

START

977

CASE

I n d e x.

Direct. Cross. Redirect. Recross.

Benjamin W. Comstock,

2

23

82

John A. Flood,

89

101

-: I N D E X :-

| | <u>DIRECT</u> | <u>CROSS</u> | <u>RE-D.</u> | <u>RE-C.</u> |
|-----------------------|---------------|--------------|--------------|--------------|
| Frederick W. Crawford | 141 | 144 | | |
| Charles C/ Wall | 150 | 152 | | |
| Edgar C. Davidson | 159 | 161 | | |
| David Goetz | 137 | 179 | | |
| Jacob Bassing | 183 | 224 | 244 | |
| Harris Glass | 245 | 251 | 252 | |
| Clara Bassing | 253 | 256 | | |
| John A. Flood (Rold) | 257 | 258 | | |

.....

COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York.

----- X
THE PEOPLE
against
JACOB BASSING.
----- X

Indictment filed the 10th day of June, 1907.

Indicted for grand larceny in the first degree.

APPEARANCES:

For the People, ASSISTANT DISTRICT ATTORNEY MARSHALL.

For the defendant, LEONARD A. SNITKIN, ESQ.

Tried before HON. WARREN W. FOSTER, Judge, and a
jury, on the 29th day of March, 1909, &c.

Jury duly impanelled and sworn.

The Court admonishes the jury in accordance with
section 415 of the Code of Criminal Procedure, and takes
an adjournment until to-morrow morning, March 30, 1909,
at 10:30.

March 30, 1909.

TRIAL RESUMED.

Mr. Marshall opened the case on behalf of the People.

2

BENJAMIN W. COMSTOCK, called as a witness on behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. MARSHALL:

Q Your residence now is in the Howard Jail in Providence, Rhode Island? A It is.

Q You have come on here as a witness in this case? A I have.

Q When did you first know the defendant, Jacob Bassing? A I don't remember just how long I know him--it must be eight or ten years.

Q You knew him in what way? A Well, while I was salesman for a firm in Providence I used to sell him goods.

Q Where did you meet him? A At his place of business in Bristol, Rhode Island.

Q What did he have there? A He had a small shoe-store, small retail shoe store.

Q When did you go into business for yourself, about? A About 1900.

Q When did you first have dealings with the defendant yourself? A I had dealings with him at different times, from the time I went in business in 1900.

Q When was it you failed? A In the fall of 1907.

Q 1906, was it not? A 1906.

MR. SNITKIN: I object to leading this witness.

BY MR. MARSHALL:

Q What was the date? A Some time in October, 1906.

Q How soon after your failure did you see the defendant Bassing? A I believe the first time I saw him was in the latter part of December that same year.

Q In Providence? A In Providence.

Q Did you have a conversation with him at that time about anything? A At that time Mr Bassing brought a--

MR. SNITKIN: I object unless the question calls for yes or no.

BY MR. MARSHALL:

Q Did you have a conversation with him?

BY THE COURT:

Q Yes or no.

A Yes, I did.

BY MR. MARSHALL:

Q What was it? A In regard to selling him a friend of his some goods, some merchandise.

Q What did he say and what did you say as near as you can repeat it? A Mr Bassing brought another shoe peddler named Max Makowsky, of Bristol, Rhode Island, to my place of business to buy some shoes.

Q What did he say and what did you say? A He and Makowsky looked the goods over and Makowsky--

Q Where were the goods at that time? A In the place

4
of business on Calendar street, Providence, Rhode Island.

Q What were the premises there, what did it look like when you went in there, a cellar or roof or what? A First floor, loft.

Q In a loft, and the goods were packed in there in what way? A The shoes were packed in cases, some twelve pair cases, some 24, some 36, and some 60 pair.

Q How many cases in there? A At that time perhaps 200.

Q Did you have any conversation with Bassing with regard to your failure at that time? A I couldn't recall any conversation with regard to my failure. I told him that--to the best of my memory I made a settlement with my creditors or they accepted a settlement and was very anxious to sell those goods, and Mr Bassing suggested that I should send some to New York City, as he knew quite a few large buyers that came to New York City.

Q Is that all the conversation at that time? A That is all that I remember.

Q Subsequent to that time when did you see Bassing again? A I couldn't remember actual dates, so long ago.

Q About how many weeks or days after? A We had a conversation at that time we speak of, and then he came in again.

MR. SNITKIN: I object unless the time is fixed

5
or approximately fixed.

BY MR. MARSHALL:

Q How long after? A Within a day or two, and, after conversing with me I decided to send some goods to New York City. Mr Bassing and I came--

Q To New York? A Came to New York together--I don't know whether we came together--he went by one line of steamship and I think I came by train at that time.

Q You met him in New York? A I met him in New York.

Q Where did you meet him? A Hotel corner of Canal street and the Bowery. I think that is the address. I don't remember the name of the hotel. He and I went looking for a place of business, and after looking around we hired a small basement on Canal street.

Q What was the number, do you remember? A I do not remember the number.

Q What was done after that? A Just before I started to New York with Bassing I made a shipment of goods here.

Objected to as incompetent, irrelevant and immaterial under the indictment.

THE COURT: We will strike it out unless it is connected later. Proceed.

Exception.

BY MR. MARSHALL:

Q What goods did you ship? A I made a shipment of

shoes.

Q What goods were they, where did they come from?

A From Calendar street.

Q Those were the goods Bassing had seen? A Yes, sir, those were the goods that he had inspected.

Q With his friend Makowsky? A Yes, sir.

Q And those goods were taken from that loft and shipped to New York, were they? A Yes, they were.

Q The entire--all the cases that were there?

MR. SNITEN: I suggest that he should be cautioned not to lead the witness.

BY MR. MARSHALL:

Q Were they all sent or were they not? A I don't think I sent everything there was at Calendar street.

Q About how many cases went in the first shipment?

A That I don't know, the exact amount.

Q About how many, was it twenty, or a hundred or what?

A It would be simply guesswork. I think it is about a hundred cases.

Q In the first shipment? A I haven't the bills of lading with me and I don't remember.

Q About 100 cases in the first shipment? A I think so.

Q Did you go to New York after the first shipment?

A Well, I met Bassing as I already testified, in New York,

and he and I got an expressman.

Q At the time you and Bassing came to New York and hired the basement, where were the goods? A The goods were at the Joy Line Steamship dock, I think.

Q They had already been shipped from Providence?

A Yes, sir, when we agreed to come to New York they had been shipped to New York.

Q You got an expressman and did what? A He went to the Line and brought the goods to Canal street.

Q Who did? A The expressman.

Q Who got the expressman? A Bassing and myself.

Q What became of the goods, where were they put? A The goods were put in this basement on Canal street. I don't remember the number.

Q If you don't remember the number, it makes no difference--they were in this basement, put in this basement on Canal street? A Yes, sir.

Q What was done with them after they were put in the basement? A Bassing and I opened them up and examined them and checked them off. We found two or three pair short, and we had to go through every case and open each case up.

Q You did go through each case? A We had to, yes.

Q Do you remember how many cases there were at that time? A I don't remember.

Q About how many would you say? A The same quantity

I shipped from Providence.

Q About 100 cases? A I am only guessing at the number.

Q How long did you stay in New York at that time? A I think I stayed three days--possibly might have been three or four days.

Q Was there anything done in regard to selling goods during that time? A Mr Bassing went out to procure customers, and brought in two customers I remember of--I don't remember the names now--and they looked the goods over and neither one of them bought, although they both said that they would buy. I decided I would return to Providence and send on my salesman, Mr Flood, which I did, and he came on and took charge.

Q Did you come to New York again after that? A I don't think I came to New York again after that, personally.

Q When did you next see Bassing after you send on?
A Mr Bassing came to my office two three times in Providence after that. I cannot fix the exact date.

Q Was there any conversation of any importance on those two or three visits?

MR. SNITKIN: I object, we ought to have the date fixed.

BY MR. MARSHALL:

Q How long after you came back? This was in the month of December? A It was along the 1st of January then.

Q When you came back to Providence? A I cannot place the date exactly, it was the last of December or the first of January.

Q When you went back to Providence? A Yes, sir.

Q How long after that was it before you saw Bassing, on these two or three occasions--you don't need to be exact, was it a day or a week or a month? A The only date I can really recall close to it, he was in the office along about the 1st of February--that I am positive of.

Q Did you have any conversation with him then? A He came in previous to that, but I can't remember the date, but on the 1st of February he came in to get his commission.

Q On what? A On the goods sold in New York City--the goods that he had sold.

Q Give us the conversation, give us all that conversation?

Objected to as incompetent, irrelevant and immaterial under the indictment--upon the ground that the larceny charged is alleged to have occurred on the 6th of February, 1907.

Objection overruled. Exception.

BY MR. MARSHALL:

Q What did he say at that time about his commissions, if anything? A He came in for a final settlement.

THE COURT: He said this?

BY MR. MARSHALL:

Q Did he say it was the final settlement? A No.

MR. SNITKIN: Then I move to strike it out.

MR. MARSHALL: Certainly, strike it out.

THE COURT: Yes.

BY MR. MARSHALL:

Q Repeat as nearly as you can just what he said and what you said, not your conclusion--the substance of what he said and what you said? A I do not believe it is very important, but I will state it.

MR. SNITKIN: I ask to strike it out if it is not important.

MR. MARSHALL: I want it all.

THE WITNESS: He told me he was very much pleased with the transaction; that he had had several transactions but this was the most satisfactory transaction that he had ever been in, and asked me for his commission. May I say what I told him?

Q Certainly. A I asked him for the bills of lading, for the goods that he had sold. He told me that he did not have them with him; he had gone to Albany and come back to Providence by way of Wooster, and that he left his grip on the train at Wooster, and it went through to Boston when he changed cars. I refused to settle with him until he produced those bills of lading, which he said he would do immediately, and he

started for Boston.

Q About what time of the day was that, do you remember?

A About noontime.

MR. SNITKIN: I renew my objection to this evidence as incompetent, irrelevant and immaterial, and I ask your Honor to instruct the jury to disregard it because it is apparent on the face of the answer that it relates to a transaction other than that stated in this indictment.

THE COURT: I will deny your motion with leave to renew it at the close of the People's case.

MR. SNITKIN: I except.

BY MR. MARSHALL:

Q Proceed? A I did not just like his conversation--
Objected to.

THE COURT: Strike that out.

BY MR. MARSHALL:

Q What did you say and what did you do? A I sent
my bookkeeper--

Q You had a conversation with Davidson, your bookkeeper?

A Yes, I had a conversation with him.

Q Did Davidson leave the office? A Mr Davidson went
to the depot to see--

Q He left the office? A Yes.

Q You don't know where he went? A Mr Davidson left
the office.

Q When did you see Bassing after that? A Bassing came in the next day and brought the bills of lading.

Q I show you a bill of lading and I ask you if that is one of the bills of lading he presented to you?

Objected to as incompetent, irrelevant and immaterial and not within the issues framed in the indictment.

Objection overruled. Exception.

A That is one of them.

MR. MARSHALL: I offer it in evidence.

Objected to upon the same grounds.

Overruled. Exception.

MR. SNITEN: I will state my grounds. I object to it upon the ground that that paper is incompetent, that it is immaterial and irrelevant, there being no charge in this indictment that he obtained any property from the witness on the stand by means of any bill of lading or paper which may be termed a bill of lading.

Objection overruled. Exception.

Received and marked People's Exhibit 1.

BY MR. MARSHALL:

Q I show you another one and I ask you if that is one of the bills of lading presented to you on that day? A Yes, sir.

MR. MARSHALL: I offer it in evidence.

MR. SNITKIN: I object to it on the ground that it is

incompetent, irrelevant and immaterial under this indictment.

Overruled. Exception.

MR. SNITKIN (continuing): There being no statement in this indictment that any property was obtained from this witness by means of any bill of lading or paper which may be termed a bill of lading, and I therefore except.

The paper is received and marked People's Exhibit 2.

BY MR. MARSHALL:

Q What did you do with these bills of lading after Bassing gave them to you.

Objected to as incompetent, irrelevant and immaterial and not binding on this defendant as to what he did.

Objection overruled. Exception.

BY MR. MARSHALL:

Q What did you do with them? A Shall I continue with my story?

Q Yes, I would sooner have you--go ahead just as you were going? A When Mr Bassing presented those bills of lading, we figured up, or I figured the commission, what was due him, and at the time he owed me a small bill, a balance.

Q What do you call small? A I think it was \$24, very close to that, and I deducted that from his commission and gave him the balance.

Q How much was the balance? A \$170 or thereabouts--

that is not the exact amount--somewhere along there,--for which he gave me a receipt.

Q Is that the receipt (showing witness paper)? A Yes --I am mixed on the amount.

Q That is the receipt and that is the date he gave it to you? A Yes.

MR. MARSHALL: I offer it in evidence.

Received and marked People's Exhibit 3.

THE WITNESS: I recall now that I made him a previous advancement--I don't remember how much.

BY THE COURT:

Q What is that? A I remember I made him a previous advancement on his commission.

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

MR. MARSHALL: I do not see its materiality.

THE COURT: I will strike it out. State what was said and done.

BY MR. MARSHALL:

Q What was said and done by you and Bassing? A I paid him the commission for which he gave me that receipt and I also receipted my bill to Mr Bassing--whether it was in the name of Bassing or the Bristol bargain store that he run,--I don't remember.

Q That is the bill for the \$24? A Yes.

Q Did Bassing stay there any longer after that? A We had an ordinary conversation and then he departed.

Q When did you see him again after that? A The next time I saw him I think I passed him on the street, one of the streets.

Q Have you ever had any conversation with this defendant since that day? A No, never had any conversation at all.

Q Never have spoken to him since that day? A Never spoken to the man since that day.

Q I show you a draft for the sum of \$3,036.90, and I ask you if you recognize that draft? A Yes, sir.

Q Who is it signed by?

MR. SNITKIN: I object to the witness reading from any paper not in evidence.

BY THE COURT:

Q Do you know the signature to that draft? A I do.

Q Have you seen the one whose signature it purports to be, write? A Yes, sir.

Q And are you familiar with his writing? A Yes.

THE COURT: Proceed.

BY MR. MARSHALL:

Q Whose signature is it? A It is the signature of Emma F. Lance, my sister-in-law.

Q At the time these goods were shipped to New York,

in whose name were they stored in Calendar street? A Part of these goods were stored in Calendar street--no, Jones' Warehouse in Providence.

Q Where is that? A On Centfal street.

Q Part of the goods called for in that paper you hold in your hand?

Objected to as leading.

THE WITNESS: Part of the goods shipped to New York were stored in Jones' Warehouse in Providence in the name of Emma F. Lance.

MR. SNITKIN: I object, unless it means the goods referred to in the indictment, February 6th, 1907.

THE COURT: If it does not I will strike it out.

BY MR. MARSHALL:

Q What goods were stored in Providence, Rhode Island, and shipped to New York in the name of Emma F. Lance, the signature on that draft? A I could not specify the exact goods, because I cannot remember them now.

1 17
Q How many cases? A I think that was 100 - somewhere about 100 cases.

Q I show you People's Exhibit 1 and People's Exhibit 2, and I ask you if you can refresh your recollection by looking at those papers?

MR. SNITKIN: I object upon the ground that the witness's memory has not been exhausted.

THE COURT: He may answer the question.
Exception.

THE WITNESS: This does not help me remember how many cases were stored in Jones's.

BY MR. MARSHALL:

Q How many were shipped to New York - I do not care about Jones's warehouse or Calendar street -- all I want to know is how much went to New York?

MR. SNITKIN: I object to the form of the question unless the date is fixed.

THE COURT: He may answer the question.
Exception.

MR. MARSHALL: Previous to February 6, 1907?

THE WITNESS: What was the question?

MR. SNITKIN: I object upon the ground that it appears in the evidence that there were a number of transactions had between this witness and the defendant and I submit that in fairness we ought to know what charge

we are here to answer. We are charged with having stolen property on the 6th of February.

THE COURT: He may answer the question.

MR. SNITKIN: I except.

(The question is repeated as follows):

Q How many were shipped to New York -- I do not care about Jones's warehouse or Calendar street - all I want to know is how much went to New York previous to February 6th, 1907? A I cannot remember. I should say three or four hundred cases.

Q Of shoes? A Shoes and rubbers.

Q Were those part of the goods that you saw in company with the defendant Jacob Bassing in New York?

MR. SNITKIN: I object unless the time is fixed and whether it refers to matters stated in the indictment.

THE COURT: (To Mr. Marshall) You might just as well fix the time. It is open to that object Mr. Marshall.

BY MR. MARSHALL:

Q When did you see the goods in 159 Canal street, after they were loaded in there, at the time you and Bassing opened the cases? A About the 1st of January -- that was the first shipment.

Q That was the first shipment? A Yes.

Q Did you see any of the subsequent shipments? A No.

MR. SNITKIN: I ask now that all the testimony given by this witness relative to shipment antedating the 6th of February, 1907, be stricken from the record on the ground that it is incompetent, irrelevant and immaterial, under the issues of this indictment.

MR. MARSHALL: Mr. Snitkin might just as well move to strike out all the witness's testimony. I cannot try the case by one witness.

THE COURT: I will deny the motion at this time.

Exception.

BY MR. MARSHALL:

Q Do you know of your own knowledge whether this draft on R. Jacobs, Charleston, South Carolina, was returned unpaid or not?

Objected to as incompetent and improper in form, irrelevant and immaterial under the issues in the indictment.

THE COURT: I understand the People are going to connect it and I will give them the opportunity and strike it out if not connected. Answer the question.

Exception.

A I do.

Q Was it paid or not paid? A It was not paid.

MR. SNITKIN: I object and ask to strike out the answer as incompetent, irrelevant and immaterial under

this indictment.

Objection overruled. Exception.

MR. MARSHALL: I offer this draft in evidence.

Objected to as incompetent, irrelevant and immaterial under the issues framed in this indictment.

THE COURT: I will strike it out unless it is subsequently connected. It may be marked for identification.

(The draft is marked for identification People's Exhibit No. 4).

MR. MARSHALL: I offer it in evidence.

THE COURT: I said mark it for identification at this time and when you connect it we will receive it. I hardly think you have laid foundation for receiving it yet.

MR. MARSHALL: May be not at this time.

BY MR. MARSHALL:

Q I show you another draft dated February 9.

MR. SNITKIN: I object to the District Attorney identifying a paper until it is in evidence, and reading from it.

MR. MARSHALL: If it makes counsel feverish, I will say "What is this paper".

BY MR. MARSHALL:

Q What is this paper? A That is a sight draft.

MR. SNITKIN: I object to reading from the paper ~~not~~

in evidence.

BY MR. MARSHALL:

Q I asked you what it is. A This is a draft.

MR. SNITKIN: I object.

THE COURT: What do you object to -- you did not object to the question.

MR. SNITKIN: I object to the question and I object to the answer.

THE COURT: I sustain the objection to the question.

MR. MARSHALL: The question was I handed him a paper and I asked him what it was.

THE COURT: Precisely. That does not require his testimony to tell us what it is. We know what it is when you have it properly identified.

MR. MARSHALL: Do you say that the witness cannot tell me what this is or have I to tell the jury what it is.

THE COURT: Mr. Marshall, I have not the remotest idea what the paper is, but suppose for example it is a promissory note made by Mr. Snitkin, you have to prove Mr. Snitkin's signature to the note and then offer it in evidence and the jury will see themselves what the paper is.

BY MR. MARSHALL:

Q I show you a paper and I ask you if you recognize the

signature on that paper? A I do.

Q Whose signature is it? A The signature of Emma F. Lance, my sister-in-law.

Q What is it? A It is a draft drawn on R. Jacobs, Charleston, South Carolina.

Offered in evidence.

Objected to as incompetent, irrelevant and immaterial under the issues in this indictment.

THE COURT: That is preliminary.

MR. MARSHALL: I ask that it be marked for identification.

The paper is marked for identification people's Exhibit 5.

BY MR. MARSHALL:

Q I show you another paper and I ask you if you recognize the signature upon that? A I do.

Q Whose is it? A Emma F. Lance, my sister-in-law.

Q Was the draft ever paid?

Objected to as incompetent, irrelevant and immaterial.

THE COURT: He may say if he knows.

MR. SNITKIN: I except.

THE WITNESS: No, sir.

BY MR. MARSHALL:

Q It was never paid? A No, sir.

MR. SNITKIN: I ask to strike out the answer as incompetent, irrelevant and immaterial.

Motion denied and exception.

MR. MARSHALL: I ask that the paper be marked for identification People's Exhibit 6.

The paper is marked for identification People's Exhibit 6.

BY MR. MARSHALL:

Q I show you a bill of lading in fragments, January 30th, and I ask you where you first saw that bill of lading -- this is the upper part of it (indicating). A That was either mailed to me or brought to me by my man Flood, in Providence.

The paper is marked for identification People's Exhibit 7.

CROSS EXAMINATION BY MR. SNITKIN:

MR. SNITKIN: I now move that all the testimony given by this witness with reference to any transaction or transactions prior to February 1st, 1907, be stricken from the record on the ground it is incompetent, immaterial and irrelevant; upon the further ground that the witness has stated in response to questions put by the District Attorney that of his own knowledge he knows nothing of the transaction of February 6th. Your Honor permitted that evidence, as you properly stated, subject

to being connected.

THE COURT: Of course.

MR. MARSHALL: What particular evidence do you refer to?

MR. SNITKIN: All the evidence given by this witness relating to transactions prior to February 6th, and the Court allowed it upon the theory it may be connected.

THE COURT: Mr. Marshall, your indictment charges a larceny on the 6th of February. Why do you require evidence touching transactions prior to that time?

MR. MARSHALL: I am trying to get all out of the witness that I can before I let him go. There were several transactions not in this indictment, which it is my purpose to prove -- which I intend to prove.

THE COURT: I have already ruled that it was subject to being properly connected. Your time to make the motion which you now make, Mr. Snitkin, is at the close of the People's case - just as we are taught that Rome was not built in a day, so Mr. Marshall cannot put in his case with one witness. He has the entire time of his presentation of the case to connect this testimony. I will adhere to the ruling I first made.

Q If I understand correctly, or heard you, you said you are now serving time in a State Prison or in a Federal Prison, is that right? A As I understand it, the Rhode Island County

Jail.

Q Pursuant to a plea which you took, is that right, you pleaded guilty, didn't you? A I pleaded nolle.

Q That is guilty, you say you were in the shoe business in Providence for some years? A Yes.

Q I think you said you went into business in 1904?

A I said I started the shoe business about 1900.

Q In business for yourself? A Yes.

Q What was the firm's name? A Levalla & Comstock.

Q When did you succeed to the entire firm's interest?

A That was in Woonsocket, Rhode Island, and the Levalla & Comstock concern moved to Boston and at that time I purchased my partner's interest and became B. W. Comstock.

Q Your Christian name is Benjamin? A Yes.

Q Your middle initial is W? A Yes.

Q You embarked in business for yourself, succeeding your partner's interest, in which year do you think?

A About 1904, I don't remember the exact date.

Q Your principal place of business was in Providence?

A Yes.

Q You did a large business also? A Fairly large.

Q You failed for about \$150,000? A No.

Q About that? A No, sir.

Q How much? A Eighty some thousand dollars.

BY THE COURT:

Q By that you mean that is the gross amount of your in-

debtedness? A Yes, sir, about that.

BY MR. SNITKIN:

Q You say your failure was when? A October, 1906.

Q That is at that time, in October, 1906, you closed up business? A Yes.

Q Voluntarily or involuntarily? A Involuntarily.

Q That is a petition in bankruptcy was filed against you by your creditors? A Yes.

Q Are you certain it was October, 1906? A Pretty positive that was the date.

Q So that after you had been adjudged a bankrupt, was a receiver appointed, if you know? A Yes.

Q And what was the name of the receiver? A Arthur P. Johnson.

Q So that we have it now that in October, 1906, the receiver appointed by the creditors succeeded to the property you then and there had, that is so? A Yes.

Q Where was your place of business October, 1906?

A 131 Washington street.

Q Did you occupy the entire building? A No.

Q The first loft? A No, sir.

Q The store? A part of the third loft.

Q 131 Washington street -- when the receiver Johnson was appointed -- am I correct in the name Johnson, did you say?
A Yes.

Q You were at that time on Washington street -- now did you turn over the property to the receiver at that time?

A The receiver seized the property.

Q That is, he seized all the property that you had in Washington street? A Yes, sir.

Q Did you in October, 1906, conduct business at any other place than Washington street, Providence? A No, sir.

Q How comes it that you had property in Calendar street?

A That was sometime after that date.

Q After what date, after October? A Yes.

Q How long after October was it that you had property in Calendar street? A In December.

Q Now in the month of December you were not discharged in bankruptcy? A No.

Q You were still a bankrupt? A Yes.

Q You had not made any purchases between October and December, 1906? A No.

Q And the receiver you say seized all the property that you had in Washington street, and you said you conducted no other place of business than in Washington street -- how comes it -- tell the Court and the jury, that you had property in Calendar street? A During my business transactions I became indebted to my sister-in-law Mrs. Lance, and in order to secure her debt, some goods were stored in Jones's Warehouse.

Q Stop right there -- and the complainant in this case --

of course the People of this State -- but the principal witness is Emma Lance, isn't it? A Emma F. Lance.

Q Emma Lance was your sister-in-law, or she is your sister-in-law at present? A Yes.

Q When was it that you became indebted to her in any moneys? By that I mean I would like to get the month and the year? A I could not give you the dates off hand, because I don't remember them -- several transactions.

Q Antedating October, 1906? A Preceding you mean?

Q Yes, before October, 1906? A Certainly.

Q How much money were you indebted to your sister-in-law?

A \$8,000.

Q Moneys advanced to you by her in cash or draft or check or what? A Cash and checks.

Q Always in cash -- more in cash? A No, I think most in checks.

Q You say most in checks? A I say checks and cash.

Q Your answer is more in checks and less cash?

Objected to as immaterial.

THE WITNESS: Ask the question and I will straighten that out.

The last two or three questions put to the witness and their answers are read by the stenographer.

THE WITNESS: Mostly in checks.

BY MR. SNITKIN:

Q Can you tell this Court and jury when it was that she

first advanced any money to you? A I cannot tell you the dates -- around the first part of 1905.

Q The early part of 1905? A Yes.

Q Was she to draw interest for that money? A She was.

Q Did you name her as creditor in your schedules?

A I don't think she was named as a creditor.

Q You did not name her as a creditor at all? A No.

Q Who removed the property to Calendar street, if you know? A You mean the teamer?

Q You don't know what I mean -- I ask you the question if you know who it was that removed the property to Calendar street, Providence, which subsequently came to New York?

MR. MARSHALL: He asked if you meant a team.

BY MR. SNITKIN:

Q You understand my question, don't you? A Do you mean I went personally or somebody went personally and got it?

Q That is what I would like to know, did you go personally and remove the property to Calendar street? A No, I did not.

Q Did you know it was removed? A Yes.

Q At that time you were in bankruptcy? A I was.

Q So that you had taken property from your receiver and creditors and stored it in Calendar street, didn't you?

A The property was not in the hands of the receiver.

Q You did not do business in Calendar street?

THE COURT: Have you any object other than to affect the credibility of the witness?

MR. SNITKIN: To affect the credibility of the witness.

THE COURT: The witness states he has been convicted. Is not that enough?

MR. SNITKIN: I want to show the course of dealings and the various names he was known under.

THE COURT: Do not ask questions touching credibility, because I think it is unnecessary. There is no dispute about the conviction.

MR. SNITKIN: We can go behind the record.

THE COURT: He is not going behind the record.

MR. SNITKIN: I have a right to go behind the record to show what he was convicted of.

MR. MARSHALL: Ask him and he will tell you.

THE COURT: There is no dispute about that.

MR. SNITKIN: The jury have a right to judge how much credibility they can place in Comstock's words.

BY MR. SNITKIN:

Q At any rate you did conceal assets belonging to your creditors? A That question has never been decided.

Q Never been decided? A No.

Q But you are serving a sentence for that now? A I am

serving a sentence for conspiracy to conceal goods from my creditors.

Q You know Mr. Mann of Providence - do you know Mr. Mann, Samuel Mann doing business in New York City? A Samuel Mann?

Q Yes, Mann? A No, sir.

Q Never did business with him? A I don't ever recollect the name -- Samuel Mann.

Q Mr. Jerome Hahn was your lawyer in Providence? A Yes.

Q Do you know Mr. Samuel Mann who did business as S. Mann & Company, New York, in the shoe business? A I don't recollect the name at all.

Q You don't remember the names of your creditors?

MR. MARSHALL: I object, I think he ought to be fair to the witness.

MR. SNITKIN: I am going to be fair.

MR. MARSHALL: I object to the question.

Objection sustained. Exception.

Q After you had been thrown into the involuntary bankruptcy, and a receiver had been appointed, what month do you think that was? A I think the receiver was appointed the last part of October -- I am not positive of the date.

Q The first time you met this defendant relating to the transaction upon which he is now on trial was when? A Sometime in December.

Q December of 1906? A Yes.

Q Now at the time that you met him in December, 1906, where was that? A It was -- you said December, 1906 -- he came to this place of business on Calendar street --

Q Did you have an office then at that place? A That is where these goods were being sold.

Q Being sold? A Yes, sir.

Q Openly? A Openly, yes, sir.

Q Give us again, if you please, what you said to this defendant in December, 1906 relative to the goods which, as you say, were subsequently sent to New York? A Well, as I have already stated he brought in a Mr. Makowsky to presumably purchase some of these goods. He did not purchase anything. In the course of the conversation, either at that time or the next time, Mr. Bassing came in --

Q Now, before that time -- the first time -- speak of -- you say /the first time he brought in a man by the name of Makowsky, is that right? A Yes, sir.

Q Who was a prospective buyer, no goods were sold; now is that all that occurred on that day as far as you can remember now? A As far as I can remember that was all.

Q That you are certain was in December? A I think it was in December.

Q You are not certain about it? A Pretty positive it was December.

Q The first time that you saw Bassing, did you tell him

as to the character of the goods? A I think Mr. Bassing --

BY MR. SNITKIN:

Q Did you tell him the character of the goods?

THE COURT: Answer yes or no.

MR. MARSHALL: The question is a little involved.

THE WITNESS: I can say no, and then explain.

BY MR. SNITKIN:

Q You say no? A No.

BY THE COURT:

Q Now what is your explanation? A Mr. Bassing was fully -- seemed to be fully informed as to the entire --

MR. SNITKIN: I object and ask to strike that out.

THE COURT: Strike it out. The answer is "No."

