

START

987

CASE

#71
COURT OF GENERAL SESSIONS OF THE PEACE,
CITY AND COUNTY OF NEW YORK, PART II.

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

-against-

NATHAN CHIDMAN

B e f o r e

HON. THOS. C. T. GRAIN, J.

And a Jury.
.....

New York, April 16, 1909.

Indictment filed January 7, 1909.

Indicted for grand larceny in the second degree.

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

For the people: Asst. District Attorney Joseph H.
Symonds.

For defendant : Mr. Leonard A. Snitkin.

Peter P. McLoughlin,
Official Stenographer.

LOUIS GOLDBERG, a witness for the people.

DIRECT EXAMINATION BY MR. SYMONDS:

Q Where do you live? A 64 Clinton Street.

Q What is your business? A Jewelry business.

Q Are you married or single? A Married.

Q How old are you? A 47 years.

Q Where is your place of business? A 96 Clinton Street.

Q In the county of New York? A Yes sir.

Q How long have you been in business at 96 Clinton Street?

A One year in that place.

Q Do you know the defendant at the bar, Nathan Chidman?

A Yes sir.

Q How long have you known him? A I know him since the 25th of November.

Q 1908? A Yes sir 1908.

Q Was the defendant Nathan Chidman in your place of business 96 Clinton Street last November? A Yes sir.

Q On what day? A In the evening time.

Q On what day of the month? A The 25th of November in the evening.

Q About what time in the evening? A It was about, when I seen him that was about between half past nine and ten.

Q Do you mean in the day time or in the night time? A In the night time.

Q Did you come into that store about that time that night?

A Yes sir.

Q Did you see the defendant there when you came in? A Yes sir.

Q Was there anybody there with him, yes or no? A He was there, yes sir.

Q Who? A His brother Charles.

Q His brother Charles? A Yes sir.

Q Were there any other persons in the store at that time, yes or no? A Yes sir.

Q Who? A There was my son Samuel and my son Nathan.

Q Was there any transaction, business transaction going on when you came into your store that night? A Yes sir.

MR. SNITKIN: I object to the question on the ground that it is leading and I ask that the answer be stricken out.

THE COURT: I will allow it to stand, the question having been answered.

Exception.

Q Do you know what that transaction was? A Yes sir.

Q Tell the jury what it was? A When I came it was between half past nine and ten o'clock.

Q You have already said that? A I was in my store and I found Nathan Chidman and his brother Charles and my son Samuel

and my son Nathan, they had with him the business about two watches and chains. I found on the showcase one man's watch and chain.

Q What did you just say? A I seen Mr. Charles and Nathan Chidman in my place and my son Samuel and my son Nathan.

Q What did you see? A I seen them doing business with him about two watches and chains.

Q Two watches and chains? A Yes sir; two watches and chains.

Q Where did you see the watches and chains? A On the showcase.

Q Where? A On the showcase.

Q Any other jewelry on the showcase? A No sir.

Q What took place after you came into the store? A Well that was his dealing with him in such conditions they make with him a price of the watch and chain and they said they don't could buy the watch and chains on his----

We will have to send for an interpreter.

(The following testimony taken through an interpreter.)

BY THE COURT:

Q What happened in the store when you came in? A I found Nathan Chidman, Charles Chidman, my son Samuel and my son Nathan.

Q What were they doing? A He was about selling them new watches and chains.

Q Who was about selling? A My son Samuel.

Q Who was he talking to, who was Samuel talking to? A To that Charles.

Q What is Charles last name? A Chidman.

Q Where was the defendat then? A He was standing together with him next to the door.

Q Who was the defendant standing next to? A Next to the case where the jewelry is.

Q What person was standing next to the defendant? A Charles Chidman.

Q Where was the defendant standing? A Next to him.

Q Were they on the outside of the case, that is to say on the same side or were they back of the case? A No sir; before the case.

Q Was anybody back of the case? A My son Samuel and son Nathan.

Q What did you hear your son Samuel say? A He told that he was doing business with them.

Objected to.

THE COURT: I will allow it. It was in the presence of the defendant.

THE WITNESS: He was selling them a watch and chain, one man's watch and chain and a diamond locket and one lady's chain and watch and a lady's pin.

Q Did you hear him say anything to this defendant? A Yes sir.

Q What did he say? A He didn't say nothing he only spoke to the brother.

Q What did he say to the brother of the defendant? A He told him he should take a watch and he should go and try it.

Q What did the brother of the defendant say in the defendant's presence? A The brother was silent.

Q What did the defendant say, if anything? A He would take the watch and chain and try it.

Q Where was the watch and chain at that time? A On the showcase.

Q Did you see what was done with the watch and chain?
A Yes sir Samuel bundled it up in a paper.

Q Who bundled it up? A My son bundled it up for him, a lady's watch and chain.

Q Which son? A Samuel.

Q Did Samuel bundle up anything else? A A watch and chain and a lady's watch and chain and pin.

Q Anything else? A A man's watch and chain and a diamond locket.

Q After he had bundled them up what did he do with them?
A Charles took the man's watch and chain and diamond locket to test it and Nathan took the watch and chain, the lady's, and the pin.

Q When you say Nathan who do you mean? A Chidman.

Q This defendant? A Yes sir.

Q Is that all that Samuel said? A Yes sir.

Q Did your son Nathan say anything to this defendant or to this defendant's brother on this occasion? A No sir.

Q Did you say anything to this defendant on that occasion?

A I told them that they should go and test it and asked them when I could see them back.

Q Who did you say that to? A To both of them.

Q Did either one say anything to you in answer to that?

A They would be tomorrow on Thanksgiving.

Q Who said that? A Charles Chidman.

Q Did Nathan Chidman say anything? A No sir.

Q Did you see Nathan Chidman the defendant go out of the store? A Yes sir.

Q You have told us all that Nathan Chidman said while in the store? A Yes sir.

BY MR. SYMONDS:

Q Have you told us all that Nathan Chidman said? A Yes sir; in my place.

Q What did he take away with him if anything?

MR. SNITKIN: Objected to as already answered.

THE COURT: I will allow it.

A The lady's watch and chain and pin.

Q Did he bring them back? A No sir.

Q Was any price agreed on?

Objected to.

(Question withdrawn.)

Q What was the value of the watch? A I don't know positively because I wasn't there at the time when there was the transaction, when they transacted the business; I don't know because at the time when they transacted this business my son did it.

Q Do you know the value of the chain? A I can't remember it only that the whole amount was \$56.

MR. SNITKIN: I ask that the answer be stricken out.

THE COURT: Yes.

Q Do you know the value of the chain? A About 25 or \$26., positively I don't know.

Q Do you know the value of the pin? A About \$5.

Q Do you know the value of all the articles together?

A Yes sir.

Q What? A \$56.

Q Did Nathan Chidman the defendant ever give you the money?

A No sir.

Q Did you again see Nathan Chidman? A Yes sir.

Q Where? A On the ship.

Q What ship? A On the 23rd Street ferry, there is a car west through 23rd Street to the pier; I am not used to that place.

Q Do you know at the foot of what street the pier was? A No sir.

Q What kind of a ship was it? A California ship.

Q Is that the name of it? A I think so.

Q Was it a sea-going ship or a ferry boat? A A ship.

Q On what day was it you saw the defendant at the pier where the ship California was? A On Monday.

Q Was he on the ship or on the pier when you saw him? A He was on the pier.

Q On what Monday was it? A The 25th was on Thursday and it was the next Monday.

Q Did you have any conversation with the defendant Nathan Chidman when you saw him on the pier? A No sir.

Q Did you have any conversation with him after that time, after the time you saw him in your store--on the pier? A Yes sir.

Q When? A A man by the name of Joseph Eagar called me up on the 'phone.

Q Never mind about Joseph Eagar. The question is did you have any conversation with the defendant Nathan Chidman after the time when you saw him on the pier? A Yes; I talked to him in Mr. Eagar's place.

Q What was the conversation which you had with him in Mr. Eagar's place? A Mr. Eagar wanted I should settle with him.

Q Never mind what Mr. Eagar wanted. Just tell us the conversation you had with the defendant' in Eagar's place? A I had nothing to talk wo him about.

Q What did Eagar say to this defendat in your presence?
A Eagar said I should settle with him.

Objected to.

Objection overruled. Exception.

THE WITNESS: (Continuing) I said I don't want to settle.

Q What did Eagar say? A Eagar said it was just possible in some way to do it because he is a family man--

Objected to.

Objection overruled. Exception.

THE WITNESS: (Continuing) I objected to settling it.

Q Did Eagar say anything more? A Eagar told me again if there is a way to settle it to settle.

Q What did the defendant say? A Nothing; I didn't talk with him at all.

Q When you got to Eagar's office--when you got to Eagar's office was the defendant in the office? A It was in Eagar's house.

Q Whereabouts? A In Houston Street.

THE COURT: I will strike out that conversation and

the jury will disregard it.

Q Did you ever at any time ask the defendant to return the jewelry to you? A Yes sir.

Q When? A It was Monday morning at the time when I went up to his house.

Q Whose house? A In his house, in Chidman's house.

Q Which Chidman? A Nathan Chidman.

Q This defendant? A Yes sir.

Q Where is his house? A 111 Norfolk Street.

Q When did you go to his house? A Monday about noon time.

Q What ~~xxx~~ Monday? A This same Monday when I went after him to the ship.

Q Which did you go to first, the house of Nathan Chidman on that Monday or the ship? A First to Chidman's house.

Q What time did you get to Chidman's house? A About dinner time.

Q What hour of the day? A Between 11 and 12.

Q In the morning? A Yes sir.

Q Did you see Nathan Chidman, the defendant, there at his house? A Yes sir.

Q Anybody else there at that time beside yourself and Nathan?

A There were a lot of people there.

Q Do you know the names of any of them? A No sir.

Q Did you have any talk there with Nathan Chidman? A No sir.

Q What did you say to him? A I came up and found him standing near the washtubs and I told him "Where is my money or my jewelry."

Q What else did you say to him? A Nothing more.

Q What did he say to you? A He said I should not be afraid he would not run away with my jewelry.

Q Anything else? A That is all.

Q How long were you at his house that morning? A Two or three minutes, that is all.

Q What floor did he live on? A It was the third floor I think, I think on the third floor.

Q The conversation between you and Nathan Chidman was in Chidman's rooms? A I don't know, they said it was his mother's house.

Q Was that the first time you had asked him for the money or property? A Yes sir.

Q Did you ever ask him for that property afterwards? A No sir.

Q Did you have any talk with him when you saw him on the ship? A No sir.

Q About what hour of the day was it you saw him on the ship? A Either 12 or one o'clock or between one and half past.

Q What was the name of this gentleman to whose house you afterwards went? A Which one?

BY THE COURT:

Q You said you received a certain telephone message and you went to a certain house? A Yes sir.

Q Whose house was that? A That is Mr. Eagar's; I was called up on the 'phone by Mr. Eagar.

Q Where does he live? A Houston Street.

Q What number? A I don't remember.

Q When did you go to Eagar's house? A First I went to his shop and then from the shop I went to his house.

Q When did you go there? A I don't remember the date.

Q Was it after you saw this defendant on the ship? A No. It was before-- yes sir, it was after.

Q After? A Yes sir.

Q How long after you saw him on the ship? A It was the same day when the trial took place in the Essex Market Court.

Q Did you have this defendant arrested? A Yes sir.

Q When? A On Monday, the same day when I met him on the ship; I was with my son Samuel when I had him arrested.

Q Q So the first occasion you testified about that you saw the defendant was in your store, is that so? A Yes sir.

Q And the second time you saw him was in his house 150 Norfolk Street, is that right? A Yes sir.

Q The third time you saw him was on the ship California, is that so? A Yes sir; the Saturday before that Monday I found out

that he was on the ship.

Q The third time you saw him was on the ship? A Yes sir;
I think of it I saw him on Saturday.

Q Did you have any talk with him then? A Yes sir.

Q The third time you saw him was at the ship? A Yes sir.

Q The second time you saw him was on the pier on Saturday?
A Yes sir.

Q The third time you saw him was at his house Monday morning?
A Yes sir.

Q The fourth time you saw him was on the ship California?
A Yes sir.

Q The next time you saw him was in the Magistrate's Court?
A Yes sir.

Q And the next time you saw him was in Houston Street in
the house of the man you have mentioned? A Yes sir.

Q The next time you saw him was here? A Yes sir.

Q You have told us all you know about this transaction?
A Yes sir.

BY MR. SYMONDS:

Q Were you present when the defendant was arrested? A Yes
sir.

Q Arrested by the officer? A Yes sir.

Q Did you hear him say anything to the police officer
when arrested? A No sir.

Q Did you see any of the jewelry at that time? A No sir.

Q Were any of the defendant's relatives there when he was arrested? A There was a lot of people there and his wife.

Q Where was he arrested? A On the pier.

(Cross examination reserved.)

S A M U E L G O L D B E R G, called as a witness for the people.

DIRECT EXAMINATION BY MR. SYMONDS:

Q Where do you live, Mr. Goldberg? A 96 Clinton Street.

Q That is where you live? A Yes sir; I have a place of business there.

Q Where do you live? A 64 Clinton Street.

Q How old are you? A I will be 19 years old.

Q Are you married or single? A Yes sir single.

Q What business are you in? A I am a clerk in ~~my~~ my father's store.

Q Where is your father's store? A 96 Clinton Street.

Q What kind of a business does your father conduct? A We carry on the jewelry business.

Q How long have you worked for your father at 96 Clinton Street? A I have always worked for him ever since I graduated from school.

Q How long ago is that? A About six years ago.

Q Do you know the defendant ^{at} the bar Nathan Chidman? A Yes sir.

Q How long have you known him? A I have known him from November 25th.

Q Did you see Nathan Chidman the defendant in your father's store on November 25th, 1908? A Yes sir.

Q In the day time or in the evening? A In the evening.

Q About what time? A It was about nine o'clock.

BY THE COURT:

Q He was a stranger to you when he came in? A Yes sir.

Q You were in the store at that time? A Yes sir.

BY MR. SYMONDS:

Q Whereabouts in the store were you when the defendant came in? A I was behind the counter.

Q Was anybody with the defendant when he came in? A His brother was with him.

Q What is his brother's name if you know? A I think his brother's name is Charles Chidman, I don't know whether his first name is right.

Q Was there anybody else in the store when the defendant Nathan and his brother Charles came in? A Yes sir; my brother was in the store.

Q What is your brother's name? A Nathan Goldberg.

Q Did you have any talk with the defendant after coming into the store with his brother? A Yes sir.

