds to the number of the package which she registered with you? A Yes, sir.

Q And that is what? A 510.

Q That card which you hold in your hand is what?
A Registry return receipt. It shows it has been received by James Bowers and signed for.

MR. PENTECOST: I object and move to strike that answer out.

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MR. MARSHALL: I consent that it be stricken out.

BY MR. MARSHALL:

Q Now if you will describe the methods of the wheels of government -- the package is sent where? -- A This particular package was sent where? A Sent from our station to Station J.

Q Where is Station J? A It is on Lexington Avenue.

Q It was directed to Philadelphia, Pennsylvania?

A Yes, sir.

Q And this card is received back by the sender for what purpose?

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

THE COURT: Yes.

MR. MARSHALL: This is a little bit intricate.

THE COURT: I know but, Mr. Marshall, your question goes a little bit too far.

BY MR. MARSHALL:

Q In the ordinary usage of the mail, a card of that description --

MR. MARSHALL: I will withdraw that question.

BY MR. MARSHALL:

Q Tell what a card like that is used for in the United States mail?

Objected to as testimony to general usage.

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THE COURT: He can tell what that card is.

MR. MARSHALL: Cannot he tell us what it is used for?

THE COURT: Yes, I will allow that.

Objection overruled.

Exception.

THE WITNESS: It is used to show that the party to whom the package was addressed to has received it.

BY THE COURT:

Q What is the card? A It is a receipt, registry receipt.

CROSS EXAMINATION BY MR. PENTECOST:

Q What was the number on the package that you say this defendant sent? A No. 510.

Q Do you know this prisoner? A No, sir.

Q Did you ever see her previous to April 11?
A Yes, sir, I have seen her.

Q I understand you to say that you mean that you knew her general appearance but had no personal acquaintance with her?
A Yes, that is it.

Q Apart from the record which you have in that book, would you be able to testify about anything that this particular defendant had done on April 11th or any other day near

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that? A What is that?

Q Apart from the record from which you have read, would you be able to state for example that this defendant had sent a package through you to Philadelphia? A No, I do not think I would. I would not remember the date.

Q I mean on that day or any other near that, would you remember that this defendant had sent through you a package?

A Yes, sir.

Q That is you distinctly remember this particular defendant coming into your office and sending a package?

A Yes, sir.

Q To Philadelphia? A Well, I don't remember the address, no.

Q You remember she came in and sent a package?

A Yes.

Q But you would not remember anything about that package unless you looked at your book? A No, that is it.

Q How many packages did you send that morning by registered mail, have you any recollection? A I can tell by looking at the book.

Q I just ask you if you have any personal recollection without referring to the book? A No.

Q I do not object to your looking at the book but I merely want to know what is in the book and what is in your memory;

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you can look at the book and tell.

BY MR. MARSHALL:

Q How many?

THE WITNESS: Five packages.

BY MR. PRATECOST:

Q Could you identify the other four people who sent packages, if you saw them? A No, sir.

Q Have you ever seen this defendant since? A Yes, sir.

Q Where? A I saw her in the Harlem Police Court.

Q Did you receive any information about her before you saw her, yes or no? A Yes, sir.

Q And were you taken to the Harlem Police Court for the purpose of identifying her as a person who had sent a package through you from your office? A Yes, sir.

Q Under the same circumstances under which you saw her, that is, supposing you had received some information and that you were taken to the Police Court for the purpose of identifying any one of the other four persons who sent a package through you, would you have been able to identify any one of those other four? A I think I would if they had done something to draw my attention to them the way that she did.

Q The way she said she had done? A No, the way she did. That I saw her seal it up, something I never saw anybody else do in the store before.

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Q You have no doubt that this is the person who sent the package through you? A No, sir, no doubt at all.

Q And that is the record of the package she sent?

A I am sure she sent the package. I am not sure about the record.

Q You are sure she sent the package? A Yes, sir. The book shows the date.

Q At some time? A Well, the book shows the date.

Q I understood you to say you are not sure that the record was the record of the package she had sent? A It has her name on it. I should think that would show.