BY MR. SNITKIN:

Q Chester W. Barrows was the referee appointed in your bankruptcy matter? A Yes, sir.

Q You had several hearings before him, didn't you?

A I think one hearing.

Q Can you tell us when it was that you first appeared before Chester W. Barrows, referee in bankruptcy in the matter of Benjamin W. Comstock? A No. I could not.

Q You don't remember that?

MR. MARSHALL: I object as incompetent, irrelevant and immaterial - for what purpose is it asked?

THE COURT: There is nothing pending before me.

MR. MARSHALL: Do you withdraw the question?

(No response from Mr. Snitkin).

BY MR. SNITKIN:

Q Now then when after December, 1906, did you next see this defendant and where? A He came into the place of business on Calendar street, I think it was the next day or a few days afterward.

Q What month do you think it was? A The latter part of December.

Q Still in December? A Yes, I think so.

Q Had you ever been to his home, this defendant's home in Bristol, before he came to your office -- see if you can remember that? A In regard to --

Q In regard to these goods? A No, no.

Q Never? A Never.

Q Do you ~~xx~~ know his wife? A Very well indeed.

Q How did you make her acquaintance if you have never been to their home? A I explained to you I sold them goods for a great many years.

Q In Bristol? A In Bristol.

Q That is some little distance from Providence?

A I think it is 12 miles or something like that.

Q And is that where you met Mrs. Bassing? A Yes, sir.

Q Now, with the exception of having met Mrs. Bassing in the course of your dealings with Mr. Bassing, which of course

was before you went into bankruptcy, had you ever seen Mrs. Bassing at her home on Church street, Bristol? A When you say home, that is rather a peculiar thing --

Q Home is a peculiar thing? A Their home was over the store or back of the store, as I understand it.

Q That was in Then street or Thames street, Bristol?

A I don't remember the name of the street.

Q You have been there how often? A I don't remember the name of the street -- Thame street.

Q How long had you been there? A I had been there for ten years.

Q And don't know the name of the street? A No.

Q With the exception of having seen Mrs. Bassing in the store, the name of the street you can't tell, had you seen her at any other time or on any other street? A No.

Q Now coming back to the second time you saw this defendant, and you think it was in December, 1906, what did you say to him at that time? A I entered into an agreement with him to send goods to New York City.

Q Now did you send any goods to New York City? A I did.

Q Personally, yes or no? A When you say personally what do you mean?

Q I mean personally see the shipment made? A I did.

Q How much did you send the first time? A I don't re-

member the number of cases. It was quite a large shipment.

Q Did you keep any books of account? A Yes, sir.

Q I mean relating to these matters? A These Basing matters?

Q Yes. A I had a small book that the goods were charged in.

Q Where is that book? A I think Arthur P. Johnson has it.

Q The receiver? A I think so.

At the request of Mr. Snitkin the stenographer reads the following answer of the witness: "A I had a small book that the goods were charged in."

BY MR. SNITKIN:

Q Charged to whom? A As the different people were sold we of course charged them to these people.

Q You just said you had made or saw a shipment made to New York? A Yes.

Q To whom was that first shipment consigned? A Consigned to A. W. Comstock.

Q A. W. Comstock was not yourself? A A. W. Comstock was my aunt.

Q What is her first name? A Annie W.

Q That was the goods you had sent to New York that you had stored in Calendar street to protect your sister-in-law, Mrs. Lance? A Some of those goods.

Q Answer yes or no. A part of them.

Q Then do you mean she was the owner of that property?

A Who do you mean?

Q Mrs. Lance? A Mrs. Lance was part owner.

Q Part owner? A Yes.

Q Did A. W. Comstock also advance you money? A Yes, sir.

Q Anybody else in your family advance you money?

A Yes.

Q Did you give them any goods? A Yes.

Q What is the name? A I did not give -- let me correct myself there -- Richard W. Comstock --

Q Richard W. Comstock? A Yes.

Q Do you mean Richard W. Comstock was the consignee of the first shipment? A No -- if you ask the question again I will answer.

(The last few questions and answers are repeated to the witness).

THE WITNESS: I did not give him any goods.

BY MR. SNITKIN:

Q Were you indebted to Mrs. Lance in any greater amount than you were Mrs. Comstock? A Yes.

Q Yet you did not consign the goods in her name, did you, yes or no? A No -- ask that question again.

MR. MARSHALL: Which do you mean?

MR. SNITKIN: In the name of Mrs. Lance.

THE WITNESS: No.

BY MR. SNITKIN:

Q Did you appear before Governor Higgins of Rhode Island-- at that time Governor of Rhode Island, on the 8th of July, 1907? A I appeared before Governor Higgins. I don't remember the date.

Q You can't tell the year either? A I think I can tell the year, yes.

Q What? A 1908.

Q 1908? A I think it was.

Q Suppose you refresh your recollection.

MR. MARSHALL: It was first 1907.

MR. SNITKIN: I want his answer.

THE WITNESS: I might say I don't remember.

BY MR. SNITKIN:

Q When you testified a moment ago under oath that it was 1908, you were mistaken in that? A I don't remember the date.

Q Didn't you testify before Governor Higgins that all the property that you had sent to New York was the property of Emma F. Lance, yes or no? A I don't remember.

Q Is there anything the matter with your memory?

Objected to, sustained and exception.

Q You are mentally all right, are you not? A I consider myself so, yes.

Q When did you first come to New York? A About the 1st of January.

Q Who went with you to New York the first time?

A As I have already stated I do not think Mr. Bassing went with me -- he met me in New York.

Q Prior to having met Bassing in New York, did you see him in Providence and did you direct him to go to New York?

A Why, we agreed to go.

Q Did you tell him to go to New York? A I told him I would meet him in New York.

Q You wanted him to go there to sell these goods?

A Yes, sir, I did.

Q The goods consisted of shoes, boots and rubbers?

A Yes.

Q Of course you were to realize the largest amount you possibly could on them? A Naturally.

Q How much did you say you would accept on a dollar?

A I agreed to accept one hundred cents on the dollar, less ten per cent, I think it was for cash sales.

Q In other words this stock that had been removed from Calendar street, and taken from your creditors and brought to New York and consigned to A. W. Comstock, you wanted to receive full value for it? A Yes, sir.

Q Didn't you say to Bassing, "You sell them and get as much as you can but not less than 50 cents on the dollar for

shoes and 40 cents for rubbers? A No, sir.

Q You have been in the trade a number of years and you know the datings? A Yes.

Q Large datings in your line? A No, sir -- most terms are ten days or thirty days.

Q Come down to the time you arrived in New York -- who hired the store, see if you can remember that? A I hired the store.

Q Under what name? A A. W. Comstock.

Q Under your name? A No.

Q Was A. W. Comstock ever in New York? A I believe not.

Q Was Emma Lance ever in New York relative to this transaction? A No.

Q You used the name of Lance and Comstock, A. W., as sort of dummies? A They both authorized me to use their names.

Q Have you the power of attorney from Comstock?

A I don't think I ever had a power of attorney, no, sir.

Q That is you had no written ~~by~~ ~~of~~ power of attorney from Comstock -- am I correct? A Yes.

Q And no written power of attorney from Mrs. Lance?

A No.

Q Then I say you used those names in the course of dealings from Bristol and Providence to New York, you used them as dummies, dummy names? A We did not consider it so.

Q You did not consider it so? A No.

Q Did you name A. W. Comstock as a creditor in your schedules? A No.

Q You were indebted to Miss A. W. Comstock -- is it Mrs. A. W.? A No, Miss A. W.

Q Miss A. W. -- what is her business? A She has no business.

Q How much did you owe this lady who has no business?

A I think it was about \$5,000.

Q So that you were indebted to the family about \$13,000?

A Thereabouts.

Q What is the business of Mrs. Lance? A She is not engaged in business.

Q Was she ever engaged in business? A No.

Q A married woman? A Yes, sir, Mrs. Lance -- naturally.

Q When you met Bassing in New York at this hotel on Canal and Bowery -- that is the Summit Hotel, you mean? A I think that was the name.

Q The Summit Hotel -- that was in the early part of 1907, was it not? A Yes, sir.

Q Can you tell us what part of January you met this defendant at the Summit Hotel? A No.

Q Can you tell when the first shipment of goods was removed from the Joy Line to your place of business on Canal

street? A I cannot remember, no, sir.

Q You don't remember that? A No, I don't remember the date, no, sir.

Q Can you tell the month? A It was in January I believe.

Q Can you tell the year -- you believe -- aren't you certain? A Well as I say it was the latter part of December or the first part of January. A I don't remember the exact dates.

Q Will you swear you made a shipment of goods in December, 1906? A I won't swear to the exact date, no, sir.

Q You do not swear to any date at all exactly, do you? A No, sir, because I don't remember dates, but the bills of lading will show everything.

Q The first shipment you made of goods, did you consider that the property of Emma F. Lance or A. W. Comstock? A I considered it the property of both.

Q We have it now that the first shipment you considered the property of E. F. Lance and A. W. Comstock? A Yes.

Q Can you tell when the next shipment was made after the one you have stated -- sometime in January, 1907? A No, I don't remember the date.

Q You cannot tell that? A No.

Q Whose property did you consider that shipment? A The property of Mrs. Lance.

Q Mrs. Lance? A Yes.

Q No one else? A No.

Q Is Mrs. Lance here? A No.

Q She resides in providence? A Yes.

Q So do you? A Yes.

Q And so does this defendant? A Yes.

Q And all your witnesses, is not that so, live in Providence? A The defendant lived in Bristol I believe.

Q You know that, Bristol? A Yes.

Q But not in the state of New York? A No.

Q When you hired a store, did you immediately leave for Providence? A I don't remember just how long I stayed in New York, a very short time.

Q When did you for the first time send Flood to New York?

A Sometime in January.

Q When, what part of January? A Along the first of January, the first part of January.

Q The first of January? A The first part of January. I can't remember dates, Mr. Snitkin.

Q Do you know how long Flood remained in the city?

A He remained here until along the first of February.

Q Are you certain now that the first of February was the last time that Flood was in New York City? A I do not say the first -- the first part of February.

Q What part of February did he leave New York for Provi-

dence, if you know? A I am not positive myself as to dates because I don't remember them.

Q Do you know when the first sale of goods was made in New York? A I don't remember the date, no, sir.

Q Can you tell us the month that a sale was made of the goods that belonged to Mrs. Lance and Mrs. Comstock? A To my memory it was in January.

Q Do you know to whom those goods in January were sold? A I don't remember, no, sir.

Q Did you receive any moneys for those goods sold in January, 1907, yes or no? A If it was January I received some money.

Q I am asking you, don't you remember if you received any money in January? A I don't remember whether it was December or January -- the latter part of December or January.

Q You have stated the first shipment of goods was made in January, 1907? A Either the latter part of December or the first part of January.

Q When did you first receive moneys for the goods that you sent to New York? A I don't remember the dates.

Q Didn't you keep books indicating the amounts received for the sales? A Yes, sir.

Q To the best of your recollection now, how much money did you receive in January? A There was two small bills.

Q How much money? A And I am pretty positive it was less than \$100.

Q Did you receive that incash or by check? A I think it was sent by money order or express order, something like that.

Q At that time in January, you had sent considerable goods down here and all you realized was about \$100 as you say now? A Yes, sir.

Q Did you go back to New York? A No, I don't think I came back to New York.

Q We have it now that you only made one trip to this city, and that was the time in the early part -- as you can remember now -- of January, 1907, when you met Bassing at the Summit Hotel and hired the store on Canal street?

A Yes, sir.

Q That is correct? A Yes.

Q You never came into the city relative to this transaction until you had Bassing arrested, am I correct in that?

A Yes.

Q We have it now that on the 6th of February, 1907, you were not in the city of New York? A No, sir.

Q Who is Flood, by the way? A He was a salesman for me.

Q Flood was the young man who was in your employ?

A Yes.

Q Was he in your employ before you were thrown into involuntary bankruptcy? A Yes, sir.

Q Now, Mr Cpmstock, will the fact that I inform you, you were here on the 21st of January, at the Grand Central Station, New York, refresh your recollection as to whether you were here or not? A I was not.

Q Sure about it? A Positive.

Q Didn't you leave on the midnight train on the 21st of January, 1907? A No, sir.

Q What makes that fact positive in your mind as to that particular day, and you cannot recall the other dates?

A I am not positive of the dates, but I know I was not here.

Q Do you remember seeing Mr Bassing in your office on the 24th of January, 1907? A No, sir, I don't remember.

Q Will you swear he was not there? A No, sir, I

2 47
will not.

Q Did you not on that day receive at your office \$2,100 from this defendant for the January sales? A From Mr Bassing--no, sir.

Q How much do you think was the reasonable value of all the goods you sent to New York? A About \$12,000.

Q And all you realized was \$100, is that right? A I can explain--

Q Is that right, yes or no--all you realized, as you say, on \$12,000 worth of goods was \$100? A No.

Q How much money did you get in all from Bassing? A I did not get any money personally from Mr Bassing.

Q How much money did you receive as the results of sales that he made for you in New York City? A \$1300 I think it was, about.

Q The total \$1300? A Yes.

Q Was that before or after the 6th of February that you received \$1300 from this defendant? A As each sale was made, the party purchasing made a deposit on each purchase.

Q Was it before or after the 6th of February, 1907?
A Before.

Q That you received \$1300? A Before.

Q Do you know when the business was given--the store was given up in New York? A Somewhere along the 6th or 7th of January, somewhere about there.

Q What is that? A February, I should say.

Q From the first time that you met Bassing in the Hotel Suffolk, up to the time that you caused his arrest in Rhode Island, and had him brought to New York, did you see him in New York City? A No, sir.

Q Between January, 1907, and the 6th of February, 1907, how many times did you see Bassing in your office relative to this case? A I think Mr Bassing was in the office once, between that time. That is all I remember.

Q What is that? A I remember he being in there once, I think.

Q Did he turn any money in to you then? A No.

Q Was that before February 1st or after? A That was the middle of January, I think, somewhere along there.

Q Q You did not see him at all in February? A Not until the last transaction, as to commissions, and so forth.

Q You paid him the commission when? A The first commission or the second commission?

Q The one referred to in People's Exhibit 3 that you have identified and which is in evidence? A That was in February.

Q When in February? A Well, along the 7th or 8th or 9th, somewhere through there. I don't remember the exact date.

Q You don't remember that? A No.

Q You paid him \$216? A I don't remember the amount--

4 49
according to that receipt.

Q What was his commission to be on the sales? A When Bassing first came to New York we agreed upon five per cent, and when he had to sell the goods at a loss of ten per cent, he agreed to accept 2 1/2 per cent as commission. That was the basis of the commission.

Q Now, when was it that you caused the arrest of this defendant? A I cannot tell you the date.

Q You don't remember that? A No.

Q Did you cause his arrest before or after you had appeared before Chester W. Barrows, the Referee in your bankruptcy matter? A Afterwards.

Q Is it not a fact that Bassing was subpoenaed as a witness by the creditors against you? A I believe he was, yes.

Q You saw him appear before the Referee, didn't you?

A No, sir.

Q Did you hear him testify? A Yes, but not before the Referee.

Q I beg your pardon--before whom? A Judge Brown.

Q Well, before Bassing testified against you in behalf of the creditors as to the disposition of the property in New York, did you go to the home of this defendant in Bristol?

A I told you I have been to his home hundreds of times.

Q I am now trying to call your attention to a specific time, while the proceedings in bankruptcy were pending against

you, while you were being examined by your creditors and when Bassing appeared as a witness against you before Judge Brown-- did you go to his home, Bassing's home? A I have been to his home some time previous to that, a great many times.

Q How long before or how soon after you were thrown into bankruptcy did you go to his home? A The only time I remember of being at Bassing's home was some time along in February.

Q What year? A 1907.

Q At that time you were in bankruptcy? A Yes.

Q Didn't you say to Mrs Bassing--you would know her if you saw her? A Yes.

Q Didn't you say to Mrs Bassing that if you don't keep Jake away from appearing against me as a witness I will make it hot for him in New York? A No.

Q And is it not true that after Bassing had appeared as a witness against you in the bankruptcy court that you caused his indictment in New York? A No.

Q That is not so? A No.

Q You were represented by counsel in the first proceeding against this defendant? A Yes.

Q Epstein Brothers? A Yes.

Q At that time the defendant was discharged, wasn't he?

A There was some--

Q Say yes or no--was he, yes or No, if you know.

Objected to as incompetent and immaterial.

Objection sustained.

MR. SNITKIN: I desire this for the purpose of proving motive.

Objection sustained. Exception.

Q After you had Epstein Brothers, you retained Howard Ganz? A Yes.

Q That was the man who was formerly connected with the District Attorney's office? A That I do not know anything about.

Q You did not know it at that time? A No.

Q Who sent you to Howard Ganz? A J. Jerome Hahn, my attorney in Providence--Mr Hahn.

Q Before you retained Howard Ganz as counsel for you against Bassing, Bassing was in Providence? A I suppose so.

Q You saw him there, didn't you? A I didn't see him but I heard he was there.

Q Didn't you say to Bassing, "I hear you have been discharged by the New York court?"

MR. MARSHALL: When was that. I object to it.

MR. SNITKIN: I ask him the question.

MR. MARSHALL: I object to it as too indefinite.

Objection overruled.

THE WITNESS: I already testified that I--

Q Just answer my question, not what you have testified

to? A No, sir.

Q Didn't you say to Bassing at that time, "Well, we are not through yet"? A No, sir.

Q And was it not after that that Bassing was again arrested on the complaint made by Flood to you? A Bassing was arrested?

Q If you remember say yes, and if you don't, say no.

A I said nothing to Bassing whatsoever.

Q But at any rate we have it now after you had seen Bassing, after you had made your first complaint, then you retained Ganz and the man is brought back to New York, this defendant?

A He is re-extradicted.

Q Didn't you say to the wife of this defendant that if Bassing remained away and would not testify in behalf of your creditors, that you would pay his expense? A No, sir.

Q And come to New York and have the indictment that you had caused to be framed against him dismissed? A No, sir.

MR. MARSHALL: Where was this conversation?

MR. SNITKIN: Providence, of course.

MR. MARSHALL: Providence?

MR. SNITKIN: Bristol.

MR. MARSHALL: You are not fair to the witness.

MR. SNITKIN (to the witness): If I am not fair to you tell me.

MR. MARSHALL: I will tell you.

BY MR. SNITKIN:

Q Is it not a fact that as the result of the testimony given by Bassing against you that you had brought these goods to New York, that you were indicted by the United States Grand Jury in Providence? A I know nothing about the procedure of the Grand Jury.

Q Don't know anything about it? A I believe their actions are secret.

Q What? A I don't know anything about the procedure of the Grand Jury.

Q I ask you again, is it not a fact that as the result of testimony given by Bassing against you, showing the disposition of the property, that you were indicted and pleaded guilty to it? A I cannot say that I know Bassing was responsible for that, no, sir.

Q You know he was one of the witnesses? A I know he was one of the witnesses.

Q You did not want him to testify against you? A In fact, I did not know he was to testify.

Q You saw him there? A I did.

Q What did you think he was there for? A When I saw him there I knew he was probably going--

Objected to as incompetent and immaterial.

Objection sustained. Exception.

Q Didn't you really want to have Bassing kept out of the

way, until your composition was made up? A No, sir.

Q You knew at the time you were being examined before your Referee in Bankruptcy, that Bassing was the man who disposed of the property in New York for you; you knew that, didn't you? A You are mixing the affairs up.

Q You knew when you were being examined in the bankruptcy proceedings that Bassing knew something about your transaction, didn't you?

Objected to as incompetent and immaterial.

Sustained and exception.

Q When did you turn over the book containing the entries of the sales that you had sent to New York or that were made in New York to Mr Johnson, the Referee?

Objected to as incompetent and immaterial.

Sustained, and exception.

Q The only reason that you can now give the Court and jury for the fact that the book is not here, which would indicate the transactions between the defendant and yourself, is that Johnson has it, is that correct?

Objected to as incompetent and immaterial, and improper in form.

MR. SNITKIN: I have a right to ask where that book is.

THE COURT: He may answer that.

A I believe Mr Johnson has the book.

Q Is that the best answer you can make? A Yes.

Q When did you turn that book over to him? A I don't remember the date.

Q For what purpose? A Mr Johnson asked me for all papers and books that I had.

Q Johnson was appointed in October your Receiver?

A Yes.

Q And this was in February? A Yes.

Q Didn't you turn over all the books in October?

A All the books I had at that time.

MR. MARSHALL: Did not have the other books.

MR. SNITKIN: Do not aid him at all, Mr Marshall.

MR. MARSHALL: You are out of order.

BY MR. SNITKIN:

Q When did Johnson next ask you for books? A After I had been indicted.

Q After you had been indicted? A Yes, sir.

Q You mean to say that after you were indicted, that your counsel permitted you to turn that book over? A Yes.

Q Now, Mr Comstock, you say that all that you received from Bassing was about \$1300? A I can't remember.

Q And that you paid him \$216 commission, is that right?

A That is about the figure.

Q And he was to receive 2 1/2 per cent? A Yes.

Q Then how much money did you receive from this defend-

ant, if you gave him \$216 and the commission was to be 2 1/2 per cent? A If I took a pencil and paper I could figure it.

Q Is it not \$8,640--figure it up yourself--figure out the principal of the amount you received from this defendant?

MR. MARSHALL: I do not know what the counsel is driving at. He has testified that the money he received--

MR. SNITKIN: I think it is unfair to be interrupted. The witness said that all Bassing sold was \$1300 worth of goods.

MR. MARSHALL: No, he did not.

MR. SNITKIN: He said he gave him \$1300 and he paid him \$216.

THE COURT: Let the witness answer the question.

BY MR. SNITKIN:

Q Figure it up? A I cannot figure it.

Q You cannot figure it?

MR. MARSHALL: I object. I don't understand it.

THE COURT: You may question him about it afterwards, Mr Marshall.

BY MR SNITKIN:

Q Kindly take that pencil and paper and figure out the amount you receive from Bassing?

BY THE COURT:

Q How much did you receive?

MR. MARSHALL: From Bassing?

MR. SNITKIN: Yes, which would make \$216 commission--
the principal.

THE COURT: Yes.

BY MR. SNITKIN:

Q Figure it up?

MR. MARSHALL: I object to the question.

Objection overruled.

A About \$8,000.

BY MR. MARSHALL:

Q What is \$8,000?

THE COURT: I will allow this interruption.

BY THE COURT:

Q What do you mean by \$8,000, what does that represent?

A I have testified that I paid Mr Bassing, on a certain date,
of \$216, and that was part commission after deducting a small
bill that Bassing owed me.

BY MR. SNITKIN:

Q Which was \$24? A Yes, sir, and a part commission
on the entire transaction with Mr Bassing. I don't know as I
testified--I tried to testify that I made him a previous ad-
vance--I think I did testify to that.

BY MR. MARSHALL:

Q You mean, according to your arrangement with Bassing,
this \$216 paid to him would represent the sale of about \$8,000--
is that what you mean--I do not know what the \$8,000 means--

how do you figure \$8,000, what does that mean; you were handed a paper and you figured, and you said \$8,000, now what does that mean? A I have testified that I agreed to pay Bassing 2 1/2 per cent commission, and the last time he came to the office our final settlement amounted to \$216; that was the commission less a previous commission I had advanced him and a small amount that he owed me. That commission--216 plus the other commission advanced, of which you have the receipt, I think--you have another receipt there--shows the commission that I paid Mr Bassing.

BY MR. MARSHALL:

Q What does the \$8,000 mean, that that commission that you paid him would represent the sum of \$8,000 about?

THE WITNESS: At a commission of 2 1/2 per cent.

THE COURT: Did Bassing sell \$8,000 worth of goods for you?

A Yes, sir, more than that.

Q And this was the commission paid on such sale?

A This was part of the commission paid on such sale.

BY MR. SNITKIN:

Q You personally know nothing about the transaction of the 6th of February, 1907, which is the subject-matter of this indictment? A I was not here in New York.

Q Did you personally make the shipments of the goods?

A From Providence in this indictment of February, 6th, 1907?

A From New York or Providence?

Q From Providence? A Yes.

Q Personally? A Yes.

Q How many cases of goods did you ship? A I can't remember the number.

Q When did you ship them? A I cannot tell you that either.

Q When you filed your schedules in your bankruptcy proceedings, did you turn over all your assets, including moneys, to the Receiver?

Objected to as incompetent and immaterial.

Objection sustained, and exception.

THE COURT: Mr Snitkin, you see you are going on with questions tending to affect the credibility of the witness, and I am holding and shall continue to hold that that subject has been exhausted.

BY MR. SNITKIN:

Q After the first arrest of this defendant you say you saw him after he was discharged, in Rhode Island, in Providence?

A I did not testify so.

Q Do you remember when you came here and made your complaint the first time? A The first time?

Q Yes. A I think it was along about the 20th of February.

Q February? A Yes.

Q At that time had you been examined by the Referee?

A Yes.

Q How is that? A Yes.

Q And heard questions asked of you pertaining to the property that was sent from Providence to New York? A When I appeared--

Q Yes or no? A No.

Q Was Mr Bassing's name mentioned at that time? A No.

Q Do you know Eleanor Matthews, manager of the Hope Drug Company, Bristol? A No--I know Elmer Matthewson, yes.

Q Is Matthewson related to you? A No.

Q Did you ever use his name, yes or no? A Yes.

Q Did you sign receipts with his name?

Objected to. Sustained.

Q Had you had any business dealings with Matthews of the Hope Drug Company? A Yes.

THE COURT: Does this relate to this case?

MR. SNITKIN: Yes; it relates to the credibility of the witness.

THE COURT: I will not allow it.

MR. SNITKIN: I will frame my question.

MR. MARSHALL: I withdraw all objection. He has gone so far as to make it appear that he has done something wrong in reference to a person named Matthews. He has to go into it or I have to, to remove the impression from

the jury. That was just his idea when he did it.

THE COURT: Very well.

BY MR. SNITKIN:

Q Matthewson was not in the boot and shoe business?

A No.

Q Did he also advance you moneys? A No.

Q But you assigned about \$10,000 worth of accounts to him? A Yes.

Q To cheat your creditors? A No, sir.

Q It belonged to your creditors, your accounts?

A Some of them.

Q And Matthewson, who is not in the shoe business and not a creditor--was he? A No, sir.

BY THE COURT:

Q Tell us why you assigned them to Matthewson? A He agreed to buy some of the accounts.

BY MR. SNITKIN:

Q When was that, after you were in bankruptcy? A Before.

Q Was it not in November you made the assignments to him? A I don't remember the date.

Q Was it one of the grounds that your application for discharge and composition was denied? A Not that I remember.

Q Did you read the specifications that were filed against your discharge in bankruptcy? A I think I did.

Q Is this a copy of the paper you received?

THE COURT: That only goes to credibility.

A I don't remember.

Q Look at it, you have not seen it yet?

Objected to. Sustained, and exception.

Q Did you file in your schedules, or at any other time, prior to the arrest of this defendant or after the arrest of this defendant, that this defendant had any moneys belonging to you that you were willing to be turned over to the Receiver?

A Mr Bassing's name was not ever put into the schedules, I do not believe--I don't remember it.

Q After the arrest of the defendant, Bassing, did you ever go to Johnson, the Receiver, and say, "This man has moneys that belong to my estate"? A No.

Q Do you remember when Bassing appeared in the United States Court to testify in your bankruptcy proceeding, seeing Mr Hahn, your lawyer there? A Mr Hahn conducted my case.

Q Prior to the time that Bassing was sworn as a witness, did your lawyer, acting in your presence, say to Bassing, "If you don't go out of this building, these papers will bring you back to New York"? A No.

Q That is not so? A No.

Q When if you remember, did you first make complaint against this defendant? A About February 20th, as Near as I can remember.

Q February what? A February 20th, somewhere along there.

Q The 20th? A Somewhere thereabouts.

Q Was it not some time in March? A No.

Q March, 1907? A I came to New York on Washington's Birthday, if I remember aright, and we could not get out the complaint that day on account of it being a holiday, and we ran around town--

Q What do you mean by saying we--who do you refer to by we? A Mr Flood and myself.

Q How many trips did you make from Providence to New York with Flood? A I think three trips.

Q Did you pay Flood for coming here? A Yes.

Q Did you pay him by the day? A I think I gave him \$15.

Q Every time he came to New York? A No, I won't say that.

Q Didn't you pay Flood \$15 every time you brought him to New York, and expenses, yes or no? A I don't remember whether it was \$15 every time or not.

Q Do you remember Flood testifying before Gov. Higgins that every time you took him to New York you paid him \$15 and his expenses?

Objected to as incompetent, irrelevant and immaterial.

Sustained, and exception.

Q Do you remember Flood testifying before Gov. Higgins that you were using him as a tool, and that you were using him as a sucker, and that if he had taken his mother's advice he would not have doubled up with you and would not have had any trouble?

Objected to. Sustained, and exception.

Q Do you know Samuel Goldsmith, Deputy Sheriff, of Providence? A I do not know him. I have seen him.

Q Where did you see him? A At the extradition hearings before the Governor.

Q Were you present when he testified? A I was.

Q Did you hear him state in your presence--

MR. MARSHALL: I object. This counsel knows that this is improper. He knows that what he is about to state should not be stated before the jury, and he knows it would have to be ruled out--if he wants to ask that, go ahead.

MR. SNITKIN: Why do you object if you want me to go ahead.

THE COURT: Proceed with your question.

BY MR. SNITKIN:

Q Did you hear him, Goldsmith, testify before Governor Higgins in your presence and state that--

MR. MARSHALL: I object to anything that Goldsmith said before Governor Higgins, whether this witness heard

it or not, arising out of that matter.

Objected to. Sustained, and exception.

Q Do you know Michael Tieman? A Yes.

Q What is his business? A Retail shoe merchant.

Q Where? A Providence.

Q Do you know John M. Peck? A Yes.

Q What is his business? A He is now in the State Prison, Rhode Island, for engineering it.

Q Engineering you? A Yes.

Q Peck is serving time in prison for engineering you, is he?

THE COURT: He stated that.

BY MR. SNITKIN:

Q Now, Davidson was also convicted in your matter?

A No.

Q Don't you know he pleaded guilty and sentence was suspended upon him? A I believe Mr Davidson plead nolle.

Q And sentence was suspended upon him? A I think there was some arrangement of that kind.

Q I have to refresh your recollection, have I not. Davidson was also in your employ? A Yes.

Q Where is Davidson now? A He is sitting in the Court room.

Q Where is he?

(Indicating.)