Q What was the talk you had with him? A His brother intro-

duced me, he said that this was his brother.

Q Had you known Charles before? A Yes sir.

Q How long had you known Charles? A I think I had known him for about two years, I think, I don't remember right.

Q Charles introduced Nathan to you that night? A Yes sir.

Q What did Charles say to you when he introduced Nathan to you? A Charles said he wanted to have a watch and chain.

Q Will you just begin at the beginning, at the introduction, how did Charles introduce Nathan to you, what did he say to you?

A Charles said "This is my brother Nathan", he didn't say Chidman---"This is my brother Nathan and he wants to buy a watch and chain for his watch and so do I want a watch and chain for myself."

Q Who spoke next? You have told what Charles said to you in introducing Nathan to you? A Yes sir.

Q Who was the next one to speak? A Nathan said I should show him some articles.

Q Where was your brother Nathan at that time? A Alongside of me.

Q Which side of the counter was you on? A I was towards the window.

Q Were you in front or behind? A I was behind the counter.

Q Was there a showcase on the counter or not? A Yes sir.

Q Where were the two Chidmans? A In front of the showcase.

Q Outside of the counter? A Yes sir.

Q Go on? A Charles told me that his brother wanted to buy a watch and chain and so does he. I show him an assortment of watches and chains and finally he picked out a chain and watch and a diamond locket for Charles.

Q Who picked those out? A Charles. He says "This is mine". Then Mr. Nathan told me he wanted something for his wife.

Q Nathan wanted something? A Yes sir; for his wife.

Q What did you do? A I showed him an assortment of and finally he picked out a watch and chain and a gold lady's pin.

Q Was it a lady's watch and chain or a man's watch and chain? A A lady's watch and chain.

Q What was the value of the watch and chain? A The value of the watch and chain was \$56.

Q What was the value of the pin? A The pin was five, the chain Twenty-six, and the watch was twenty-five.

Q Making \$56. altogether? A Yes sir.

Q When Nathan picked out these three articles you have mentioned what was said between you and him if anything? A I did not mention anything neither did he; but he took it on condition.

Q On what condition?

Objected to.

THE COURT: I will allow the words "I did not mention anything to him and he did not say anything to me". I will strike out the balance.

Q Was there any paper there? A What kind of paper? No paper at all.

Q After Nathan had picked out the lady's watch and chain and the lady's pin what was the next thing said or done? A Well I said ----

Q Who is he? A Nathan.

Q Nathan Chidman? A Yes sir.

Q The defendant? A Yes sir; he told me that he had no experience in that and he said he wanted to have----he said he don't know what it is worth and he wants to have it appraised and he took it on condition that----

Q He wanted to have it appraised? A Yes sir.

THE COURT: strike out "He took it on condition".

Q When Nathan said he wanted to have it appraised what if anything did you say? A Well I said "All right" I said "Have it appraised."

Q What did he say then? A He took the watch and chain and went to have it appraised.

THE COURT: Strike out the latter portion of the answer.

Q Did you go with him to any appraiser's? A No sir.

Q As I understand you you said he wanted to have it appraised?
A Yes sir.

Q After he said he wanted to have it appraised what did you do, if anything, with the watch, chain and pin that he picked out?

20
A I took the watch, chain and pin and wrapped it up in paper and gave it to him.

Q What did he do then after you gave him the watch, chain and pin wrapped up in paper? A He put it in his pocket and he said he will be back tomorrow and if he won't be back tomorrow, the 26th of November, he would be back Friday the 27th of November.

Q Did he say anything else? A No sir.

Q What did he do then? A He took the watch and chain and went out and said that he will give me back either the good or he will pay for it.

Q What did Charles do? A Charles did the same thing like Nathan.

Q Did Charles take the watch and chain that he had picked out? A Yes sir and the diamond locket.

Q Who delivered those to him? A I myself I gave them to him.

Q Did they go out together or not? A Yes sir they went out together.

Q Did Nathan, the defendant at the bar, come back the following day? A No sir.

Q Did he ever come back to your store? A No sir.

Q As far as you know? A No sir.

Q Did he ever return the lady's watch, chain and pin that you gave to him, as far as you know? A No sir.

Q Did he ever pay for those articles? A No sir.

Q Did you yourself after that time make any demand on Nathan Chidman for those articles? A No sir.

Q Did you again see Nathan Chidman after he left your store that night? A No sir.

Q Never again? A No sir.

Q Do you see him now? A Yes sir.

Q You have seen him since that time? A That is the last time I saw him after that was on the ship.

Q The next time? A Yes sir.

Q On what ship? A Well I saw him, I guess it was on the Anchor pier line, the name of the ship was California.

Q Was he on the ship or the pier? A On the pier.

Q What day was it you saw him there? A I think it was the 8th of December.

Q About time of day? A It was about between 12 and one.

Q What was he doing there? A He was standing on the ship and there were relatives of his there.

Q He was on the pier? A Yes sir I mean the pier.

Q Was he with anybody? A Yes sir I think he was with a good many relatives of his.

Q Did you speak to him there? A No sir.

Q Was anybody with you? A My father was with me.

Q Did your father speak to the defendant there? A No sir.

Q Was there anybody else there with you and your father?

A No sir.

BY THE COURT:

Q While you were talking to Nathan Chidman in the store did anybody come into the store? A No sir; my father came in later, yes sir, my father came in later.

Q When did your father come in? A My father come in I think it was about 10 o'clock.

Q When your father came in was Nathan Chidman in the store? A Yes sir.

Q How long after ~~my~~ Nathan Chidman come in did your father come in? A He came in I think about three-quarters of an hour after they came in.

Q How long was Nathan Chidman in the store that night? A Until he went out?

Q From the time he came until the time he went out? A Well about an hour or a little over an hour.

Q What was he doing during that time? A Well I was showing him some articles, some old things he wanted.

Q During the entire time? A Yes sir.

Q How long was Nathan Chidman in the store after your father got there? A It wasn't very long, he was in it about a quarter of an hour and went out.

Q Did your father have any conversation with Nathan Chid-

man? A Only an introduction that's all and I explained to him the goods that they were getting.

Q You spoke to your father in the presence of Nathan?

A Yes sir and Charles Chidman.

Q What did you say to your father in the presence of Nathan?

A I told him he has taken a watch and chain upon the recommendation of his brother to have it appraised and he agreed with me to let him have them.

Q That is your father did? A Yes sir.

BY MR. SYMONDS:

Q Now, Mr. Goldberg, were you present when the defendant Nathan was arrested? A Yes sir.

Q Where was he arrested? A Arrested from the Anchor Pier Line foot of Twenty-third Street.

Q On what day if you know? A It was on the 8th of December.

Q That is the day you stated you testified to? A Yes sir.

Q When you were there? A Yes sir, I remember seeing him once before--that was on Saturday.

Q Where did you see him Saturday? A On the same ship, the same pier, Saturday was I think the 5th of December.

Q Was he alone or somebody with him? A My father was with me.

Q Was there anybody with the defendant at the time? A Yes

sir the same people there Monday.

Q Did you see the defendant doing anything on the pier?

A He was talking to his relatives.

Q Did you speak to him Saturday? A No sir.

Q Did your father speak to him Saturday? A No sir.

BY THE COURT:

Q Did the defendant have anything in his hands on Saturday when you saw him at the pier? A No sir he had some packages but I don't remember exactly.

Q How was it on Monday when you saw him there, did he have anything in his hands on Monday on the pier when you saw him? A No sir I don't think so.

Q What do you mean by packages? A I think some bundles, I don't know what was in them, he had some packages, something in a paper.

Q Paper packages? A Yes sir; I don't remember distinctly but I think he had something in his hands.

BY MR. SYMONDS:

Q After Chidman was arrested, Nathan Chidman was arrested, was he taken to the station house? A Yes sir.

Q Did you go to the station house? A Yes sir.

Q At the station house did you say anything to Nathan Chidman? A Yes sir, I told him it was a shame, I said, to take jewelry and articles with the intention of not bringing them back

25
Q Did he make a reply to that? A No sir.

Q Did you hear the officer say anything to Nathan Chidman on the way to the station house? A There was two officers.

Q Did you hear either of them say anything to the defendant on the way to the station house? A Nothing.

Q Did the defendant say anything to them? A No sir.

Q Did you afterwards go to Police Headquarters? A Yes sir; with Officer Kelly.

Q Was the defendant with you and Officer Kelly when you went to Police Headquarters? A Yes sir.

Q On the way to Police Headquarters did you hear any conversation between the officer and the defendant Nathan Chidman? A Yes sir.

Q What was that conversation? A Well the officer asked him, he says "What are you trying to do, cheat people out of their money?" and he didn't answer; he says "What did you do with that watch and chain you got from this boy?" He said "My frau got it". He mean his wife has got it.

Q Did you hear any further conversation on the part of the defendant? A No sir.

Q Did you afterwards see the defendant anywhere? A I saw him at the Police Court.

Q What Police Court? A In the Essex Market Police Court.

Q Did you hear the defendant say anything there? A No sir.

(Cross examination reserved.)

LOUIS GOLDBERG; the complainant being recalled to the stand testifies as follows:

CROSS EXAMINATION BY MR. SNITKIN:

Q Mr. Goldberg, you testified that you saw this defendant for the first time on Thursday the 25th of November 1908, is that right? A It was Wednesday the night of the 25th.

Q Wednesday night, the 25th? A Yes sir.

Q Didn't you testify on your direct examination either in answer to a question put to you by the Court or by the District Attorney that you met this defendant for the first time on Thursday the 25th of November? A No sir, it was Wednesday night.

Q I ask you whether you so testified?

THE COURT: He says no.

Q Prior to the time that you saw him in your store on the 25th of November 1908, had you known the defendant before that day? A No sir.

Q Had you known his brother Charles? A Yes sir.

Q Do you know his other brother? A No sir.

Q You knew he had a brother besides Charles, didn't you?

MR. SIMONDS: I object to that as immaterial.

THE COURT: I will allow that.

THE WITNESS: Before I didn't know him but afterwards I found out that he has six brothers.

Q Did you ever have business dealings before the 25th of November 1908 with Isaac Chitman or Zicher Chitman, brothers of this defendant?

Objected to. Objection overruled. Exception.

THE WITNESS: I don't know about Zicher.

Q Did you know Isaac? A No sir.

Q Didn't you say you knew Isaac but you didn't know Charles a few minutes ago? A I don't know them by these names, whether they are the Jewish names. Isaac is Yits-coch in Jewish. I don't know anyone by the name of Yits-coch.

Q Do you know Charles? A Charles, I know.

Q Did you have business dealings with Charles before the 25th of November? A Yes sir.

Q You know Mr. Brager, don't you? A Yes sir.

Q Do you know that Brager was in business with the defendant's brother under the name of Chitman Brothers and Brager? A Yes sir, I knew that.

Q You knew where Chitman Brothers place of business was, didn't you? A Yes sir. I knew that.

Q Prior to the 25th of November 1908, the firm of Chitman Brothers was indebted to you for some money for jewelry, were they not? A No sir.

Q Do you mean to say that Isaac and Charles,-- that none of the brothers of this defendant owed you money before the 25th of November 1908?

THE COURT: He says the firm composed of Chitman Brothers did not owe him anything for jewelry on the 25th of November.

Q Did you know that Chitman Brothers prior to the 25th of November 1908 failed in business?

MR. SIMONDS: I object to that as immaterial to this issue.

THE COURT: Objection sustained.

Q Isn't it a fact that after the firm of Chitman Brothers failed in business that you went to the family of this defendant to ascertain their whereabouts? A Yes sir.

Q Well, say they were not indebted to you in any way why did you go to the defendant's house to ascertain where they were? A On account of the jewelry that was taken from me on the 25th.

MR. SIMONDS: I object to that. The witness has answered to that.

THE COURT: Allowed.

THE WITNESS: No sir.

Q Now, look at these photographs that I show you. Indicate which of the three represented there was the one that took the jewelry from you on the 25th of November 1908? A This man. (Referring to a photograph).

MR. SNITKIN: I ask to have that marked for identification.

(The photograph is marked Defendant's Exhibit A for identification).

Q Look at the other two photographs and state whether you recognised the likeness of anyone represented there that you know? A This one was here together with that Chitman on the other picture. (Indicating).

THE COURT: In other words he indicates the person who is shown here as having been with the defendant on the 25th of November.

THE WITNESS: Yes sir.

MR. SNITKIN: I am going to offer that in evidence now.

(The picture referred to is admitted in evidence and marked Defendant's Exhibit B. for identification).

THE COURT: I think it is better to indicate each photograph as shown, so the jury will know what person he identifies. There are two persons shown in the photograph.

MR. SNITKIN: I offer in evidence Defendant's Exhibit A. for identification.

Defendant's Exhibit received in evidence.

MR. SNITKIN: I, now, offer Defendant's Exhibit B.

THE COURT: I think you had better limit ^{it} to the one he recognizes.

Q You recognized on that picture, Defendant's Exhibit B for identification, the likeness of the person whom you say was with the defendant on the 25th of November 1908, is that correct? A The one at the left side is the defendant.

Q On Defendant's Exhibit B. which has been shown to you, you said a while ago that you recognized upon that picture the likeness of the person represented there as being the person who was with the defendant on the 25th of November 1908. Now, is that correct? A No sir.

THE COURT: I think that was my mistake. He recognized upon the picture the defendant as the one who was in his place, as one of the persons who was

in his place.

Q Now then was the defendant in your place of business with the person whose likeness is represented on Defendant's Exhibit B. for identification? A This single picture is the man who was together with the defendant on the 25th of November.

Q You refer to the picture marked Defendant's Exhibit A. in evidence? A Yes sir.

Q Do you know the person whose likeness is represented upon Exhibit B? A No sir, I don't know him.

Q How long have you known the person whose likeness is represented on Exhibit A. in evidence? A About a year and a half.

Q In that year and a half you had many business dealings with him? A Yes sir.

Q Now then, on the 25th of November when you saw this defendant and his brother whose likeness is represented on Defendant's ^{Exhibit} A. in evidence was in your store, can you state what time it was? A It was in the evening.

Q What time in the evening? A Between half past nine and ten.

Q How long did they remain while you were in? A They went out first and I remained in the store.

BY THE COURT:

Q But after you came into the store how long did they stay in the store? A About a half an hour.

Q Half an hour? A Yes sir.

BY MR. SMITKIN:

Q How long were you in there when you say the man whom you identify and whom you state was a brother of this defendant, and the defendant whom you had not known before that night, -- what if anything did you say to this defendant or to this brother? A Only one person spoke to me. He said, "Good evening."