Q Are you or are you not sure that what you have read to us from that book is a record of a package that this defendant sent? A Yes, I am sure of that.

Q You can swear to that? A Yes, sir, I think so.

Q I understood you to say different -- I understood you to say that you could not; that was the reason I asked the question.

BY MR. MARSHALL:

Q What did she seal the package with? A With a piece of sealing wax.

Q What color? A Red.

MR. MARSHALL: I offer the piece of sealing wax found upon the defendant in evidence.

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MR. PENTECOST: I object -- if this person can
prove that that is the piece of red sealing wax --

BY MR. MARSHALL:

Q Did you notice what she sealed it with, the size of
the wax or the shape of it in any way? A It was a small
piece of wax.

Q It was a small piece of wax? A Yes, sir.

Q I hand you this piece of wax, was it similar to that?
A I did not take hold of it but I think it was about that
size.

Q About that size? A Yes, sir.

BY THE COURT:

Q That color? A Yes, sir, that color, red.

MR. MARSHALL: I offer it in evidence.

Objected to.

Objection overruled. Exception.

The piece of sealing wax is marked in evidence People's
Exhibit 6.

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

DIRECT EXAMINATION BY MR. MARSHALL:

Q Mrs. Eleanor Baird is your sister? A Yes, sir.

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Q You live with her at 50 Morningside Avenue?

A Yes, sir.

Q You lived there on the 9th day of April? A Yes, sir.

Q Were you at home all day in the apartment?

A Yes, sir.

Q Were you at home during the afternoon? A Yes, sir.

Q Did you have occasion to go into your apartment during the afternoon? A Whose apartment?

Q Your sister's? A She lived in the same apartment.

Q I know -- into her bed room? A Her bed room is my bed room.

Q You both occupy the same bed room? A Yes, sir.

Q Did you have occasion to observe the window -- how many windows are there in that apartment? A Two in the room.

Q What do they open on to, the two windows? A One on a fire escape and the other does not open on anything.

Q The one that opens on the fire escape, did you have occasion to observe that window during the afternoon of April 9, 1906? A No, sir.

Q You did not? A No, sir.

Q Did you have occasion to open that window during the afternoon? A No, sir.

Q Or close it? A No, sir.

(No cross examination)

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MR. MARSHALL: I now renew my motion for a reasonable adjournment in order to produce witnesses from Philadelphia.

MR. PENTECOST: I object to the granting of the learned District Attorney's motion on the ground that this case has been many times on the calendar; that the jury for the trial of this case were sworn in last Wednesday afternoon and that the District Attorney has had abundant time and opportunity, and information as to the character of the case he was going to try, to produce all the witnesses that he needed, and that an adjournment of the case at this time would be unwarranted obstruction of the operation of justice in these courts.

MR. MARSHALL: It is not an abstract question. It is simply a question as to whether it can in any possible way harm the interests of this defendant, and it cannot. If we keep the jury a little longer, that is a matter for the jury and the District Attorney after the case is over.

MR. PENTECOST: I will ask the Court to reflect upon the probabilities of the defendant's counsel getting an adjournment under exactly the same circumstances.

THE COURT: Mr. Pentecost, the remark which you make about the numerous times that this has been upon the

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calendar to my mind is a very good reason why we should finish it once we get to it, and that is why we should continue it up to the end. As Mr. Marshall remarked I cannot see how this is in any way going to injure the case of the defendant, that is to say, it does not trespass upon any right she has, any substantial right.

MR. PENTECOST: The granting of this motion might keep this defendant in jail for a number of days longer and that is quite a serious matter for the defendant.

THE COURT: There is no evidence that this is going to take over to-morrow, and the probability is that this trial, whether this witness were here or not to-day, would continue into to-morrow. I do not know what time the defense is going to take. It may be necessary on the part of the defense to defend this prisoner, to keep her in prison some time. If you say that your side of the case will not necessarily detain this prisoner over to-morrow, then it is true perhaps that her imprisonment may continue some time.