MR. SNITKIN: I ask that all witnesses be excluded upon both sides.

THE COURT: We will do it when we adjourn, but we will not interrupt the proceedings just now. We will do it later.

MR. SNITKIN: The question I am going to ask the witness I do not want any witnesses to hear.

THE COURT: Finish up now. I will not make any order at this particular time. Go on with whatever you have.

BY MR. SNITKIN:

Q How long had Davidson been in your employ? A About two years.

Q Did he also engineer this failure? A No.

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

Objection sustained.

Q What was he convicted of, if you know?

MR. MARSHALL: Who?

MR. SNITKIN: Davidson.

Objected to as incompetent, irrelevant and immaterial.

Sustained, and exception.

Q Now, Mr Comstock, when was it that you sent Davidson, your employee, to the home of Mr Bassing? A Some time in the middle of February.

Q What is that? A Some time in the middle of Febru-

ary.

Q That is the best answer you can make, some time in the middle of February? A I don't remember the exact date.

Q How many times had you sent Davidson, who is now in court, to Bassing's home? A I don't remember that he ever went there but that time.

Q What time? A About the middle of February.

Q Didn't you say that a minute ago?

MR. MARSHALL: Say what?

BY MR. SNITKIN:

Q Didn't you testify a minute ago that you sent Davidson to Bassing's home? A Yes, sir, I did.

Q And you said the middle of February? A Yes.

Q I ask you if you can tell how many times you sent him there? A I said I don't ever remember seeing him going there but that one time.

Q That is the only time you recall? A Yes.

Q Where does Davidson live? A Providence.

Q He is in court this morning--have you had any talk with Mr Davidson at all about this case? A Yes.

Q Very many times? A A great many times.

Q You have had him at Mr Ganz's office? A No.

Q Never? A Never.

Q You have had him before the Grand Jury of this county?

A I don't think he has been before the Grand Jury of this

county.

Q Do you pay him for coming here? A No.

Q Do you know that he does not reside in New York State?

A Yes, sir.

Q You do not prepay his expense, do you? A No, sir.

MR. MARSHALL: Now?

BY MR. SNITKIN:

Q Now? A I said no.

Q I heard you--you have been paying his expense every time he came to New York in the Bassing case? A When he was employed by me I paid all his expenses for traveling.

Q When did he leave your employment? A In the middle of the summer of 1907.

Q There are three months that make up the summer, what month was it? A I don't remember the month.

Q You don't remember that? A No.

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

1 70
AFTER RECESS.

BENJAMIN W. COMSTOCK, resumes the stand.

CROSS-EXAMINATION CONTINUED BY MR. SNITKIN:

MR. SNITKIN: I now ask that all the witnesses on both sides, except the one now testifying, be excluded.

MR. MARSHALL: That is consented to.

THE COURT: It is so ordered.

Q Now, in the forenoon, Mr. Comstock, I interrogated you about the firm of S. Mann & Company, and I stated they were in the shoe business. I want to correct that now, and I ask you to tell the Court and jury if you know what Mann & Company's business was? A I don't remember any such name.

Q Were you ever in the hosiery business? A I bought some hosiery.

Q No, were you ever in the hosiery business? A Yes, sir.

Q When? A In 1906.

Q What month? A Oh, several months.

Q I beg your pardon? A Several months.

Q Several months, when did you fail in the hosiery business?

MR. MARSHALL: That is objected to as incompetent.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q Is it not a fact that you took from the firm of S. Mann

2
& Company of New York, dealers in hosiery, \$10,000 worth of hosiery, not being engaged in that business, and subsequently didn't you appropriate it to your own use?

MR. MARSHALL: That is objected to as incompetent and immaterial.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

THE COURT: It goes to the credibility and you have asked as many questions tending to affect credibility as I will permit.

MR. MARSHALL: If these questions are asked with the obvious idea -- I will withdraw the objection.

THE COURT: I shall sustain the objection if there is an objection.

MR. MARSHALL: I will withdraw the objection to the last question.

MR. SNITKIN: The Court has sustained the objection; I do not ask any more questions.

MR. MARSHALL: I withdraw the objection. Will your Honor permit the witness to answer the last question?

THE COURT: Certainly.

MR. MARSHALL: Read the question.

MR. SNITKIN: Do I understand that your Honor reverses yourself?

THE COURT: I do not reverse myself at all. The

3 72
objection is withdrawn. There is no reason why the question should not be answered.

Q (Question read). A No, sir.

Q I thought you said you didn't know a firm by that name?

A If I didn't know the firm by that name, I certainly could not have taken \$10,000 worth from them.

Q How many thousand dollars worth of hosiery did you take from some firm?

MR. MARSHALL: That is about the limit. I object to the question now.

THE COURT: Objection sustained.

MR. SMITKIN: I except.

Q For how long had you been engaged in the hosiery business?

A About a year.

Q While you were in the shoe business, is that right?

A Yes, sir.

Q Sort of a side line, stockings and shoes, is that it?

A Yes, sir.

Q Now, do you think you could refresh your recollection now if you were given some time, as to whether you had taken goods from this firm?

MR. MARSHALL: I object to that as utterly incompetent and immaterial.

THE COURT: Objection sustained.

MR. SMITKIN: I except, sir.

4 Q Did you hear it testified to before the United States Court and also before the trustee in bankruptcy, or the Referee in Bankruptcy --

MR. MARSHALL: Before whom?

MR. SNITKIN: Wait a moment, the question is not finished.

Q (Continued): That you had stolen \$10,000 worth of hosiery?

MR. MARSHALL: Now, counsel ought to know --

THE COURT: Do you object?

MR. MARSHALL: I do object.

THE COURT: I sustain your objection.

MR. MARSHALL: I object to counsel asking questions with the obvious purpose which he knows will be ruled out; it is improper and I object to it.

Q Now, Mr. Witness, when you shipped goods from Providence to New York and you saw that the consignee named in the first shipment was Lance & Comstock, did you get a receipt from the company, Express Company? A Freight receipt?

Q Yes? A Yes, sir.

Q Have you got it here? A No, sir.

Q Did you turn that over to Mr. Johnson, too? A That would be a bill of lading.

Q I beg your pardon? A That would be a bill of lading if it went by freight.

Q You see, I did not use the proper term, bill of lading,

did you turn that over to Mr. Johnson, too? A I don't think Mr. Johnson had that; perhaps he did.

Q What is that? A Perhaps he had that.

Q Will you swear that you turned that bill of lading calling for the consignment of these various shipments that you made to New York to Mr. Johnson? A I would not swear to that.

Q Why did you swear that he has probably got it? A Because I turned over all papers and books.

Q When was that that you turned over all papers and books? A Sometime after I had been indicted in bankruptcy.

Q In other words, until you were indicted, you held back books and papers belonging to the referee?

MR. MARSHALL: That is objected to as utterly incompetent and irrelevant and immaterial.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

THE WITNESS: I will explain that, Mr. Marshall.

MR. MARSHALL: You do not need to.

MR. SNITKIN: Now, you see he doesn't want you to explain.

MR. MARSHALL: These remarks are made with the obvious intention of prejudicing the jury.

THE COURT: I shall pay the jury the compliment to assume that they are of sufficient intelligence not to be

influenced by that.

Q Now, Mr. Comstock, have you a bill of lading for the shipment of the 6th of February? A From Providence?

Q Yes, from Providence to New York? A No, sir.

Q You have not got that?

MR. MARSHALL: No, there never was any such shipment.

Q Do you now say that on the 6th of February, 1907, you did not make a shipment of shoes from Providence to New York, yes or no? A I will tell you, I cannot --

Q Yes or no?

MR. MARSHALL: Do you know whether you did or not?

A He specifies a certain date, Mr. Marshall, a certain date.

Q A certain date, the subject matter of the indictment here upon which this defendant is now being tried? A Shipped from Providence to New York?

Q Yes? A On what day?

Q On the 6th of February, 1907?

MR. MARSHALL: That is the date of the bill of lading.

MR. SNITKIN: I object to your interruption. That is improper and you know it.

A I think the goods from New York were shipped prior to that date.

Q Prior to? A Yes, sir.

Q So that you have it now that on the 6th of February, 1907, this defendant did not take any shoes belonging to you?

A Not from Providence, but from New York.

Q When were those goods shipped from Providence to New York?

MR. MARSHALL: I object to that.

Q How many days before the 6th, don't be nervous about it?

MR. MARSHALL: If I show any evidences of nervousness I hope the Court will correct me. I object.

THE COURT: Objection sustained.

MR. SNITKIN: Exception.

Q You say on the 6th of February you received absolutely no money at all from the defendant? A These goods were stolen --

Q Yes or no?

MR. MARSHALL: What is the question?

THE COURT: Did you receive any money?

A Deposit.

Q What? A Deposit.

BY THE COURT:

Q What do you mean by deposit? A Can I explain?

Q Yes? A When these goods were sold we demanded a deposit on each sale because these goods were to be shipped by bill of lading to be paid for through the bank, and so that we would not lose, by freight, if they did not receive them, on

the other hand, and we had to return them and pay the freight both ways, we required a deposit on each purchase, and that is what I mean by a deposit.

BY MR. SNITKIN:

Q So we have it now here understood, if I am correct, that these goods were to be sent and collected on the other end by means of a bill of lading? A By draft attached to bill of lading.

Q You were in a hurry to get money? A Very much.

Q Very much in need of it, weren't you? A Yes, sir.

Q Anxious to get as much from the creditors as you could?

MR. MARSHALL: That is objected to.

MR. SNITKIN: The question is withdrawn.

MR. MARSHALL: I should hope so.

Q How much money did you receive on the 6th of February of this consignment of goods, the subject matter of this indictment? A \$700. I didn't say the 6th of February.

Q What is that? A I don't pin myself to the 6th of February.

Q I am now speaking of the complaint you have made against this defendant that he stole certain shoes on the 6th of February, 1907. Now, I ask you if you will be good enough to tell the Court and jury if you have received any money on account of this property you claim was stolen on the 6th of February?

A I have.

Q You did? A Yes, sir, \$700.

Q Was this money, the \$700 paid in New York or Providence?

A Providence.

Q At your office? A Yes, sir.

Q By whom? A By Mr. Flood.

Q BY Mr. Flood? A Yes, sir.

Q When you appeared before the Grand Jury as a witness against this defendant, you were sworn, I assume, weren't you, or don't you remember that? A I was trying to remember whether I did personally appear before the Grand Jury.

Q Yes, I wish you would try to remember that? A That is on the first indictment?

MR. MARSHALL: No, any indictment.

MR. SNITKIN: Present indictment?

MR. MARSHALL: Present indictment.

MR. SNITKIN: Yes, sir.

THE WITNESS: There was such a mix-up over that indictment that I don't remember.

Q You are under oath now, you appreciate that --

MR. MARSHALL: Oh, now --

Q You do; don't you?

MR. MARSHALL: One moment, I object to that.

THE COURT: Objection sustained.

Q I want you to tell this Court and jury under oath --

MR. MARSHALL: I object to that.

MR. SNITKIN: I ask that that phrase "under oath" be stricken out.

MR. MARSHALL: Cannot we get along without this Court and jury business? The witness is on the stand, he is telling the Court and jury under oath.

THE COURT: It is entirely unnecessary.

Q Now, you appeared as a witness against this defendant before the Grand Jury of this county on this indictment, yes or no? A I don't remember.

Q Is that the best answer you can give? A Yes, sir.

MR. MARSHALL: Of this particular indictment that is being tried?

MR. SNITKIN: I am addressing the witness now.

THE WITNESS: Yes, sir.

Q The employment of this defendant Bassing was by you personally, wasn't it? A Yes, sir.

Q Mrs. E. F. Lance, your sister-in-law, never employed him?

A No, sir.

Q R. W. Comstock or Miss R. W. Comstock never employed him?

A No, sir.

Q I never paid him? A No, sir.

Q Mrs. Lance never paid him? A No, sir.

MR. MARSHALL: I object to all these questions and ask to strike the answers out

11 80
THE COURT: I am not going to strike them out; they are in, Mr. Marshall.

THE WITNESS: Now, I can explain, can't I?

MR. MARSHALL: Just a moment.

THE COURT: Now, you may go on.

Q Now, you have stated that your best recollection is that you cannot state whether you appeared as a witness against this defendant on this indictment?

MR. MARSHALL: That is Indictment 66,363.

Q (Continued) 66,363, now, if I show you the back of the indictment and there appears the name of B. W. Comstock, will that refresh your recollection? A Well, that is certainly my name.

Q Yes, does that refresh your recollection as to whether or not you did appear as a witness against this defendant on this indictment on which he is now being tried? A No, sir, I have not any.

Q Still does not refresh your recollection? A No, sir.

Q You want that answer to stand? A Yes, sir.

MR. MARSHALL: Oh, of course he does.

MR. SMITKIN: All right.

Q Of course this shipment which is the subject matter of this indictment on which this defendant is at present being tried, Mr. Comstock, you did not know precisely the amount of shoes, that is in number and pairs, that it contained, did you? A The shipment from New York that was stolen?

7

Q Yes, the shipment that you claim the defendant stole?

A I had an itemized list of that account.

Q Knew them, did you? A Yes, sir.

Q In whose handwriting was that itemized list? A Mr. Flood's.

Q So that of your own personal knowledge you did not know at the time that this defendant was indicted, that is the indictment at present, the number of pairs that that shipment contained, of your own knowledge? A Simply by the list given to me.

Q Of your own knowledge, do you understand the meaning of those words? A Yes, sir.

Q Now, I would like to have your answer? A No, sir.

MR. SNITKIN: I call upon the District Attorney to produce the minutes of the Grand Jury upon which Indictment No. 66,363 was found.

THE COURT: The District Attorney cannot produce them.

MR. MARSHALL: You know I cannot produce them.

MR. SNITKIN: I ask the Court now in its judgment that it direct the District Attorney to produce the Grand Jury minutes for the purpose of ascertaining whether this witness appeared as a witness before the Grand Jury.

THE COURT: If you wanted any such proceeding of that kind, you should have done it long since on motion. The motion is denied.

MR. SNITKIN: Your Honor has that right.

THE COURT: Yes, I have that right, formally, on affidavit. I deny your motion.

MR. SNITKIN: For the purpose of contradicting this witness.

THE COURT: Motion denied.

MR. SNITKIN: I will move at the proper time, by affidavit, then. I offer the indictment in evidence. Have you any objection, Mr. Marshall, to having the District Attorney's copy going in as the original?

MR. MARSHALL: I object to a copy. I do not object to the original.

THE WITNESS: Since sitting here I do remember that I appeared before the Grand Jury.

MR. SNITKIN: That is all, Mr. Comstock.

MR. MARSHALL: One moment.

RE-DIRECT EXAMINATION BY MR. MARSHALL:

Q When were you sentenced, Mr. Comstock, in Rhode Island?

A On November 7th.

Q November 7th? A November 7, 1908.

Q And you say about the 20th of February it was you made your complaint? A Yes, I was sentenced in November, 1908.

Q But you came here to make your complaint against Bassing on the 22nd of February, 1907, Washington's Birthday? A Yes, sir.

Q And you were at the District Attorney's office the next day or the day after? A I think I went to Providence and came back two or three days afterwards.

Q Who was it you saw at this office the first time?

A The first time I saw Mr. Stowbridge.

Q And after that you saw Mr. Perkins? A After that I saw Mr. Perkins.

Q Flood was with you? A Yes, sir.

Q Flood was in your employ at that time? A He was.

Q Did you see Mrs. Bassing in Bristol after the defendant was indicted? A No, sir.

Q You did not? A No, sir.

Q Did you after you had been to New York? A No, sir.

Q With Flood? A No, sir.

Q Did you between the day that he gave you People's Exhibits 1 and 2, these bills of lading, did you after that go down to Bristol and before you came to New York?

MR. SNITKIN; I object to that, if your Honor please, on the ground that it is not proper re-direct examination; that is new matter.

THE COURT: Objection overruled.

MR. SNITKIN: I except.

Q Did you yourself? A Yes.

Q Did you see Mrs. Bassing? A I did.

Q Did you have a conversation with her? A I did.

Q Did you see Bassing? A I did not; I was trying to find Mr. Bassing.

MR. SNITKIN: I object to it and I ask that that be stricken out and the jury directed to disregard it.

THE COURT: Objection overruled.

MR. MARSHALL: You object to his statement that he went down there to find Bassing?

MR. SNITKIN: No, I object to the answer he made and I move that that answer be stricken out.

THE COURT: Motion denied.

MR. SNITKIN: Exception.

Q You recall now being in the Grand Jury room up on the top floor and testifying on these indictments? A I do.

MR. MARSHALL: That is all.

BY MR. SNITKIN:

Q Do you remember when I asked you whether you had seen Mrs. Bassing at any time between, say the last time that you claim to have seen her in a store on Thames street, your answer was that you never saw her. Were you mistaken in that answer?

A If I answered that I had not seen her in Bristol?

Q Yes, you were mistaken? A I was mistaken.

Q Your memory has been refreshed, hasn't it, that you had seen Mrs. Bassing in Bristol? A I testified --

MR. MARSHALL: He did not testify before that he had seen Mrs. Bassing then; he testified he had seen her a

a number of times.

Q Didn't you testify in the forenoon in answer my question that you had never seen Mrs. Bassing in Bristol at her home from the time that you last saw her in the store? A In what store.

Q The store on Thames street, Bristol? A The store and home is the same place, Mr. Snitkin.

Q Is that so? A Yes, sir.

Q Well, now, what do you understand, Mr. Marshall now to mean by his question, Have you ever seen Mrs. Bassing? A If I remember right --

MR. MARSHALL: I didn't ask any such question.

A (Continued): If I remember right, this morning I testified I had seen Mrs. Bassing at her home, I don't know how many times I testified, but many times; I don't remember what I testified to as near as that.

Q You don't remember what you testified to this morning?

A I don't remember it all; I don't remember just what the question was, but as I testify now, I saw Mrs. Bassing at her store.

Q When? A Just before we had Mr. Bassing indicted.

Q When? A Well, that must have been along the 1st of February.

Q The 1st of February? A The first part of February; I won't pin myself to the first day.

Q Would you say about the 5th day of February? A It was

after those bills of lading came back marked no good. Then I went down.

MR. SNITKIN: I ask that the latter portion of that answer be stricken out, "after the bills of lading came back no good."

THE COURT: That fixes the time.

MR. SNITKIN: He can say after the bills of lading were received.

THE COURT: Yes, strike out, "no good."

BY MR. MARSHALL:

Q You mean, after the bills of lading and the drafts were returned? A After the bills of lading and the drafts were returned.

BY MR. SNITKIN:

Q Where did you see Mrs. Bassing after these bills of lading were returned? A At her store or her home.

Q Which is it, at her store or her home?

MR. MARSHALL: I object to the question. The witness has already testified that Mrs. Bassing's store and home were in one place.

THE COURT: The objection to the question is sustained.

MR. SNITKIN: I except.

Q Who was with you? A I was alone.

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

Q Bassing was not there? A No.

Q Flood was not there? A No, not at that time.

Q Was that in the rear of the store that you saw her or upstairs? A I don't remember.

Q You don't remember that, eh? A It was not upstairs; it was in the store.

Q What time of the day or night? A Some time during the day.

Q That is rather indefinite, try to fix the time? A I don't remember; that is three years ago, two-years ago.

MR. MARSHALL: If your Honor please, five minutes after three or six minutes after four, what difference does it make?

MR. SNITKIN: I submit, your Honor, these interruptions are improper.

THE COURT: Yes, they certainly are.

MR. MARSHALL: Very well. I will not interrupt again.

Q Now, I ask you what time of the day or night was it you went to Mrs. Bassing's house? A Day time.

Q How soon after the 6th of February? A I don't remember the the exact date; I tried to telephone him.

Q I didn't ask you anything, did I? A All right.

MR. SNITKIN: That is all, sir.

MR. MARSHALL: I think that is all. Mr. Flood.

MR. SNITKIN: One moment. I will recall Mr. Comstock.

(The witness resumes the stand).

BY MR. SNITKIN:

Q At recess hour did you meet Mr. Flood, right after you left the stand as a witness here? A I saw Mr. Flood this noon, yes.

Q Did you speak to him? A I think I spoke to him.

Q You went out to lunch with him, didn't you? A No, sir.

Q Did you tell him what questions I asked you this forenoon? A He was here at the time.

Q Did you hear what I asked you? A No, sir.

Q Didn't have any talk with him about this case at all this forenoon? A No, sir.

Q Simply bid him the time of day, I suppose? A I don't remember what I said to him.

Q Don't remember what you said this forenoon? A Very unimportant.

MR. SNITKIN: That is all, sir.

MR. MARSHALL: That is all. Mr. Flood.

MR. SNITKIN: Now, if your Honor please, I want to direct the Court's attention to the fact that after the Court had framed an order to exclude all witnesses, the witness now called remained in the room.

THE COURT: No, the witness came in the room when he was sent for, in due course.

J O H N A. F L O O D, called as a witness in behalf of
the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q Flood, you are living in Providence now? A Yes, sir.

Q Employed there, are you not? A Yes, sir.

Q You know Benjamin W. Comstock? A Yes, sir.

Q And in the years 1906 and 1907 were you employed by him?

A Yes, sir.

Q You know the defendant, Jacob Bassing? A I do.

Q You were employed by Comstock at the time of his failure?

A Yes, sir.

Q When was it that you came to New York after his failure, if you can remember? A About the 10th of January.

Q Where did you go? A I went to the store at 159 Canal street.

Q A little bit louder, please? A The store at 159 Canal street.

Q At 159 Canal street, in the County of New York? A Yes, sir.

Q What did you find when you got there? A I found a lot of shoes there.

Q Well, how many shoes? A Well, 100 or 120 cases, about that.

Q About how many pairs of shoes in a case? A Well, some cases had 12 and others 24 and 30

Q According to the size of the case, A According to the size.

Q They were stored in the basement of 159 Canal street?
A They were.

Q Had they all been shipped when you first got here, all the shoes shipped?

MR. SNITKIN: That I object to on the ground that it is apparent on the face of the question the witness cannot answer that.

THE COURT: Sustained. The word "all" is open to objection.

Q Were there subsequent shipments after you arrived in New York? A After I arrived there.

Q How many? A Three, I think.

Q Three more shipments? A Three more shipments.

Q From Providence? A From Providence.

Q When did you first see the defendant, Jacob Bassing?

A In New York, you mean?

Q Yes, in New York? A The morning I arrived.

Q You knew him before? A Oh, yes, sir.

Q Where did you see him? A I saw him at the store.

Q At 159 Canal street? A At 159 Canal street.

Q Now, will you tell us about when these other shipments came in?

MR. SNITKIN: That I object to as immaterial, irrelevant and incompetent.

THE COURT: Objection overruled.

MR. SNITKIN: We except.

Q About how long after you got there, I don't want the minute or the second? A About two weeks after, I guess the next one came, and then another week there were two more came.

Q Two more came? A Two more came, yes, sir.

Q After that there were no more? A No, I don't believe there were.

Q Will you tell us in your own way all the conversation you had with Bassing anywhere in New York subsequent to your arrival here on January 11, 1907? A I don't remember any of the conversation we had.

Q Well, what I mean is -- A We talked about business.

Q In regard to the shipment of these goods, -- what were you there for? A To take charge of the store.

Q And you took charge of it? A I did.

Q And after you took charge of it what did Bassing do? A He went on looking for trade, customers.

Q He came in once in a while during the day, did he? A Yes, sir.

Q Did he bring in anybody? A At three or four different times he brought in different people.

Q What did he say to you about these people?

MR. SNITKIN: That I object to as immaterial, irrelevant and incompetent under this indictment.

THE COURT: Objection overruled.

MR. SNITKIN: Exception.

A What did he say about it?

Q What did he say about it?

MR. SNITKIN: I object to it; let the time be fixed.

THE COURT: Objection overruled.

MR. SNITKIN: Exception.

Q What did he say about these people, did he say who they were or anything about that? A He didn't say who they were.

Q Did he sell any goods after January 11th?

MR. SNITKIN: That I object to as immaterial, irrelevant and incompetent and I object to the form of the question.

THE COURT: Objection sustained.

MR. MARSHALL: Well, it is objectionable.

Q He brought in four people? A Three or four.

Q Three or four? A Yes, sir.

Q Did these people buy any goods?

MR. SNITKIN: That is objected to as immaterial, irrelevant and incompetent.

THE COURT: I sustain the objection.

Q What did he say when he brought these people in, did he show them the goods, or how?

MR. SNITKIN: That is objected to as leading.

Q What happened when these people came in? A He tried to sell them.

MR. SNITKIN: I ask that the answer be stricken out.

MR. MARSHALL: Yes, strike it out.

Q What did he do with these people when he brought them in?

A He showed them the goods.

Q And the goods were in what shape? A In cases.

Q How long did these people remain there? A Oh, not long, half an hour or so.

Q Did you know any of them? A I did not.

Q Didn't know any of them that he brought in there?

A No.

Q Now, coming down to about the 30th day of January, on or about the 30th day of January, or a day or two previous to that, did this defendant come into the store with any other person?

MR. SNITKIN: I object to that on the ground that that is immaterial, irrelevant and incompetent.

THE COURT: Objection overruled.

MR. SNITKIN: Exception.

A He did.

Q What did he say about this man that he brought in?

A He said he was a Southern buyer who came into New York.

Q Did he tell you what his name was? A He told me--

MR. SNITKIN: I object to that on the ground that that question is leading.

THE COURT: Objection overruled.

MR. SNITKIN: Exception.

Q Did he tell you what his name was? A He said he was R. Jacobs, Charleston, South Carolina.

Q What did he do and what did R. Jacobs of Charleston, South Carolina, do?

MR. SNITKIN: I again object to it, your Honor, and I do not want you to feel I am persistent, I object to it as incompetent, immaterial and irrelevant, as far as the issue in this indictment is concerned, and I must again call your Honor's attention to the fact that the indictment charges us with the common law larceny as a first count on the second count as bailee, and not by false or fraudulent representation.

THE COURT: We will hear the testimony.

A He bought the goods in the store at the time.

Q What did they do, as far as you were concerned? A They come to terms, come to a price.

Q You had a conversation with Bassing and Jacobs? A Yes, sir.

Q What did Jacobs look like, if you recall? A I think I saw him here to-day.

Q You did see him here to-day? A I think so; I think

he is out in the corridor now.

Q Have you seen him since that day until to-day?

A No, not since.

Q Not since that day? A No, sir.

Q What did Jacobs say and what did Bassing say and what did you say in regard to the sale of these goods, as near as you can remember the substance of the conversation?

MR. SNITKIN: I object to it, if your Honor please.

THE COURT: I have already ruled on that and have once said that I would receive it.

MR. SNITKIN: I respectfully except.

A We come to terms, that is as to price, and he agreed to buy and the goods were billed up, that is, a list made, two lists.

Q Who made the lists? A I made the one, and the man who said his name was Henry Glass made the other for Jacobs.

Q Where did Henry Glass come in? A He was in there with Jacobs before.

Q Did you see him here to-day? A No, I did not.

Q He came in with Jacobs? A With Jacobs and Bassing.

Q And the list was made out, and go ahead, tell us the rest of it? A And the goods were shipped.

Q Well, what do you mean, shipped? A Left the store.

Q How did they leave the store, did they fly away, did they go on a wagon, or what? A Went on a wagon and Jacobs paid me \$500 deposit.

Q In cash? A In cash.

Q How many goods went out? A \$3,200, the first shipment.

Q You have been in the shoe business a long time?

A Yes, sir.

Q And you know the value of those shoes? A Yes, sir.

Q You examined them all? A I examined them all.

Q And the reasonable market value of them would be \$3,200 on that shipment? A As near as I can remember, yes.

Q When did Bassing go out in regard to the same time the goods went out? A He went out with the goods.

Q Went out with them? A On the team.

Q When did he come back? A About an hour and a half after that.

Q I show you People's Exhibit 7 for Identification and ask you where you first saw that? A Is there a date on this?

Q Well, there is a date, yes.

MR. SNITKIN: Don't read the date. That is not the question.

MR. MARSHALL: I asked him if he received the paper and he asked me if there was a date on it and I said there is a date on it. Do you object to anything? There is the top of it.

A January 30th, yes.

MR. SNITKIN: I object to the witness reading from

that paper. It is not in evidence.

MR. MARSHALL: I won't offer it yet.

Q Where did you get that, did you ever have it in your possession before? A Yes, sir.

Q Where did you get it? A From Bassing.

MR. SNITKIN: I object to all this as immaterial, incompetent and irrelevant.

MR. MARSHALL: I offer it in evidence.

MR. SNITKIN: I object to the reception of the paper as irrelevant, incompetent and immaterial under this indictment.

THE COURT: What is the paper?

MR. MARSHALL: The paper is a bill of lading which this witness swears was given to him by the defendant Jacob Bassing.

THE COURT: Touching the subject matter of this larceny?

MR. SNITKIN: No, on the 30th of January.

THE COURT: Does it relate to the property in question?

MR. MARSHALL: It does relate to the general transaction of which this is all one part.

THE COURT: I will admit it.

MR. SNITKIN: I except. How could we steal on the 6th and give a receipt for the property that we stole on

the 30th of January?

THE COURT: I am not under examination.

MR. SNITKIN: No, but it is self-evident.

THE COURT: I will not argue with you. I have ruled.

BY MR. MARSHALL:

Q Did he bring back -- did Bassing present that to you on the same day that those goods were shipped and went away on the express wagon? A Yes, sir.

Q On the same day? A Yes, sir.

Q Now, subsequent to that were there more goods shipped? A More goods shipped.

Q Was that the entire sale to R. Jacobs of Charleston, South Carolina? A It was not.

Q After the 30th of January, when were there more shipments made to R. Jacobs of Charleston, South Carolina?

A February 6th.

MR. SNITKIN: One moment. I object to that.

MR. MARSHALL: February 6th?

Q What happened on February 6th? A There were two more shipments made to Charleston, South Carolina.

Q By this same express man? A By this same express man.

Q Who went with the goods when they left that place?

A Mr. Bassing.

Q Were you paid a deposit for those goods on that day, by any one? A I was.

Q BY whom? A BY Mr. Jacobs.

Q How much did he pay? A \$700.

Q And you say you never had seen Mr. Jacobs of Charleston, South Carolina from that day until you saw him to-day? A Yes, sir.

Q When did you see Bassing? after he went away with these goods, did he come back to the store that night? A He did.

Q What did he say to you and what did you say to him?

MR. SNITKIN: One moment. Which night?

MR. MARSHALL: The night of February 6th, I am talking about now. Wait a moment.