Q Is that all the brother said to you as you came in -- that was a whole half hour they would be in the store before they went out and all he said to you was good evening? A Yes sir. They didn't talk anything further but the other man said, "Good evening" to me.

Q You mean you didn't speak anything at all with this defendant? A No sir.

Q The man that you had known for some time and who was in the store that night for half an hour and all he said to you was "Good evening", is that all? A More.

Q He said more than "Good evening?" A Yes sir.

Q Tell us everything that he said? A When I came in, he said "Good evening, Mr. Goldberg," I said "Good evening" to him. He introduced me to the other man and he said this is my brother. A few minutes before he came in this man Charles, I think --

Q Not what he said two minutes before?

THE COURT: Tell us what he said that night.

THE WITNESS: He said as I have told you before, "I may have a customer for you now. Here is the customer. This is my brother."

Q Is that all he said? A Well, they were asking about how business is going; if the business is alright and that is all.

Q Now, you mean to say that that was the entire conversation for a period of one hour and a half while they remained there and you were there, -- that all he said to you was "Good evening" and introduced the defendant and he said, "This is the customer, I told you about a week ago?" A Yes sir and then a few questions about business. How business was going on, that is all.

Q After you said that -- after the defendant's brother said that to you did they go out of the store? A Yes sir.

34

Q So that as far as your observation is concerned that night when you came in there, the sale or transaction had apparently been ended between the defendant and his brother and your sons?

MR. SIMONDS: I object to the word "sale" being used.

THE COURT: Transaction.

THE WITNESS: Yes sir, it was all over like finished.

Q Was the property wrapped up at the time you came in? A No sir.

Q Did you see it wrapped up? A Yes sir.

Q Both of your sons were there that night? A Yes sir.

Q Was anything said by -- which two sons made the sale do you know or had the business dealings with the defendant?

MR. SIMONDS: I object to the use of the word "sale."

MR. SNITKIN: I withdraw the question.

Q Who had the transaction which of the sons had the transaction if you know with the defendant's brother?

A Samuel.

Q Now, as the things were being wrapped as you now say, was any other conversation had between the defendant or his brother or in the presence of your older son, Samuel? A He said, "We are taking them up there to get it tested."

Q What did you hear this defendant say if anything? A He didn't say anything.

Q He said nothing? A No sir.

Q Now, you have told the Court and jury all that you heard this defendant say to yourself and either of your sons that night? A I haven't got anything more to say.

Q Is it a fact that you haven't any more to say? Is that all that was said that night between this defendant, that you have just stated? A Yes sir.

Q Now, then did you know on that night where this defendant lived? A No sir.

Q How long have you been engaged in the jewelry business on the East side? A Eighteen years.

Q You sell jewelry to pedlars, don't you? A No sir, very little.

Q Very little, but still you do well -- you do sell to pedlars sometimes? A Yes sir, once in a while.

Q And the pedlar in turn sells to a prospective customer?

Objected to. Objection overruled.

THE WITNESS:. I don't sell very much to pedlars, mostly, I sell to private people, I don't remember.

Q Let us see in the last year. You have made a good many sales to pedlars, jewelry pedlars? A I can't remember.

Q Do you do so large a business that you can't remember how many sales you did make to jewelry pedlars? A Most I sell to private people. Once in a while a pedlar gets jewelry but he should bring it back or sell it.

Q That is what I want to know. Now, you have both trades in your place of business, haven't you? A Yes sir.

Q When you make a sale to a pedlar you expect him either to sell it or return the property to you and you get him to sign a receipt? A No sir.

Q In the eighteen years that you have been in business and you have sold sometimes to jewelry pedlars, you never took a receipt did you? A No sir.

Q Now, Mr. witness, that night not knowing where this defendant lived, never having done business with him before, and knowing that there was a sale made as you say of this

property -- didn't you ask him to sign a memorandum receipt?

A No sir.

Q Did you trust him or did you trust his brother with this jewelry that the defendant took? A I trusted him on account of his brother whom I knew.

Q So that the inducing cause of your making this sale, if any was made, or having this transaction with the defendant, was caused by the fact that you relied upon the word of the brother of the defendant that night? A I trusted him, otherwise I wouldn't have given it to him at all.

Q Didn't you rely upon the fact that you knew the brother and the brother was with him that night that you gave the property to test? A No sir. I trusted him also on account of his brother.

Q Weren't you primarily relying upon the responsibility of the brother?

Objected to. Objection sustained.

Q When did you first ascertain where the defendant lived? A I found it out Saturday night.

Q So that there was a lapse of two days? A Yes sir.

Q Before you ascertained where this defendant lived?

A Yes sir, Thursday, Friday or Saturday, about dinner time one o'clock, I found it out.

38

Q Now, was anything said by the defendant on this Wednesday to your son in your presence as to when he would return that property? A Yes sir.

Q What did he say? A He said, "It is best, we can bring it back on Thursday." He told us that Thursday being Thanksgiving day he might have to go for a visit.

Q This defendant said that? A "Thursday being Thanksgiving day we may have to go for a visit and not be able to find them."

BY THE COURT:

Q What else? nA On Thursday they didn't come and I said to my son --

THE COURT: Strike that out.

BY MR. SNITKIN:

Q So that is something that the defendant said that you forgot to tell us before? A I wasn't asked about that.

Q Didn't I ask you to tell the Court and jury everything that this defendant said that night in your presence or hearing? A I can't say anything I am not asked about.

Q That is the best answer you can make to my question? A Yes sir.

Q Now, you say you saw this defendant on November 25th.

Now, when was the next time you saw this defendant and where? A It was on Saturday, on the pier of the ship.

Q So that you mean to say that the second time you saw this defendant was on Saturday the 28th? A Yes sir.

Q Now, it was at the pier that you saw him, is that correct? A Yes sir.

Q It wasn't the 28th, it was the Saturday the following? A Yes sir.

Q Was that when you ascertained the address of the defendant on the 28th of November, did you ~~go~~ to his home?

THE COURT: What day..

MR. SMITKIN: On the 28th of November.

THE WITNESS: Yes sir.

Q What time of the day or night did you go to his home? A In the evening.

Q What time, please? A About six o'clock.

Q Now then, did you find him at home? A No sir.

Q Did you find his wife there? A No sir.

Q Did you find anyone there at all? A I found the door closed.

Q So that on the 28th of November you already knew his address, went to his home, you did not see him? When did you next go to his home? A I wasn't in his house;

but I was around the houses trying to find out something about him.

Q I supposed you staid there all night the 28th of November looking for him? A Yes sir. Saturday night I was standing there all night in the street watching there for him.

Q What time did you leave there? A (No answer).

Q Now, then you knew that Saturday night when you watched all night and didn't see the defendant that there must be something wrong with your jewelry, didn't you?

A Yes sir, sure.

Q Now, on the 28th of November -- when did you first make a complaint about the larceny of this property?

A Sunday morning, I think it was the 29th.

Q The 29th of November? A Yes sir.

Q Where did you come to make the complaint? A In the Detective Bureau, Allen Street corner Canal Street.

Q Did you go to this defendant's home at 111 Norfolk Street on the 29th of November on Sunday? A No sir.

Q Did you go to his home on the 30th of November? A No sir.

Q Did you go to his home on the first of December? A No sir.

41
Q Did you go to his home on the second of December?

A No sir.

Q Did you go to his home on the third of December?

A No sir.

Q Did you go to his home on the fourth of December?

No sir.

Q Did you go to his home on the fifth of December?

A I don't remember.

Q Did you say that you saw this defendant on the fifth of December? A I want to say something -- no sir.

Q Why didn't you tell this Court and jury that on the fifth of December you saw this defendant on the pier on Saturday?

THE COURT: He fixes the day of the month.

THE WITNESS: I told you the next Saturday was the seventh of December.

THE COURT: It was the week from the Saturday following November 25th.

Q Was it in December or November that you saw him at this pier? A That was Monday the 26th -- it was the 27th -- Saturday, it was the month of December.

Q The month of December? A Yes sir.

Q When you say on the fifth of December you had already made a complaint against him on the 29th?

MR. SIMONDS: I object to that.

THE COURT:.. He saw him on the pier on Saturday.

THE WITNESS: I can't say the 25th. I only remember the day of Saturday.

BY MR. SNITKIN:

Q You can't tell whether it was the fifth of December?

A No sir, I don't know the date.

THE COURT: He fixes the time that he saw him on the pier by saying that it was a week from the Saturday immediately following the transaction in the store.

MR. SNITKIN: That was the fifth of December.

MR. SIMONDS: It is admitted that that Saturday was the fifth of December.

BY MR. SNITKIN:

Q Now then, after you made a complaint against this defendant on the 29th of November that he had stolen this property, having seen him next week, the fifth of December, as you now say, on the pier, did you place him under arrest at that time? A No sir.

Q Why didn't you arrest at that time the man who had

43
stolen your property? A I thought I would watch him on account of I might be able to find out the other man.

Q How long did you watch him there on that Saturday?

A I heard the ship would remain there until Monday.

Q How long did you remain there -- I didn't ask you what you heard. How long did you watch him? A Until one o'clock.

Q Did you see the defendant leave the pier that Saturday? A Yes sir.

Q Did you know him? A Yes sir.

Q Where did you leave him, what street? A As he left the pier he went on the car and went away with the other people that were with him.

Q Now, then after this Saturday you saw this defendant when next and where? A I went to the house where he lived at 111 Norfolk Street.

Q Now did anybody tell you? A They told me that --
Objected to.

BY THE COURT:

Q Where did you see him next? A 111 Norfolk Street.

BY MR. SWITKIN:

Q Now, Mr. Witness, at the time you saw this defendant on the fifth of December, ~~concededly~~ the fifth of December on Saturday, at the pier, did you know at that time

that he had moved from 111 Norfolk Street, or didn't you know that he had? A They said that his mother was living there but that he might have moved up in some other house. That is what they told me.

Q Why didn't you then go to his home knowing that his mother lived there between the 29th of November and the fifth of December 1908? A I had nothing to do with his mother.

Q Why did you go there after the fifth of December if you had nothing to do with his mother? A When I went up there Monday they told me they had moved upstairs.

Q You went up there Monday? A Yes sir.

Q Well, what time Monday? A Monday between twelve-dinner time. They told me where he had moved to.

Q On that Monday? A One floor above the floor he lived before.

Q One floor above? A Yes sir.

Q What floor had he lived on if you know, before he lived on the second floor? A Figuring the stoop, two flights up.

Q That would be the third floor? A Yes sir.

Q That floor above, would be the fourth floor?

A Yes sir.

Q Now, he lived on the fourth floor on Monday which is concededly the 7th of December -- which was the 7th of December -- did you go into his apartment; yes or no?

A When I went up I found out -- when I went in there that day they told me that he moved upstairs.

Q Did you go upstairs? A Yes sir.

Q Did you find the defendant there? A Yes sir.

Q That is the seventh of December. Who else besides this defendant did you see there? A Several people, I didn't know them.

Q Well, did you see some of the persons. Did you see some of the persons in the corridor of this Court that saw you that day at the defendant's home? A Yes sir, several I know here.

Q That was December seventh. Did you have any talk with the defendant at that time? A Yes sir.

Q Who was with you at that time? A There was a man by the name of Hynes.

Q How long have you known Hynes? A That was the first time I had seen that man.

Q What is Hynes's business? A He is working in a marshal's office, the city Marshal's office.

Q Give me Hynes's first name, please? A I don't know.

Q Where did you meet him that day? A In the office where he is working at 160 Clinton Street in the name of Pflam.

Q A city marshal? A Yes sir.

Q Right near Grand Street? A Yes sir.

Q You had brought suit in the Madison Street Court against this defendant?

Objected to as immaterial.

THE WITNESS: No sir.

Q Didn't you get out a replevin of attachment against him? A No sir.

Q Now then, listen, the 29th of November you made a complaint to the police. Why did you go with a Marshal as a helper on the seventh of December to this defendant's home? A I only went there to find out whether they are still in the house or whether they had removed.

Q When you went there you wanted to have this man as a protection, is that it? A No sir.

Q Why did you take him in there? A Well, I think I am a weak man and I will come in there to search there and they may fall over me and beat me.

Q So instead of going to the police for protection you took a marshal's Assistant to attend your person?

A I wanted to go in there with another man to be protected to find out whether they are there.

Q Had you on that day, or prior to that day brought suit against the defendant's brother?

MR. SIMONDS: I object to that as immaterial.

THE COURT: I will limit to the brother Charles.

THE WITNESS: No sir.

Q Did you ever go to Charles Chitman's place of business after the 25th of November 1908? A No sir.

Q You knew he was in business? A Yes sir.

Q He had taken property from you that he had not returned? A Yes sir.

Q You knew where his place of business was? A Yes sir.

Q Where was it? A My son told me 31 Fourth Street but I was never there.

Q You knew the business he was in, didn't you?

A Yes sir.

Q What was it? A The fur business.

Q Furs? A Yes sir.

Q You never went to his place of business to see if

43
had was there to get back the jewelry? A No sir.

THE COURT: You have that already.

BY MR. SNITKIN:

Q When was it if you know that this defendant was arrested? A It was on Monday.

Q On Monday? A Yes sir.

Q Now then, are you certain it was on a Monday?

A Yes sir.

Q What time of the day was this defendant arrested on Monday? A That was about two o'clock or half past one, I can't remember. It was about two o'clock or half past one. I can't remember exactly.

Q From the steamer -- or rather from the pier where he was arrested, where was this defendant taken if you know? A They took him to the station house.

Q Who placed him under arrest, the officer in uniform or one in civilian's clothes? A An officer in uniform.

Q Is that officer in Court? A I don't see him.

Q Now, from the time that this defendant was placed under arrest by this officer in uniform until he was arraigned in the station house did you have any conversation with the defendant? A No sir.

43

Q When after he was arraigned in the station house when did you next see the defendant and where? A In the station house.

Q When after you saw him in the station house when did you see him? A Monday, the same day.

Q Where did you see him? A In the station house.

Q Now, let us get out of the station house for a little while. Tell us where you next saw this defendant?

A At the place of Mr. Iger.

Q Are you certain about that, that after seeing this defendant at the station house you next saw him at Iger's home? A Yes sir.

Q Now, when was that. What day of the week? How many days after he was arrested? A I don't know exactly how long after but I know it was the day after the trial was to take place in the Essex Market Court.

Q You saw this defendant taken from the station house to police headquarters? A Yes sir, we went together.

Q Who took this defendant from the station house to police headquarters? A The detective.

Q Not the officer that had placed the defendant under arrest? A No sir.