MR. PENTECOST: On the other hand she might be liberated this afternoon.

THE COURT: The Court is willing, notwithstanding its desire to protect the liberties of the prisoner, to extend this case over until to-morrow, under the impres-

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sion that by so extending it, the liberty of the defendant cannot be in any way interfered with or any substantial right she has invaded.

MR. PENTECOST: I have made my point clear.

THE COURT: I will give you an exception and grant the motion.

MR. PENTECOST: To what time?

MR. MARSHALL: It is difficult for me to say at this time, but I should think to-morrow at 2 o'clock would give me ample time. If through any unforeseen circumstances it takes another night, I will ask your honor to grant that much, but I will use my utmost endeavors --

THE COURT: I am not so sure that the Court would grant you another adjournment.

THE TENTH JUROR: I wish to say that I would like to get away to-morrow. My father-in-law is dead and I would like to go to the funeral to-morrow afternoon.

MR. MARSHALL: Then, if your Honor please, will your Honor excuse the jury until Wednesday morning, and that will give me time to procure my witnesses and allow the juror to attend the funeral.

THE COURT: Yes, I think I will do that, until Wednesday morning at half past 10.

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MR. PENTECOST: I will take another exception.

THE COURT: And the exception stands.

The Court admonishes the jury in accordance with section 415 of the Code of Criminal procedure, and takes an adjournment in the case until Wednesday morning, May 16th, 1906, at 10:30.

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New York, May 16, 1906.

TRIAL RESUMED.

J A M E S T A T E, called as a witness in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q What is your business? A Detective Officer, City of Philadelphia.

Q Do you know one James Bowers? A Yes, sir.

Q Of Philadelphia? A Yes, sir.

Q What is his position there? A His position was that of a policeman; police officer.

Q How long had he been on the force there? A Six years.

Q Did you arrest him in the City of Philadelphia?

A Yes, sir.

Q On what charge? A He had in his possession two rings.

Q What was he charged with? A Receiving stolen goods.

MR. PENTECOST: I object on the ground that the arrest of this person spoken of is incompetent, irrelevant and immaterial.

THE COURT: If not corrected it will be stricken

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out.

BY MR. MARSHALL:

Q He was charged with what? A Receiving stolen goods.

Q What were the particular goods he was charged with receiving? A He had two rings which I have here.

Q Do you know of your own knowledge where those rings were found? A Those rings were found in a pawnshop at 22nd street and South.

Q The name of the pawnbroker is what? A Rieder.

Q How did you get in possession of them? A They brought them to me ---

Q How did you get possession of them? A He pledged these two rings at this broker's, and we had the broker come to the City Hall, and telephoned for the officer to come there at the same time.

Q That is Bowers? A Yes, sir.

Q Bowers came at the same time that the rings got there?
A Yes, sir.

Q And the question was asked him where he got possession of these rings?

MR. PENTECOST: I object to this as hearsay. This witness evidently knows nothing about the rings except what somebody told him.

MR. MARSHALL: I am inclined to agree with Mr. Pentecost, - that much of it is hearsay.

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BY MR. MARSHALL:

Q These particular rings came into your possession at Police Headquarters in Philadelphia? A Yes, sir.

Q Into your personal possession? A Yes, sir.

Q Did you charge James Bowers with receiving stolen goods, yourself, personally?

Objected to. Objection sustained.

Q What did you charge him with, you personally? A Receiving stolen goods.

MR. PENTECOST: I object as incompetent, irrelevant and immaterial.

THE COURT: I sustain the objection to the question as to the charge made by this officer against the man Bowers.

BY MR. MARSHALL:

Q You placed him under arrest in Philadelphia? A Yes.

Q You yourself personally? A Yes, sir.

Objected to upon the same ground.

THE COURT: Unless it is connected it will be stricken out.

Exception.

Q These rings you brought, how long have they been in your possession -- you brought them from Philadelphia yourself?

A Yes, sir.

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Q How did you come into possession of this box?

Objected to as incompetent, irrelevant and immaterial.