A I was --

MR. MARSHALL: I will withdraw that and go at it a little different way.

Q How many goods were taken out of the place by Bassing and the express man on the 6th day of February, 1907, about how many cases? A About 200 cases, I should say.

Q What was the reasonable market value of the shoes contained in those cases at that time, about? A About \$6,000.

Q And you received for that a deposit of \$700? A Of \$700.

Q Were there any goods left in the store after that? A No, that was a clean up.

Q That cleaned up the store, After that, when Bassing came back, what did he say to you? A I don't --

Q If anything, about this transaction? A I don't believe he had anything to say about it.

Q Did he say anything to you about the bills of lading?

MR. SNITKIN: I object to that.

MR. MARSHALL: On what earthly ground?

MR. SNITKIN: Because it is not an earthly question. Objected to as incompetent, immaterial and leading.

THE COURT: Objection overruled.

MR. MARSHALL: Now, will you answer, please, did he say anything to you about the bills of lading for this \$6,000 worth of stock?

MR. SNITKIN: That is objected to on the ground that there is not any proof that any bills of lading were given to this witness for this property; it assumes a state of facts not in evidence.

THE COURT: Objection overruled.

MR. SNITKIN: Exception.

Q (Question read). A I don't remember that he did.

Q When did you go back to Providence? A The next day.

Q When did you first see People's Exhibits 1 and 2, look at them carefully? A After I got back to Providence.

Q Who had them? A They were in the office, Mr. Comstock's office.

Q When did you see Bassing after that? A I think I saw him the morning of the 8th of February.

Q Where? A In the office.

Q Mr. Comstock's office? A Yes.

Q Did you have any conversation with him and hear any conversation between Bassing and any one else at that time?

A No, sir.

Q How many times have you been over to New York as a witness in this case, about how many? A About four times, I guess.

MR. MARSHALL: About four times. That is all.

MR. SNITKIN: I now move, your Honor, that all testimony given by this witness relating to transactions prior to the 6th of February, 1907, the date set in this indictment, and the subject matter of the larceny, be stricken out from the record and the jury instructed to disregard it on the ground that it is incompetent, irrelevant and immaterial.

THE COURT: Motion denied.

MR. SNITKIN: I except.

CROSS-EXAMINATION BY MR. SNITKIN:

Q John A., isn't it? A Yes, sir.

Q John A. Flood? A Yes, sir.

Q Flood, you live in Providence? A I do.

Q You live there now? A Yes, sir.

Q And have lived there for some years? A Yes, sir.

Q How long do you know Comstock? A About five years.

Q How long have you been in Constock's employ? A How long had I been?

Q Yes, I beg your pardon, had you been? A About two years.

Q When did you start in to work for him? A I think it was in 1905.

Q Can you tell us the month? A January.

Q You are sure of that? A I think so.

Q You think so? A Yes, sir.

Q Well, then, you are not certain? A I think it was January.

MR. MARSHALL: I will concede it was January or February.

MR. SNITKIN: I want no concession from you. I want it from the witness.

Q The best answer you can make now is you started your employment with Mr. Comstock in January, 1905? A Yes, sir.

Q How long did you work for him? A About two years.

Q Ending when? A Ending in March, 1907.

Q Well, that is a little over two years, isn't it?

A A little over two years, yes, sir.

Q Did you work for him in October, 1906? A I did.

Q What was Comstock's business? A Jobber of boots and shoes.

Q Any other business that you know of in the two and a

half years that you were employed by him? A Not that I know of.

Q Sure about that? A Yes.

Q Where was his place of business? A 131 Washington street.

Q Was that the only place of business he had in Providence?

A The only place I know of.

Q And you were there for two and a half years, a little over two years; how many other men worked there besides you? A Two.

Q Give me their names, please? A Mr. Davidson and Mr. Moore.

Q Davidson, what is his first name? A Edgar, I think.

Q And the other gentleman's name? A Moore.

Q M-o-o-r-e? A Yes, sir.

Q First name, if you can, please? A Percy.

Q Davidson also working in the shoe business? A He was.

Q Did you ever know that Comstock had a loft in Calander street? A I did.

Q When did you ascertain that fact? A In December, 1906.

Q Did you know when your employer went into bankruptcy? A Yes, sir.

Q When? A I think it was in December the same year.

Q It was not October, was it? A I don't think so.

Q Eh? A I don't think so.

Q Well, if Mr. Comstock testified that he went into bankruptcy in October, 1906, was he mistaken?

MR. MARSHALL: That is an objectionable question.
I object to it.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q At any rate, your best recollection as to when Comstock went into bankruptcy is that it was in December, 1906? Don't shake your head, because it does not go on the record. A Yes, sir.

Q In October, 1906 was the office of Comstock, his place of business, still at 121 or 31 Washington street, Providence?
A It was.

Q Did you ever see any goods moved from Washington street to Calander street? A I see goods moved; I don't know where they went to.

Q How far is Calander street from Washington? A Oh, about two blocks, I guess.

Q The store was in Mr. Hahn's building? A I don't know whose building it was.

Q Isn't that the building of the lawyer who appeared for Comstock in the bankruptcy proceeding? A I don't think so.

Q What is your best answer? A I believe that the law-

yer who appeared for Comstock's father owned that building.

Q In other words, the father of the attorney who appeared for Comstock in the bankruptcy proceeding owned the building to which the property was removed in Calander street?

MR. MARSHALL: That is objected to as utterly incompetent and immaterial.

THE COURT: Objection sustained.

MR. SNITKIN: Exception.

Q Well, now, who was the bookkeeper that was employed by Comstock, if you know? A At what time?

Q Oh, yes, say between October, 1906 and March, 1907?

A Mr. Davidson.

Q Who was the bookkeeper prior to October, 1906? A Mr. Davidson was.

Q Now, when did you first meet Mr. Bassing about this transaction? A In New York, in January, 1907.

Q Prior to January, 1907 had you seen Bassing?

A Yes, sir.

Q Where? A In our store in Providence.

Q How long before January, 1907? A Oh, he used to come in there on and off for the two years I worked there.

Q When did you arrive in New York? A I think I testified as --

Q No, not what you testified, I am asking a question, when did you arrive in New York? A January 11th, I said.

Q Did you say the 10th? A Either the 10th or 11th.

Q Which is it? A I am not sure.

Q Not sure of either date? A Either one day or the other.

Q Yes, of course, you could not tell the day of the week, naturally, could you?

MR. MARSHALL: If your Honor please, I object to the question.

THE COURT: Objection sustained.

Q Can you tell us the day of the week that you arrived in New York? A Friday.

Q On arriving in New York on Friday, where did you go?

A I went to the store at Canal street.

Q Now, did you know where the store was at that time?

A Well, I was told where it was.

Q By Comstock? A Yes, sir.

Q Had you ever sold goods for Comstock before in New York?

A No.

Q Now, when you went to the store, was there any sign outside as to what person or what firm conducted business there?

A No.

Q Did you know what you came to New York for? A To take charge of the store.

Q Did you know for what purpose? A No, sir.

Q You didn't know that? A To sell the goods.

Q Well, you had been selling goods for him in providence?

A Yes, sir.

Q Did you believe at that time that he was opening a branch store in New York? A I didn't know whether it was a branch store or not.

Q You didn't know anything about it at all? A No.

Q Simply sent down to New York and you asked no questions and came, is that it? A That is it.

Q Didn't you know that was property that had been removed from the receiver in bankruptcy? A I did not.

Q Didn't you help to move it from Washington street to Calander street? A From Washington street to Calander street?

Q Yes, to Calander street? A I shipped stuff from Washington street, I don't know where it went to.

Q You shipped it? A Yes, sir, I helped to.

Q Did you notice to whom it was addressed? A Nobody in particular.

Q I asked you if you noticed who the consignee of the goods was? A No marks on the goods.

Q No marks at all? A No.

Q Did you get a receipt from the expressman? A I did not.

Q The express man's name was Keatey, was it, you knew him? A I didn't know anybody by that name.

Q Perhaps I have not pronounced his name correctly, what was his name? A Fenner.

Q When did you remove property from Washington street to Calender street, what month? A It was along in the fall, all that stuff went out.

Q I would like to know what month? A I don't remember.

Q Was it in December, 1906? A In December?

Q Was it in December,,1906? A It was not.

Q When was it? A It was in the fall.

Q What month? A I don't remember.

Q Is that the best answer you can make? A That is the best answer I can make.

Q Before or after Mr. Comstock was put in bankruptcy?
A It was before.

Q You are sure about that? A I am.

Q And you helped remove it but didn't notice any marks on it? A I helped to ship it from the Washington street store; I never went out of the store.

Q And you didn,t know where it went to? A No, I did not.

Q Now, you have testified -- oh, were you paid by the week? A Yes, sir.

Q By Mr. Comstock? A By Mr. Comstock.

Q Who employed you, Comstock or Lance? A Mr. Comstock.

Q All the time? A All the time.

Q You never knew Lance, did you, as being engaged in

2

that business? A No.

Q Did you ever know of R. W. Comstock? A I knew there was such a party.

Q Did you know whether they were connected with Comstock in business? A I never knew.

Q Were they connected in business that you know of? A Not that I know of.

Q What was the salary you were paid by Mr. Comstock before he went into bankruptcy? A Before?

Q Yes? A How long before?

Q I am asking you? A Well, I was raised at different times.

Q That is it, you were raised after Comstock went into bankruptcy, weren't you? A I was not.

Q Eh? A I was not.

Q Wasn't your salary raised in December, 1906?

A It was not.

Q Was it raised in January, 1907? A No, sir.

Q When was it raised? A In September, 1906.

Q What was your salary raised to, what amount?

A \$10.

Q Prior to that amount how much had you been receiving?

A \$9, I think.

Q You think?

MR. MARSHALL: \$10 a week?

THE WITNESS: Yes, sir.

Q (Continued) \$9, you say you think, you are not certain about it? A It was \$9.

Q And the entire raise was just \$1 a week? A Yes, sir.

Q You have testified here that on the 30th of January this defendant came in there with another man whom he introduced as R. Jacobs? A Yes, sir.

Q Are you correct about that? A He introduced him as R. Jacobs, yes.

Q No, no, are you certain it was on the 30th of January? A I don't remember the date; that was the date of the shipment.

Q If you don't remember the date that he introduced this man to you as R. Jacobs, why did you testify on the direct examination that it was the 30th of January?

MR. MARSHALL: He did not so testify. I object to the question as assuming a fact not in evidence. Jacobs came in a day or two before the 30th and the goods were shipped on the 30th, that is what he testified to.

Q Do you understand Mr. Marshall's interruption?

A Yes, sir.

Q Now, we have it now that it was the 27th of January?

A It might have been.

Q That this defendant came in there and introduced a man to you as Jacobs, a buyer from South Carolina, is that right?

4
A He introduced him as a buyer from South Carolina.

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

Q You are certain it was in the month of January, yes or no? A Yes, sir.

Q You appeared as a witness before the Grand Jury, didn't you? A Yes, sir.

Q Against this defendant? A Yes, sir.

Q Every time he was arrested you appeared, didn't you? A Yes, sir.

Q Do you remember this question being asked you at the Grand Jury, and did you make this answer, "Q Well now, let us know just what you know about the case? A On February 6th, Mr. Glass and Mr. Bassing entered the store with a man he introduced as R. Jacobs". Now, didn't you testify before the Grand Jury it was on the 6th of February?

A That was the second time he was in there.

Q Didn't you testify that Bassing introduced this man as R. Jacobs on the 6th of February, yes or no? A The 6th of February was the second time he was in the store.

Q Did you hear my question? A Yes.

Q Now, kindly answer it. A I don't remember saying he was introduced the first time on February 6th.

Q I read to you again, "Q --

MR. MARSEALL: One moment. What are you reading from?

MR. SNITKIN: From the Grand Jury minutes. You have it right there and you can follow me.

Q (Continued) Well now I will ask you that question again, and do you remember making this answer, do you remember appearing as a witness in this case on the 5th of March, 1907, before the Grand Jury? A I remember appearing in March; yes, sir.

Q Were you sworn as a witness? A I was.

Q Do you remember this question being asked you and did you make this answer, "Q By the Foreman. Well now let us know just what you know about the case? A. Well, on February 6th Mr. Glass and Mr. Bassing entered the store with a man he introduced as R. Jacobs". Now, I want to know whether you remember so testifying, yes or no? A I do.

Q Was that the truth? A Yes, sir.

Q Then it was not the 27th of ~~Feb~~ January that this defendant introduced a man as R. Jacobs, was it? A That was the first time Jacobs was in the store.

Q In other words, every time on the two occasions Jacobs was in the store he was introduced as R. Jacobs? A I understood he was R. Jacobs both times.

and

Q Both times/you knew he was R. Jacobs the first time?

A Yes, sir.

Q What was the occasion for introducing him the second time, this man you knew as R. Jacobs? A There was no

necessity for introduction. He was brought in as R. Jacobs.

Q Then there was no introduction on the 6th of February of this man you knew as R. Jacobs?

MR. MARSHALL: One moment. I object to the question.

MR. SNITKIN: I am laying a foundation to prove --

THE COURT: Gentlemen, please do not force a sharp reprimand from me. I do not want to reprimand you gentlemen and do not give me an occasion to.

Q (Question read) Yes or no? A Introduction?

Q Yes, you have my question. A Read that over again.

(Question read)

A There was.

Q He was introduced first to you? A Yes, sir; he came in the store twice, yes, sir.

Q And introduced twice? A Introduced twice.

Q Is that right? A If you want to put it that way, yes, sir.

Q No, I won't put it that way except what you want me to say, was he introduced both times as R. Jacobs?

A I don't remember.

Q Well now, if you don't remember as to whether on both occasions R. Jacobs was introduced to you by this defendant as R. Jacobs or a man known to you as R. Jacobs, why did you testify before the Grand Jury under oath that he was

introduced on the 6th of February as R. Jacobs? A Well, he was introduced to me ~~in~~ the first time in January and then he was brought in the store again in February.

Q Was he introduced again, yes or no?

MR. MARSHALL: I object to the question as useless repetition. The witness has answered as fully as he can.

MR. SNITKIN: I have not got his answer yet.

THE COURT: Let him answer this question and then we will stop.

Q (Question read) A He was introduced the first time as R. Jacobs and the second time I knew him as R. Jacobs.

Q The second time was February 6th? A Yes, sir.

Q Why did you testify before the Grand Jury under oath that he was introduced as R. Jacobs on February 6th?

MR. MARSHALL: That is objected to as already answered.

THE COURT: You may answer.

MR. MARSHALL: That question is "Why",

A I might have been mixed in dates.

Q Was there a bill of lading or a paper which may be called a bill of lading given to you by this defendant on the 6th of February, 1907? A There was not.

Q How much money did you receive from this defendant on the 6th of February, 1907? A I didn't receive any.

Q What is that? A I didn't receive any money from Mr. Bassing.

Q Well, from whom did you receive money? A From the man R. Jacobs.

Q At the time that this defendant was there, wasn't it?
A I believe he was there, yes.

Q What is your best answer, you know whether he was or not, was he there? A I guess he was there.

Q No, no guessing, we don't convict men on guessing; was he there or wasn't he there?

MR. MARSHALL: I object to the question, and I object to the speech.

THE COURT: Objection sustained.

Q Was Bassing there at the time Jacobs paid that \$500, yes or no, on the 6th of February, 1907? A I don't remember whether he was there or not.

Q Now, arriving here on the 11th of January, which was a Friday, as you say, what hotel did you put up at? A The Summit.

Q That is the place that this defendant stopped at?
A Yes, sir.

Q How long did you remain in the city upon your first arrival? A I think I went back the next Saturday.

Q Do you mean the succeeding Friday or Saturday after the Friday that you came here? A I only stayed two days and

9

went back.

Q You arrived here on a Friday? A As near as I can recollect.

Q You said the 11th, that happens to be a Friday. Now, you were here two days, so it must have been Sunday you left for Providence? A Saturday afternoon.

Q When did you return? A Monday morning.

Q How long did you remain the second time? A A week or two, I think.

Q What is your best answer? A I think it was a week.

Q You said a week or two, you were not certain about that, were you? A I think it was a week.

Q That would be the 21st of January. When did you return for the third time, or the second time, rather? A A few days after that.

Q When, when do you think? A Oh, I stayed home two days, then I come back.

Q That would be about Tuesday and Wednesday you stayed home. When did you return to New York, do you recall?

A I don't recall the day of the week.

Q How long did you remain? A Two weeks.

Q Did you remain in this city after the 6th of February?

A I think I left for home the next day.

Q How much money in all had you taken in from the 11th of January when you arrived here first to the 6th of February,

10

1907? A About \$1700.

Q \$1700? A Yes, sir.

Q And on the 6th of February you say you received \$700?

A \$700.

Q So that in all you received about \$2400, yourself?

A \$1700 altogether.

Q Including the \$700? A Including the \$700.

Q Now, Mr. Flood, do you know where these goods that you helped to sell in New York came from? A They come from Calendar street.

Q Had you ever seen the shoes that were in New York on the 6th of February, 1907, in the possession of Mr. Comstock? A I see them in Providence.

Q Did you hear my question? A Yes, sir.

MR. MARSHALL: What do you mean by "the possession?"

Q Kindly answer that, did you see them, did you see the property that you saw in this city on the 6th of February in the possession of Mr. Comstock, yes or no? A Did I see them in the possession of Mr. Comstock?

MR. SNITKIN: Read that question to him, please.

Q (Question read) A I did.

Q You did not? A I did.

Q Did you know where the goods were before they came to Calendar street? A Did I know where they were?

Q Don't repeat my question? A I didn't understand you

clearly.

Q Do you understand it now? A Yes, sir.

Q Kindly answer it. A I didn't know where they come from.

Q You have not any feeling against Bassing, have you?

A No, I have not.

Q A perfectly good friend of his, aren't you?

A Yes, sir.

Q You appeared before the Governor, didn't you? A Yes, sir.

Q Before Governor Higgins of Rhode Island? A Yes, sir.

Q You were a witness there, weren't you? A I was.

Q Against Mr. Bassing, weren't you? A Yes, sir.

Q Before appearing as a witness before Governor Higgins at Providence you made a complaint in New York against Bassing, didn't you? A I appeared before the Grand Jury.

Q No, before appearing before the Grand Jury, did you make a complaint before a Magistrate? A I was down in the Police Court, yes, sir.

Q What is what I mean, you made a complaint, isn't that so? A I never knew I made a complaint.

Q You signed your name to a paper, didn't you? A An affidavit I made, yes.

Q Swore to it? A Yes.

Q Did you know what that paper contained? A It was an

affidavit.

Q I didn't ask you for the description of the paper, did you know what the paper contained at the time you signed your name to it? A I believed it was an affidavit that I made, nothing else but that.

Q Did you know the contents of that paper before you subscribed your name and swore to it, yes or no, please?

A Yes, I did.

Q You read it? A Yes, I did.

Q You read the paper? A I did.

MR. SNITKIN: I call upon the District Attorney to produce the affidavit of this witness.

MR. MARSHALL: You are calling upon me all the time to produce things that you know I have not got. He knows as well as I do, if your Honor please, that I have not got it.

Q Now, Mr. Flood, every time that you came to New York as a witness in this case you were paid, weren't you?

A Yes, sir.

Q How much per day? A I was paid \$10 a week and my expenses.

Q How much were you paid for coming to New York as a witness per day, every trip that you made, how much did you get?

THE COURT: He has answered that he was paid \$10 a

week.

Q Weren't you paid \$15 every time you came to New York to testify against Bassing, yes or no? A \$15?

Q Don't repeat my question. A I was given money and paid my expenses and kept the rest of it.

Q How much did you receive every time you came here?
A I don't remember just now the exact figures.

Q Didn't you testify before Governor Higgins ~~at~~ on the 8th of July, 1907, that every time that you came to New York Comstock paid you \$15, yes or no? A Well, if you have got it there, I did.

Q No, I am asking you, didn't you so testify? A I did.

Q Do you know Mr. Samuel Goldsmith of Providence, Rhode Island? A I do.

Q What is his business? A I don't know. He was a constable at that time.

Q When did you leave Providence before coming here to-day as a witness? A Thursday night.

Q Did you see Goldsmith before you came here? A Did I? No.

Q That is what I have asked you. A No.

Q When did you last see Goldsmith? A At the time of the hearing before the Governor.

Q That was in July, 1907? A I think it was.

Q Have you seen Goldsmith since that time? A I don't

remember of seeing him.

Q What is your best answer? A I say I don't remember of ever seeing him since.

Q You know he is one of the Deputy Sheriffs of Providence, don't you? A I never knew he was a Deputy Sheriff, no.

Q Now, do you remember saying to Goldsmith --

MR. MARSHALL: One moment. I object to that.

MR. SNITKIN: I will withdraw the question.

MR. MARSHALL: Ask him if he had any conversation with him.

MR. SNITKIN: I am going to do it at the proper time.

Q Did you on the 19th of June, 1907, meet Samuel Goldsmith on Garden street? A I did not.

MR. MARSHALL: Where is that, in Providence?

MR. SNITKIN: Providence, Rhode Island.

Q Is there a street known as Weybosset street in Providence? A Yes, sir, there is.

Q Was it that street you met Goldsmith on on the 19th of June? A No, sir.

Q What street was it? A North Main street.

Q Oh, I beg your pardon, North Main street, it was in June, 1907 that you met him? A I don't remember the date, it was in the summer some time.

Q Didn't you testify before Governor Higgins that you met Goldsmith on the 19th of June? A I don't remember the date.

Q Didn't you testify it was the 19th of June, on that street? A I don't remember.

MR. MARSHALL: Do you remember what you testified to before the Governor in 1907, all that you testified to? Of course, he cannot remember.

Q What is your best answer? A I don't remember the exact date.

Q But you did meet him, didn't you? A I did meet him.

Q Did you have a talk with him? A No, I didn't have any talk with him.

Q Never spoke to him about this case at all? A About this case?

Q Yes. A No, sir.

Q Now, did you meet Bassing on the 19th of June, 1907?

A I met him the same day I met Goldsmith.

Q And you took the Garden street car to Petawket?

A Not at North Main street.

Q Did you take a car on hat day with this defendant?

A I took a car one day with him but I never knew Goldsmith at that time.

Q You went to Petawket with this defendant, didn't you?

A I did.

Q Now then on your way from providence to Petawket do you remember having a conversation with this defendant Bassing, yes or no? A I remember having a conversation with him, yes.

Q Do you remember this defendant Bassing asking you as to why you had made a complaint against him and do you remember replying that you signed a paper but you didn't read it? A I don't remember making such an answer.

Q Will you swear that you didn't so state that to him? A I will.

Q What do you mean by stating before that you don't remember making that answer? A Well, I don't think I did make such an answer.

Q You don't think you did? A No.

Q That is the best answer you can make now? A That is the best one.

Q Do you remember on your journey from Providence to Petawket with this defendant being asked by him, "What do you think Comstock would do to us if he saw you and I together? Don't you think he would shoot us", and your answer, "No, I don't think he would do that". Do you remember that? A Yes, I remember that.

Q Do you remember seeing this defendant after he was discharged on the first complaint that you made? A Yes, sir.

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

Q Now, in the first complaint that you made against this defendant you swore that the property stolen belonged to E. F. Lance, didn't you? A I did.

Q Did it belong to your knowledge at that time to E. F. Lance? A I had a note from E. F. Lance -

Q Did you know that it was her property? A Not any more than I was told.

Q Who told you that? A Mr. Comstock.

Q When? A Oh, previous to that, I don't remember when.

Q Now, do you remember being asked this question by Governor Higgins and did you make this answer, "By the Governor: Q" -- reading from page 15 of the testimony taken before Governor Higgins -- "By the Governor: You swore, in making out this affidavit, Mr. Flood, the property alleged to be stolen was the property of E. F. Lance, did you not? A That is right". Do you remember making that answer to that question? A Yes, sir.

Q "By the Governor. You are prepared to reiterate, are you, the truth of what you said in this affidavit, was everything you said true? A I swore it was the property of E. F. Lance, at the same time I didn't know." Do you remember making that answer to that question? A Yes, sir.

Q "By the Governor: You don't know who it belonged to? A I don't know who it belonged to", is that right? A Yes,

sir.

Q And yet you swore --

MR. MARSHALL: Now, go ahead.

MR. SNITKIN: You can finish whatever you desire.

I am conducting my case the way I think it ought to be conducted. Now then, taking your suggestion, I will proceed and ask him further.

Q Do you remember the Governor asking you this question and did you make this answer, "Were you aware of any legal conspiracy or any corrupt methods employed by any parties, Mrs. Lance or Mr. Comstock or anybody else to get Bassing back to New York and punish him?" A /I don't think myself Bassing is guilty." Do you remember making that answer to that question? A Yes, I do.

Q Yet, not knowing that the property was Mrs. Lance's or belonging to a person known as E. F. Lance, you charge this man with having stolen the property, it being the property of E. F. Lance? A I will tell you why --

Q No, did you, yes or no?

MR. MARSHALL: I will ask him why.

A Yes, I did.

Q At the time you made that affidavit charging him with having stolen that property from E. F. Lance, you were being paid \$15 for every time you came to New York? Didn't you so testify before the Governor? A I did.

MR. MARSHALL: \$15 and expenses.

MR. SNITKIN: \$15.

MR. MARSHALL: That is a terrible bribe, if that is what you are after.

MR. SNITKIN: I submit your remark is improper.

MR. MARSHALL: Very well, I won't withdraw it.

Q Now, you charged Bassing with having stolen the goods, that is so, isn't it? A I did.

Q Just simply say yes or no, didn't you? A I charged--

Q Yes, now do you remember this question being asked you by the Governor and did you make this answer, "By the Governor: You don't know anything about any conspiracy?" You answer, "I was never connected with any conspiracy," page 16, "I was brought to New York three or four times and made complaints against Mr. Bassing; I didn't know whether Mr. Bassing stole the goods or not; I didn't want to be the cause of any man suffering for something he didn't do." Didn't you testify to that fact before the Governor? A I did.

Q Now, do you remember meeting Mr. Bassing after you had made your first complaint and upon which he was discharged and then you made your other complaint, do you remember that time, do you remember meeting him?

MR. MARSHALL: I object to the question.

THE COURT: Objection sustained.

MR. SNITKIN: I withdraw the question.

Q At any rate you had made another complaint, a second complaint against this defendant?

A I came to New York and went before the Grand Jury again.

Q Prior to that time that you came to the Grand Jury on this indictment here, for which you are now testifying, did you meet Mr. Bassing?

A I did.

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

Q Did Bassing tell you that at any time you wanted to make a complaint against him in New York to let him know and he would go with you?

A I think he did.

Q Now, do you remember meeting Mr. Bassing on Exchange Place in Providence after you had made your first complaint?

A I don't remember meeting him on Exchange Place, no.

Q Well, or any other street, after the first complaint?

A I met him on North Main street.

Q Well, North Main street, do you remember you asking Mr. Bassing what the result of the first case was?

A I did.

Q What answer did he make to you?

MR. MARSHALL: I object to all this as utterly incompetent and immaterial.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q Do you remember him showing you a discharge? A Yes, sir.

Q And that was after you had made your first complaint?

A Yes, sir.

Q You remember then your stating to Bassing, "Well, now, Jake, they are going to make it pretty warm for you if you don't keep away from this bankruptcy proceeding."

MR. MARSHALL: One moment; I object.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q Didn't you say to this defendant after the first complaint was made by you that it was best for him to keep away as a witness in the bankruptcy court?

MR. MARSHALL: That is object to as utterly incompetent and immaterial. For what purpose is it?

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q Didn't you say to this defendant, "Bassing, the whole thing is framed up on you to get you out of the State," did you say that to him? A I did not.

Q "If you will do as Comstock tells you to do there will be no trouble at all"? A No, sir.

Q What did you mean by that? A I did not say anything of that kind.

Q Your memory is good upon that phase of the case?
A Yes, sir, it is.

Q How much are you getting for coming here to-day?
A I am getting my expenses paid.

Q How much is that? A Three dollars a day.

Q And your fare? A Carfare, yes, sir.

Q Who pays that? A The District Attorney's office.

Q Just look at me, please, eh? A The District Attorney's office.

Q You are paid by the State three dollars a day, is that it? A Well, that is what I go on.

Q What? A I come with that consideration, yes, sir.

Q Where are you stopping, what hotel are you putting up at? A The Union Square.

Q Who is paying your expenses there? A I am paying it.

Q From whose money?

THE COURT: He has told us that the District Attorney's office pays it. Now, that is all on that point.

Q Now, do you remember, sir, being with Mr Samuel Goldsmith down to Vanity Fair in Crescent Park, Providence?

A Yes, sir, I do.

Q In July, 1907? A Yes, sir.

Q Did you have any talk with Mr Goldsmith in the presence of Bassing at that time? A Not that day, no, sir.

Q Any other day, in the presence of Bassing? A Yes, I was with the both of them.

Q Was Mr Tieman there? A He was.

Q Now, do you remember telling Goldsmith that you were being used as a tool, as a sucker, by Mr Comstock--now, don't laugh until I get through--and that you didn't want any innocent man to go to jail and that you would go before the Governor and tell the truth? A I did not.

Q That is that you would not tell the truth?

MR. MARSHALL: One moment.

Q (Continuing:) What do you mean by you did not?

A I said nothing of the kind.

Q Do you remember meeting Goldsmith or Bassing at the corner of Smith and Gassing streets, right near the State House? A I do not.

Q Didn't you so testify before the Governor? A I met him on North Main street, on the corner of Smith.

Q It was on Smith street? A On North Main.

Q Near Smith street? A Yes, sir.

Q How far is Gassing street from Smith? A I don't know where Gassing street is.

Q Perhaps I am mistaken about the name, won't you enlighten us? A I met him on North Main street and Smith street.

Q What is the next succeeding street to Smith street?

A I don't know the name of the next street.

Q How long have you lived in Providence?

THE COURT: Oh, never mind that.

MR. SNITKIN: Well, al, right, perhaps that is so.

Q Did you state to Mr Goldsmith, "The whole thing is nothing more than a conspiracy to keep him away from the hearing in the United States Court".

MR. MARSHALL: I object to it.

THE COURT: Objection sustained.

Q Do you remember saying this to Mr Goldsmith, "The statements I signed in New York I didn't even read them," do you remember making that statement?

MR. MARSHALL: Objected to as incompetent and immaterial.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

Q Do you remember being asked by Mr Goldsmith about Mrs Lance, and answering, "I don't know anything about it."

MR. MARSHALL: Now, if your Honor please, after these questions have all been ruled ~~by~~ on by the dozens, I should think counsel would stop getting before the jury

something he knows is improper.