Q Now, from the station house to police headquarters

50
did you have any talk with this defendant? A Yes sir.

Q Who made up the party from the station house to police headquarters? A My son and the detective.

Q You have two sons, give me the name of the son that was with you? A Samuel.

Q Who else? A The detective.

Q Samuel, yourself and this detective? A Yes sir, and the defendant.

Q And Nathan Chitman? A Yes sir, I think one more but I can't remember.

Q Tell us the other one if you can remember now?

A I don't remember; may be there was one more. I was very excited. May be there was one more.

Q You were very excited? A Yes sir.

Q Still in your excitement did you hear any talk between the defendant and the officer. Going from the station house to police headquarters, yes or no? A Yes sir.

Q Of course, he spoke to him in the English language didn't he? A Yes sir.

Q The detective? A Yes sir, in English.

Q What did you hear the officer say to this defendant?

A He asked him where was the watch and chain.

Q I want you to tell the Court and jury --

THE COURT: He is telling. Let him proceed.

THE WITNESS: He asked him where his watch and chain was and he gave him an answer "My wife has it."

Q Let us see, the officer spoke in English and the reply was in Jewish by the defendant? A Yes sir, he said "My wife has it."

Q Did you hear everything that the officer said to the defendant while on his way to the police headquarters from the station house? A They didn't say much.

Q I want you to tell the Court and jury everything you heard the officer say to this defendant that you can now remember? A All that I remember is that the detective asked him was, where is the watch and chain and he answered in Jewish "My wife has it."

Q You were with the officer all the time, weren't you from the station house to headquarters? A No sir.

Q Where did you leave the officer? A When they arrived at the elevated station, I believe it was the detective with the defendant went that way and I went with my son home.

Q Now then, from the station house to the elevated station was there anything else said by the officer to the defendant except as you have already told us, yes or no?

A (No answer).

MR. SNITKIN: He said, "That is all that was said."

THE INTERPRETER: Yes or no.

Q Was anything else said that you can remember, now?

A No sir.

Q Did your boy, your son Samuel have any talk with this defendant from the station house to the elevated station? A I don't remember.

Q Well, is there anything the matter with your memory? A Well, whether he spoke to him or not I can't remember.

Q You were there? A Yes sir.

BY THE COURT:

Q As you were walking along the street who walked next to the defendant? A I don't remember.

BY MR. SNITKIN:

Q Now, you said that the party was made up of the officer, yourself, your son Samuel and this defendant? Can't you answer the Court's question?

THE COURT: He said there may have been another one.

BY MR. SNITKIN:

Q Another man may have been there but you don't remember.

ber? A The detective was with this defendant together.

BY THE COURT:

Q Who was on the other side of the defendant? A My son. We were all walking in one row on the sidewalk and on the other side of the defendant was my son and then myself.

Q Who walked nearer to the defendant your son or yourself? A While walking we might have changed places but I can't remember exactly.

BY MR. SNITKIN:

Q Well, when for the first time did you see this defendant at the Essex Market Court? A I don't remember where I have seen him the next day because the trial, it seems to me, was postponed.

Q Well, did you see the defendant the eighth of December, the day succeeding the day that you had him arrested on Tuesday? A That I can't remember.

Q Now, what was the condition of your health this day? Were you alright on this day? Now, didn't the officer tell you to come to the Essex Market Court the next day and make a complaint against this defendant, yes or no? A No sir.

Q Can't you tell the Court and jury why you waited two days to make a complaint against this defendant? A I went

to the Essex Market Court with two certificates from the doctor. As the weather was bad and my son Sam had a bad night -- he got convulsions -- he has some trouble in his head.

(The Court admonished the jury, calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the hearing of the case until Monday morning April 18, 1909 at 10:30 o'clock.)

New York, April 18, 1909.

TRIAL RESUMED

LOUIS GOLDBERG; a witness for the people resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. SNITKIN:

Q At the time the defendant was arrested at the dock was Samuel or Nathan with you? A Samuel.

Q Did you and Samuel leave this defendant, this prisoner, and the officer at the elevated station? A I think it was the elevated station.

Q Now, you knew what an elevated station is? A I knew we were riding on the elevated.

Q You testified on Friday afternoon that you left the officer and the defendant at the station? A We rode to the elevated station and they went up.

Q When you testified Friday that you left ^{the office} and the defendant at the elevated station did you mean by that that you rode on the elevated road to a certain station? A Yes sir, I mean we were riding on the elevated road and we came to a certain station and stopped.

Q Where did you board that train, what station? A I think it was Rivington Street but I cannot remember and then we went off the train --

Q You arrested this defendant at the foot of Twenty-third Street? A Yes sir.

THE COURT: Ask him another question.

BY MR. SNITKIN:

Q After the defendant was arrested at the pier?

A Yes sir.

Q (Continuing) Did you and the officer and your son Samuel proceed -- where did you go? A From the pier we went to the station house.

Q After leaving the station house in Twentieth Street, where did you and your son Samuel go? What route did you take? A We went to the train, to the elevated train.

Q Sixth Avenue, Third Avenue, Or Second Avenue? A I can't remember.

Q At what station did you get on the train? A I am not acquainted around there. We went there to the first station.

Q How long are you in the City of New York? A I am here eighteen years.

Q You can't tell this jury at what street you took the train?

Objected to.

Q Where did you get off? A I will try and remember it. I think we went over to Rivington Street.

Q Assuming that you went over to Rivington Street,

where did you next go? A After, we went home.

Q Did you go to police headquarters on the seventh of December, which happened to be Monday? A No sir.

Q Why, didn't you make a complaint against this defendant on Monday December 7th? A No sir, not in police headquarters.

Q Then, let me refresh you recollection. Do you remember making a statement in police headquarters, the complaint against this defendant, "Nathan Chitman, 111 Norfolk Street; age twenty-eight; color white; nationality Russian; business pedlar; arrest made by Officer Kelly; Louis Goldber;" that is yours isn't it? A Yes sir.

Q You lived at 96 Clinton Street at that time? A Yes sir.

Q Now then, didn't you state at police headquarters that the complaint that you had against this defendant was that he and his brother on the 25th of November 1908 obtained two gold watches and two gold chains, one diamond ~~locket~~, one gold pin, all valued at \$150.00 by presenting a bogus business address. Isn't that the complaint you made against this defendant? A No sir, I didn't make such a complaint.

Q You can't tell then how this entry comes in this book?

MR. SNITKIN: I ask to have it marked for identification.

(The book referred to is marked Defendant's Exhibit C. for identification).

MR. SNITKIN: Now, if the Court will permit me to withdraw this witness and put the police officer on the stand I will offer this book in evidence.

THE COURT: What is the object of it.

MR. SNITKIN: Showing the nature of the complaint and showing a mistatement made by this witness.

THE COURT: Just let me see the book and I will tell you whether I will allow you or not.

(The Court inspects the book).

THE COURT: I will allow you to put the officer on the stand. This complaining witness in no way made any entry in this book. I will allow you to prove by the officer what statement the complaining witness made to him at the time.

WILLIAM J. DEEVY; a witness called on behalf of the defendant being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SNITKIN:

Q Where do you live? A 1462 East Second Street, Brooklyn.

Q You are a Lieutenant of police? A Yes sir.

Q Of the Municipal police force of the City of New York

A Yes sir.

Q Were you such on the seventh of December 1908? A Yes sir.

Q You were detailed to Police Headquarters? A Yes sir.

Q And pursuant to a subpoena upon your office that you produce this book? (Showing the witness a book). A Yes sir.

Q What do you know about it? A That is what they call the desk blotter, the arrest blotter.

Q Referring now to Defendant's Exhibit C. for identification? A Yes sir. It is a record of arrests.

Q A little louder? A I say it is a record of arrests.

Q Made by whom? A Made by Sergeant Kelly.

Q Is Sergeant Kelly here? A He is outside.

Q Is he here? A Yes sir.

Q You better send him in? A Yes sir.

THE COURT: I am not going to allow you to introduce that evidence at all. I will allow you to prove by the officer if you can prove it by him any statement regarding a matter testified to by the complaining witness.

Q That book, Defendant's Exhibit C. was kept in the

office of December 7, 1908? A Yes sir.

MR. SNITKIN: That's all.

LOUIS GOLDBERG resumes the stand.

CROSS EXAMINATION BY MR. SNITKIN:

Q You saw the last Officer, Kelly, the last man that was here? A Yes sir.

Q Did you ever tell Officer Kelly at the time that he had arrested this defendant that he had given you a bogus business address?

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

Objection overruled. Exception.

Q Did you hear your son in your presence state to Officer Kelly at the time that he arrested this defendant that he the defendant and his brother had given a bogus business address?

Objected to. Question allowed.

THE WITNESS: No sir.

Q Now, Mr. Goldberg, did you know Mr. Brager? A Yes sir.

Q Did you ever tell Brager after the arrest of this defendant that the defendant didn't take any property from you but that you thought if you would look him up you could get the brother? A No sir.

Q Did you ever tell Mr. Iger -- do you know Mr. Iger?

A Yes sir.

Q Did you ever state to Mr. Iger that if Chitman would give you \$56.00 that you would withdraw the complaint against him? A No sir.

Q That after you withdrew the complaint, the defendant could go to Europe and if he found his brother there to go to the Rabbi and if the Rabbi wrote a letter to Mr. Iger that his brother didn't have the money, that the defendant paid for him, you would return the money to him -- if this brother didn't repay to the defendant the amount they outlayed for him that the complainant would return that money? A No sir.

Q Now, at the time you caused the arrest of the defendant, did you say to Officer Kelly that the defendant had taken a machine from the Singer Sewing Machine Company for which he hadn't paid? A No sir.

Q Didn't you state to Officers Fay and Kelly that the defendant had taken monies to the amount of two thousand dollars? A No sir.

Q Now, Nathan Goldberg is your son? A Yes sir.

Q Do you know whether or not your son or your daughter-in-law bought furniture from this defendant after the 25th

of November 1908? A She I believe bought a bed.

Q When you say "She" whom do you mean? A My wife.

Q Your wife bought a bed from this defendant after the 25th of November 1908? A Yes sir.

MR. SIMONDS: I object to this line of testimony.
I ask that it be stricken out.

THE COURT: I will strike it all out provided it is not followed up. I will let it stand for the present.

RE-DIRECT EXAMINATION BY MR. SIMONDS:

Q Now, you said on your cross examination on Friday that this defendant took some goods for testing, what did you mean by that? A To go and have it tried and see whether it was worth the money.

Q Was there any conversation that they were going to have it tried to see if it is worth the money?

MR. SWITKIN: I object to that as not proper re-direct examination.

THE COURT: I will allow it.

THE WITNESS: The talk was about goods. They were going to have it tried and the next day he would come to the store.

(Stricken out).

Q Did the defendant and his brother Charles in his presence say in what manner they were going to have the jewelry tried or tested? A Yes sir.

Q What did they say?

Objected to. Objection sustained.

Q What did the defendant say about the manner in which he was going to have the jewelry tried or tested?

MR. SNITKIN: I object to the question on the ground that it is leading and not proper re-direct examination.

THE COURT: We won't go into that question any further.

BY MR. SIMONDS:

Q You also said something on your cross examination when asked why you didn't have the defendant arrested at a certain time that you thought you might find out about the other man. What did you mean by that? A As soon as I saw this man getting on the steamer I thought the other man might be already on the steamer.

Q Which other man do you mean? A Charles.

Q Do you know where Charles is now?

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

THE COURT: I sustain the objection.

MR. SNITKIN: I also move that the prior answer be stricken from the record on the ground that it is not responsive to the District Attorney's question.

THE COURT: I will allow it to stand.

MR. SNITKIN: Exception.

Q When you went to 111 Norfolk Street, did you see him there?

MR. SNITKIN: I object to that on the ground that it is not proper re-direct examination.

THE COURT: Objection sustained.

Q Do you know whether or not the defendant ever lived at 111 Norfolk Street?

MR. SNITKIN: I object to that on the ground that it is not proper re-direct examination.

THE COURT: I think he has been over that fully.

Objection sustained.

BY MR. SIMONDS:

Q Do you know whether Charles Chitman lived at 111 Norfolk Street?

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

THE COURT: Objection sustained.

BY MR. SIMONDS:

Q You saw Charles when you went to 111 Norfolk Street?

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

THE COURT: Objection sustained.

BY MR. SIMONDS:

Q What business address did the defendant give you when he got the jewelry, if any?

MR. SNITKIN: I object to that on the ground that it is not proper re-direct examination and I further object on the ground that the witness has already answered it on Friday last.

THE COURT: Objection sustained.

BY MR. SIMONDS:

Q Did you investigate the address which the defendant gave you when he obtained the jewelry?

MR. SNITKIN: I object to that on the ground that it assumes a fact which is not in evidence. The witness never swore that he gave him any address.

THE COURT: I sustain the objection. I think on Friday on the cross examination by this witness it appears that no address was given, that is my recollection.

BY MR. SIMONDS:

Q Now, Mr. Goldberg, did Mr. Iger ever ring you up on the telephone?

MR. SNITKIN: I object to that on the ground that it has been already answered.

THE COURT: Objection sustained. He has testified to that.

BY MR. SIMONDS:

Q What did he say to you when he rang you up on the telephone?

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

THE COURT: Objection sustained.

BY MR. SIMONDS:

Q After he called you up on the telephone did he come to see you? A I went to him.

Q Do you know whether or not Iger is related to Chitman? A I don't know exactly whether they are related but I know they were in business together.

Q Do you know whether or not Iger had a brother Nathan who was partner of Chitman Brothers?

Objected to. Objection sustained.

BY MR. SIMONDS:

Q Did Iger ever tell you at one time that he knew the Chitmans were out to do you and get the goods in question?
Objected to. Objection sustained.

THE COURT: Some of these questions may be asked when the Chitmans appears as witnesses.

MR. SIMONDS: I submit the defense has brought this man Iger on this matter on cross examination.

THE COURT: The questions can not be asked now.
BY MR. SIMONDS:

Q When this case was in the Essex Market Court was Iger a witness produced by the defense?

MR. SNITKIN: Object to as immaterial.

THE COURT: Objection sustained.
BY MR. SIMONDS:

Q Was any claim made in the Essex Market Court that the defendant Chitman was in your place on the night of November 25th?

Objected to. Objection sustained.

SAMUEL GOLDBERG; a witness for the people being recalled, testified as follows:

CROSS EXAMINATION BY MR. SNITKIN:

Q How old are you? A I will be nineteen.

Q How old are you? A I will be nineteen years.