MR. MARSHALL: Subject to connection.

Objection overruled. Exception.

THE WITNESS: After placing him under arrest he admitted ---

Q Not what he said. A I went to his house and found that box on the mantelpiece.

Q In his house? A In his house.

Q Did you find anything else in his house? A Yes. Those two pawntickets for the two rings.

Q Where was James Bowers's house --- do you recall the address? A 1807 Kater street.

MR. PENTECOST: I move that the words "for the two rings", be stricken from the record.

Motion granted.

THE WITNESS: I also found this address there.

Q This envelope with this writing on it? A Yes, sir.

Q That was found where? A In his house 1807 Kater street.

MR. MARSHALL: I offer the envelope in evidence.

Objected to as incompetent, irrelevant and immaterial.

Overruled. Exception.

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Received and marked People's Exhibit 7.

The envelope just received in evidence is addressed to Miss Minnie May Nixon, care of Mrs.

Frances Riley, 50 Morningside avenue.

BY MR. MARSHALL:

Q Was there any other property found on the premises of James Bowers? A A letter that is addressed to James Bowers.

MR. PENTECOST: I move to strike that out.

MR. MARSHALL: I consent that it be stricken out.

THE COURT: Motion granted.

No cross examination.

C H A R L E S R I D G W A Y, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

BY MR. MARSHALL:

Q What is your business? A Pawnbroker's clerk.

Q Who are you employed by? A Joseph Rieder.

Q How long have you been employed by Mr. Rieder? A About four years.

Q Where is Mr. Rieder's place? A 22nd street and South street.

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Q Corner of 22nd street and South street, Philadelphia, Pennsylvania? A Yes, sir.

Q I hand you these two rings and I ask you if you recognize those rings?

Objected to.

Q Have you seen those rings before? A Yes, sir.

Objected to as incompetent, irrelevant and immaterial.

THE COURT: There ought to be a connection made here.

The witness is withdrawn from the stand.

E L E A N O R B A I R D, recalled by the People, testified as follows:

BY MR. MARSHALL:

Q I hand you these two rings and ask you if they are your property? A Yes, sir, these are mine.

Q Under what circumstances did you see them in the City of Philadelphia? A In the Captain's office.

Q In the captain of police's office? A Yes, sir.

Q Are those the rings which were in your room on the night of April 9th? A Yes, sir.

Q These are the rings described by you here? A Yes, sir, these are mine.

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Q You recognize them in what way? A The small one from the inscription on the inside.

Q What inscription? A F. A. R.; M. R. R., December 6, 1869.

MR. MARSHALL: I offer these rings in evidence.

MR. PENTECOST: I object upon the ground that these rings -- I withdraw my objection, on that ground, and object as incompetent, irrelevant and immaterial.

Objection overruled. Exception.

The rings are received in evidence and marked People's Exhibits 8 and 9.

CHARLES RIDGWAY, resumes the stand.

BY MR. MARSHALL:

Q I have you People's Exhibits 8 and 9 and I ask you if you have seen those rings before? A Yes, sir.

Q Where did you see them and under what circumstances?

A Mr. Bowers came in to pawn them.

Q What is his name? A James Bowers.

Q He did what? A He is a police officer.

Q Did what? A Came in to pawn these two rings.

Objected to as incompetent, irrelevant and immaterial.

Q These are the identical rings brought to your place

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by James Bowers? A Yes, sir, positively.

Objection overruled. Exception.

Q Did you converse with James Bowers yourself personally? A Yes, sir.

Q You know him to be James Bowers? A Yes, sir.

Q A police officer in the City of Philadelphia?

A Yes, sir.

Q Do you recall the date when these rings were pawned in your place? A Why, yes, April 16th.

Q 1906? A Yes, sir.

Q Those are the tickets which were issued by your concern? A Yes, sir, those are the two tickets.

MR. MARSHALL: I offer the two tickets in evidence.

Objected to as incompetent, irrelevant and immaterial.

Objection overruled and exception.

The tickets are received in evidence and marked People's Exhibits 10 and 11.