THE COURT: I will sustain the objection.

Q How long have you known Tieman? A About three years.

Q Did you in the month of July or June, 1907, have any talk with Tieman? A I did.

Q About this case? A I did.

Q Do you remember stating to Mr Tieman that this whole thing was framed up on Bassing and if you had taken your mother's advice you would not have mixed into this? A I did not say anything of the kind.

Q Do you live with your mother? A I do.

Q Where? A In Providence.

Q That is a large city, what street? A Howard street.

Q What number? A 41.

Q How long?

MR. MARSHALL: One moment, I object to all this.

THE COURT: Objection sustained.

Q Do you know Mr Gans? A I met him here.

Q When?

MR. MARSHALL: One moment. I object.

Q I mean Howard S. Gans, you know him? A I met him.

Q How brought you to his office, Comstock, wasn't it?

A I don't remember being in his office.

Q Who introduced you to Mr Gans, wasn't it Mr Comstock?

6
A Yes, sir.

Q Where? A In the Court House here.

Q Downstairs? A I think it was.

Q And then you signed an affidavit again? A I went before the Grand Jury.

Q No, downstairs in the Police Court, you signed your name again to an affidavit? A I did.

Q Do you know what you said in that affidavit? A The affidavit?

Q Do you remember what it contained? A I don't remember now.

BY MR. MARSHALL:

Q Did you read it when you signed it? A Yes, sir.

BY MR. SNITKIN:

Q What did it contain? A I don't remember the exact wording.

Q When was it you signed your name to it? A An affidavit.

Q When, I said, not the character of the paper? A When?

Q Yes. A I don't remember the date.

Q Is that the best answer you can make? A Yes, sir.

Q Now, you saw Mr Davidson here this morning, didn't you?

A Yes, sir.

Q Did you have a talk with Mr Davidson about this case?

A We didn't have anything to say about the case.

Q That is what I ask you, did you have any talk or not?

A No.

Q Nothing at all? A No.

Q Were you telegraphed to come here? A No, sir.

Q How did you know this case was on? A Mr Marshall told me he was going on.

Q How, you live in Providence and he lives in New York?

A In Providence.

MR. MARSHALL: I went to Providence.

Q When? A A week ago yesterday.

Q You remember that, do you? A Yes, sir.

Q What day of the week was that? A Monday.

Q On the 4th of July, 1907, did you meet Mr Benny Cianciarulo? A What date?

Q Did you hear my question?

MR. MARSHALL: He is asking what date.

Q Don't ask me a question, I am asking you one? A I am asking you what date.

MR. SNITKIN: Will you read the question?

THE COURT: It will be much easier for you to give him the date.

Q On the 4th of July, 1907? A I don't believe I met him that day.

Q Did you know him? A I saw him once.

Q When? A Before the Governor.

Q Prior to that time had you met him? A Never saw him in my life before.

Q Did you know he was present on the car you and Bassing were riding on to Setauket? A I did not.

Q Did you hear him testify before the Governor? A I did.

Q Did you hear him state before the Governor in your presence and in the presence of this defendant--

MR. MARSHALL: One moment. I object to it as far as he has gone.

THE COURT: I cannot say whether it is objectionable or not.

MR. MARSHALL: A statement of another witness before the Governor of Rhode Island is obviously for the purpose of getting something before the jury that he knows that he cannot get before them properly.

Q Did you hear this man whose name I have stated, it is a long name, state before the Governor in your presence and in the presence of this defendant and in the presence of Comstock that you had told him this thing was framed up to keep Bassing out of New York?

MR. MARSHALL: Now, if you Honor please, I object to the question as far as counsel has gone.

THE COURT: Objection sustained.

MR. SNITKIN: I except.

MR. MARSHALL: Will your Honor direct the counsel not to ask questions along that line.

MR. SNITKIN: I have got to get my exceptions, how else can I get a record?

THE COURT: Now, Mr Snitkin, were you called on to--

MR. SNITKIN: I beg your pardon, sir.

Q Now, this man who you say was introduced to you as Jacobs, did he give you his business card? A He did not.

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

Q Well, wait until I show it to you, just look at that, and see if you remember seeing a card of this kind before?

A I never remember seeing a card of that kind.

Q Isn't it a fact that there was not any person introduced to you as Jacobs and the man you met was Glass? A The man was introduced to me as R. Jacobs.

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

Q Did you meet a man by the name of Glass? A I did.

Q Who introduced him? A Mr Bassing.

Q Did you get a card? A No, sir, no card shown me.

Q You are not particular about cards? A No card shown me.

Q All you wanted to do was to get some money, that was your instructions, was it? A To sell the goods.

Q To sell the goods, and as quick as possible? A No great hurry.

Q No great hurry? A No, sir.

Q You were only there the 6th of February? A Yes, sir.

Q Less than a month? A Yes, sir.

Q How many times did you see Comstock in New York City, that is after you were sent ~~in~~ here to sell the goods?

A Never saw him again in New York.

Q When did you first see him in New York before you made the complaint against this defendant? A I came with him February 22d, the first time I was ever in New York with Mr Comstock.

Q February 22d? A February 22d.

Q What year? A 1907.

Q Well, before that time hadn't you seen Mr Comstock in New York? A Never seen him in New York.

Q Where did Comstock meet you on the 22d? A We left Providence together the night before.

Q I said, where did he meet you, what part of Providence?

A In his office.

Q He asked you to go there? A I used to be there every day, I was working for him.

Q You worked for him even after this defendant was arrested, worked for him up to the time he went to jail, isn't that so? A No, sir.

Q When did you leave his employment? A March or

11

April, some time, March, I guess.

Q You don't really know whether it was March or April?

A It was in the spring.

Q You still worked for Comstock after the bankruptcy proceedings? A Yes, sir.

Q What were you doing working for him after the man was in bankruptcy, the place was closed up, wasn't it? A I never was discharged from his employ.

Q You drew salary and the man's place was closed up, wasn't it?

MR. MARSHALL: That is objected to as utterly incompetent and immaterial.

THE COURT: Objection sustained. I am not going to permit any further questions as tending to affect the credibility of this witness, Mr Snitkin.

MR. SNITKIN: The last question, your Honor for the day.

THE COURT: I have heard it, and I said will not permit it.

MR. SNITKIN: Then you sustain his objection?

THE COURT: I do.

MR. SNITKIN: I take an exception.

BY MR. SNITKIN:

Q The \$1700 that you say you collected, did you turn that over to Mr Comstock or Mrs Lance? A Mr Comstock.

Q Did you get a receipt for it? A No, sir.

MR. SNITKIN: That is all.

MR. MARSHALL: There are some few further questions.

THE COURT: Well, ask them now, and let us have done with this witness if we can.

BY MR. MARSHALL:

Q Well, you testified before the Governor, "Why did you swear that it was the property of Mrs Lance," and you testified at that time, "I thought it was the property of Mrs Lance." Then the Governor said, "The affidavit was made out by you in good faith, " and you answered, "In good faith, yes, sir"?

A Yes, sir.

Q Why was it that you charged Bassing with stealing these goods after you had stated you didn't think he was guilty, give us a full explanation of that if you wish to?

MR. SNITKIN: I object to it.

THE COURT: Answer the question.

MR. SNITKIN: I except.

MR. MARSHALL: Take your own time, and give us all the explanation you want about that.

A I met Mr Bassing in Providence. He showed me this dismissal of indictment. We went up to the office and talked it over. He told me a story about he meeting Mr Comstock in New York, and giving him the money, and that is what was done in every transaction, I was not supposed to know all about that,

but Comstock got the money and paid Mr Bassing the commission.

Q What was it he said about meeting Mr Comstock in New York City if you remember?

MR. SNITKIN: That is objected to as not proper re-direct-examination, not having been brought out on cross-examination.

THE COURT: Objection sustained.

MR. MARSHALL: If your Honor please, Mr Snitkin brought out that this Mr Flood had charged the defendant with stealing these goods after he had stated that he was not guilty. Then he stopped that. I have got a right to explain that.

THE COURT: I do not think it is worth while bothering with.

MR. MARSHALL: I do not think it is worth while bothering with, myself.

THE COURT: That is all with this witness?

MR. MARSHALL: That is all.

The Court then admonished the jury in accordance with the provisions of the section 415 of the Code of Criminal Procedure, and took an adjournment to to-morrow, March 31st, 1909, at 10:30 o'clock A. M.

New York, March 31, 1909.

TRIAL RESUMED.

FREDERICK WILLIAM CRAWFORD, called
(as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. MARSHALL:

Q You are employed by whom? A The Clyde Steamship Company.

Q In the month of February, 1907, you were employed by the Clyde Steamship Company where? A At Pier 36 North River.

Q Had they any other pier in this city at that time?

A No, sir.

Q I show you People's Exhibit 1, and I ask you if that is a genuine bill of lading--

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

BY MR. MARSHALL:

Q I ask you what it is, what it purports to be? A This purports to be a shipment of 63 cases of shoes.

MR. SNITKIN: I object to reading from the exhibit until it is in evidence.

MR. MARSHALL: It is in evidence.

MR. SNITKIN: I object to the answer and ask that it be stricken out upon the ground it is a conclusion on the part of the witness. If it is in evidence he may

read it and the jury may read it, and he is not better qualified than the jury.

THE COURT: I think the objection is well taken, and I will sustain it.

BY MR. MARSHALL:

Q On the date of that paper you hold in your hand, February 6, 1907, you were in charge of Pier 36, North River, for the Clyde Steamship Company? A I was in charge of the trace and claim department.

Q Do you know the name that is written on there, F. R. Rince? A There is no such person as that employed by the Clyde line.

MR. SNITKIN: I object to that and move to strike it out.

Objection overruled, motion denied, and exception.

Q Was People's Exhibit 1 ever issued by the Clyde Steamship Company to any one?

MR. SNITKIN: I object on the ground there is not proof that this witness has any knowledge.

THE COURT: He may answer if he knows.

A No, sir.

Q Can you tell of your own knowledge whether the Clyde line ever received 63 cases of shoes on that day? A They did not.

Q I show you People's Exhibit 2.

MR. SNITKIN: This is all taken subject to my objection, upon the ground it is incompetent, irrelevant and immaterial under this indictment.

BY MR. MARSHALL:

Q (Continuing:) I show you People's Exhibit 2 and I ask you if you know the signature on there "F. R. Rince"--do you if there was know/~~if~~ any such person employed by the Clyde line at that time?

A No, there was not.

Q Did the Clyde line on that date receive the goods called for in that bill of lading?

MR. SNITKIN: I object, and ask permission to interrogate the witness on the voir dire as to that exhibit.

THE COURT: Denied.

Exception.

A They did not receive this shipment.

BY MR. MARSHALL:

Q Do you know any such person employed by the Clyde line as F. R. Rince? A No.

Q They never received these 131 cases of shoes at all?

A No.

Q I show you People's Exhibit 7, it is in fragments--if you can gather up the pieces of that, the two upper pieces--do you know any such name as signed to that?

MR. SNITKIN: I object as incompetent, irrelevant and immaterial--and, the date of the paper purporting to

have been offered in evidence--I am not quite certain about it.

MR. MARSHALL: It is in evidence.

MR. SNITKIN: If it is in evidence I object because it is dated the 30th of January.

BY MR. MARSHALL:

Q Do you know the signature on that? A No, no such person as that ever employed by the Clyde line.

MR. SNITKIN: I ask to strike that out as not responsive.

Motion denied, and exception.

Q Did the Clyde line ever receive any such shipment as that? A No, sir.

Q Never was delivered to the Clyde line, and they never shipped them anywhere? A No.

CROSS-EXAMINATION BY MR. SNITKIN:

Q What is the nature of your employment with the Clyde Steamship Company? A At that time it was trace and claim agent for the Clyde Steamship Company.

Q How many men are employed on the New York side of the New York office on the docks? A In what capacity?

Q Receiving agents? A Probably at that time about fifteen.

Q How long have you been employed with the Clyde Steamship Company? A Seventeen years.

Q At this time in what capacity--on the 6th of February?

A Trace and claim agent, or general claim agent, both titles apply to it.

Q You personally do not receive freights? A No.

Q So your answer as to whether or not goods were received of this description is based on what others told you?

A No, sir.

Q You said you personally do not receive goods, is not that a fact? A Yes.

Q Then from your own personal knowledge you cannot testify whether such goods were received or not, except by reference to books and what other people told you, is not that so?

A That is right.

MR. SNITKIN: I ask that all the testimony given by the witness be stricken from the record.

THE COURT: Why not, Mr Marshall?

MR. MARSHALL: The witness' testimony is positive. He says there is no such person as that employed by the Clyde line.

BY THE COURT:

Q Do you know that of your own knowledge? A Yes.

THE COURT: I will let it stand.

Exception.

BY MR. SNITKIN:

Q Didn't you just testify--

THE COURT: Yes, we all heard it--straighten out the difficulty if you can--let us see what is on hearsay and what is of his own personal knowledge--I am bound to assume that the testimony is regular, and let it go to the jury for what it is worth, on the present aspect.

BY MR. SNITKIN:

Q I will ask you this question, Were you present at the office of the Clyde Steamship Company at Pier 36 North River, this city, on the 6th of February, 1907? A I was.

Q Can you now state to this jury how many cases were received that day by the Clyde Steamship Company? A No.

Q Of your own knowledge you cannot state whether or not your company received--of your own knowledge--not what some one else told you, or by reference to any books--that your company did not receive 131 cases of shoes? A Will you allow me to answer that in my own way?

Q Can you of your own knowledge state whether or not you received 131 cases of shoes on the 6th of February, 1907, at pier 36, North River? A Personally, no, I cannot.

MR. SNITKIN: I urge my objection, and I ask to strike out the testimony of this witness.

BY THE COURT:

Q What do you know about it? A Will you let me answer that in my own way.

THE COURT: I ask you what you know about it.

A I know that the person signing these bills of lading was never in the employ of the Clyde line. I know when I was asked to trace and find out if these shipments had ever been in the possession of the Clyde line, that I caused an investigation to be made.

MR. SNITKIN: I object to this as hearsay and not binding upon this defendant.

THE COURT: He caused an investigation to be made. That may stand. Go on.

THE WITNESS: I caused an investigation to be made to ascertain if these goods had ever come into our possession; if they were at any one of our ports, discharged from any one of our steamers, or if they had ever been delivered to any person, and the information--

MR. SNITKIN: I object to this.

THE COURT: I am going to overrule your objection, which I concede is well taken, but, we act in all the important affairs of life on a certain class of hearsay testimony and this is a certain kind of hearsay testimony, and if the law does not permit it to be received in evidence, it is high time that it did. In the management of railroads and large corporate interests, if we did not act upon a certain kind of hearsay testimony, we never would accomplish any business. The law is reasonable in all things, and when the head of a department makes an

investigation he should be able to say what the investigation was and what he learned under such circumstances here disclosed. I overrule your objection.

Exception.

THE COURT: Proceed with your answer.

A The result of that investigation disclosed the goods had never been in our possession, and when these documents were submitted to me to see what they were, they are not even executed in the manner and form which the Clyde line receives shipments, or consigns for shipments.

MR. SNITKIN: I move to strike that out.

THE COURT: I will let it stand for what it is worth and give you an exception.

BY MR. SNITKIN:

Q You appreciate, Mr Crawford, that in giving your testimony here, that your company, if goods are lost in transit, is liable to a suit at law for damages for the recovery of the property or the value, do you not? A Yes.

Objected to as incompetent and immaterial.

BY MR. SNITKIN:

Q And with that knowledge present in your mind, you want to shield the company from any liability that it may have against it?

Same objection. Objection overruled.

A I do not understand that question.

Q You want me to make it clearer to you? A If you will.

Q You have just testified that you know if goods are lost in transit, your company is liable at law for damages for the value of the property or for the recovery of the property itself, you know that? A Provided we have given a receipt for the property.

Q You know that--now, with that knowledge present in your mind, and testifying as a witness now, you do not want any suit to be brought against the Clyde Steamship Company by any person relative to these goods? A We would be willing to come into court on a suit if anybody wants to bring it on those documents.

Q Did you hear what I said, you do not want a suit brought against the Clyde Steamship Company, yes or no--you are its servant, and you do not want a suit brought against your corporation? A No one wants a suit, of course they do not.

Q Take People's Exhibit 1--it bears the name of the Clyde Steamship Company? A That is the form that is used.

Q The form in use on the 6th of February, 1907? A Yes.

Q Of your own knowledge can you state whether or not the Clyde Steamship Company at its pier in New York received 63 cases of shoes? A From the information already given, no, they did not.

Q Of your own knowledge you cannot? A No.

MR. MARSHALL:

Q You did not receive the 63 cases of shoes in your hands? A No, it is not my business.

BY MR. SNITKIN:

Q Looking at People's Exhibit 7, does that conform to the form in use on the 30th of January, 1907? A Yes, sir, it does.

Q Can you of your own knowledge state whether the Clyde Steamship Company received 120 cases of shoes? A No.

Q You have been in Providence as a witness? A No, I have not.

Q You have been subpoenaed before the United States Court? A No.

CHARLES C. WALL, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. MARSHALL:

Q Who are you employed by? A The United States Government.

Q In the year 1906 you were employed by the United States Government as what? A Secret Service operator.

Q In your capacity as Secret Service operator for the United States Government, did you go to the city of Providence, Rhode Island? A Yes, sir.

Q And to the city of Bristol? A Yes, sir.

Q And did you see the defendant Jacob Bassing? A Yes, sir.

Q Were you assigned to the investigation of Comstock's failure in Providence, Rhode Island? A I was.

Q Tell us what conversations you had with Bassing, when they were and what they were in regard to this case? A On December 13th I went down to see Jacob Bassing at his house.

Q In Bristol? A In Bristol, to have a talk with him, and I saw him upstairs in his house. He lived over some stores. He took me downstairs to an empty store to talk to me. I told him who I was. He was very much broken up at the time. He said that Comstock had branded him as a thief; that his little boys nine and eleven years old had to leave school, or had been taunted in school, or something of that kind, and he was very much broken up, and he told me in the course of the conversation that he never stole a cent from Comstock; that he had turned over to them bills of lading, checks, and that one night at 12 o'clock, in the Grand Central Station, with Glass--Glass, as he explains it, was the auctioneer--he had met Comstock at 12 o'clock at night in the station and paid to Comstock \$500 in cash and took a receipt, and that was all in connection with the Bassing matter at that time. Then, later, on December 20th--

Q 1907? A 1907, and so was the other date, 1907.

One night when I went to my hotel I found Bassing waiting there for me, and he talked about several things--let me see what it was--in the course of my talk with him I asked him if he did not know that the goods that he was trying to sell for Comstock, that there was something wrong with them; that they were crooked in some way. He told me that he took a man named Makowsky of Bristol up to the Calendar Building, and had knocked on a door there, and the door had been opened by a man named Flood, and these goods were shown to him, and he was trying to sell them for Comstock, and he took Makowsky up there in hopes that Makowsky would buy them. I asked him if he did not at that time--if he was not certain there was something wrong, and Bassing said to me, "If I told you, Mr Wall, that I did not know those goods were crooked, I would be telling you a lie, because I knew they were crooked." That is all I can remember about that conversation.

CROSS-EXAMINATION BY MR. SNITKIN:

Q As a Secret Service agent, assigned to investigate the failure of Comstock, you called at my office? A I did.

Q You came there with a letter of this defendant?

A With the letter of this defendant, yes, requesting--

Q To turn over certain papers? A Yes, that certain papers be turned over.

Q All the papers you desired in connection with the Comstock failure were turned over by Mr Snitkin to you?

A They were, or else sent by mail to the District Attorney, I don't remember which.

Q So we have it now, that Bassing was used by the Government as a witness against Comstock? A He was not.

Q Was he not? A No.

Q To your own knowledge? A To my own knowledge, in this case, except before the Grand Jury—he was questioned, but he was not used as a witness against Comstock.

Q At any rate you have no interest in this case? A Absolutely none.

Q You are disinterested? A Yes.

Q You say Bassing was used as a witness before the Grand Jury? A Yes, in an investigation of the Comstock matter.

Q Do you know as a result of that investigation that Comstock was indicted? A He was.

Q And you know as the result of that investigation and the finding of the indictment, that Comstock pleaded guilty, and was sentenced upon that plea? A Exactly.

Q You say the first conversation you had with this defendant was in December of 1907? A No, I won't say the first conversation.

Q When was the first conversation had? A With Jacob Bassing, this defendant?

Q Yes? A Without my books here it would be impossible to tell you.

Q You are assigned to numerous cases? A Many cases.

Q And naturally you cannot retain in your mind the details of conversations had with persons in various directions?

A I cannot ordinarily, without refreshing my recollection.

Q Before you were called here as a witness to testify, did you refresh your recollection from any writing? A Yes.

Q Where is that record? A In the custody of the Chief of the Secret Service in New York.

Q Mr Flynn? A Mr Flynn.

Q You have not that book with you now? A No, I have not.

Q So that in order to testify this morning you had to refresh your recollection as to what conversations took place with this defendant? A Not this morning, but at that time-- at the time of the--we were brought here for the trial before-- the trial was set I think for some time last October or November.

Q So that since October or November, 1907, you have not consulted your book or any writing or memorandum so as to refresh your recollection? A I have consulted a memorandum because I took it that time--

Q When? A Why, I think last Saturday or Sunday, I am not just sure.

Q That was in the office of the Secret Service? A I did not say so.

Q I know you did not, I ask you? A I think in my own home.

Q In New York City? A Yes, sir.

Q Can you state now when the first conversation, if any, you had with this defendant, took place, the month? A I cannot.

Q Can you tell where it took place? A Yes.

Q Where? A The District Attorney's office in Providence, Rhode Island.

Q Can you state whether that was in 1907 or 1906? A I can state it was not in 1906; that it was either in December, 1907, or January, 1908--probably in December. I can state it was in December--it must have been in December.

Q And what you have stated to have spoken to this defendant at the first conversation is your best impression? A I do not quite understand your question.

Q You did not give us the conversation in detail?

A No, I did not give you the conversation in detail.

Q You are giving us then your best impression of what you believed was said at that time? A In regard to this particular matter.

Q The first conversation? A Not the first conversation--I told you we had a conversation in the District Attorney's office. Later I went to Bassing's home.

Q Is it not true that the very first conversation that

you had with this defendant was at the home of this defendant when you came in and introduced yourself as Mr Wall of the Secret Service? A Well, I am not sure whether I went to him and introduced myself to him there at that time, or whether I first met him in the District Attorney's office and from the District Attorney's office then went to his home to question him.

Q So upon that point of the case you are not certain?

A I am not certain which time, whether it was the first or the second conversation I ever had with him.

Q At what conversation was it that he said to you, "I have not stolen a dollar from Comstock"? A That was in his house at Bristol, Rhode Island.

Q Can you tell us when that was? A December 13th, 1907.

Q You are certain about the day of the month? A Absolutely.

Q Is that refreshed from any memorandum that you made? A That was refreshed from my reports to Washington.

Q When did you last read that report? A I read a note of that report either Saturday or Sunday in my home, as I explained. Last October I made notes.

Q October, 1908? A October, 1908--or the date of the time the trial was set, when Bassing was not here--I don't remember just the date, but I know that I came here to testify

and the case was put off because Bassing had gone, and at that time--

MR. SNITKIN: I ask to strike that answer out, and

Mr Witness, you will please wait until I interrogate you.

BY MR. SNITKIN:

Q You are entirely disinterested? A Yes, sir; I am simply trying to explain to you how I came to make these notes at that time. If you wish me to stick strictly to your questions, I will do so.

Q Thank you, that is very kind of you--now, we have it that in October, 1908-- A I don't remember the date.

Q That is what I want to know--you don't remember the date? A Exactly.

Q You have testified accurately before that it was in October, 1908, that you had made notes of the reports that you had sent to Washington; now you say you are not certain about the date, is that correct? A I am not certain--I am now certain of the date, if you wish to know.

Q I have not asked you a question.

MR. MARSHALL: Are you now certain?

THE WITNESS: I am now certain of the date.

THE COURT: If he does not want the date, let it go.

BY MR. SNITKIN:

Q At the time you had the first conversation with this defendant, the place that you cannot tell, whether it was in

the District Attorney's office or at his home, did you make any notes of what he said to you, yes or no? A Yes, sir.

Q Did you forward that report at that time to Washington, yes or no? A Yes, sir.

Q How soon after this conversation which you had with this defendant did you forward the report to the Washington authorities? A Within three hours.

Q When did you make the notes from which you refreshed your memory? A The latter part of October, 1908.

Q And the conversations took place in 1907, am I correct?

A You are correct.

MR. SNITKIN: I now move that the testimony given by the witness Wall be stricken from the record upon the ground that the witness testified to conversations from a record or memorandum made by him; that it appears from the evidence that that record was not made at the time the conversation was had, but fully a year after the conversation, and therefore it is incompetent.

THE COURT: Did he not testify from his own knowledge.

MR. MARSHALL: Yes.

THE COURT: I will let it stand and deny your motion to strike it out.

Exception.

EDGAR C. DAVIDSON, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. MARSHALL:

Q In February of 1907 you were employed by Mr Comstock in Providence, Rhode Island? A I was.

Q Did you see Bassing on or about the 8th or 9th day of February, 1907? A I did.

Q Where did you see him?

A In Mr Comstock's office.

Q I show you People's Exhibits 1 and 2 and I ask you where you first saw those?

A In Mr Comstock's office.

Q Who had them? A Mr Bassing.

Q Bassing had them? A Yes.

Q What did you hear Bassing say in regard to these bills of lading, if anything, Exhibits 1 and 2?

A Bassing said those are the bills of lading covering goods shipped from New York.

Q Were you present when Bassing first came into the office from New York, a day previous to that?

A I was.

Q What did he say that day? A He said --

Q About these bills of lading? A He said they were in a grip of his and he had left the grip on the train, in transferring to Providence at Wooster, and that he would have to get the grip before he could give us the bill of lading.

Q Did he say where he was going? A He said he had --

MR. SNITKIN: Yes or no.

BY MR. MARSHALL:

Q What did he say? A He said he was going to get the grip.

Q Where did he say he was going to get it? A Going to Boston.

Q What did you do after he left the office that day?

A I went to the train to see if he went to Boston.

Q What did you do? A I stayed around the depot until the train went out and walked through the train to see if he was on it.

Q Went through the entire train? A Yes.

Q Was he on it? A He was not.

Q When did he come back? A The next morning he came back to the office.

Q About what time of the day was it you went through the train to see if he was going to Boston? A In the afternoon somewhere along between twelve and one o'clock.

Q After these drafts came back, People's Exhibits 4, 5,

and 6 for Identification, did you go to the city of Bristol, Rhode Island? A I did.

Q Did you see Bassing? A I did not.

Q He was not there? A He was not.

Q Could you find him?

Objected to; overruled; exception.

Q Did you succeed in finding him?

Objected to.

THE COURT: Where did you find him -- strike out the word "succeed".

BY MR. MARSHALL:

Q Where did you find him? A I did not find him.

CROSS-EXAMINATION BY MR. SNITKIN:

Q What is your first name? A Edgar.

Q It is not Percy? A No, sir.

Q You are Edgar, is that right? A That is it.

Q Edgar Davison -- where do you live? A Providence.

Q That is a large city, what street? A Park avenue.

Q What number? A 838.

Q Married man? A I am.

Q What is your business? A Shoe salesman.

Q For whom were you employed or by whom were you employed?

A When?

Q At any time? A By B. W. Comstock at one time.

Q The man that is now in State Prison, isn't he?

MR. MARSHALL: We understand that.

BY MR. SNITKIN:

Q When was it you were first employed by Mr. Comstock?

A About 1904.

Q When did you enter his employ in 1904? A I think it was March.

Q Aren't you certain about it? A Quite certain.

Q That is your best guess at it? A Yes.

Q I said is that your best guess at it and you said yes, is that right?-- how long were you in his employ? A Three years.

Q When did the employment terminate? A The 16th day of March, 1907.

Q You know that Comstock went into bankruptcy? A I do.

Q When? A October, 1906.

Q The place closed up, wasn't it, in the hands of a receiver, that is so, is it not?

MR. MARSHALL: The place in Washington street?

MR. SNITKIN: I only know of one place, in Washington street.

THE WITNESS: In the hands of a keeper, I should say.

Q That is, no business was being transacted by Comstock?

A In October?

Q You heard my question? A When was the business not

transacted?

Q When was the business closed? A In October.

Q Then there was no business transacted in October?

A No.

Q What were your duties in October when Comstock's place of business was closed, what were you doing there -- would you mind answering that question -- suppose I sit down and give you time to reflect -- cannot you answer? A I had no defined occupation.

Q What do you mean by that? A There was no stated things I was to do or was not to do.

Q But you were getting your salary? A I was getting a salary.

Q For doing nothing? A For doing nothing, if you term it so.

Q How much were you getting for doing nothing, how much per week or per day? A \$20 a week.

Q And that continued from October, 1906 until the 16th of March, 1907? A It did.

Q How much are you getting now for coming here as a witness?
A Getting my expenses.

Q Who is paying you?, A I do not know that.

Q Where are you stopping? A Stopping at the Union Square Hotel.

Q You do not know who is paying the expense?

MR. MARSHALL: I am.

MR. SNITKIN: Do not do that, Mr. Marshall, I have a right to know and ask him that.

BY MR. SNITKIN:

Q In February, 1907, where was Comstock's office? A In the Caesar Misch Building, Westminster street.

Q That is a building of the father-in-law of the attorney for Mr. Comstock? A No, sir.

Q Did Comstock transact business in February, 1906 at the Caesar Misch Building? A He had an office there in that building.

Q How many men were employed in that office? A There were three or four of us in Comstock's employment.

Q No, in the office, in February, 1907? A I was possibly the only one whose duties took me to the office.

Q You were possibly what? A The only one whose duties took them to the office.

Q Whose duties took them to the office -- what duties did you have that took you to the office? A Clerical work.

Q What clerical work did you do, A Writing.

Q That is indefinite, what kind of writing, letter writing, bookkeeper or what -- what did you do, letter writing or book-keeping? A Letter writing when there was any to write.

Q At that time Comstock was in bankruptcy? A He was.

Q Tell us what were you convicted of? A I was not con-

victed of anything.

Q You pleaded guilty? A No.

Q Was not sentence suspended upon you? A It was.

Q What was it suspeded for -- didn't you plead to it?

A I did not plead guilty.

Q You pleaded nolle? A No, nolle.

Q And upon that plea, the same plea as Comstock entered, sentence was suspended in your case? A Yes.