Q I believe you said since you graduated from school you have been connected in business with your father? A Yes sir.

Q That was at 96 Clinton Street? A We live at 64 Clinton Street. We have a store at 64 Clinton Street too.

Q Where was your father's place of business on the seventh of December 1908? A December 1908?

Q Yes, that is what I said? A In 96 Clinton Street.

Q When for the first time did you see this defendant and where? A The first time I saw this defendant was in our store 96 Clinton Street.

Q Now, Samuel who was present at that time when the defendant was in your store?

THE COURT: He has not fixed the time yet.

BY MR. SNITKIN:

Q When was it that you saw this defendant for the first time? A The first time I saw this defendant was November 25, 1908.

Q Now, Mr. Goldberg, did you keep books in the store?

MR. SIMONDS: Objected to as immaterial, whether he keeps books or not.

THE COURT: I will allow it.

BY MR. SNITKIN:

Q Do you keep books of sales? A Well, I keep what

we take in during the day.

Q That is a cash book, isn't it? A Yes sir, that is about all.

THE COURT: Direct the witness's attention to whether you mean, if he personally keeps the books.

Q Now, then are there books kept in your father's place of business? A Yes sir.

Q Do you personally keep them? A Yes sir.

Q Do you keep the entire set of books? A Yes sir.

Q What do you keep? A I keep only a cash book.

Q Are the entries in your hand writing? A Yes sir.

BY THE COURT:

Q In your father's place of business in the month of November last was there a ledger kept? Do you know what a ledger is? A No sir.

Q The Journal? A No sir.

Q The day book? A That is only a cash book.

Q Only a cash book? A Yes sir.

BY MR. SWITKIN:

Q Now, in this cash book is contained entries of cash sales made? A Yes sir.

Q You have been connected in business with your father for six years? A Yes sir.

70

Q Now, those years that you have been connected with your father in business have you ever had occasion to sell jewelry on time or credit? A Yes sir, sometimes.

Q Now, when you sell any jewelry on credit don't you enter it in the book? A No sir.

Q Don't charge it at all? A No sir.

Q So you are never in a position to know -- you are never in a position to know what condition the business is in?

Objected to. Objection sustained.

Q How many sales a month have you made in the last six years?

Objected to. Question allowed.

Q How many sales have you made in the last six months? A I don't know.

Q How many do you think? A May be two. We had one man doing business on the installment plan.

Q What is that? A We have one man that we had business with on the installment plan. That man would sell to his customers on the installment plan.

BY THE COURT:

Q Now, with the exception of your dealings with that one man has your father sold goods on credit to your knowledge within the last six years, as well as making cash sales?

A No sir.

BY MR. SNITKIN:

Q What is that pedlar's name?

Objected to. Question Allowed.

THE WITNESS: That pedlar's name is Mr. Franklin,
572 Schenck Avenue, Brooklyn.

Q How long have you been doing business with Mr. Franklin? A About two years.

Q What is Franklin's first name? A I don't know his first name. He signs his name "F", the first letter is "F."

Q When you say he signs his name "F", you mean when he receives property from your father or yourself? You give him a paper to sign? A No sir.

Q Now, did you see him sign his name? A When he takes something on account, after about a month's time, then he settles by a note.

Q He gives you a note? A Yes sir.

Q How do you know when he is to make a payment upon a note or when the note is due when you don't keep any Journal?

Objected to. Objection sustained.

Q In those years you have been connected in business with your father have you seen ^{when} the time your father or yourself ever had occasion to sell goods on memorandum?

Objected to.

BY THE COURT:

Q Do you know what is meant in the jewelry trade by a memorandum transaction? A Yes sir, taking it out to be either sold or return the goods.

Q Did you do that? A Yes sir, sometimes.

Q That is to say where a purchaser or where a party taking the goods from your store takes them on an agreement that the goods should remain the property of your father?

A Yes sir, sometimes.

BY MR. SNITKIN:

Q So in the last six years, how many sales have you or your father in your presence made?

THE COURT: We wont call them sales.

BY MR. SNITKIN:

Q How many business transactions has your father or you had in the last six years where the property was delivered on memorandum, title to the property to remain in you or your father? A I can't tell you. I don't remember that.

Q I don't want all. I just want a few of them? A (No answer).

BY THE COURT:

Q Were they numerous? A No sir, not many.

BY MR. SNITKIN:

Q How many? A I can't tell you the exact number.

Q How many? A During those six years?

Q You can only give an estimate? A I should say about ten.

Q Ten? A Yes sir.

Q Have you printed memorandum blanks? A No sir.

Q When a man comes into your store and obtains property on memorandum, don't you get his signature? A No sir.

Q Where does the memorandum come in, if you don't get his signature? A He comes in and he says -- he gets an article and the article whether he sells it -- when he sells it he brings the money and when he doesn't he presents us with the goods back.

Q You never take his signature? A No sir.

Q You simply rely upon his word? A Yes sir.

Q Do you make an entry of that in the book? A Very seldom because we have very few memorandums.

BY THE COURT:

Q In such transactions that you have had on memorandum as you now describe, do you know where the entry in point of fact was made? A No sir, it wasn't.

Q It wasn't made? A No sir.

BY MR. SNITKIN:

Q When you say very seldom do you mean by that, that you did have some memorandums to record, where he signed?

A No sir.

Q Why did you say very seldom? A We very seldom have any memorandums out. We never give any goods out on memorandum, very few.

THE COURT: He has testified that in only about ten instances during the last six years has he ever had what he calls a memorandum transaction. He now says that in those transactions no paper was signed by the party taking out the goods as far as he knows.

BY MR. SNITKIN:

Q Franklin, the man that your father and yourself have been doing business with is a pedlar? A Yes sir.

Q Can you give the name of any other pedlar, that ^{or} had business dealings with yourself, your father in the last six years? A No sir.

Q Why do you say no sir, if you can't remember the names? You don't remember the names? A I don't know any.

Q He is the only pedlar in six years? A Yes sir, that I remember.

Q So that in the ten memorandum transactions you had,

it was always with Mr. Franklin, is that it? A No sir, all with Mr. Franklin.

THE COURT: This witness testified that they had been selling Franklin on the installment plan or selling to him on the installment plan and he has testified to ten transactions, approximately in six years called memorandum transactions where the title remained in his father but where no entry was made on the books.

BY MR. SNITKIN:

Q How many sales did you make, how many business transactions did you have on the 25th of November 1908? A During the whole day?

Q That is what I meant? A Only one that I can remember was with the Chitman Brothers.

Q That is the Chitman Brothers? A Yes sir.

Q That is the only one you can remember, why? A Because I gave it them on memorandum.

Q Did you get the defendant's brother or this defendant to sign any memorandum blank? A No sir.

Q You had never known this defendant before? A No sir.

Q Didn't know where he lived? A No sir.

Q Didn't know his name? A I did know his name.

Q How did you know it? A Being introduced to him.

Q After his brother introduced him to you, then you relied upon the other Chitman, upon his word that the defendant was his brother, is that it? A Yes sir.

Q Now then, what is the defendant's brother's name who was in the store on the 25th of November 1908? A I don't know his name but I think his name was Charles.

Q How long have you known the defendant's brother prior to the 25th of November 1908? A Of course, we know him about a year.

Q Don't say "We", I am asking you? A About a year and a half.

Q Now, did you know him in the year and a half -- how did you come to make his acquaintance? A Mr. Brager introduced him to my father.

Q Brager was a man whose brother was in business with this other man? A Yes sir, I think so.

Q That is your best answer on that? A That Brager was, that is I think he was.

Q That is in the fur business? A Yes sir.

Q You know the store, don't you? A Yes sir.

Q What street? A 31 East Third Street, I think it was.

Q So, when the defendant came in with another man who you say now was his brother, the defendant's brother, you

knew that that man was Chitman and he lived on East Main Street? A Yes sir.

Q And he was in the fur business? A Yes sir.

Q In the year and a half that you had known him being introduced by this man Brager, had you had any business dealings with that man? A With his brother. I guess some dealings with us.

Q Had you ever had business dealings with the man that came into your store with this defendant before the 25th of November 1908? A Yes sir.

Q How many times? A Once.

Q What was that? A I can't remember. It was sometime in 1907.

Q 1907? A Yes sir, I don't remember exactly.

Q A cash sale? A I can't tell you.

Q You can't tell that? A No sir.

Q Was it a memorandum sale? A No sir.

Q How do you know? A Because I think he paid it right out.

Q What is that? A I think he showed it to his wife to see whether she liked it and he brought it back and he paid for it.

Q I asked you a while ago whether it was a cash sale

and you said you didn't know and you can't remember. I don't remember now, either.

THE COURT: He has given his best recollection.

Q That is your best recollection? A Yes sir.

Q Now then, when this man came in, in 1907 to take property from you you relied upon his word, did you? A Yes sir.

Q You obtained no writing from him? A No sir.

Q Now, can you tell us if you please what that sale consisted of?

MR. SIMONDS: What sale?

THE WITNESS: I can't tell you. I think it was a lady's watch and chain.

Q What else as far as you can remember?

THE COURT: He is talking now about the first transaction with the brother of this defendant.

Q Did he buy anything else? A I don't think so.

Q You don't think so? A No sir. I don't think he bought anything else.

Q Who was there at the time the defendant's brother came in, in 1907 and purchased this property? A I don't remember.

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

Q Wasn't this defendant there at that time in 1907 when his brother had purchased the watch and chain? A No sir.

Q Don't you remember that there was a question as to the amount he was to pay for the watch? A No sir.

Q This defendant's brother? A No sir.

Q Isn't it a fact that this defendant Chitman went home and brought a lady's watch and chain, and showed you the lady's watch and chain and told you how much he paid in order that you might compare the figures? A No sir.

Q That isn't so? A No sir.

Q Well, after 1907 when did you next see this defendant's brother? A (No answer).

BY THE COURT:

Q Did you see him any time during 1908 before the 25th of November 1908? A Yes sir, he came in a few days before November 25th, I can't remember now.

Q The defendant's brother came in a few days before November 25th? A Yes sir.

Q Alone? A Yes sir, alone.

BY MR. SNITKIN:

Q That you are certain of? A Yes sir.

Q How many days before the 25th of November? A I can't remember.

Q Your memory is alright as to what happened on the 25th? A Yes sir.

Q Isn't it? A Yes sir.

Q It is not alright as to what happened before the 25th is that right? A I don't remember before.

Q You don't remember what happened before?

THE COURT: He doesn't remember it.

Q You don't remember what day it was. Do you know what happened when the defendant's brother came into your store before November 25, 1908? A What happened? I think he said he wanted to buy a watch and chain.

Q What kind of a watch and chain? A A gentleman's watch and chain.

Q What kind of a watch and chain did you sell him in 1907? A A lady's watch and chain.

Q Did you sell him any on that day? A No sir.

Q When next did you see him? A Well the next time I saw him was on November 25th.

Q What hour of the day or night? A It was about nine o'clock in the evening.

Q That is the time he came in with this defendant?
A Yes sir.

Q Now, who was in the store besides yourself and this

defendant when his brother came in? A My little brother.

Q When you say your little brother, do you mean by that Nathan Goldberg? A Yes sir.

Q Now, from the time that this defendant and his brother came in about nine o'clock, I want you to tell the Court and jury what this defendant and his brother said to you in the presence of this defendant? A They came in.

THE COURT: Take your time and tell the whole thing.

THE WITNESS: He came in with his brother and he said he wanted to buy a watch and chain and a diamond locket. He said that his brother wanted a watch and chain and a gold lady's pin for himself. I showed him an assortment of watches and chains and he finally picked out a gold locket for his brother, and then the brother picked out a lady's watch, a lady's chain and a lady's gold pin. I told them the price. He said, he didn't have the price and they wanted to have it appraised. I said, "Alright." He said, he will be back tomorrow the 26th and tell whether I will buy it or return the goods and he never came back again.

Q That is as far as I want you to go. Have you stated all? A (No answer).

Q Up to that point have you stated all that this de-

fendant said to you or you said to him or his brother said to you in his presence? A I think I have.

THE COURT: You can go over it again and say everything now that was said.

MR. SNITKIN: Will your Honor instruct the witness to use the word "He" and "The defendant."

THE COURT: Every time that you speak of the defendant speak of him as the defendant and call the defendant's brother "Defendant's brother" so as to make your statement clear. Take your time. I want you to say everything that the brother of the defendant said to you and that you said to the brother of the defendant and if this defendant joined in the conversation, what the defendant said and if you said anything to the defendant what it was. The whole thing that took place in the store.

THE WITNESS: About nine o'clock in the evening of November 25th, he and his brother came into our store. The defendant's brother introduced this defendant as his brother and he said that he wanted a lady's watch and chain for his wife, and the brother said, he wanted a gold watch and chain and a diamond locket for himself.

I showed them an assortment and they picked out a

gentleman's watch and chain and a diamond locket for the defendant's brother, and a lady's watch and chain and a gold pin for the defendant himself, for the defendant's wife, and they took the goods on the condition that they would have them appraised.

THE COURT: Don't say that. What did you say regarding it, what else did you say and what did they say to you?

THE WITNESS: They said they didn't have any experience in jewelry and wanted to have it appraised.

BY MR. SNITKIN:

Q Who said that? A Well, the defendant's brother.

Q Now, what did the defendant say on that subject if anything? A Well, the defendant said that he wanted to have the watch and chain and gold pin appraised as he didn't have any experience, and they took the goods they were supposed to bring it back.

Q What did you say to them after that? A I said, "Yes." I agree with them and I said "Alright, you don't have to buy it on your own experience, have it appraised." "Alright" he says, "If it is worth the money I will be back with the goods and pay you for it." "If it isn't worth the money I will return the goods."

Q Is it a fact that the brother of this defendant didn't want to agree with you on the price you fixed upon the watch and chain? A Yes sir.

Q Although, he had done business with you before?
A Yes sir.

Q He told you that his brother didn't have any experience? A Yes sir.

Q Although, you had sold him goods before? A He did the same thing before too.

Q Before he did the same thing? A Yes sir.

Q And this time again he wouldn't rely upon your word? Yes sir.

Q Now, will you look at Defendants' Exhibit A and B and state which persons represented upon either Exhibit that was with the defendant at that time? A I think it was B.

Q Let me have that please? A This one here (indicating) was with him.

Q You think it was this man that was there? A Yes sir.

Q Are you certain about that? A I am not certain because I saw him -- if I seen him I would recognize him.

Q Although, the man whose likeness you are not certain of now, you had known a year before that? A Yes sir. He is

85
dressed neatly and when he used to come into the store he wasn't dressed as he is here.