No cross examination.

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B E R N A R D D E V E R, called as a witness in behalf
of the People, being duly sworn and examined, testified
as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q What is your business? A Letter carrier in the
City of Philadelphia.

Q How long have you been there? A About fifteen or
sixteen years.

Q Do you know one James Bowers, a police officer in
the City of Philadelphia? A Yes, sir.

Q Did you have occasion on the 12th day of April to
deliver to him a registered package? A I did.

Q Did he in your presence sign a receipt for that pack-
age? A He did.

Q I hand you People's Exhibit 1 and I ask you if
that is the receipt he signed? A Yes, sir, that is the re-
ceipt he signed.

Q In your presence? A In my presence.

Q Can you recall the description of the package itself?
A Well, it was a small package about that big, about the
size of that matchbox there.

Q Do you recall the package itself? A Yes, sir, because
I took it to the station house. It was addressed to the
station house and he was out on his beat, and the house ser-
geant asked me if I ---

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Objected to.

Q Not what anybody asked you. A Merely to bring him in off his beat to sign for it; that was all I was going to tell.

Q Where did you deliver it to him? A To the station house.

Q You went there twice? A Yes, sir.

No cross examination.

J A M E S T A T E, recalled by the People.

BY MR. MARSHALL:

Q How long have you been on the Police Force in the City of Philadelphia? A Thirty-four years.

Q Are you familiar with the force there? A Yes, sir.

Q How many men are there on it?

Objected to. Objection sustained.

Q Can you swear of your own knowledge whether there is any other James Bowers on the police force of the City of Philadelphia? A Not colored.

Q There is James Bowers, a white man? A Probably there are, there is Bowers ---

Q You are familiar with all the colored policemen?

A Yes.

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Q There is no other colored policeman except this James Bowers? A No, sir, only that one.

Q I show you this tintype photograph and ask you if that is the photograph of James Bowers?

Objected to as incompetent, irrelevant and immaterial.

Overruled and exception.

A That is he.

Q I hand you another photograph and I ask you if your recognize that as a photograph of James Bowers?

A That is he.

Q I hand you another photograph and ask you if that is also James Bowers? A Yes, sir.

MR. PENTECOST: I make the same objection to each of these pictures.

Objection overruled. Exception.

P A T R I C K J. D A R C Y, recalled by the People.

BY MR. MARSHALL:

Q I hand you these three photographs and I ask you where you found them, if you found them at all? A I found them this morning in the room of Minnie Nixon at 44 West 99th street.

MR. PENTECOST: I object as being incompetent, irrelevant and immaterial, for the particular

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reason, among others, that the finding of these photographs in the room which this defendant occupied on April 9th, is entirely too remote to permit of their being identified in this manner by this witness.

BY THE COURT:

Q How long since the defendant occupied that room?

MR. MARSHALL: She was arrested on the 17th of April.

BY MR. MARSHALL:

Q Where did you find them? A They were there in her room wthe day we arrested her, but I did not go and get them until to-day.

BY THE COURT:

Q Did you see them there that day? A Yes, sir.

BY MR. MARSHALL:

Q You saw them there that day? A Yes, sir, hanging on the wall.

Q They were on the wall the day of her arrest?

A yes, sir, among a number of other pictures, her husband, and herself.

The three photographs are offered in evidence.

Received and marked People's Exhibits 12,

13 and 14.

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BY MR. MARSHALL:

Q I hand you this certificate of marriage and ask you where you obtained that? A In the room of Minnie Nixon, 44 West 99th street.

Q When? A This morning.

Q Did you see it there previous to this morning?

A Yes, sir, I saw it there the day of her arrest.

Q That was what date? A April 17th.

Q You saw it there on that day? A The following day, that day or the following day.

Q And obtained it there this morning? A Yes, sir. Got it there this morning.

MR. MARSHALL: I offer this certificate —
of marriage in evidence.

Objected to as incompetent, irrelevant
and immaterial.

Objection overruled. Exception.

Received and marked People's Exhibit 15.

No cross examination.

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