Q And you are now under suspended sentence, is not that so? A I do not know if it is or not.

Q You do not know if you are under a suspended sentence now? A No.

Q Before what court did you appear? A The united States District Court.

Q And what is the name of the Judge? A Judge Brown.

Q What was the charge against you? A Conspiracy to conceal goods.

Q What goods? A Shoes and rubbers.

Q Belonging to Comstock? A Yes.

Q You were in the Comstock deal? A Yes.

Q You also bought or assisted in buying a stock of hosiery from Mann & Company of New York? A I don't remember the name.

Q You did buy hosiery from New York? A Yes.

Q And that was part of the property that was taken away

from the creditors as well? A It was.

Q It is upon that you were indicted? A It was.

Q Then you turned a Government witness? A I do not consider it so.

Q You testified against Comstock at one time? A No, sir.

Q Did you ever testify in his favor? A No.

Q You do not know what the sentence was suspended in your case for?

Objected to; sustained; exception.

Q You know that Bassing was instrumental in having you indicted, and Comstock? A No, I did not.

Q You did not know it? A No.

Q Honestly? A Honestly.

Q Didn't you know he appeared as a witness before the Grand Jury and that after his appearance as a witness before the Grand Jury you and Comstock were indicted?

Objected to; sustained; exception.

Q You have had some talk with Comstock? A Yes.

Q Many times? A Yes, many times.

Q You know what Comstock is serving time for? A Yes, I do.

Q Did you ever appear as a witness before the Grand Jury in this case, A I did not.

Q What is your business now? A Shoe salesman.

Q For whom -- by whom are you employed? A Lane Brothers Company, Boston.

Q Lane? A Yes.

Q Lane Brothers in Boston is a concern that Comstock dealt with? A No, sir.

Q How long have you been in the employ of Lane Brothers?

A Since the 1st of February.

Q Of this year? A Yes, sir.

Q Now, then, from February, 1907 until February, 1908, what was your business? Do you understand my question?

A Yes.

Q What was your business? A Part of the time I was in Mr. Comstock's employment.

Q From February 7, 1907, until February 8, 1908 you were in his employ? A I said part of the time.

Q From March, 1907, until February, 1908, where were you employed? A In Chicago.

Q What is the name of the firm? A Opaque Shade Cloth Company.

Q Where is their place of business? A West Pullman, Chicago.

Q That is where you were arrested, is not that so?

A At the factory, -- yes.

Q You went to Chicago and they brought you back from Chicago back to Providence? A They did, yes.

Q When was that that you were brought back to Providence from West Pullman, Chicago, what month? A In March.

Q What year?

Objected to; sustained; exception.

Q Where were you employed from February, 1908 to February 1909? A Been in the real estate business a certain part of the time.

Q In the real estate business for yourself? A With my father.

Q He is in the real estate business? A He is.

Q Always has been? A Yes.

Q How long did you stay with your father in the real estate business? A I was with him from the 1st of June, I think, until February.

Q June 1st of what year? Q 1908.

Q Until February? A February, 1909.

Q How long have you known this defendant? A About five years.

Q When did you first see this defendant with relation to the goods in question? A You mean --

Q I mean what I have said? A Make your question clearer and I will answer it.

Q What? A Put your question clearer.

Q It is not clear enough? A No, sir.

Q When did you first see the defendant Bassing, anywhere, with relation to these goods -- now, do you understand me?

A When he came into Mr. Comstock's office.

Q When was that, the first time? A It was a day or two after -- it was when he told me that the goods had been shipped but he did not have the bills of lading with him.

Q You say the first time you saw the defendant at Comstock's office was a day or two after the defendant came up and spoke about bills of lading? A In regard to this matter, yes.

Q In regard to what? A In regard to this matter under discussion.

Q Which do you refer to? A The one handed to me for Identification.

Q Did you see those before you saw them this morning?

A Yes, in Mr. Comstock's office.

Q When, what month, what month did you see those bills of lading in Mr. Comstock's office? A February.

Q What day in February? A The 7th, 8th or 9th of February. I don't remember the date.

Q In whose handwriting is this letter (showing paper to witness)? A That is Mr. Comstock's handwriting.

Q Sure about that? A Quite sure.

Q In whose handwriting are these drafts, People's Exhibits 4, 5, and 6 for Identification?

MR. MARSHALL: You mean the body?

MR. SNITKIN: No.

THE WITNESS: The signature is not Mr. Comstock's.

BY MR. SNITKIN:

Q As to the balance of the writing, whose handwriting is

that? A I think Mr. Comstock's.

Q You have seen Mr. Comstock write pretty often, many times? A Yes, sir.

Q You are familiar with his handwriting? A Yes, sir.

Q Would you mind doing a little writing for me with pen and ink, if you don't mind?

MR. MARSHALL: Let him step down here.

BY MR. SNITKIN:

Q Will you write E. F. Lance?

(The witness complies).

Q Now write Charleston?

(The witness complies).

Q Now write 131 cases shoes?

(Witness complies).

Q Now write figures 131?

(Witness complies).

BY MR. SNITKIN:

Q Now you can return to the stand -- did you ever see the person who wrote People's Exhibit 2.

Objected to.

THE COURT: He may answer if he can.

THE WITNESS: Answer: I don't know.

Q You are not familiar with the handwriting upon People's Exhibit 2? A No.

Q Do you notice a similarity -- this is in your handwriting?

A Yes, sir.

MR. SNITKIN: I offer this in evidence.

MR. MARSHALL: For what purpose? I object to it as incompetent, irrelevant and immaterial.

THE COURT: Mark it for Identification.

The paper is marked for Identification Defendant's Exhibit A.

BY MR. SNITKIN:

Q Looking at People's Exhibit 2 in evidence and Defendant's Exhibit A for Identification, do you notice a similarity in the capital letter "L"?

Objected to as incompetent and immaterial.

Objection sustained. Exception.

Q Was it at that time that the defendant came into Comstock's office and spoke about bills of lading, that Comstock paid him as his commissions? A I was not present when he paid him his commissions.

Q And that day you were absent, were you? A I was not in their company. There are two offices in the suite.

Q But on that day when the commissions were paid to Bassing you were not there at all? A I don't know when they were paid.

Q You do not know that at all? A No.

Q You were Comstock's confidential man? A I was.

Q Now, after seeing this defendant in Mr. Comstock's place--

in his office -- as you now say -- when next did you see him?

A I think I saw him on the street after the --

Q Will you complete the answer, please? A I was trying to fix the time -- after the indictment in New York -- after Mr. Comstock and Flood had been to New York in regard to this matter.

Q You mean after the defendant was discharged upon the first indictment? A I don't know anything about the discharge.

Q But, can you fix the time? A No, I cannot.

Q But you are certain that on the 8th or 9th of February, 1907 Bassing was in Comstock's office? A Yes.

Q That is a period prior to the time that you next saw this defendant in Providence, after Flood and Comstock came back? A Yes, sir.

Q And yet at a later period of time you cannot recall the day of the month? A No, it was a casual meeting and there was nothing to fix any date.

Q Where did you meet him? A On Washington street.

Q Providence? A Yes.

Q That was the second time you met him, is that correct?

A Yes.

MR. MARSHALL: The witness did not testify that he met him. He said he saw him.

MR. SNITKIN: I will take the correction.

BY MR. SNITKIN:

Q When next did you see this defendant? A In the Governor's room in the Capitol Building at Providence.

Q That was in July, 1907, or don't you remember?

A I don't think it was as late as that.

MR. MARSHALL: Was it when I was up there?

BY MR. SNITKIN:

Q I can refresh your recollection -- look at the testimony and see if that refreshes your recollection as to when that was -- does that refresh your recollection? A It was not in July.

Q Did you look at this book? A I looked at the front page that you showed me.

Q You did not appear as a witness in this proceeding?

A No, I did not.

Q But you were present? A Not at that proceeding in July.

Q Which proceeding do you refer to? A It was previous to that.

Q What month? A I don't know.

Q What year? A 1907.

MR. MARSHALL: I object to all this as utterly incompetent, irrelevant and immaterial and wasting the time of the Court.

Objection sustained. Exception.

BY MR. SNITKIN:

Q Now, did you ever go to the home of this defendant after February, 1907? A I went to his home once-- I don't remember whether it was February or March.

Q Are you certain it was either February or March?

A It was either the last of February or the 1st of March.

Q What year? A 1907.

Q Sure about that? A Quite certain.

Q Where did you go, what street did he live on at that time? A I don't know the name of the street.

Q How manytimes had you been there before? A A great many times.

Q And you don't know the name of the street? A No.

Q Going from Providence you went to Fox Point first -- how did you go to Bristol? A I don't know how I went -- there is two ways of going.

Q Did you go by way of Fox Point? A I don't remember.

Q Was it Thames street that you went to or Church street?

A I don't know that.

Q How many times have you been there? A I have been there a great many times.

Q You have some relatives at Bristol? A I have.

Q What street do they live on? A Hope street.

Q Bassing's place of business at that time was not very far from Hope street? A They ran parallel to Hope street-- one street to the east of it, I think.

Q Did you ever speak to Mrs. Bassing after February, 1907? A I don't think so, no.

Q You don't think so? A No.

Q I want you to be certain about it? A Then I will say I did not.

/ Q You swear positively now that you did not speak to Mrs. Bassing after February, 1907? A I will.

Q Of course you will -- what fixes that in your mind that you were not there? A Because I have no recollection of seeing her.

Q You know her? A I am dependent upon my memory -- yes.

Q You are dependent upon your memory as to your knowledge of her? A I thought you said "You know it."

Q You know her, don't you -- you know Mrs. Bassing? A I do not consider myself acquainted with her.

Q I will bring her in and make you acquainted with her?

MR. MARSHALL: Do you know her when you see her?

MR. SNITKIN: I object to the interruption.

BY MR. SNITKIN:

Q Didn't you say to Mrs. Bassing after February, 1907, "If Bassing does not stay away from the bankruptcy proceeding" that you would make it pretty warm for him? A No.

Q Did you see Bassing appearing before the Grand Jury in the Grand Jury room? A Ask that question again.

(The question is repeated).

A No.

Q Let us see -- how long did you stay in jail, how many weeks or months?

Objected to as incompetent and immaterial.

Question withdrawn.

Q, Do you know this woman at the bar known as Mrs. Jacob Bassing? A She was pointed out to me as Mrs. Bassing.

Q When was she pointed out to you? A Last Friday morning.

Q Last Friday was the first time you ever saw this Mrs. Bassing? A No.

Q When did you see her before Friday? A I saw her in Bristol.

Q Many times? A Yes.

Q She had to be pointed out to you last Friday that that was Mrs. Bassing? A She did.

Q You are not related to Comstock? A No.

Q Friendly? A Very.

Q You are sorry for his condition? A I certainly am.

Q You helped to remove the goods from Washington street to Calendar street, didn't you? A I did.

DAVID GOETZ, called as a witness in behalf
of the People, duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. MARSHALL:

Q You are an expressman, are you not, in the City of New York? A Yes.

Q And you were an expressman on the 6th of February, 1907? A Yes, sir.

Q Do you know this defendant, Jacob Bassing? A I do.

Q Did you see him about that time? A Between that time I have been carting the goods --

Q Yes, but when did you first see the defendant Bassing?

A In January.

Q Where did you see him? A I met him in Canal street.

Q Did you know him before that? A No, never.

Q What did he say to you? A Whether I am idle, and I said yes, and he asked me if I will do a job for him, and I said "What is it?" And he said "I have a few cases of shoes to move."

Q And what did you do? A I said "All right, I will be with you in a few minutes, if you wait until the line keeps moving"-- I was blocked there.

Q Where was your truck? A Corner of Forsythe and Canal.

Q Did you go and get your truck? A I was on the truck.

I said to him "You wait until the line is going ahead with the lot of trucks there --" that was blocked -- and he waited until I drove on, and when I kept on driving, he stopped me Canal near Elizabeth -- if I am not mistaken, and he said, "You can pull in here," and I did it.

Q What did you do? A He told me there is some cases have to be taken to Grand street.

Q To Grand street? A Yes.

Q How many cases did you take, about how many?

MR. SNITKIN: Fix the date.

BY MR. MARSHALL:

Q When was that? A That same time he hired me.

BY MR. SNITKIN:

Q In January? A In January. I don't know if it was the 5th or 6th, but I know it was in January.

BY MR. MARSHALL:

Q What did you do with the goods? A I took them to Grand street.

Q Where did you deliver them in Grand street, to what place? A 447 Grand.

Q What is that place? A That is known as an auction room.

Q After that did you take more stuff for him, in February? A Yes, I believe I did.

Q How many loads did you take then? A Two small loads.

Q What did you do with them? A Took them to the same place.

Q Did Bassing go with you? A Yes.

Q Bassing went with you? A Yes.

Q To this place in Grand street? A Yes.

Q Have any further conversation with Bassing about these goods? A No.

Q Who paid you? A Mr. Flood.

Q Flood paid you? A Flood paid me.

Q Where? A At the Summit Hotel corner of Canal and Bowery.

Q You went there to Flood? A I went to Flood.

Q To get paid? A Yes, sir, and he asked me to give him a receipt for the money and I did.

Q You gave him a receipt for the money? A Yes.
anything

Q Did Bassing say/about the Clyde Line to you? A Not a word.

Q Never did? A Never.

Q You never heard a word as to the Clyde Line? A Not a word whatever.

BROSS-EXAMINATION BY MR. SNITKIN:

Q When Bassing hired you he told you he wanted you to take cases to Grand street? A To Grand street, yes.

Q When you came over to Canal street, that was a basement store? A Yes.

Q And it was there you found certain cases? A Yes, sir, a lot of them.

Q And it was there a talk was had about the shoes going to Grand street? A Yes, sir.

Q And Flood was there at that time? A Yes, sir, Mr. Flood and Mr. Glass.

Q Glass, Flood, and this defendant were there at that time, that is so? A Flood was there.

BY MR. MARSHALL:

Q Flood was there? A Flood was in the basement store.

BY MR. SNITKIN:

Q We have it now that when you first came to this place of business, 159 Canal street, Bassing was with you, Flood was there and Glass was there? A Yes, sir.

Q And the question of moving the goods to Grand street was spoken of in that basement in the presence of Flood? A Yes, sir.

Q You are a People's witness subpoenaed by the District Attorney? A The District Attorney, yes.

Q You say you were paid by Flood? A I was.

Q At the Summit Hotel? A Yes.

Q You told Flood where you had delivered the goods when he paid you? A I believe I did.

Q Where did you tell him you had delivered it to? A Grand near Ridge.

Q Did Flood ever tell you these goods had to go to the

Clyde Steamship Company? A Never mentioned it.

THE PEOPLE REST.

MR. SNITKIN: Now that the People's case is in, I move that all the testimony given by the witness Comstock relating to transactions prior to February 6, 1907, be stricken from the record, upon the ground that it is incompetent, irrelevant and immaterial.

THE COURT: What have you to say, Mr. Marshall?

MR. MARSHALL: Those are similar transactions, all part of the one scheme.

Motion denied. Exception.

MR. SNITKIN: We ask your Honor to take from the consideration of this jury the first count in this indictment which charges a common law count of larceny.

THE COURT: " What do you want to submit, Mr. Marshall?

MR. MARSHALL: Grand larceny in the first degree.

THE COURT: Under which count?

MR. MARSHALL: I think it is common law larceny. I think the proof comes under common law larceny.

MR. SNITKIN: The evidence in this case is that we obtained the possession of the property lawfully, and while it is true that under the case of the People against Miller, it is held that you can prove under a common law count a larceny, trick and device, that is absent in this case, because, taking the most favorable view of the People's

case, if it is anything at all, it is by false representation; so that it cannot come under the first count of common law larceny.

THE COURT: I will deny your motion at this time.
Exception.

MR. SNITKIN:/ I ask your Honor to take from the consideration of this jury the second count in this indictment on the following grounds: First, that it appears affirmatively from the evidence that the defendant was given a power of attorney, not limited in scope, to sell the property, and therefore he had legal possession as well as legal title as against everybody else except the true owner; that being vested with possession of the property cannot be charged with larceny of the property; but, he may be charged with misappropriating the moneys realized on the property, and in that respect I beg to call your attention to the case of the People against Zinc, which is a case on all fours with the case here, in 72nd New York.

THE COURT: You may hand me that authority and I will read it. In the meantime I will deny your motion without prejudice to its renewal.

Exception.

THE DEFENDANT'S CASE.

J A C O B B A S S I N G, the defendant, called as a witness
in his own behalf, being duly sworn and examined, testified
as follows:

DIRECT EXAMINATION BY MR. SNITKIN:

Q Your name is Jacob Bassing? A Yes.

Q Where do you live? A Bristol, Rhode Island.

Q Where have you lived -- I do not mean at the present
time -- at the present time you live in the Tombs? A Yes.

Q How long have you been there? A Thirteen weeks.

Q Where did you live before you were placed in the
Tombs? A Bristol, Rhode Island.

Q How long have you lived there? A 18 years this
month.

Q How old a man are you? A 35.

Q You were about 17 years of age when you came to Bristol?

A Yes.

Q What was your business? A In Bristol?

Q Yes? A Boots and shoes business.

Q How long have you been in business? A I started in
business about three weeks after I got there -- of course not
in the boot and shoe business, but in the cobbling business and
shoemaker, that was my trade.

Q Then you branched out in the boot and shoe business?

A Yes.

Q Your family lives there now? A Yes, sir.

Q That consists of whom?

Objected to.

Q Your wife lives there? A Yes.

Q And your family? A Yes.

Q How long have you known Comstock? A I know Comstock for fully twelve years.

Q In the course of the twelve years you have known him have you had business dealings with him? A Yes. When he was salesman for Conger & Aylesworth & Company, and then he went from there to Stisson & Company, and from there he went in partnership with a man named Charles Lavalley, in Woonsocket.

Q Without going into details as to his business transactions, you dealt with him? A Yes.

Q When he was in business for himself did you have any business dealings with him? A Yes.

Q When did they start? A When he went in business with Lavalley and himself, in Woonsocket.

Q Come down to December, 1906, did you have any business transaction with him? A Yes.

Q Where was your place of business? A I had two, a store in Bristol, retail store, and had a place at 98 Weybosset street, Providence.

Q What number Thames street in Bristol? A 178 Thames street.

Q That was your own house there? A Yes.

Q How long had you been in business in Thames street?

A On Thames street?

Q Yes? A I was there since 1900, in April, 1900 I moved in there.

Q As I asked you before, in September, 1906, did you have any business dealings with Comstock? A Yes.

Q After that business transaction that you had with him, when next did you see Comstock and where? A I saw him several times in the street, but not very much, between the months of October and November I did not saw him-- because he was away.

Q He was away? A Yes.

Q When after November, 1906, did you see him? A I saw him the last Sunday in December.

Q 1906? A 1906.

Q When you saw Comstock in December, 1906, did you have any talk with him? A He came to my house in Bristol.

Q Tell the jury in your own way just what happened?

A He came on that Sunday in 1906, it was the last Sunday in December he came to Bristol to my house, which was 178 Thames street, upstairs, over the second floor from the store; he

came and knocked at the door and I went to the door and saw

Comstock there, and I was surprised to see him there on Sunday, and he came right in there and had a conversation with me. The

conversation was that he said he got some stock, which he wants to sell. He offered them to me for sale, that I should buy them, and I told him I am not in the shape of buying goods at that time. He wanted me to look up customers for him, if he could dispose of the goods -- to sell the goods. I promise him if I will find everything is correct -- because I told him -- there was different conversation going on there -- and I told him he had failed and how he could sell the goods and where he got the goods, and he said "You come to my office and from there I will take you to the place where the goods is." I made an appointment to see him the following Tuesday. That was the first or second day of January. I met him in his office in the Caesar Misch Building on the Sixth floor, room 601 -- he had two rooms there, and that was where he was. I got there and talked the matter over with him again, and I asked him whether he would give a good title to the goods from the trustee in bankruptcy, if he could sell them. He said the trustee in bankruptcy had nothing to do with these goods; that belongs to the Referee in Bankruptcy, Chester W. Barrows. He said if I go down to Chester W. Barrows, the referee, he will give me all the particulars about the goods. So I went over to Chester W. Barrows the following day -- that was on the 2nd day of January or the 3rd -- on the 3rd day of January, and I asked Mr. Barrows regarding these Comstock goods, if he has any right to sell, and he said he has made an offer to his

creditors of 40 per cent on the dollar and give notes for it, and that gives him the title to sell the goods -- that Comstock has the right to sell the goods. I told him Comstock wanted. I should go and dispose of the goods for him. I said "Will you give me a certificate to that effect that I would not get in any trouble?" He said "Yes, it will cost you a dollar", and I gave him a dollar -- a lawyer named Potter -- in the same building, in 87 Weybosset street -- I left the dollar with him -- and Mr. Barrows ordered his stenographer or typewriter to issue a certificate and put the seal on of the United States Court and Referee, and he gave me that certificate and as far as I knew, everything was straight and fair and square on the part of selling the goods. I went back to Comstock and I said I find that you told me is right. I said I am going to see if I can't get a customer for you. I will be down tomorrow. That was on the 4th day of January. I took down one man, Max Makowsky --

Q When you say Chester W. Barrows gave you a certificate, is that the paper you refer to? A Yes, sir.

Q Go ahead? A On the 4th day of January I brought over this man Kakowsky to the Caesar Misch Building -- I did not know at that time myself where the goods were -- I did not know how much goods he has got and I did not know what the goods consisted of or the quantity, because he had different brands of rubbers -- first, second and third quality -- he had ~~xxxx~~

different brands of shoes -- some shoes were specially made up, and I went over -- we met Comstock on the 4th day; two or three in the afternoon, and then he and Makowsky went over to 25 Calendarstreet, and took us up on the third floor, on the right hand side going up. That was an old factory building, where there was machinery going and everything working, and then he goes and knocks three times on the door and Flood was in there and opened the door from the inside. That was just where the goods were, the location. Makowsky is a very heavy buyer. He took me to one side and consulted -- of course really he wanted me to buy a part and he to buy a part. I told Makowsky I will not buy any. Makowsky said he didn't want to buy any.

Q Comstock was there at that time? A Yes, Comstock was there and Flood was there. So we left then -- before we left Comstock said, "Well, Jake, then there is one thing, you better go to New York and dispose of these goods." I said if I am sure that I will not have any trouble -- because I said the statement you made by the Referee is true -- I rather go with you to your attorney, Mr. Hahn and find out the particulars of it, and then I will decide whether I will go to New York or not, and he said there is no trouble whatever, you better go and go to-morrow; and he said to Makowsky, "Max", he said, "I think Jake can go to-morrow and dispose of every pair of shoes I have here." On the same day, on the 4th, I with Benjamin W. Com-

stock went over to his lawyer, Jerome Hahn, 42 Westminster street, and we had a conversation there, and Jerome J. Hahn was not in favor that the goods should be shipped to New York. He said, "Ben, as long as the goods are in my father's possession, in my father's place, they are safe, but if they go to New York something will happen to them." That was just his remark. Comstock said "I got a good man; Bassing will take care of them." He said "It is not a matter of Bassing, but it is a matter of other parties. You know in New York there is some people you are indebted to," he said. I asked Mr. Hahn several questions, if there was anything wrong about it, and he told me there is nothing wrong; that I could go right ahead and sell them, and we made up, the 5th day of January, 1907, the first shipment of goods will be made from 25 Calandar street to New York. I was there at the time when the shipment has been made; Comstock was there; Flood was there; Davison was there, and I was there. It consisted of 79 cases of shoes; 40 cases went on the Joy Line and 39 cases went on the Enterprise Transportation Company. That is the way the goods were shipped. When the goods were packed, and taking down those goods to ship it, Comstock with Davidson went to the freight -- went to the boat to see the goods as it was going off, and told me "I am going home." That was on Saturday. He told me, he said, we shall meet both together on the following Tuesday morning, which I think was the 8th day of January. The following Tuesday -- in the

Summit Hotel, corner of Canal and Bowery. I left him then and didn't see Comstock until I got here to New York on that Tuesday morning, at 10 o'clock Comstock came in the Summit Hotel. I left by boat and he by train. He told me he came by train. I met him at the hotel. He said he got those two bills of lading, one from the Joy Line and one from the Enterprise Transportation Company and he wants to know where we could get a location, a store, and I said the only way we can find out we will go around and look for it, and we went around to different places and selected a basement in 159 Canal street which was a few doors away from the Summit Hotel, and we find out the landlord of it was a man by the name of Levy Gordon or Gordon Levy, corner of Grand and Bowery.

Q The Bowery Bank Building? A Downstairs

is the bank. We went up there and Comstock hired the basement for \$30 a month -- \$25 or \$30 a month, with the understanding that the rent shall not commence from the 15th day of January -- but he paid him the rent on that day, on the 8th -- he paid him the rent but one week was free -- the rent should begin then. He asked him what is your name and he told him A. W. Comstock and that was the first time I ever heard of the name A. W. Comstock and I asked him right then and there -- Mr. Gordon asked him where do you come from and he said Boston, and I told Comstock right in Gordon's office I said Mr. Comstock I don't understand this; we are not Boston people; we are Providence people, right in front of Gordon and he said what is the difference whether we are from Providence or Boston, but we are not New Yorkers. I said better tell Gordon we are not New Yorkers -- I did not know Gordon any more than Comstock did. We went back from that place and got the key and paid the rent and was going to look for an expressman to cart the stuff. So, in Gordon's office there was a young man working there and he directed us a good responsible expressman we can get in No. 1 Jefferson street. The name of the man I don't know, but that is the office. We went down to No. 1 Jefferson street and we did locate there an expressman's office -- that is for carting stuff to the people -- a truckman, and he handed him those two bills.

of lading, one to the Joy Line and the other to the Enterprise Transportation Company. The stuff came in the following day -- did not bring it that day because he said the lines were too busy, could not get close to the dock -- brought it in on the 9th -- on the 9th day of January the goods came in in the basement. The goods were put out in cases and opened up and I said Comstock I want to know a little about the prices; what is those goods -- I know what the goods cost about but what are we going to sell them or dispose of them at and he made up figures -- the figures were not 1, 2, 3 4, but made it A, B, C, D, and E, and on the bottom he put a combination, A will stand for so much and B so much -- which I could not recollect and he gave me a card in his own handwriting and I cannot recollect exactly the figures. He said you go by these figures -- there is nobody here -- nobody supposed to know anything, what you sell them for; you have full charge of those goods and I said I want to know the price, I know I have full charge -- the best price you can get. I am ver well posted in shoes and rubbers. I know the brands and I know the goods and I know the quality -- I know just what the goods were worth. I said Comstock do you think ten per cent less for cash would go? If you can sell at 90 or 85, it goes, he said, but get the cash. Even he said if you have to give extra discounts, it will go, but dispose of it and get the money." This went on and he said he did not want to stay in New York, he wants to go back to Providence.

I said Comstock I do not want myself to take charge of this store. I am liable to go away somewhere, go out on the street looking for buyers, the same as if you were here and I want --

I brought down a man named Glassman who keeps a store on Grand street and I brought him down to the basement and introduced him to Comstock and Mr. Comstock said to him there is no use bringing customers to me to introduce him to me, there is Mr. Bassing and he will sell you the goods and whatever he sells you is right, he is the man to sell the goods. Mr. Glassman looked around; the cases were not all opened up, and Mr. Glassman said he will be back again when the goods will be more exposed.

The following day Comstock took a train and went back to Providence. I said I want him to send me over Davidson or Flood -- I did not want to be alone here. He said he is going to send me down Davidson and I was more preferable for Davidson than Flood, but finally the following Friday morning Flood came in and I said why didn't Davidson come and he said you know Davidson wouldn't come to New York in a basement. And I said how do you know it was a basement, and he said Comstock told me it was a basement. So, there was Flood and Flood stayed there until Saturday. Saturday he said he didn't want to stay there any more and would go back to Providence and he went back to Providence and returned the following Tuesday morning -- he came back to New York. On those dates we did not make no sale whatever. The goods was there exactly when Flood left, the way

he find it. I left Flood there and I went to look for some buyers. Between the 12th or 13th of January up until the 19th of January we disposed in the neighborhood of \$140 or \$160 worth of goods, in the whole time. I went down and got some good big buyers but could not make sales, because I didn't have business card or anything of those things, and did not want to buy of me -- asked me if the goods were mine and I said no. Whose goods? A. W. Comstock. Who is A. W. Comstock -- concern in Providence -- I said I didn't know. I don't know who A. W. Comstock was. On the 19th day of January I left New York with the intention not to come back no more. I wrote Comstock a letter on Friday that I will be in Providence on Sunday. On Sunday morning I got in Providence at his office, Caesar Mish Building, and I told him I intend not to come back to New York, so much goods were disposed, and there was a check of \$80 from a man named Cohen on Third avenue for goods that he bought and cash \$60 from the same man and \$24 money orders of Adams Express Company from Newark, New Jersey -- that was the entire amount of money. I gave that to Comstock -- the check and the money order and that cash. I told him that I think I have got through -- that I didn't like the way this thing is. ^{they say} It is in the dark. I cannot dispose of any goods -- where is your business card -- no -- where is your firm, in Providence -- is the goods yours -- no. So I told him I make up my mind not

to go any more. We had quite a conversation in his office on Sunday and he suggested I shall wait until two o'clock and he will telephone to his lawyer Mr. Jerome J. Hahn and his lawyer will make up something so I will have something to show and to prove. At two o'clock we down to Hahn's office and Mr. Hahn was there, Sunday, and he said Basing you started and better finish it -- go back to New York to-night and Comstock will send you down a good instrument which will give you the full power of authority to sell and dispose of the goods without any darkness as you call it. In the meantime I have come across that man named Glass, which I went down to Glassman -- one is Harris Glass and the other Glassman -- and I saw there was a sign out "Cash buyers -- highest price paid for stock of goods groceries and furnishings, all kinds of stock" and I had goods to sell, and I didn't know their prices, what they paid and I went in there and I met Mr. Glass in the place and several other people were there and I asked who is the main man, the main buyer of this stock and referred me to Mr. Harris Glass. I told Mr. Glass what kind of stock I have got. He said he will come down to look at it. That was all before I went to Providence, and before the 19th and he made me a very low offer which I turned down and told him I didn't want to listen to it. While I was in Providence I consulted with Comstock what kind of offer I can give in New York for goods this time of the year -- bad time of the year -- after Christmas -- we

cannot dispose -- especially rubber goods -- and he said I would like to meet that man myself and I said I am going back and I will make an appointment with Mr. Glass to meet you if you will tell me when you will be in New York. He said I will come to New York on the 21st day of January in the evening. Meet me at the Grand Central Station. That was on the 21st day of January. I came back to New York on the 21st day, in the morning, on Monday morning. I went to Mr. Glass and I told him the owner, the boss, Comstock himself will be down at the Grand Central station and made an appointment with him that you should meet him over there and you can talk over the price -- I will not sell you at the price. On the 21st of January I went to Glass again to get him to take him down to the Grand Central station. I could not locate Glass -- could not find him -- he was away in New Jersey buying goods. I went to the Grand Central station myself and I saw Comstock and I told him I was misfortunate and could not find Glass. He went to New Jersey somewhere buying goods. If he could stay over night, and he said no I have too much important matters over there to attend to, I cannot leave a minute, I must go right back. He said sell the goods the way. It is, not less than sixty cents on the dollar for leather goods and not less than fifty on the dollar for rubber goods, and, to-morrow morning -- I have mailed you to-day a power of attorney which will give you all the power to sell the goods and to

receive the money and sign bills for it and everything in your power." The following morning I got a letter from Mr. Comstock with a paper in there purporting to be a power of attorney which says I authorize Jacob Bassing to sell and dispose in part or parcel all the goods in 159 Canal street; signed by a party named E. F. Lance.