Q He had a hat on? A Yes sir.

Q You notice this beard likewise in Defendant's Exhibit A? A Yes sir.

Q You still say you think it was he? A I think that is the man.

Q You swear to it absolutely? A No sir.

Q That is the Exhibit that you had in your hand?

A Yes sir.

Q A moment ago? A Yes sir.

(Referring to Exhibit A.).

Q You say that the face upon Exhibit A. you believe now is the face of the man, who was with this defendant?

A Yes sir, I think so.

Q You mean Exhibit A? A I mean this man.

Q You mean Exhibit A? A Yes sir.

Q In other words you mean that the face appearing upon the picture marked A., you believe is the face of the man that was with this defendant in your store? A Yes sir.

Q Is that so? A Yes sir.

Q Now, have you ever seen the likeness of the man whose likeness appears upon Defendant's Exhibit B? A

BY THE COURT:

Q Look at the picture you have in your hand? You see two faces there? A Yes sir.

Q Now, you see the face towards your left hand? A Yes sir.

Q The face of the person wearing a light coat not the dark coat? A Yes sir.

Q Have you ever seen that face before? A No sir.

Q This man here? A No sir.

BY MR. SNITKIN:

Q I show you this picture and I ask that it to be marked for identification, Defendant's Exhibit D. Look at that Exhibit and state whether you have ever seen the person represented upon that picture? A No sir, not that I remember.

Q Not that you remember? A No sir.

BY THE COURT:

Q In other words your best recollection is that you never saw that person before? A No sir.

BY MR. SNITKIN:

Q Now, what day of the week was the 25th of November on? A It was on a Wednesday.

Q It was on a Wednesday? A Yes sir.

Q Now, what fixes Wednesday as being the 25th of Novem-

ber in your mind? A Because Thursday was Thanksgiving day. Thursday was the 26th.

Q Now, tell us if you please, what was the very first thing this defendant's brother said to you when he came in, the first thing? A The first thing he said was --

BY THE COURT:

Q When he opened the door of the store, what did he say? A He said, "Good evening" and he introduced his brother to me, the defendant.

BY MR. SNITKIN:

Q Now tell us what he said?

THE COURT: You asked him the first thing and he has told you.

Q What was the first thing he said besides introducing him, that is your recollection? A The brother?

Q Yes, the brother? A He said, "Now, we came to buy a watch and chains".

Q "Now, we came to buy a watch and chains?" A Yes sir.

Q Did you say the watch and chains? A The watch and chains.

ular

Q In the singular or plural? Had he selected the watches before? A Well, he told me that.

Q Had he selected the watch before? A No sir.

Q The 25th of November? A No sir.

Q After he said, "We came to buy the watches"-- the is a definite article? A Yes sir.

Q After he said, "We came to buy the watches and chains" what next did this defendant's brother say, if anything to you? A I don't remember.

Q You don't remember? A No sir.

Q Who was there at the time besides you and your smaller brother? A Nobody.

Q Now, after he said, "We came to buy the watches and chains," did you show him an assortment of watches and chains? A Yes sir.

Q Then some watches and chains were selected by the defendant's brother? A Yes sir.

Q Is that right? A Yes sir.

Q Who made the selection? A Each made their own selection.

Q Sure about that? A Yes sir.

Q Do you remember testifying a while ago that this defendant selected a watch and chain for his brother and then selected a watch and chain for himself? A No sir.

Q You don't remember that? A No sir.

Q You didn't so testify? A Well, I didn't mean to so testify.

Q You didn't mean it? A No sir.

Q When the defendant's brother had selected a watch and chain, the defendant also selected a watch and chain and a pin I think you said? A Yes sir.

Q Did you wrap the goods up? A Yes sir.

Q What time was it your father came in? A My father came in I think it was about a quarter to ten.

Q A quarter of ten, nine forty-five? A Yes sir.

Q So they had been three-quarters of an hour in your store before your father came in, selecting watches and chains and pins? A Yes sir.

Q Now, then did you wrap the goods up? A Yes sir.

Q Before your father came in or after? A Well, I was wrapping them up when my father came in the store.

BY THE COURT:

Q About how large a store is that? A It is about forty feet, I think.

Q It is on the street level? A Yes sir.

Q A show case on the side? A Yes sir.

Q It isn't arranged with show cases on both sides?

A We have one show case (illustrating) and one show case in

the width.

Q The show case in the width is opposite the front door, down towards the end of the store? A Yes sir.

Q This transaction took place at which show case?

A Near the door.

Q Near the front door? A Yes sir.

Q During the time you were talking with the defendant and his brother, before your father came in where was your brother Nathan? A Along side of me.

Q Back of the show case? A Yes sir.

BY MR. SNITKIN:

Q You now have stated Samuel, that the goods were just being packed up when your father came in? A Yes sir.

Q When you say "About being packed up" do you mean just in the act of wrapping them up?

Objected to.

Q Tell us what physical act you did upon which you base your conclusion that they were just being wrapped up?

Objected to. Objection sustained.

Q What did you do when your father came in with reference to wrapping up the goods? A When he came in I didn't wrap them up. I explained to him.

Q What did you do with reference to wrapping up the

the goods?

THE COURT: Allow him to finish his answer.

BY MR. SNITKIN:

Q What did you do in reference to that? A (No answer)

BY THE COURT:

Q Did you do anything in reference to packing up the goods after your father came in? A No sir.

Q In other words the goods were not wrapped or packed up when your father came in? A No sir.

Q They were not? A No sir.

Q What were you doing when your father opened the door?
A I was just wrapping them up. I had the paper to wrap them up because it takes time to wrap them up.

MR. SNITKIN: The witness testified that he was wrapping the goods up when his father came in the store.

BY MR. SNITKIN:

Q You mean that? A Yes sir.

Q You remember that you were a witness in the Essex Market Court against this defendant? A Yes sir.

Q You were sworn? A Yes sir.

Q You gave your testimony? A Yes sir.

Q Do you remember this question being asked and making this answer --

92

(Page seven of the stenographer's minutes in the magistrate's court, taken December 15, 1908 before Joseph E. Corrigan, City Magistrate).

"BY THE COURT. Q. What was it that you first told your father about this transaction? A Afterwards my father came in and met them there when all the jewelry was packed." Do you remember so testifying? A No sir.

Q Will you swear that you did not so testify? A No sir.

Q That is you don't remember? A No sir.

Q If you did so testify you can't remember it now?

A Yes sir.

Q Was that the truth at the time? A Well, I won't falsify. It must have been the truth, I suppose it was the truth.

Q You see they won't convict that man on suspicion, was it the truth or not? A It was the truth.

Q When you testified a minute ago --

THE COURT: We won't have any comment.

BY MR. SMITKIN:

Q Then, the next thing that this defendant's brother said in his presence was "I don't know much about it?" A No sir.

Q "I will test it and to-morrow if I like it I will take it and if I don't I will bring it back?" "A Yes sir.

Q What did the defendant say? A He said the same.

Q What did he say? A He said, "I will take it. I will have it tested because I haven't had any experience either."

Q "If I don't like I will return it?" A Yes sir.

Q What did you say? A I said, "Alright, take it."

Q That is all you said to him with reference to this particular part of the transaction, and all he said to you?

A Yes sir, that is all I can remember.

Q Nathan was there all the time? A Yes sir.

Q They both left your store? A Yes sir.

Q At the time that this defendant left your store did he give you his address? A No sir.

Q Had the defendant's brother given you his address?

A I knew his place of business.

Q But he didn't give you his address? A No sir.

Q Now, you remember when this defendant was arrested, don't you? A Yes sir.

Q When was that? A He was arrested Monday the seventh of December. I don't know the exact date but it was on a Monday.

Q Monday December the seventh? A Yes sir.

him
Q Where did you see when he was arrested? A He was
on the pier at Twenty-third Street.

Q Who was with you at the time? A My father was
there.

Q Had you seen this defendant between the 25th of
November 1908 and the seventh of December? A Yes sir.

Q Where? A On the same pier, it was Saturday.

Q That was the Saturday preceeding Monday? A Yes
sir.

Q When he was arrested you saw him at the same pier?
A Yes sir.

Q Up to that time, up to that Saturday, he didn't
return the property, is that so? A No sir.

Q Now, seeing him on the pier that Saturday you knew
at that time he was going away from this country? A Yes
sir.

Q Why didn't you look him up at that time? A Because
we were in the -- we thought we might get both together.
We wanted to have them both arrested, we wanted to arrest
them the same Saturday. We found out from the man at the
door that the ship was postponed until Monday and I agreed
with my father that we should not arrest him on Saturday;
that we should arrest them Monday if we could get both of

95
them and if we couldn't we would arrest him alone.

Q How long did you remain on the pier that Saturday, you and your father? A I can't remember how long we remained there. I think it was about a quarter of an hour.

Q What time did you get there? A We got there about twelve o'clock.

Q How long did you remain there? A I can't remember. About a quarter of an hour I think.

Q Who was there besides you and your father? A Nobody.

Q Had you seen this defendant any other place outside the pier between the 25th of November and that Saturday?
A No sir.

Q You did not? A No sir.

Q Sure about that? A Yes sir.

Q Did you find out where he lived after the 25th of November? A After the 25th, yes sir.

Q Where did he live as you found out? A He lived at 111 Norfolk Street.

Q Did you go to his home? A No sir.

Q How about Nathan. Did you know where he went?
A I didn't know.

Q How about your mother? Do you know where she went?

A I don't know.

Q Let me refresh your recollection. Don't you remember your mother buying a bed and a meat grinder from this defendant on the 26th of November 1908?

Objected to. Objection overruled.

THE WITNESS: No sir, I don't remember.

Q You don't remember? A No sir.

Q Have you spoken to your father about this case since the 25th of November 1908? A Since then, yes sir.

Q Many times? A Yes sir.

Q Your brother Nathan too? A Yes sir.

Q Discussed it? A Yes sir.

Q Your mother too? A No sir.

Q She never spoke about it? A No sir.

Q Never had anything to do with it? A No sir.

Q Never said a word about it? A No sir.

Q Now, then coming to the Monday when you caused the arrest of this defendant at this pier, what time was it you arrived at the pier Monday? A About twelve o'clock.

Q About noon? A Yes sir.

Q Did you see the defendant at that time? A Yes sir.

Q What time was it he was arrested, do you know?

A Well, I think he was arrested about two o'clock.

Q So you were there two hours? A I think so. I don't remember exactly.

Q What is your best impression? A I think about two o'clock when he was arrested.

Q What were you doing for two hours?

Objected to as immaterial.

Q Your father was with you all that time? A Yes sir.

Q Were Officers Kelly, Finn and Fay there at that time? A No sir.

Q Coming down to the time of the arrest. You had this defendant arrested by a detective or a police officer?

A A police officer.

Q What did you say to the police officer? A I had a paper for his arrest and I came to the officer and the officer arrested him.

Q Where was he taken to? A He was taken to some police station on 18th Street, I think it was.

Q You think it was? A Yes sir.

Q You have been born in this city? A Yes sir.

Q Familiar with the streets? A Yes sir.

Q Was it 20th or 18th? A I don't know where the Precinct was. I think it was in 18th Street.

Q Don't you know there is no Precinct in 18th Street?
No sir, I don't know that.

Q Don't you mean 20th Street? A If it is 20th.

Q Of course, it was 20th Street, it is 20th Street?

A Yes sir.

Q Now, after the defendant was brought into the station house at 20th Street what next happened? A I think the sergeant phoned down to the Allen Street Detective Bureau and asked for Officer Kelly.

Q Did they arrive there? A Yes sir.

Q Did Officer Kelly, Finn and Fay come there? A I don't know the names of the other two officers. I know the name of the other one, all I know are Kelly and Fay.

Q Did Officer Kelly go there? A Yes sir.

Q To the station house? A Yes sir.

Q You saw him at the time? A Yes sir.

Q After Kelly arrived what next happened with reference to this defendant? A Officer Kelly took him to headquarters.

Q Did you take him to Allen Street, the branch of Mulberry Street? A Yes sir.

Q Sure about that? A Yes sir.

Q Kelly was from Allen Street? A Yes sir.

Q What cars did you take going down to police headquarters? A (No answer).

Q Did you know why this defendant was placed under arrest? A Yes sir.

Q You were at the station house? A Yes sir.

Q At the time Kelly arrived? A Yes sir.

Q After Kelly took the defendant into custody were you there? A Yes sir.

Q Your father was there? A Yes sir.

Q What happened after that? A We walked to the station house. It was the east -- I think it was.

Q You think it was the east? A Yes sir. I don't know what track he went because I am very seldom around there but I think he went towards Eighth Avenue and from Eighth Avenue he went down towards the subway.

Q It was the subway? A Yes sir.

Q Sure about it? A Yes sir.

Q Didn't you take the elevated? A No sir.

Q Sure about that? A Yes sir.

Q What station did you get off at from the subway?

A I think at Bleecker Street.

Q Not at Rivington Street? A No sir.

Q When this defendant went into police headquarters, you were there? A Yes sir.

Q So was your father there? A Yes sir.

Q Sure your father was there? A Yes sir.

Q Your father testified he wasn't there is he mistaken or were you mistaken? A He is mistaken.

Q Now, you made a charge against this defendant, didn't you? A Yes sir.

Q What did you say at police headquarters about this defendant? A I didn't say anything at police headquarters.

Q What charge did you make against him? A I didn't make any charge against him at police headquarters.

Q What did the officer charge this defendant with in your presence? A Nothing that I know of.

Q Nothing was said? A No sir.

Q That is as far as you can remember? A Positive.

Q Let me refresh your recollection?

MR. SIMONDS: I object to this going any further.

BY MR. SWITKIN:

Q Do you remember making a complaint against this defendant? A Yes sir.

Q You remember? A Yes sir.

Q At police headquarters? A No sir.

Q Where? A At the Allen Street Detective Bureau.

Q What did you say over there? A I told them that

two men came into our store giving the names and that they took two watches and chains to have them tested and they never returned.

Q Is that all you said? A Yes sir.

Q Did you ever tell Officer Kelly or Finn that the man who had taken the watches and chains, the pin and the locket had given you a bogus address? A Yes sir.

Q Sure about that? A Yes sir. I am sure about that.

Q You said two men came in? A Yes sir.

Q You knew their names, didn't you? A Yes sir.

Q Why didn't you give their names? A I gave their names.

Q How soon after you said, "Two men?" A I gave their names right after that.

Q Who was present at the time you made the complaint?
A Officer Kelly and Officer Fay.

Q I mean members of your family. He was there at that time? A Yes sir.

Q Now then, on the way to the 20th Street station house to the subway was there any conversation between this defendant and yourself? A No sir.

Q Sure about that? A Yes sir.

Q Any between your father and this defendant? A No sir.

Q That, you are certain of? A Yes sir.

Q Any conversation between Kelly and this defendant?

A Yes sir.

Q Now, tell us what he said? A Officer Kelly told the defendant. He said, "Well, what are you trying to do to beat this boy out of his goods" and he said -- he didn't answer and then Officer Kelly asked him what he did with this watch, this lady's watch and chain he took from me and he said, his wife had it.

Q Are you certain Officer Kelly said to this defendant, "What were you trying to do, beat this boy out of his property" is that all he said? A Yes sir.

Q "Beat the boy?" A Yes sir.

Q Do you remember... testifying on Friday on your direct examination as follows: that the officer said, "what are you trying to do, beat them out of their money?"

Objected to. Objection overruled.

Q Did you testify on Friday as follows--

THE COURT: You can direct the witness's attention to the question put to him.

BY MR. SNITKIN:

Q Do you remember my asking you or your being asked

by the District Attorney on direct examination, what part of conversation the officer had with this defendant?

MR. SIMOND: I submit his attention must be directed to the specific questions.

THE COURT: I will allow him to ask this question.

THE WITNESS: I don't remember.

Q You don't remember? A No sir.

Q You don't remember what occurred Friday?

THE COURT: The witness has answered.

Q If you don't remember, let me refresh your recollection. Do you remember in answer to the District Attorney's questions as to what the officer said to this defendant going from the station house -- do you remember testifying -- do you remember that question being asked you and you making the answer on Friday? A Yes sir.

Q Now, you know that? A Yes sir.

Q It was true?

Objected to. Objection sustained.

Q Now, the next day after the defendant was arrested did you appear against him in the Court? A No sir.

Q You were sick that day? A Yes sir.

Q The weather was bad, was it? A I don't remember.

Q Do you remember if it was raining that day? A I don't remember.

Q You were alright the day before? A Yes sir.

Q When did you take sick? A The same day.

Q It wasn't because of your nose, was it?

Objected to.

NATHAN GOLDBERG; a witness called on behalf of the people being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SIMONDS:

Q How old are you? A Sixteen years.

Q Where do you live? A 64 Clinton Street.

Q What is your occupation? A Well, I am working.

Q For whom do you work? A Graff Brothers, 812

Broadway.

Q What kind of business are they in? A Hair goods business.

Q How long have you worked there? A About three weeks.

Q Now, are you one of the sons of Louis Goldberg, the complaining witness in this case? A Yes sir.

Q Is Samuel Goldberg who has just left the stand, your brother? A Yes sir.

Q Where is your father's place of business? A 96 Clinton Street.

Q Where was his place of business on the 25th of

November 1908? A I think we had two places of business, one at 96 Clinton Street and one at 64 Clinton Street.

Q Were you in your father's place of business at 96 Clinton Street on the evening of the 25th of November 1908?

A Yes sir.

Q Do you know this defendant at the bar? Is it Nathan Chitman? A Yes sir.

Q Did you see Nathan Chitman in your father's place of business on the 25th of November 1908? A Yes sir, I did.

Q About what time of the day or night? A Well, it was about nine or ten o'clock in the evening.

Q Was the defendant alone when he came in or was there somebody with him? A He had somebody with him.

Q Had you ever seen the defendant before that night? A No sir, never saw him before either.

Q When the defendant and the man who was with him came into the store that night, whereabouts in the store were you? A I was behind the counter.

Q How many walls are there in the store? A Two -- three.

Q How are they plastered? A One is before the doors -- when you come into the store from the street.

Q What is there on the left hand? A There is a wall.

Q What is on the right? A On the right hand are two counters.

Q Do they run along the store to the rear? A Yes sir.

Q Where is the third counter? A The third counter runs -- it intersects them right across.

Q Which counter were you behind? A I was behind the one when you come through the door.

Q About how far from the door were you when the defendant came in? A About four or five feet.

Q Who else, if anybody, was in the store at that time when the defendant came in? A My brother was there, then.

Q Your brother Samuel? A Yes sir.

Q Was anybody else there? A No sir.

Q Now, who spoke first when the defendant and his companion came in? A His companion spoke first.

Q Where was your brother at that moment? A He was right next to me behind the counter.

Q What did the companion of the defendant say when he spoke? A I don't remember the exact the words.

Q The substance? A I suppose he introduced the defendant to my brother as his brother.

Q Did you hear the names that were given? A No sir, I did not. He introduced him "That is my brother" and he

didn't mention any names.

Q Now, who spoke next, if you remember? A Well, his companion spoke next.

Q The defendant's companion? A Yes sir.

Q What did he say? A Well, he asked my brother to show him a gentleman's watch and chain. He wants to buy.

Q Did the defendant say anything at that time? A Yes sir.

Q What did your brother do if anything when the defendant and his companion asked to be shown a gentleman's watch and chain? A He took out a watch to show him. He picked up a watch.

Q Do you mean from the window? A Out of the window.

Q What did he do with it? A He showed it to him.

Q Over the counter? A Yes sir.

Q Is there a show case on the counter? A Yes sir.

Q Will you tell us what conversation took place?

A My brother picked up a watch and showed it to his companion and I think he felt satisfied with it.

Q Tell what they said? A Then my brother picked up a chain and showed it to him. Then, this defendant's companion asked him --

QC Asked who? A Asked him to show a gentleman's locket and my brother showed him a gentleman's locket with

a diamond, a small diamond and then he said, the price of the watch was thirty dollars, the watch was forty dollars.

Q You are speaking of the gentleman's watch now?

A Yes sir.

Q Shown to the companion of the defendant? A Yes sir. The watch was forty dollars cash and the chain thirty dollars and the locket fourteen dollars.

Q What was the next thing done or said? A Then, the defendant's companion says to my brother show us a lady's watch and chain.

Q Referring to the defendant? A Yes sir, referring to the defendant.

Q For what? A I think he said his wife. He took from the window a lady's watch.

Q Your brother did? A Yes sir and showed it to the defendant and then my brother took another chain.

Q What kind of a chain? A A lady's chain.

Q When your brother showed a lady's watch to the defendant did the defendant say anything? A He looked it over and asked him what the price was and kind of a case, and kind of a movement and all that.

Q When your brother had shown the defendant the lady's chain what if anything did the defendant say? A He asked the weight of it and what the price is. How much per

pennyweight that is what he asked and he asked him for a pin.

Q He asked for a pin? A The defendant asked my brother for a pin.

Q What did your brother say when the defendant asked that? A He took out of the show case a lady's pin, a gold pin and showed it to him.

Q To the defendant? A Yes sir and he felt satisfied--
(Stricken out).

Q What did the defendant say? A Then they all agreed upon the price of the watch, \$26 for the chain twenty-five dollars for the watch and five dollars for the pin. I don't remember whether it was twenty-six dollars for the watch or twenty-five dollars for the watch because it was near. I don't remember.

Q What did the defendant say if anything? A During the conversation my father came in and the whole transaction was set forth to him: That they were to take the stuff, jewelry from the premises and they were to have it tested.

Q Tell what was said? A (No answer).

BY THE COURT:

Q Tell us the conversation. We want to know what was said? A They told my father.

Q Who told your father? A The defendant's companion.

Q What did he say? A He told him the whole transaction.

Q Tell us what he said? A He told him that they were taking this stuff to have it tried, appraised, and bring it back the next day or the money. Then, my brother wrapped up the jewelry for them and they went out with that agreement.

(The last part of the answer is stricken out).

Q They went out? A Yes sir.

Q Did you hear the defendant say anything else? A I don't think so.

Q Or his companion? A No sir.

BY THE COURT:

Q After the defendant had looked at the lady's watch and the lady's pin and the lady's chain and there had been some talk between the defendant and your brother about the price of the watch, what was said next? A I don't understand it.

Q In what manner was it. The first conversation was between your brother and the defendant? A Yes sir.

Q That conversation related in part to the price of three articles? A Yes sir.

Q One at forty dollars, one at thirty dollars, and

one at nineteen dollars. Isn't that so? A Yes sir.

Q Now, after the price had been talked about? A Yes sir, the price had been given.

Q What did the companion of the defendant say if anything to your brother? Keep your voice up? A I think the defendant's companion told my brother he wanted a watch and chain. My brother took it out from the window and then he asked the price of it.

Q What price? A What kind of a watch it was. What kind of a movement and how much per pennyweight the chain was.

BY MR. SEEDS:

Q After that was talked about, what did the companion of the defendant say if anything? A Then he said that they couldn't rely upon their own judgment as to its worth, as to the jewelries worth and they wished to have it appraised. It was alright then.

Q What did your brother say when the companion of the defendant said that? A My brother said, very well he would let them have it.

Q The lady's watch you say was taken out and shown to the defendant? A Yes sir.

Q By your brother? A Yes sir.

Q The lady's watch was taken out and shown to the defendant by your brother? A Yes sir.

Q A lady's pin was taken out? A Yes sir.

Q By your brother and shown to the defendant? A Yes sir.

Q Something was said about the price of each? A Yes sir.

Q Then, what if anything did the defendant say? A
do
Well, he didn't say anything. He didn't, much talking.
It was his brother that did the talking. His companion that
did most of the talking.

Q What was said if anything about the lady's watch being sent to the defendant? A There was nothing said about it being sent to him. He was to take it out.

Q When was he to take it? A Yes sir.

Q What did he say about taking it if anything? A He didn't say anything at all.

Q What else did he say if anything? A I don't think he said anything at all, but then, his companion said during the conversation mentioned his name as Nathan and I think it was he, that said "Come Nathan, I think it is pretty late and it is about time to go home."

Q Was anything said about the watch being tested?

A Yes sir.

Q Who said that? A The defendant's companion.

Q To whom did he say that? A He said -- he didn't mention the lady's watch but he mentioned the whole thing anyway. He said, that they were to take it and have it appraised and either bring back the stuff the next day or the money,

Q Was there anything else said? A I don't think there was anything further said.

BY THE COURT:

Q What did your father say after he came in, to the defendant's companion? A Well, my father greeted the defendant's companion.

Objected to.

THE WITNESS: He said, he didn't say much and told him what had --

Q Who told him? A The defendant's companion told my father --

Q What did the defendant's companion say to your father when your father came in? A He told him he was taking these goods to have them appraised. The price was agreed by my brother and that if they were not satisfied with the price they would bring the goods back the next day.

Q Did he say what he was taking? A Yes sir.

Q What did he say? A My father -- it was taken out of the show case and he saw that there was -- he showed him what he was taking, a gentleman's watch and chain with a diamond locket and he said, "That is what my brother is taking, a lady's watch and chain with a pin," and my father said, "You did the business with my son not with me."

Q Now, did you again see the defendant before seeing him here in this Court? A Yes sir.

Q When was the next time you saw the defendant after the night of the 25th of November in the store? A The next time in the Essex Market Police Court.

Q Were you a witness there? A Yes sir.

Q Did you testify there? A Yes sir.

Q Did you hear the defendant testify there? A No sir, I didn't hear what he said.

Q You didn't hear anything that he said? A No sir.

Q When you testified on the day of his arrest? A No sir.

Q Did they on that night in the store, on the 25th -- did you hear the defendant give any address? A No sir, I don't think I did.

Q Did you hear the defendant's companion or brother give any address? A No sir.

Q Do you know where the defendant was living at that time? A No sir.

Q Do you know where his brother was living at that time? A No sir.

Q Did you know where his brother was doing business at that time? A No sir.

Q Did you ever go to 111 Norfolk Street? A No sir, I don't think I did.

Q Do you know where Norfolk Street is? A Yes sir.

Q Did you hear the defendant ever lived at 111 Norfolk Street? A No sir.

Q Or whether his brother ever lived there? A No sir.

Q Did the defendant that night in the store state what his business was; what his occupation was? A He didn't state it but I think there were talking about furs there.

Q What did they say about furs? A They didn't say much but I heard something about it.

Q Give us as much as you can remember? A Well, I think it was my aunt that she wanted some furs. I think my brother told them my aunt was going to have some furs.

Q Was your aunt in the store? A My aunt lives in Trenton.

Q To which ^{one} did your brother speak when he spoke about

fare to this defendant or to his companion? A To his companion.

Q Did the defendant say anything about fare? A No sir.

Q Can you remember any other conversation about fares?
A That is all I can remember. It wasn't much said about it.

Q Did either the defendant or his companion say anything about what kind of a test they were going to make of this jewelry? A I don't think he did. He was going to have it tested in some jewelry store to see what it is worth.

Q Did they or either of them say what jewelry store?
A No sir.

Q Did either of them mention being in the jewelry business? A No sir.

BY THE COURT:

Q Was there any other customer in the store at any time while the defendant and his companion were in the store? A No sir.

Q So that during the time the defendant and his companion were in the store, you and your brother, the defendant and his companion were the only persons in the store

until your father came in? A Yes sir.

Q Is this the defendant whom you now see here, the same man who was in you father's place of business on the night of the 25th of November? A Yes sir.

Q With his companion? A Yes sir.

Q He is the same man that went out with a lady's watch and chain and a lady's pin? A Yes sir, without doubt.

CROSS EXAMINATION BY MR. SNITKIN:

Q Now, Nathan there is no doubt in your mind that when your father came in he was told by the defendant and his companion that they were to return the property the next day. That is true, isn't it? A Yes sir.

Q Your father heard that? A Yes sir.

Q No doubt of it? A Yes sir.

Q Now, you were a witness in the magistrate's Court against this defendant, weren't you? A Yes sir.

Q You were examined? A Yes sir.

Q You gave testimony? A Yes sir.

Q You have testified here on your direct examination that the man who came in with this defendant and whom you called his companion, you had never seen before that night? A No sir.

Q Sure about that? A Yes sir.

Q Do you remember this question being asked you and did you make this answer?

(Reading from page two stenographer's minutes dated December 15, 1908 in the Third Magistrates Court).

"Q Did you see Nathan Chitman in your store? A I did."
Do you remember that? A Yes sir.

Q Now do you remember this question being asked you and did you make this answer: "Q With whom did he come in?

A He came in with his brother." Do you remember that?

A Yes sir.

"Q Did you know his brother? A I didn't know him."
Do you remember that? A Yes sir.

Q Now then do you remember this question being asked you and did you make this answer: "Q Never saw him before?

A That was the first time. I don't know him." Do you remember that? A No sir, I don't -- If I said that.

Q If you so testified was that the truth? A I don't know.