THE COURT: Where is that original instrument?

MR. SNITKIN: It was admitted your Honor.

BY MR. SNITKIN:

Q (Showing witness a paper) Did you receive that

paper? A Yes, this is the paper. Upon getting this I asked Flood, I said Flood who is this party and he said he is another party E. F. Lance. Who is that, and he said that is Comstock's wife's sister and I said he never told me he is going to send me a power of attorney from anybody -- E. F. Lance and he said what do you care, you have got it and you can sell it under that name and so from that day on I sold it under the name of E. F. Lance. So we went on selling. We have received three or four different assignments of goods. The first was the 79 cases which were shipped on the 5th of January and then it came a consignment of 140 cases, and then it came 235 cases and then came 131 cases and then it came 67 cases -- several consignments -- all by the Enterprise Transportation Company -- after the first shipment was made, half by

the Joy Line and the rest of it by the Enterprise -- those goods were disposed and the first sale was made to Glass on the 22nd day of January. The goods had been delivered to Glass on the 23rd of January. On the 23rd day of January in the evening I left Providence, which I had in my possession \$2150 -- no \$2100 -- the entire stock amounted to \$2600 on the 23rd day of January.

MR. MARSHALL: On the 23rd?

THE WITNESS: The 23rd of January -- while we were packing the goods in the basement I suggested to Mr. Glass myself -- I said the most way of doing business, especially in New York -- we are going to enormous trouble, packing and checking the goods and looking over them and you want us to take them to Grand street, what are we doing if when we get there you back out of the bargain.

Q Was Flood present at that time, when you said that?

A Yes, sir, Flood was present all the time. He said what do you want and I said we want a deposit for the goods before they go, because we have to pay the express people, cart and the goods over there and they charge enormous rates, charge an awful price for them -- it was ten cents a case for carting and I said we want to be secured before our trouble and he said if we give you \$500 will that be enough, and I

said perfectly satisfactory, give \$500 and Flood himself made a receipt and gave it to him, to Harris Glass and I told Flood you take the \$500 and go to Gus Zimmerman, the hotel proprietor and give him that \$500 and he will put it in the safe until we deliver the goods and bring back the rest of the money -- and either you will go to Providence with the money or I will deliver to Comstock. In order to go in the Summit Hotel and leave the money with Gus Zimmerman, Flood takes the money with his dress suit case and leaves New York at five o'clock in the afternoon and goes to Providence with the \$500. I stayed there with Glass probably until half past seven or eight -- maybe later. They find some shortage -- we find there was some empty -- some shoes missing -- sometimes one in a case, sometimes two and we had to go the whole thing over again and it took me to half past eight or nine and I came back to the hotel with \$2100 -- that was the difference from twenty-six -- I inquired where is Flood and the night clerk told me that he had not seen him. I inquired of Mr. Gus Zimmerman, the proprietor of the hotel I said where is this young man that was with me here and he said he went to Providence at five o'clock. I was surprised to hear that. I telephoned to Comstock right from the hotel there to Providence and I told him that Flood had \$500 and he left New York. I told him to wait for the balance of the money and will sent it over -- one of us will come, and, he left New York at five o'clock, and he shall wait for him

in Providence. Flood did not go to Providence that night but stopped off at East Greenwich, where he had a friend he claimed. I took the train the same night and went to Providence, one minute past twelve, midnight train, and went to Providence. That was the instructions Comstock gave me to come to Providence and got to Providence the next morning and Flood showed up -- he got to Providence at eleven o'clock at night and I got there next morning, but he did show up. Flood gave Comstock the money in my presence. I was there. Then Comstock said to me "Jake come into the other room". He had two offices. We went in the other room and he got the rest of the money.

Q. How much did you give him at that time?

A. \$2,100. That was on December -- on January 24, 1907.

Now boys, he said, I want you to go right back to-day; I made another shipment and I telegraphed that I made another shipment. I told him we did not receive any telegram at that time.

Q. Did you go back to New York? A. The same night we went back to New York.

Q. Did you receive this telegram? A. Yes, that telegram was here waiting when I got back.

MR. ENITKUN: I offer it in evidence.

Objected to.

Received and marked Defendant's Exhibit B.

Q. Go on? A. I got back to New York the following day,

after I saw Comstock, and Flood was supposed to leave with me on the same boat. I got on the boat in Providence and Flood did not show up. I came to New York and Flood did not show up --- there was consignments of goods awaiting on the depot there -- Enterprise Transportation Company and I had to go there myself and get the goods. I did not have money enough to pay for the freight and cartage, which amounted to something in the neighborhood of \$26. That was all made up with Comstock that I should dispose of the goods to the same party again.

Q When you say the same party whom do you refer to?

A Harris Glass, because I got better ^{price} ~~terms~~ than he offered -- I sold the leather goods for 67 and 1/2 per cent and the rubber goods for fifty.

Q Go on. A I had to go to the freight ---

Q We have got past that -- you got the goods and brought them to 159? A Yes, sir, to 159 Canal street.

Q Did you see Glass? A Yes, sir, the same night.

Q What happened then? A He came down and looked over the goods again and on the 29th or 30th --- I think the 30th day of January I made another sale to him.

Q How much was that? A That sale amounted to \$2150.

Q What did you do with that money? A Flood was there at that time and I told Flood don't play the same trick on me what you played last time, I ain't going to trust you with that

money any more because Comstock raised the ~~had~~ old Harry with me because you made so much expense, but, I want from that money money which I had to pay expense, to pay freight, and I want to take it down from that money. Well, he said I ain't going to Providence no more till we get through here. Comstock said we could get through in a few days. I said if you ain't going to Providence give me your promise, I said go ahead and change a hundred dollar bill so we shall get the difference of the expense, the advance for paying the freight and for cartage -- I wanted to take it out, which amounted to \$26 or something, and he said where shall I go, and I said to Zimmerman, and he will change it for you or rather I said leave the money with him and when I get in there we will straighten this matter out and he took the money and went in to Zimmerman and he left with Zimmerman the \$500, and I said you wait for me.

Q You received another \$500 deposit? A That was the transaction I made with Glass, the same.

Q Go on. A I got back about ten or eleven o'clock, late, very late, or later probably, because I could not get the midnight train to go to Providence. I stayed in the same hotel that night and the next day I told Floor we take \$50 out of the \$500 and told him that I will take the \$26, the advance which I had the shipping receipt, which I paid, and the balance you take and go down to the Enterprise Transportation Company and get it

out of consignment and I will go to Providence with the \$2150. So Flood said "By the way, he said, I need some money myself". I said you will have about \$24.50 and I will go to Comstock and tell him and then he will give us the balance. So I left Providence on the 1st day of February, which was on Sunday I think -- no, that was on Friday -- I got to Providence on the 2nd day of February.

Q That was Friday, February 1st? A Yes, sir, on Friday, because I stopped there -- I stayed home -- I got to Providence on the 2nd day of February and met Comstock in his office and turned him over the money and gave me \$50 on part of my commission. I told him how the thing was, I am short of money myself, and hanging around there pretty nearly a month, my expense going on and I wanted some money, and he said will \$50 do you and I said yes and he gave me \$50 that 2nd day of February, which he got a receipt for, but he did not produce it here. He got a receipt for it.

MR. SNITKIN: Mr. Marshall have you that receipt?

MR. MARSHALL: The receipt for what?

MR. SNITKIN: \$50 on the 2nd.

MR. MARSHALL: Yes, I have it somewhere.

Paper is shown witness by Mr. Snitkin.

BY MR. SNITKIN:

Q That is your signature and that is the receipt you were talking about? A Yes, sir.

Offered in evidence. Received and marked

Defendant's Exhibit C.

Q Go ahead. A I stayed home and went to Bristol and I stayed there until Sunday. I spent home some part of Saturday and Sunday. On Sunday afternoon I came back to Providence from Bristol, when I met Comstock again in his office and he told me he made another shipment to New York and the shipping receipt for those goods is in the parcel room of the Union station, and there I will find with my name on it in an envelope. He paid five cents for keeping them. I went down there that evening and got it. That was Sunday night and I took the train and did not come up before that night -- took the train back to New York and I got in New York the following day, Monday morning -- went again to Mr. Glass. We was a steady buyer, and made another sale on the 5th day of February, 1907. The transaction has been done in the same way as it has been done previous, before, exactly, there was no changes in there whatever, but at that time there was no deposit given but the money has been paid.

Q The entire amount? A Right there and then \$3200.

BY MR. MARSHALL:

Q When was that? A That was on February 6th. The sale was made February 5th, but the goods has not been delivered -- goods in the basement -- there was 131 cases of shoes. These

goods were sold to Glass but no deposit has been given on it for those goods, because there was another lot of goods of 67 cases was lying on the Enterprise Transportation Company's dock. In the meantime while we were doing business with Glass another party came and mixed in there supposed to be a creditor of Comstock -- his name is -- New England shoe Company of Boston -- named Anglestein -- came in the basement of 159 Canal street and wanted to know where we got these goods from, which he identified those goods belonging to the New England Shoe Company which was sold to Comstock and how did it come to New York. I told Flood to go and telegraph to Comstock and tell him that Anglestein was in New York and he wants to know the particulars of these goods, what we shall do. Flood came back and said that Comstock told him not to take any more goods from the dock, but dispose it right from the dock and so we did not remove hereafter any goods from the Enterprise Transportation Company, the goods were sold right from the dock, the balance of 67 cases, and was taken from that place right direct to Glass, to Grand street, the same as previous shipments had been made.

Q Did you at any of these shipments tell Flood Glass was the man by the name of Jacobs, and that he resided in South Carolina? A There was no such remark, there was no such a man ever brought before Flood or identified before Flood, or

told Flood any such man had come in, any such buyer.

Q Did you ever tell Flood these goods were going to be sent to the Clyde Steamship Company for this man Jacobs for South Carolina? A Flood knew just as well as I did where the goods were going to. He had Glass's card, and he had the two cards, one for me and one for Flood.

Q I show you this card and I ask you if it was a card of a similar kind that was given to you by Glass? A Yes, sir.

Q And was that also given to Flood? A Yes, sir.

Offered in evidence. Objected to.

Received and marked Defendant's Exhibit D.

Q Go on, when was the last time you gave Comstock any money? A The last time I gave him Money in New York on the 7th day of February, 1907.

Q Where in New York? A Grand Central Station.

Q How much money did you give him? A I gave him on that night \$3200.

Q When did you close up the store? A \$700 -- \$2500 I gave him that night.

Q \$700? A Was sent to him by a check from the Park Row Bank.

Q Where do you mean, the Park Row Bank, where is that? A New York.

Q Whereabouts is it located? A I gave Flood-the money

was left there -- he went down and said he bought a check, and I said what did you buy the check for, who told you to buy a check, and he said I done so, and he sent the check back.

Q For \$500? A \$700.

Q That left \$2500 in your possession? A Twenty-five left in my possession and I gave him right in New York on the 7th day of February, 1907.

BY MR. MARSHALL:

Q \$2500 you gave him in cash? A Cash, the whole transaction was cash, only this \$700. He went and bought a check in the Park Row Bank.

BY MR. SNITKIN:

Q After this place was closed up, of course you went to Providence? A The sale was closed -- the goods were figured up on the 7th day of February and I stayed here until Comstock came down.

Q Came here again? A On the 7th of February he came here in New York.

Q After the 7th? A After the 7th we both went home, I with Comstock together.

Q That night? A That night at 12 o'clock and got in Providence the 8th day of February the next morning.

Q Did you go to his office that day? A I went to his office at eleven o'clock, I think.

Q Did you receive any moneys from him? A Not that day.

Q When? A I received money on the 11th day of February 1907.

Q Is that the receipt you gave at the time you received the money on the 11th of February (showing paper to witness)?

A Yes, sir, that is the receipt I signed.

Q At that time or any other time, did you give him People's Exhibit 1, this paper, or People's Exhibit 2, or People's Exhibit 7, did you give Comstock either of those three papers? A I have saw the first time those papers before the Governor, that was two of them -- I didn't see three but I saw two.

Q Did you ever give those papers to Comstock? A I never saw them until that time before the Governor.

Q Now I want you if the will to write the word E. F. Lance, make a capital E and then a capital F and then capital L-a-n-c-e.

Objected to.

Sustained and exception.

Q When after you had been to Comstock's office did you next see Comstock? A The 11th of February.

Q After that when did you see him? A The 17th, I think it was.

Q Now at that time you owned property in Bristol? A Yes.

Q Was any civil suit ever brought against you by Mrs. Lance? A No.

Q Or by any person?

Objected to.

Objection sustained.

Q Was any attachment issued against your property by reason of any moneys claimed to be due from you to Mrs. Lance?

Objected to as immaterial and incompetent.

Suatained and exception.

Q Now Mr. Bassing, did you see ~~that~~ Comstock, between the 11th of February 1907, and up to the time that you appeared before Governor Higgins? A I saw Comstock on the 17th of February and I saw Comstock I think it was on the day or two days after Washington's birthday -- sometime the 23rd or 24th, in that neighborhood -- he sent me a telegram to Bristol that he wants to see me.

MR. MARSHALL: Produce the telegram.

BY MR. SNITKIN:

Q Did you go to see him as a result of that telegram?

A Yes.

Q What talk did you have with him then? A He told me that I must uphold his part in all implicated matters in his bankruptcy proceedings.

Q That was when, that you received that telegram?

A In Bristol that was -- I think it was the 22nd or 23rd of

March.

Q In what? A March.

Q March? A In February, rather.

MR. MARSHALL: The 23rd?

THE WITNESS: In those days -- I couldn't exactly remember whether it was the 22nd or the 23rd.

BY MR. SNITKIN:

Q When he asked you to stand by him in this bankruptcy matter, what did you say? A I told him if I am subpoenaed before the United States Court, as you have sent me yourself to Mr. Barrows, how could I get out of it to say I did not go and sell the goods -- I must say I sold them because Barrows himself gave me the certificate.

Q After you said that to him, as you stated, what happened to you? A He said we better go over to Hahn's office. I said I will go over to Hahn's office, and Mr. Hahn made several suggestions over there ---

Q What did Mr. Hahn say to you in the presence of Comstock? A He said that the United States Court cannot compel me to come as a witness if I didn't want to. So I said I don't know whether they can or not, but I said I am not going to throw myself in their hands, if they ain't coming after me. If they will come after me I will go.

The court admonishes the jury in accordance with section 415 of the Code of Criminal Procedure and takes a recess until 2:15.

After Recess.

J A C O B B A S S I N G resumes the stand.

DIRECT EXAMINATION CONTINUED BY MR. SNITKIN:

Q In the forenoon you said that you told Comstock that if they did not come after you you would place yourself in their hands? A Yes, sir.

Q What happened after that? A I cannot speak so loud -- you will have to pardon me -- well, the thing went away that way for a few days and after I was under a doctor down in Bristol, and I came back and my wife told me Davidson was there looking for me, wanting me, and I said where is he, and she said he went back to Providence on the car. Why didn't he wait for me if he wanted me .

Q After your wife said Davidson was there what did you do? A I done nothing. I stayed home that night.

Q When next did you see Comstock? A The next was I went to Prpvidence and went to see Comstock.

Q Did you meet him? A wo, I did not.

MR. MARSHALL: What day was that? A That was in January.

MR. MARSHALL: In January or in February?

THE WITNESS: In February.

BY MR. SNITKIN:

Q When next did you see him if at all? A The next was

the 27th or 28th of February.

Q Where? A He and Davidson both together.

Q Where? A They came to me on Weybosset street and made the same proposition to me overagain.

Q State what was said -- what did they say? A To keep away from any testimony or implicating in his affairs, if I did not he will put a whip on me.

Q What did you say? A I said nothing in the world would keep me away if I am wanted. If I am not wanted I will not go but if I am wanted I will go.

Q After that what happened to you? A The first part of March -- I don't know exactly the date, but the first part of March I was at home Saturday morning about eight o'clock and the Chief of Police of that town of Bristol came in to me and he said I want you to go down to the town clerk's office.

Q Did you go to the ~~xxx~~ town clerk's office? A I told him I would be down there in five or ten ~~xxx~~ minutes and he said all right. I came down to the town clerk's office and we waited there until nine o'clock and a man came in and said his name was Mr. Bartel.

Q At any rate you were arrested? A Yes, sir, he told me I was arrested for stealing \$12,000 worth of shoes from ~~Rama~~ F. Lance and Company of New York.

Q Without going into the details of your arrest, you were taken to New York? A Yes, I was brought to New York

the 13th day of March.

Q And gave bail? A Yes, sir.

Q And went home? A And came back home.

Q What was the result of that case? A I came here twice between the 13th of March and the 15th of April. On the 15th of April I came before a court in this building. I don't know which room --- and I was given a paper that I am discharged and the Judge said I am discharged.

Q So much for that -- after you were discharged upon that indictment, did you go back to Providence? A Yes, sir.

Q Did you see Comstock? A Yes, sir.

Q Where? A The first was down in Exchange place.

Q In Providence? A Yes.

Q Did you have any talk with him? A Yes.

Q Tell you jury what you said and what he said to you?

A I told him that the complaint he brought against me did not have much foundation, that the justice find out quicker than he could frame this up, and I was discharged and here is my certificate.

Q What did he say after that? A He said we ain't through yet; if you keep on going against me when I will keep on you yet.

Q After that did you see Comstock again? A I did not see him up until May some time.

Q Now were you re-arrested? A I was re-arrested in

June.

Q Of 1907? A Yes.

Q Was it June 1907? A June, 1907.

Q Did you appear before Governor Higgins? A I appeared before him twice.

Q At any hearing had before Governor Higgins, did you see John Flood? A Yes, sir, I saw him both times.

Q Did you see Comstock? A Comstock once before Governor Higgins.

Q Was Michael Tieman there? A Yes, sir.

Q Was John M. Peck there? A Yes.

Q Before you appeared before the Commissioner did you meet Mr. Flood in Providence or in any other place? A I met him several times in Providence.

Q Was that after they had laid an information against you and you were about to be arrested for the second time? A Yes.

Q Did you have any talk with him? A Yes, sir, he came to my place several times and the first time I met him after the complaint was discharged --- Flood -- was on North Main street, in front of Mike Tieman's store. He went in the store there and Mike Tieman told me ---

Q Was Flood there? A Flood was there. He said that Flood ---

MR. MARSHALL: I object to what Mike Tieman told him.

BY MR. SNITKIN:

Q Was that in the presence of Flood? A Flood was there.

Q What did Flood say about the case and his connection with it?

THE COURT: Who is Flood?

MR. MARSHALL: One of the People's witnesses.

Objection overruled.

THE WITNESS: Flood said he was sorry that he did not know the case --- he did not know anything about it, the bills of lading, or anything of those things that the first time he ever heard of those bills of lading he was fixing a fence for his father and Comstock came up to him and told him that he wanted to see him down at Hahn's office and over in Hahn's office that was the first time that Comstock ever showed him a bill of lading or told him anything about bills of lading.

Q Did you go on a car to Vanity Fair, over in Providence?

A No, not with Flood.

Q Did you ever go on a car with Flood? A I went with him to Pawtucket.

Q Who was on the car besides you and he? A Samuel Goldsmith.

Q Did he appear before the Governor? A Yes.

Q Who else? A An Italian constable Benny Ciancianulo.

Q What conversation did you have with Flood on that car on the way from Providence to Pawtucket -- tell the jury what you said to him and what he said to you? A Pretty hard to remember all the conversation I had with him.

MR. MARSHALL: Tell us what you can remember.

THE WITNESS: First we boarded on the car in front of my place of business, there the car stopped --- we boarded a Garden street car going to Pawtucket, and I met those two fellows, Goldsmith and that other man simply to overhear the conversation. I told Flood, I said now Flood what would Comstock say if he saw us here together after you have made a complaint and stuck to him. We said what do I care for Comstock, I am sorry I mixed in this affair. I had rather have taken my mother's advice and never have had anything to do with it. I said you have gone to New York and made the complaint against him, and he said I never made any complaint, I only signed it and that is all. But, he said, they have a new lawyer now by the name of Ganz. They paid him \$2500 and he is going to get you out of the State of Rhode Island, no matter how much money you will spend to stay here. I said who gave you that information and he said Comstock, and that Hahn went down to New York and got that lawyer for Comstock.

BY MR. MARSHALL:

Q Is that what he told you? A Yes. I said Flood

you will have to give all this statement before the Governor. They cannot make me talk, he said, if I don't want to. I asked him what do you know about those bills of lading you claim in the New York complaint against me. He said I don't know anything about them, simply what Comstock and Davidson told me. That was the answer in front of Goldsmith and that other man.

BY MR. SNITKIN:

Q What else did he say about the framed up case?

A He said it was simply a framed up, to keep me away from Rhode Island for testifying, and he said if you have to go to Rhode Island you will have to go as a prisoner -- if I came from New York to Rhode Island I will have to go as a prisoner.

Q Did you ever deliver to Flood People's Exhibit 7?

A I did not.

Q Wait until I show it to you -- did you ever deliver people's Exhibit 7 to Flood? A I never delivered any such document --- I never delivered any kind of document.

Q Did you hear Goldsmith give testimony before the Governor? A Yes, sir, I was right there.

Q And Flood present? A Yes.

Q Comstock present? A Yes.

Q Did you hear Benny Ciancianulo -- did he appear before the Governor Higgins? A Yes, sir.

Q Did he give testimony? A Yes.

Q Was that in the presence of Flood? A Yes.

Q And in the presence of Comstock? A Yes.

Q Did you ever have any talk with Flood in Mr. Tieman's place of business? A Yes.

Q With relation to this case? A Always in relation to this case.

Q What did he say to you about the complaint which he made in Tieman's store? A He said it was framed up by Comstock and Davidson -- Davidson was the principal man to make all those things.

Q What did Tieman say to Flood, when Flood stated that to you in Tieman's presence? A He said he don't see why he should go against me, that he knows I am innocent about it.

Q Did Flood say anything as to how much he was receiving per day for coming down here? A \$15 every time for coming here.

Q What did you hear Goldsmith testify before Governor Higgins in the presence of Flood and in the presence of Comstock?

Objected to.

Q Did you hear Goldsmith state to Governor Higgins that Flood ---

Objected to. Sustained.

MR. SETTKIN: I asked Flood and he denied that Goldsmith made such a statement before Governor Higgins.

MR. MARSHALL: He did not.

MR. SNITKIN: You admit that he said so.

MR. MARSHALL: He did not.

THE COURT: I sustain the objection.

Exception.

BY MR. SNITKIN:

Q Did you hear Benny Ciancianulo give testimony before Governor Higgins? A Yes.

Q In the presence of Flood? A Yes.

Q And in the presence of Comstock? A Yes.

Q Did you hear Ciancianulo testify before Governor Higgins in the presence of Flood and Comstock that he, Flood, said this was a framed up job.

Objected to. Sustained.

Q Now, in the many years you have lived in Bristol and conducted business there and in Providence, have you ever been in trouble in your life? A No.

Q Ever convicted of any crime? A I never was arrested until this trouble came on me.

Q You did appear as a witness against Comstock? A Yes, sir:

Q Where? A I appeared before the United States Court and before the jury ---

Q The Grand Jury? A Federal Grand Jury.

Q Now before you were called as a witness before the Federal Grand Jury against Comstock, did you see Comstock or Hahn or both of them? A I was subpoenaed on Saturday morning to appear before the United States Court and on Saturday afternoon Mr. Comstock came to me and said he wanted to see me in Hahn's office again, and I went over to Hahn's office and he said that is your chance ---

MR. MARSHALL: Who said?

THE WITNESS: Hahn.

BY MR. SMITKIN:

Q In the presence of Comstock? A Comstock, Hahn and myself.

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

Sustained. Exception.

Q Did Comstock say to you that if you did not refrain from Testifying against him that you were going to get in trouble - say yes or no? A Comstock and myself and Hahn were in Hahn's office and Hahn said you were subpoenaed this morning and I said yes, I got a subpoena from the United States court. Well, he said you better look out what you are doing.

BY MR. MARSHALL:

Q Who said that? A Hahn.

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

BY MR. SNITKIN:

Q In the presence of Comstock? A Yes.

MR MARSHALL: I object to it.

THE COURT: Strike it ou.

MR. SNITKIN: I except.

BY MR. SNITKIN:

Q Look at this paper and state if that is the paper you received? A The Marshall gave me that, United States Court Marshall.

Q Did you receive another paper before that? A A subpoena.

Q That is not the paper --- a subpoena you received?

A Subpoena to appear -- maybe it is the same. I can't remember.

Q You know Mr. wall a witness who testified this morning?

A I know him to see him and talk to him.

Q When did you first meet him and where? A The first time I met him he came to Bristol on the evening --- I was coming out from the house going downstairs and I saw a man coming in in the evening about six or half past six, dark -- he asked me if I knew where Bassing lived. I told him yes, I am Bassing, what is it you want. He said I would like to speak to you. I took him down next to the store, and it was a empty store, and I stayed there wit him probably about an hour. He told me who he was, C. C. Wall from New York, and he represents the

Secret Service from Washington, and that he makes a full investigation of the Comstock bankruptcy case as the United States District Attorney had referred him to come and see me about it.

Q As a result of the talk you had with Mr. Wall did you give him any letter directed to Mr. Snitkin, your attorney, at that time? A Well, I gave Mr. Huddy, the District Attorney.

Q You gave Mr. Huddy the letter? A I gave a letter to Huddy, and whether Huddy gave it to Wall I do not know.

Q You furnished him with all the papers you had in your possession? A Yes.

Q He testified this morning here that you said to him "I never stole a dollar from Comstock, I gave him all the checks and the bills of lading;" did you tell him that? A I did tell him that I had never stole a dollar from Comstock. I told him I gave him the checks and the only two shipments for which two receipts is missing, which I don't know what has become of them, those are the only two particular shipments -- I don't know what has ~~happened~~ been done with it, which I referred him to, one shipment made to Holyoke, Massachusetts, and another to Hartford, Connecticut, which Flood had those two shipping receipts from the Adams Express Company and whatever had become of those receipts or the proceeds of those goods I don't know.

Q You say Flood had them, had receipted for the goods?

A I said all of the other goods I have accounted to Comstock, but of those particular goods, the shipping receipts or bills of lading, those Flood had and what has become of them I don't know.

Q When you used the words "bills of lading" did you mean by that the two receipts that you claim now that Flood had, calling for the goods shipped to Holyoke and Hartford? A Yes.

Q At the time the commission was paid you was anyone present? A No, sir.

Q Just Comstock and yourself? A Comstock and myself. He went in a separate room. He had two rooms in his office and closed the door and that was where he paid me.

Q How much money in all did you turn over to Comstock?

A Over \$8000.

Q How much were you to receive as your commission?

A The commission was a five per cent, but after, as the goods were sold, which he figured that he did not realize so much money, he figured out I should receive --- which I spent -- five weeks at sixty dollars a week -- amounting in the neighborhood of \$300.

Q What was deducted? A There was deducted a small bill I owed him \$24 or \$23 or something.

Q And \$50 you had received before? A \$50 and \$5 I had

received before.

Q That is \$55? A Yes, sir, and the bill I paid him.

Q Was that credited at the time the final accounting was had between you and Comstock? A Yes, sir, he figured up \$216 was due me and he paid me.

Q At that time did he ever say anything to you, on the 11th of February, 1907 -- did he state anything to you about any bills of lading? A He did not say a word before he did not have any bills of lading. I didn't give him any.

Q Did you know anything about bills of lading, until the time you first saw them as you say in Providence in the United States Court? A The first time I saw them was before the Governor.

MR. SNITKIN: That is all.

THE WITNESS: I wish to correct myself a little about dates. I have stated that check was sent on the 6th of February, but that check was sent on the 30th of March, of \$450 drawn on the Park Row Bank -- it was not on the 6th of February. It was on March -- it was on January -- the 30th of January, \$450.

CROSS EXAMINATION BY MR. MARSHALL:

Q How did you come to go to Wall Hotel -- how did you come to see Wall at his hotel in Providence? A When Wall left me at my place in Bristol he told me he was going to write me a

letter where to meet him. I received a letter the next morning.

Q When was that? A That was in November or December, 1907. I received a letter that I should meet him down to Mr. Huddy's office and I went up there ~~xx~~ and we had a conversation, Mr. Huddy, myself and Mr. Wall and then he said hereafter if you want me come down to the Newman hotel in Providence and you can find and meet me there at any time.

Q What did you go there to see him for? A What I go to see Mr. Wall?

Q Yes. A For the same transaction -- he told me to give him all the information that I possibly can.

Q Did you tell Wall about these bills of lading that you delivered to Comstock? A I told Wall two shipping receipts, I don't know what has become of them.

Q You heard Mr. Wall testify here? A I did.

Q You do not agree with Wall about you having said to him that you delivered the bills of lading to Comstock? A I say Flood -- never mentioned a word of Comstock.

Q No, Wall stated that you told him that you delivered those bills of lading to Comstock? A Wall did not say such a thing.

Q Did not? A No.

Q You say Wall did not say that? A No, sir.

Q You heard him?

226
MR. SNITKIN: He did not say these bills of lading.

BY MR. MARSHALL:

Q Wall said that you told him about the delivery of bills of lading to Comstock -- and you say he never said it? A I don't think Wall said it and I am sure I did not say it and I don't think Wall said it.

Q Mr. Wall said it but you didn't say it to Wall?

A I did not say it to Wall and Wall did not say it here.

Q You got a power of attorney from Mrs. Lance? A Yes, sir.

Q Who said it said that you could get a man to depend upon -- you testified somebody said that? A Mr. Hahn -- Mr. Comstock was there -- both.

Q Now Passing, didn't you pay off a mortgage held by your brother down in Bristol on your house, in the month of February 1907, for \$3000? A No, sir.

Q You did not? A No, there is the mortgage there yet.

Q How much money did you pay your brother or your brother-in-law in February, 1907? A In February 1907 I did not pay him a cent.

Q You did not give him \$3000? A No.

Q There was no transfer of a mortgage in Bristol during the month of February? A No, not that I recollect.

Q I do not want to catch you? A My memory is pretty good.

Q Think it over and do not make a mistake.

Q The month before you were arrested? A The month before I was arrested?

Q Yes? A Positively not.

Q Who is this Mr. Glassman? A Glassman?

Q You remember him, Glassman and Glass? A Glassman is a man who has a store on Grand street, retail shoe store.

Q Who is Mr. Glass, plain Glass? A Mr. plain Glass is another man -- whether he has his own store or buys and sells for somebody else I don't know.

Q Where did you meet Glassman? A I met him in the store.

Q How did you know where his store was? A I am in the business and I ~~can find~~ come often to New York.

Q You knew where it was beforehand? A Glassman's store?

Q Yes? A It was a shoe store and every shoe store buys goods.

Q I want to know whether you knew where it was before you came to New York or not? A I knew where Grand street was but didn't know the particular store.

Q Did you know where that store was or didn't you, that is simple? A Who, Glassman or Glass?

Q Glassman? A I knew there was a Glassman, a heavy

buyer of goods, retail business.

Q But you didn't know where he was? A Not exactly ,
the place.

Q When you came to New York you looked him up?

A Yes, sir.

Q When did you meet the otherman, just plain glass?

MR. SNITKIN: His name is Harris Glass not plain
Glass.

BY MR. MARSHALL:

Q Where did you meet Glass?

A I went in his store---

Q How did you know where it was?

A I came to Glassman and must have passed Glass's
place.

Q You went to Glassman and he sent you to Glass's place?

A No, I saw the sign out "Cash - Fire - All kinds of stock, goods."

Q You went inthere to sell him the shoes? A I went in there to see if he wants to buy the shoes.

Q You say you delivered to Comstock at different times \$8,000? A In all, yes.

Q When did you deliver the first money you delivered to him on that New York shipment -- all those New York shipments?

A Small payments and all?

Q Everything, when did you first give him any money? and where did you give it to him? A The first was he had a check for \$80 from a man named Cohen on Third avenue, and \$60 in cash and \$24 was an express money order from Newark, New Jersey. That was the first money from the time that we got to New York up to the time of the 19th or 20th, when I got to Providence.

Q That is only about a couple of hundred dollars? A Yes

Q When did you deliver more? A The next one was on the 24th of January -- that was the first big sale.

Q Where did you give him the money? A In Providence, in his office.

Q \$2,400 or \$2,100? A \$2,600.

Q \$2,600, you gave it to him in cash? A In cash.

Q Did you get any receipt for it? A No.

Q You did not? A No.

Q You delivered a man \$2,600 and never got any receipt?

A I delivered to Comstock in the neighborhood of \$4,000 or \$5,000 previous to that time in 1904 and never got no receipt.

Q Never got any receipt? A Never got no receipt -- none of his men ever got a receipt from him.

Q How do you know that? A Because I was in Comstock's place of business most every day -- every day -- every third day.

Q Did it ever occur to you to get a receipt from Comstock for all this money? A Not for the goods I sold for him. I sold for Comstock goods in New York in 1904, in the neighborhood of \$5,000 or \$6,000.

Q And never got a receipt? A Never got a receipt.

Q Never got one? A The only receipt I got was goods which I bought from him.

Q On the 7th of February, when you delivered him all this money, \$3,200, in the Grand Central Station, did you get any receipt for that? A No.

Q There cannot be any mistake about that, can there -- that is the right date -- the \$2,500 you gave to Comstock on the 7th day of February? A Of February, in the evening.

Q What time in the evening? A Between 11 and 12.

Q Between 11 and 12 at night? A Yes.

Q I want you to think over it carefully and be sure

that that is the right date? A That is the right date.

Q You swear to that? A As far as I can -- the transaction had been made on the 6th and Flood went away the 6th in the evening and Comstock came down on the 7th in the evening and I reached Providence on the 8th, of February, with Comstock together.

Q You went with Comstock? A On the same night, February 7th, we left between twelve and one, me and Comstock together.

Q There cannot be any mistake? A Can't be any mistake as far as I know, because I went right with him together and we sat together and we came to Providence together.

Q That was on the 7th day of February? A The 7th day of February, in the evening.

Q In the evening? A Yes.

Q Cannot be any mistake?

Objected to as repetition.

Objection sustained.

Q There is no mistake about Comstock, it was no other man?

A Positively not.

Q You did not know who E. F. Lance was at all? A No.

Q Whom did you first know who E. F. Lance was? A On the second extradition proceeding I saw two ladies in the Governor's Chambers, and I said to Flood -- I said "You went to New York and made a complaint that you did not know anything about it and then who is those ladies?" And he said one of those is

4
E. F. Lance.

Q You got a power of attorney from E. F. Lance to sell her goods? A I never saw her.

Q You got a power of attorney? A It was mailed to me.

Q You said you went up to Providence and spoke to Hahn about it? A I did not speak to Hahn that she shall give me the power of attorney, but Comstock suggested to me in his office that we should go to Hahn's office that Sunday afternoon, and Hahn said he was going to make up a power of attorney and mail it to me, and so that was sent to me at the Summit Hotel, signed E. F. Lance.

Q The first time you ever heard who Mrs. Lance was was when you were before the Governor? A I asked Flood.

Q Was it June, when I was up there, or was it in July?

A I think it was the last part of June or the first part of July -- the last part of June, I think.

Q Who was it that gave you the \$3,200, Glass or Glassman?

A Glass always. Did not sell many goods at all to Glassman -- not a cent.

Q You knew when Comstock was going to be sentenced up in Providence? A I did not.

Q Didn't you? A No.

Q You had been living in Bristol right along? A Been living in Bristol all since I got here to America most, with the exception of three weeks I lived in Providence while I was

5 255
single and thirteen weeks I was in the Tombs here, with the exception of that I was in Bristol living there, except last summer I went away to Colorado late in the fall.

Q When did you go to Colorado? A I went either the 2nd or 3rd of October.

Q What place in Colorado did you go to? A Denver.

Q What did you go there for? A For my health.

Q For your health? A Yes.

Q How did you go to Denver?

Objected to as incompetent, irrelevant and immaterial.

Objection sustained.

MR. MARSHALL: Can I not cross-examine this man?

THE COURT: I do not think it is worth while, Mr. Marshall.

MR. MARSHALL: I can show your Honor --

THE COURT: If you are going to connect it.

MR. MARSHALL: Certainly.

THE COURT: Then I will withdraw my ruling and overrule the objection.

BY MR. MARSHALL:

Q What railroad did you take from Denver to Providence?

A I went from Providence to Wooster, from Wooster to Albany and from Albany to Buffalo and from Buffalo to Chicago, and then from Chicago took me to Denver.

Q What railroad did you go from Chicago to Denver on?

A I think it was the Burlington & Wabash to --

Q Where did you stay while you were in Denver? A The Central Avenue.

Q Is it a hotel there? A No, private house.

Q Got friends out there? A I didn't have any friends but my brother used to live there several years ago, and he died there, and his family is here, and they gave me the address to go over there.

Q And you went there to that address? A Yes.

Q Who were the people you lived there with? A Jewish people.

Q What is their name? Samuel Steinhert.

Q He lives there now? A I suppose so.

Q What is the number on State street? A It was not State street -- it was Central avenue.

Q This number on Central avenue -- Samuel Steinhert, is it? A Yes, sir.

Q What is the number? A 657 Central avenue.

Q Denver, Colorado? A Yes.

Q How did you come to go to Denver at that particular time for your health? A My health was broke for the last two years. Last summer I came to --

Q Didn't you know when you went to Denver for your health that your case was coming on the calendar to be tried? A Positively I did not know -- the case was pending so long -- when it would come or anything about it.

Q * When did you come back?

Objected to as incompetent, irrelevant and immaterial.

Overruled and exception.

A I came back in November.

Q What part of November? A I don't know exactly what date it was.

Q The early part of November? A The middle part of November.

Q When did you hear Comstock had been sentenced to the Federal Prison?

Objected to as incompetent, irrelevant and immaterial.

Overruled and exception.

Q When did you first hear that Comstock had been sentenced and was locked up? A When I was in New York.

Q What? A When I came to New York.

Q What brought you to New York?

Objected to as incompetent, irrelevant and immaterial.

Q What brought you to New York? A I got the letter in Denver, Colorado.

Q From whom? A From my wife.

Q And what did you do? A She stated in her letter --

Objected to.

MR. SNITKIN: I submit that the District Attorney having opened the door, the defendant is entitled to give his entire answer.

Objection overruled. Exception.

BY MR. MARSHALL:

Q What did you do after you got the letter from your wife? A I immediately came to New York.

Q And did you see Mr. Snitkin? A Yes.

Q And did you tell Mr. Snitkin you were going to Denver, Colorado? A I got back from Denver at the time.

Q Did you tell him before you went? A No.

Q Did Mr. Snitkin know that you were in Denver, Colorado?

A No.

Q Did not know that you were there? A No.

Q Who did you tell you were going to Denver, Colorado?

Objected to as incompetent, irrelevant and immaterial.

Overruled and exception.

Q Did you tell anybody you were going to Denver, Colorado?

A No, only my wife and myself talked it over -- the best thing for my health -- the doctor told me to go.

Q When did you first find out that your bail had been forfeited, while you were in Denver?

Objected to as incompetent, irrelevant, immaterial and prejudicial in the presence of the jurors.

Objection overruled. Exception.

Q When did you first find out that your bail had been forfeited while you were in Denver? A I got the letter from my wife stating --

9 237
BY THE COURT:

Q When did you get it? A When I was in Denver.

BY MR. MARSHALL:

Q You get a letter from your wife? A That my case had been called --

BY THE COURT:

Q We do not want what was said, but when you learned that your bail had been forfeited?

BY MR. MARSHALL:

Q When did you find out that your bail had been forfeited? A I didn't know it had been forfeited to-day even.

Q What? A My bail has never been forfeited.

Q Hasn't it -- I tell you now it has?

Objected to. Objection sustained.

Q You did not know your bail was forfeited? A When I came here and put me in the jail it was not forfeited-- the man did not lose the money.

Q When did you first hear that your case had come on the calendar; when you were in Denver? A My wife wrote me the letter.

Q While you were in Denver? A Yes.

Q And you came right on? A Yes.

Q Anybody else know you were in Denver besides your wife, so far as you know? A No, I don't know as she ever told anybody, except the doctor -- Dr. Williams -- he told me to go.

Q Dr. Williams from Bristol? A Yes, sir, and I said just as soon as I will see that I have everything provided so that I can leave for two or three or four months I will go, I said, and so I left.

Q What do you understand to be the meaning of the words "frame it up"? You used that expression. What do you mean by that? A This is the expression that was used by Flood?

Q What did you understand by it -- what did you understand him to mean when he said that? A Frame it up -- the way I take it, simply to bring along trouble for a man, make him a lot of trouble.

Q You said that this indictment that you are being tried on now was entirely a frame up -- that is your defense here.

Objected to. Sustained.

Q You say you never handled any of these bills of lading at all? A Never had them in my possession -- never delivered them to nobody.

Q Never heard of them? A No.

Q Never mentioned the Clyde Line to anyone? A Before the Governor I saw them.

Q Did you say anything about the Clyde Line to any one in New York? A I never knew there was a Clyde Line.

Q Did you ever introduce anybody as R. Jacobs? A No, never did.

Q Never did? A I didn't have no occasion to do that.

Q Did you ever see those drafts before you were in this court room? A I saw them before the Governor.

Q Is that the first time you ever saw them? A The first time I ever saw them.

Q You see they are drawn on R. Jacobs?

MR. SNITKIN: I object to the District Attorney reading from an exhibit not in evidence.

BY MR. MARSHALL:

Q Do you see the name of R. Jacobs, Charleston, South Carolina on that paper?

MR. SNITKIN: I object as improper. The exhibit is not in evidence and a witness cannot read from it until it is in evidence.

Objection overruled. Exception.

BY MR. MARSHALL:

Q Upon all three of them, People's Exhibit 4, 5 and 6 for Identification, did you see the name of R. Jacobs, Charleston, South Carolina? A I see the names wrote on it, yes.

Q You know what those names are? A What they are?

Q Yes, what are they? A I don't know.

Q Look them over, you have been in business some years?

A That is a draft issued by the Industrial Trust Company of Providence, drawn on a man named R. Jacobs of Charleston, South Carolina.

Q For how much money? A One calls for \$1,698; another for \$2,786.98; the third calls for \$3,036.90.

MR. SNITKIN: I object to this and this is all taken subject to my objection -- matters not in evidence.

THE COURT: You did not make any objection.

MR. SNITKIN: I did, and I move that all the testimony given by this witness relating to these papers marked for Identification, be stricken from the record.

Motion denied. Exception.

BY MR. MARSHALL:

Q You say now, after seeing these exhibits, that you never mentioned R. Jacob, South Carolina, to anybody, on earth?

A No, I never mentioned -- never knew there was any such name.

Q That is what you call frame up -- putting this on you, is that what you call a frame up?

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

Objection overruled. Exception.

BY MR. MARSHALL:

Q Is that what you call a frame up? A I call that, they made it up themselves, the whole trick on me, and bothered me and put me to trouble.

Q All perjury, the whole thing?

Objected to. Overruled. Exception.

Q All perjury, is that what you call it? A Tell me

what you mean by perjury.

Q Going on the stand, where you are sitting now, and swearing to something that you know to be false, that is perjury?

MR. SNITKIN: I object to the question and to the District Attorney instructing my client as to the definition of perjury.

MR. MARSHALL: He does not need any instructions from me, on that subject.

THE COURT: The question may be answered. Your remark, Mr. Marshall, is entirely improper.

BY MR. MARSHALL:

Q You say all of Flood's testimony is perjury? A That is what he admitted himself before the Governor.

Q You say it is all perjury? A I say so positively.

Q You say he admitted before the Governor it was all false?

A That he knows I am not guilty of this charge made against me.

Q He did not say that? A Yes, Flood said it.

Q You say his testimony here now, sworn to here upon this stand in this court room is all false? A Testimony given here.

Q You can answer me that yes or no?

MR. SNITKIN: I object. That is a matter for the jury to determine.

Objection overruled. Exception.

THE WITNESS: All false in every particular what he says about bills of lading and Jacob.

Q And what Costello testified to, that was all false?

A Some things he said was not true. He hired me and sent me here, that was true, and that he met me in Providence, that was true.

Q When he said you delivered those bills of lading to him in Providence, that was false? A It was.

Q And when Davidson swore to that he swore to something he knew to be false? A Positively-- Davidson made those bills of lading -- Flood told me himself that Davidson and Comstock made up those bills of lading.

Q When was that? A That was before, when we talked before Goldsmith and that other fellow.

Q Was that brought out before the Governor that Flood said Davidson and Comstock wrote these bills? A Says Davidson and Comstock made up those bills of lading.

Q Who testified to that? A Goldsmith.

Q Goldsmith testified before the Governor? A That Flood had said --

Q Goldsmith testified before the Governor? A That Flood had said.

Q That Flood said Comstock and Davidson made up these bills of lading? A Made them up -- he did not say exactly write out.

Q Made them out? A Yes, sir.

Q Goldsmith swore to that before the Governor? A Yes,
and if you look up the testimony you will find it.

Q You remember that -- there cannot be any mistake about
it -- you called Peck as your witness before the Governor?

A Yes.

Q Called him as your witness? A He was a witness.

Q Called by you? A Yes.

Q Flood was called by you first, also? A Flood was
called by me on the first extradition.

Q You did not fight the first extradition? A We did,
we had a hearing on the first extradition.

Q Did you? A Yes.

Q I did not know that? A You were not there, but we
had it.

Q On the second extradition you called Flood as your witness
and Peck as your witness? A On the second, no.

Q The last time you were extradited? A Of the first
extradition I called Flood as a witness and Mrs. Lance as a
witness, and called Comstock, but they could not locate him.

Q On the second one you called Peck? A On the second
one I called Peck, Goldsmith, and that other fellow with that
long name -- I don't remember -- and Mike Tiesman. Flood I did
not call. Flood was there and Comstock was there and Mrs.
Lance was there.

Q All testified? A Yes, all testified -- except Davidson did not testify.

Q You say you saw Comstock on the 22nd of February?

A Not exactly.

Q In Providence? A Not exactly on the 22nd; it was somewhere in that neighborhood, either the day before or a day later.

Q In Providence? A In Providence.

Q I will ask you, there cannot be any mistake about the 7th of February being the night that you delivered \$5,200 to Comstock in the Grand Central Station in this city and county?

A No mistake whatever.

RE-DIRECT EXAMINATION BY MR. SNITKIN:

Q You have been asked about Colorado -- you say when you left you did not know your case was on? A My case was not on.

Q That is right -- do you remember receiving a letter from Leonard A. Snitkin, 309 Broadway, New York -- look at this letter and see if you received a letter of that kind? A No, sir, I did not.

Q Was it told to you by your wife? A I did not receive this letter.

Q You did not see this? A No.

Q But at any rate, after you had been communicated with by your wife -- after you had received word, as you stated

from your wife, you came on to New York? A Told me --

Q You must not say what was said -- as a result of what she told you you came here at once? A Came immediately to New York.

Q You have been asked as to whether Flood testified before the Governor that Davidson and Comstock made up the bills of lading -- do you remember the Governor asking Flood the question --

MR. SNITKIN: I withdraw the question in that form.

BY MR. SNITKIN:

Q Do you remember this question being put to Flood by the Governor, and do you remember him making this answer?

Objected to as incompetent and immaterial.

Q Did you hear Flood say "I do not think myself Mr. Bassing is guilty?"

MR. MARSHALL: I object to that and move to strike it out.

THE COURT: I sustain the objection.

Motion granted.

H A R R I S G L A S S, called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. SNITKIN:

Q Where do you live? A 460 Grand street.

Q What is your business? A Buying stocks of merchandise, all kinds.

Q How long have you been in business? A About 18 years.

Q Now, Mr. Glass, you were subpoenaed by the District Attorney in this case, weren't you, you received a subpoena here yesterday? A Yes, sir.

Q They did not call you? A No.

Q That is why I call you.

MR. MARSHALL: Are you testifying or making a speech?

BY MR. SMITKIN:

Q Were you ever known as R. Jacobs? A If I knew R. Jacobs

Q No, were you ever known as R. Jacobs? A No.

Q Did you ever call yourself R. Jacobs? A Never.

Q You know Mr. Bassing? A Yes.

Q Can you tell when it was that you first met him?

A I can't understand.

Q When did you first meet Mr. Bassing? A I met him once about two years --

Q As a result of your meeting Mr. Bassing, where did you go with him? A I went on to Canal street -- I did not go with him -- I went myself there -- he left a card in the office of mine and I went down Saturday -- he was Saturday in my office and he left a card there he has a job of shoes for sale, and then I went down Saturday afternoon about five or six o'clock

and his place was closed, his basement store.

Q What kind of place was it? A Basement.

Q You say you found it closed? A Found it closed.

Q When did you find it open? A I came there Monday and find it open. I left the card inside and came Monday and found it open, the place.

Q Did you buy any goods? A Yes.

Q Who was there at the time you purchased any goods?

A Well, there were two people there, Mr. Bassing and another man was there.

Q Did you see him in court -- have you seen that other man who was in the store or in that basement -- did you see him this morning? A I saw Mr. Bassing here.

Q Did you see the other man? A I saw him yesterday here.

MR. SNITKIN: Will you bring Mr. Flood in to have him identified?

BY MR. SNITKIN:

Q Do you know that man's name? A His name was Flood, he called himself.

Q You saw him yesterday? A Yes.

Q At the time you came into the store, Flood was there and Bassing was there -- did Bassing introduce you as R. Jacobs to Flood? A No, sir.

Q Tell the Court and jury everything that happened while

you were there, just what was said and what was done? A I came in and when I came there I find the two of them there, and I said, "You told me Saturday -- you were in my place and you got a lot of shoes for sale; are these the shoes you want to sell, and he said yes; and I said "How much have you got?" And he said "I don't know; we didn't take up stock right what is there, " and I said, -- they asked me what I wanted to give them on the dollar for the goods --and I said, "Well, ", I offered them sixty cents on the dollar, the first time.

Q Sixty? A Yes; and he asked me about 75 cents on the dollar, and then I came up to the price and raised him up to 67 1/2 cents.

Q For what? A For the shoes, and 50 for the rubbers.

Q After you came to an understanding about the price, did you buy any goods? A Yes, sir, I bought it.

Q Can you remember how much you bought the first time?

A The first time I think it was about \$2,100.

Q The first time? A Yes.

Q How did you pay the money? A I gave a deposit there.

Q To whom? A I gave to Mr. Flood a deposit.

Q How much? A I think I gave him \$500 that week, and I don't recollect exactly, but I think it was \$500, and the balance I told him I will check off the goods and give him the balance of the money.

Q That was the first time? A The first time.

Q How many times did you buy goods? A I bought three times.

Q The second time that you bought goods was any one else there besides yourself, Bassing and Flood? A Well, Bassing and Flood, that was all that was there.

Q Anybody else? A Nobody else.

Q Who was the man that carted the goods to your store?

A They got an expressman named Goetz.

(The witness Flood is now brought into court).

BY MR. SNITKIN:

Q The man at the bar, is that the man you know as Flood? A I think it is the man.

Q That is the man? A I think so. I think that is the man.

Q Who was the cartman that carted the goods from Canal street to your place of business? A Mr. Dave Goetz.

Q At any time, while you purchased any goods, was anything said by you or by Bassing that the goods that you had bought were for R. Jacobs, and that they were to be shipped by the Clyde Line to R. Jacobs, Charleston, South Carolina? A Ever was spoke about such a thing.

Q Was anything said -- don't you understand my question?

A Yes?

Q Did you say to Flood or Bassing, or did Bassing say to

Flood that you were R. Jacobs? A No.

Q And that the goods were going to South Carolina by way of the Clyde Line? A No.

Q Sure about that?, A Positive.

Q What was the last amount that you bought? A The last one?

Q Yes? A The last one was, I think, about \$3,200.

Q How did you make payment for that last purchase?

A The last purchase I think I gave him \$700 deposit.

Q To whom? A I gave to Mr. Flood. And then when they delivered the goods to my place, I am going to give Bassing the balance of the money.

Q You gave Bassing the balance of the money? A Yes.

Q How much goods in all did you buy about? A I think \$2,100 and something, and then \$2,600 -- if that is correct -- I don't know exactly -- and about \$3,200 something.

Q After you purchased these goods they were delivered to your Grand street store? A Yes.

Q Did you appear as a witness in the United States Court in Providence? A Yes, I appeared before the Grand Jury there.

Q At the time that you bought these goods, were any bills given to you by Mr. Bassing? A Yes, sir.

Q Where are those bills now? A I gave them in Providence to the District Attorney.

Q You left them with the District Attorney in Providence?

A Yes, sir, and he said he would send them back and he never sent them back.-- three bills of sale were there.

Q Bills of sale were there? A Bills of sale were there and whatever I paid.

CROSS-EXAMINATION BY MR. MARSHALL:

Q Where did you get this \$3,200 that you gave to Bassing?

A My own money.

Q Where did you have it, where did you get it? A I always got money for business.

Q Where was it, in the bank? A No, I don't keep no bank account.

Q Where did you keep this \$3,200? A In my safe upstairs.

Q In the safe in your house? A Yes.

Q Where was your house? A 460 Grand street.

Q You had a store there also? A No.

Q How much money do you keep? A Sometimes I keep three or four or five thousand dollars.

Q In money? A Yes.

Q Did not have any bank account at all? A No.

Q You went up to your safe and took \$3,200 out in cash?

A Cash -- sometimes if I ain't got so much, I borrow some place else.

Q What? A I have somebody back me if I needed it.

Q You could borrow it? A Yes.

Q You did not have to borrow any of this \$3,200?

A Yes.

Q Who did you borrow it from? A I think from Mr. Emil Katzenstein.

Q When did you borrow it from him? A The day I paid off the money.

Q How much did you borrow from him? A \$1,500 or \$1,700.

Q Where does Emil Katzenstein live? A I think in 58th street.

Q You do not mean 50 8th street? A No, 58th street.

Q What is the number? A I think 400 and something is the number.

Q Does he live there yet? A I think so.

Q When did you see him last? A The man died six weeks ago.

Q Died six weeks ago? A Yes.

RE-DIRECT EXAMINATION BY MR. SNITKIN:

Q When was the next largest stock you ever bought after this one? A I am buying all the time stock.

THE COURT: It is not proper re-direct.

BY MR. MARSHALL:

Q You got receipts from Bassing for that money? A Yes, sir.

Q And you say that is in Providence? A That is in Providence.

once three receipts; and three bills of sale he has there.

Q Bassing receipted it to you? A Bassing gave his bill of sale signed before a notary and everything.

BY MR. SNITKIN:

Q When you went in there, did you present your card?

A Yes.

Q Did you give Flood a card? A Yes.

Q Have you a business card with you? A Yes.

Q Let me see it -- did you present to Flood a card similar to Defendant's Exhibit D? A Yes, sir, the same card, same place and same card.

BY MR. MARSHALL:

Q Do you know a man named Glassman? A Glassman, yes, I know him.

Q He is not any relation to you? A No, just keeps a shoe store there.

C L A R A B A S S I N G , called as a witness in behalf of the defense, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. SNITKIN:

Q You are the wife of the defendant, Jacob Bassing?

A Yes.

Q Do you know Mr. Comstock?

A Yes.

Q Do you know Mr. Davidson?

A Yes.

Q You live in Bristol? A Yes.

Q Do you remember seeing Mr. Comstock at your home in 1907?

A Yes.

Q Where was your home at that time?

A Corner of Thames and Jones streets, Bristol.

Q What did Mr. Comstock say when he came there?

A He said to my husband he wants him to go to New York to sell goods for him.

1

Q After that did you again see Comstock? A After that he sold the goods.

Q Yes. A Yes he was in a second time.

Q Where was that? A My husband was not home.

Q Where did you live at that time? A In Thames street.

Q What did Comstock say to you? A The second time?

Q Yes. A The second time he said where is Bassing and I said Bassing is away and then he said please I cannot stay late and you tell Bassing not ~~to~~ to go against me, if not I will put him in trouble so he never will forget me.

Q What else did he say -- what did he say about Bassing's expenses or any money? A Oh yes, he said I will pay your expenses and I will pull back the case against him.

Q What did you say to him? A I told him I will tell him.

Q You know Davidson? A Yes.

Q How long have you known Davidson? A About eight or ten years.

Q How often has Davidson been in your place of business in Thames street? A I don't know, I could not tell you how often.

Q Give a woman's guess, how many times, a half a dozen or a dozen? A A dozen -- maybe more than that.

Q You know him very well? A Sure.

Q Did you ever see Mr. Davidson at your home? A Yes.
He was before Comstock he was at the time -- with Comstock
was the second time --- he was at my home -- at my house --
Davidson was.

Q Where was that? A In Thames street.

Q What did he say to you? A He said to ^{me} you tell Bassing
to get away from this State; if not I will put him in trouble.

Q Was that after Bassing sold the goods for Comstock?
A Yes.

Q When Comstock or Davidson was at your home, did either
of them say that your husband gave them forged or fraudulent
bills of lading? A No.

Q Did they ever say that? A No, never said that.

CROSS EXAMINATION BY MR. MARSHALL:

Q You told me that I had accepted a bribe of \$500?

Objected to.

Q Did you tell me that -- you told me I had accepted a
bribe of \$500, didn't you? A I didn't say you accepted or
got it -- only I said you must have.

Q You accused Mr. Hart an assistant District Attorney --
how much did he get?

Objected to. Question withdrawn.

Q You stated to Mr. Hart, an Assistant District Attorney

3
that he had accepted a bribe to, didn't you?

Objected to. Overruled.

Q Did you say that to Mr. Hart? A No, I didn't say as he got it. I said you must have it before you keep my husband so long over here.

Q You said Mr. Jerome had got a thousand dollars, didn't you? A \$1,000 -- no, I didn't say.

Q How much did you say he got? A I didn't say anything or a thousand dollars. I said he must have a lot of money from Comstock.

Q You said Mr. Snitkin and I divided your husband's money, didn't you --- did you say that to me? A I say Mr. Snitkin must do that, because my husband is long over here.

MR. SNITKIN: The District Attorney said that he would concede the good reputation of this defendant.

MR. MARSHALL: It is conceded by the District Attorney that there is nothing against this defendant in the town of Bristol, Rhode Island where he resides.

THE COURT: That is evidence of character.

THE DEFENSE RESTS.

J O H N A. F L O O D, recalled in rebuttal.

BY MR. MARSHALL:

Q You saw the witness Glass on the stand, the man who gave his name as Glass? A Yes.

Q You saw him in the store there with Bassing, in Canal street? A Yes, sir.

Q Is that the man who gave his name as Jacobs to you?

A He is.

Q From that day to this where had you seen him?

A I had not seen him until Yesterday.

Q You saw him yesterday in the hall? A In the hall.

CROSS EXAMINATION BY MR. SNITKIN:

Q You have just testified that the man that you knew as R. Jacobs was this man Glass who left the court room a minute ago? A Yes.

Q Do you remember testifying before the Grand Jury on the 5th of March, 1907? A I do.

Q Do you remember the foreman asking you this question and did you make this answer, "Well now, let us know just what you know about the case? A. Well, on February 16th Mr. Glass and Mr. Bassing entered the store with a man he introduced as R. Jacobs" -- is not that what you testified before the Grand Jury? A I did.

Q And that was the truth? A It was.

BY MR. MARSHALL:

Q That was not the Mr. Glass that was on the stand here?

A Another man called himself Mr. Glass.

THE PEOPLE REST.

T e s t i m o n y c l o s e d .

Motions to dismiss are renewed, denied and
exception to the defense.

The Court admonished the jury in accordance with
section 415 of the code of Criminal Procedure and takes
an adjournment until to-morrow morning, April 1, 1909
at 10:30 o'clock.