BY THE COURT:

Q This is your best recollection now. Had you ever seen the companion of this defendant before the night of the 25th when you say you saw him at your father's store? A I

never saw him before that.

BY MR. SWITKIN:

Q That is the testimony you gave in the Magistrate's Court about it. Now, then, come down to the time that this defendant came in with the man you call this companion. What was the first thing that you heard? What was the first conversation that you heard addressed by your brother to the companion and this defendant? A Well, first he greeted him.

Q Just tell us what he said? A He said "Good evening" and then he introduced his brother to my brother.

Q What did he say? A He said, "This is my brother" and he told his brother that this is Mr. Goldberg.

Q Now, when he said, "This is Mr. Goldberg." Didn't he say, "Mr. Goldberg, this is Mr. Chitman?" A No sir.

Objected to.

Q Now, what next did this companion of this defendant say after he greeted him as you say, or said "Good evening" to him? A Why then, he introduced him. Then, he said, the defendant's companion said, that he wanted a gentleman's watch and chain.

Q Sure he said, "A gentleman's watch and chain?"

A Yes sir. He said, a watch and chain for himself.

Q He didn't designate the kind whether it was a lady's

watch and chain?

Objected to.

Q Did you ever see this defendant after the 25th of the November 1908? A Yes sir.

Q Where? A In the Essex Market Police Court.

Q Between the 25th of November and the time you saw him at the Essex Market Court, did you see him at any other place? A No sir.

Q You have a mother living? A Yes sir.

Q You live with her? A Yes sir.

Q Do you know whether she might have purchased a bed from this defendant on the 26th of November? A Yes sir.

Q Did you hear that she purchased a meat grinder from this defendant? A No sir.

Q What did she buy? A I know she bought a bed.

Q Who went upstairs to pay for it? A She went up.

Q How about you? A I went up too.

Q So you did see this defendant at his home before you saw him in the Court? A I didn't.

Q You went to his home? A Yes sir.

Q But you didn't see him? A No sir.

Q Who did you see? A I saw a lot of people but I didn't see him.

Q What were you doing there? A I want to carry the bed down.

Q Who paid for it? A Mother.

Q Did you see it paid? A Yes sir.

Q To whom was it paid? A To a lady.

Q It wasn't this defendant? A No sir.

Q Sure about that? A Yes sir.

Q Now, you spoke to Officer Kelly out here a while ago before you came in? A Yes sir.

A N D R E W M O G I L L E Y; a witness called on behalf of the people being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SIMONDS:

Q Where do you live? A 338 West 47th Street.

Q You are an officer of the municipal police force of the City of New York? A Yes sir.

Q Attached to what Precinct? A Traffic C. mounted.

Q Do you know the defendant at the bar? A Only from the day I placed him under arrest.

Q Now, when did you place him under arrest? A It was around one o'clock.

Q On what day? A Well, I can't just remember.

Q Have you a memorandum book with you? A No sir,

it is ~~in~~ an old book.

Q Where did the arrest occur? A At the Anchor Line dock 24th Street and North River.

Q Was that on your post? A Yes sir.

Q Where did you first see the defendant before placing him under arrest? A On the dock.

Q That is about fifty feet long. Was there any steamer at that dock at that time? A Yes sir.

Q What was the name of the steamer? A I believe the name of the steamer was the California.

Q Of the Anchor Line? A Yes sir.

Q Was there anybody with the defendant when you first saw him before placing him under arrest? A There was probably twenty-five people around him, men, women and children.

Q What was the defendant doing? A Standing there amongst these people.

Q Was he talking? A Yes sir.

Q Did you know who any of the people were who were with him? A No sir, I did not.

Q What did you do then to the defendant when you placed him under arrest? A I took him over to the Eighteenth Precinct.

Q What did you first say to him upon arresting him?
A I told him he was under arrest. I have an order for his arrest.

Q Did he make any reply? A No sir, no reply at all.
him

Q Did you inform^A of the nature of the complaint against him? A I didn't understand the nature of the complaint. I just placed him under arrest by order.

Q He said nothing at all? A No sir.

Q Do you know whether or not his wife was with him at the time? A That I can't say.

Q Did you hear the defendant say anything to any of his people around him immediately after you placed him under arrest? A Yes sir.

Q What if anything did he say? A I can't understand him. He was talking in a foreign language.

Q Talking some foreign language? A Yes sir.

Q Did you hear him say anything in English at all?
A No sir.

Q Did you see him give anything to anybody? A Yes sir. He gave some papers to some man or some money.

Q Anything else that you remember? A That is all I saw him give.

Q Now, were there any members of the Goldberg family present when the defendant was arrested by you? A There was the son and the father.

Q Which son? A Well, the gentleman on the stand a little while ago.

Q Do you mean the first one on the witness stand or the one who just left? A The first one.

Q Did you hear either of them, that is either Goldberg say anything to the defendant at the time you placed him under arrest? A No sir.

Q On the dock? A No sir.

Q Did the defendant have any picture with him at the time you placed him under arrest? A Nothing on his person.

Q Did he have anything in his hands? A No sir, nothing at all.

Q Do you know whether he had a berth on that steamer? A That I can't say.

Q What did you do with the defendant, Officer, when you arrested him? A I took him to the Eighteenth Precinct, the West 20th Street.

Q Did anybody go with you up there? A The father and son went.

Q Where is that the station that you took him too? West 20th Street between Seventh and Eighth Avenues. There are two station houses in West 20th Street, one between Sixth and Seventh Avenue, and one between Seventh and Eighth.

Q Which one did you take him too? A Between Seventh and Eighth, the Eighteenth Precinct.

Q Did the father Goldberg accompany you to the Eighteenth Precinct station house? A Yes sir.

Q Did you arraign the defendant at the station house? A Yes sir.

Q What charge if any was made against him at that time? A I made no charge against him. I just placed him under arrest on the request of Sergeant Kelly of the first branch Detective Bureau.

Q Did you hear Goldberg's son say anything in the station house in the presence of the defendant? A He told the Lieutenant I believe something about the larceny charge, about the watch and the jewelry. He told the Lieutenant at the desk about some transaction they had. That is, after he had taken his pedigree.

Q Did you search him at the station house? A Yes sir.

Q Find anything on him? A Yes sir.

Q What? A There was sixty and some odd dollars, but I can't just remember but I have got that in my memorandum book.

Q What sort of money? A United States money and

three hundred and forty-two rubels I think Russian money, and some coins.

Q Were the rubels in money? A Yes sir, in money.

Q Russian paper money? A Yes sir.

Q What else? A That is all I know.

Q Did you hear the defendant say anything on the way to the station house either to the two Goldbergs or your self? A They had some conversation between them that I couldn't understand.

Q Not in English? A No sir.

Q At the station house did the defendant make any statement of any kind that you heard? A No sir, no statement at all.

BY THE COURT:

Q Who went to the station house? Who did the party consist of? A This Mr. Goldberg and his son and I with the defendant.

Q In what manner did you proceed to the station house? A Well, I had the defendant along with me. He was walking -- the defendant was walking on the curb and him alongside of me and then Mr. Goldberg and his son would be in the street and then I would be on the sidewalk.

Q Were they sometimes in front and sometimes behind? A They were in front and behind.

Q They were all over? A I guess they were afraid he would get away.

Q Did you at any time afterwards have any conversation with the defendant about this case? A No conversation, I never saw the defendant until now.

CROSS EXAMINATION BY MR. SNITKIN:

Q Both of these station houses are on 20th Street?

A Yes sir, on 20th Street, two separate Precincts.

Q You tell us more precisely what you remember about the things the son of the complaining witness said in the station house to the sergeant. Tell us what you heard him say as near as you can remember? A All I heard him say was he passed some remark to the Lieutenant. The Lieutenant asked him something and he passed some remark about jewelry.

Q What did the Lieutenant ask him? A I didn't hear the Lieutenant ask him. I just judged he asked him.

Q You don't remember that? A No sir.

Q He said something about jewelry. Can't you tell us more definitely? A I can't say definitely. I remember at the time writing it in my book.

Q Did you go with the defendant from the station house down to headquarters? A No sir.

Q You weren't one of the party? A No sir. I attended the prisoner in the station house until Sergeant Kelly came over and I turned him over to Sergeant Kelly and Kelly signed for him.

Q Were you there when Kelly took the defendant out of the station house? A Yes sir.

Q Who left the station house at that time in the party? Sergeant Kelly and the defendant and who else? A I couldn't say for sure.

Q Any other officer? A I think there was some other officer. I want say it is an officer, but there was somebody else in the party.

Q Goldberg Sr. and Goldberg Jr? A Yes sir.

Q Now, Officer, did you hear Goldberg Sr. or Jr. say that this defendant had gone away with two thousand dollars belonging to his creditors? A No sir.

Q Did you hear Goldberg Sr. or Jr. say that this defendant had stolen a machine from the Singer Sewing Machine Company? A No sir.

Q Sure/about that? A Yes sir.

Q Now, when Officer Kelly arrived there, did you hear any conversation between Kelly, the Goldbergs and this defendant? A No sir.

Q Was there any conversation had? A That I can't say.

Q Where were you? A I was in the back room of the station house at that time. After Officer Kelly had come I turned the prisoner over to him.

Q Where did you have the prisoner? A Down in the cellar.

Q When Kelly came, did you take the prisoner upstairs?
A The doorman brought the prisoner up.

Q Did you deliver the defendant over to Kelly? A I came to the front and I turned him over to Sergeant Kelly and had him sign for him. The book that I took his pedigree in is in the Precinct. He signed it also so that there was no talk at that time.

BY MR. SIMONDS:

Q Do you remember whether the Anchor Line steamer, California, sailed on that day when you arrested the defendant? A That I can't say.

N A T H A N H E I N S; a witness called on behalf of the people being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SIMONDS:

Q What is your business? A Process server.

Q Where are you employed? A 160 Clinton Street.

Q By whom? A Henry Myers.

Q Do you know the complaining witness in this case,
Mr. Goldberg? A Yes sir.

Q How long do you know him? A Since December.

Q December of what year? A 1908.
know

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

Q Did you in the latter part of 1908 go with Louis
Goldberg to 111 Norfolk Street? A Yes sir.

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

Q What part of the premises was it? A In the kitchen?

Q Do you know the defendant's brother Charles? A No
sir.

Q Were there any other persons in the kitchen with this
defendant at the time of the arrest, when you arrived?
A Yes sir.

Q Who? A I don't know who they are.

Q Did you see the defendant there on that occasion?
A Yes sir.

Q Did you hear they were living there? A That I
can't tell you,

Q What was the condition of the premises when you
entered?

Objected to. Objection overruled. Exception.

Q Do you know what condition the premises were in when you entered? A Well, there was two or three women in there, and this man Chitman.

Q With relation to the furniture and things? A Well, all I noticed was a chair and a stove.

Q Did you see anything else there? A No sir.

Q Were the floors bare? A No sir, there was oil-cloth.

Q Were you in any other room besides the kitchen?

A No sir.

Q Did Louis Goldberg on that occasion speak to Nathan Chitman? A Yes sir.

Q What did he say? A He says, "Mr. Chitman, I want my money for the jewelry."

Q Did the defendant make any reply to that? A He says, "Well, that will be alright."

Q Who? A The defendant Chitman, he said, "That will be alright, you will get your money or your jewelry, you don't need to be afraid of that."

Q Did Louis Goldberg say anything to the defendant, Nathan? A No sir.

Q Did the defendant say anything more to Louis Goldberg? A No sir, that is all I know.

Q Did you see the defendant's wife do anything?

A Yes sir.

Q What? A She was standing there.

Q What did she do? A Pulled something out of her bosom.

Q What did she pull out? A The chamois bag.

Q What did she say if anything when she pulled it out? A She said, "That is alright, I got the jewelry."

Q What did she do with the bag? A She put it back.

Q Did the defendant say anything about going away from the city?

Objected to.

Q Did you hear the defendant say anything else? A No sir.

Q Did you hear the wife say anything else? A No sir.

Q What did you or Mr. Goldberg do if anything? A We went out.

Q Have you related all that occurred? A Yes sir.

CROSS EXAMINATION BY MR. SNITKIN:

Q When was it that you visited the home of the defendant? A The early part of December, I think it was.

Q What part of December? A I can't tell you the day.

Q You are a process server? A Yes sir.

Q When you serve a process you make an affidavit of services? A No sir.

Q Don't you make a memorandum as to when you serve a summons? A I didn't serve a summons there.

Q Do you remember the day of the week? A About Monday the 8th or 10th; I am not positive.

Q May be the 8th or 10th? A Yes sir.

(The Court admonishes the jury calling their attention to Section 415 of the Code of Criminal Procedure and takes a recess until two o'clock).

A F T E R R E C E S S

NATHAN HEINS resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. SNITKIN:

Q Now, Heins it was about December 8th or 10th?

A Yes sir.

Q That you went to this defendant's home? A Yes sir.

Q What did you say your business was? A Process server.

Q What do you mean by process server? A Serving summonses and disposses.

Q By whom are you employed? A Henry Myers.

Q He is a marshal? A No sir.

Q He is a process server as well as yourself? A Yes sir.

Q And I believe he is employed by Pfam, the marshal?

A Yes sir.

Q Now, prior to the day that you and Goldberg went to this defendant's home, did you know Goldberg? A No sir.

Q Where did you meet him first? A In the office.

Q On Clinton Street? A Yes sir.

Q Can you tell ^{us} when that was? A Well, that was the same day.

Q About the 8th or 10th of December? A Around that date.

Q In the day or night time? A In the day time.

Q You are not a special Deputy Sheriff? A No sir.

Q What were you going there for with Goldberg? A I went as protection.

Q You went along to look out for his person that he wouldn't be attacked? A Yes sir.

Q Of course you were paid for it? A I don't know about that.

Q What is that? A I don't know about that.

Q You don't -- were you paid for it?

MR. SIMONDS: I object to the question.

BY MR. SNITKIN:

Q Were you paid for it or not? A No sir.

Q You went along with a man whom you had never known before, that is true? A Yes sir.

Q To protect a man that you didn't know, you went without pay? A Yes sir.

Q To the present day you have not been paid? A No sir.

Q You want this jury to believe that, don't you? A Yes sir.

Q How long have you been a process server? A Ten years.

Q Can you cite another instance where you have gone with a man under similar circumstances without pay? A No sir.

Objected to. Objection sustained.

MR. SIMONDS: I move that the answer be stricken out.

THE COURT: No, I will let it stand.

BY MR. SNITKIN:

Q Where did you go with Goldberg? What street?

A Norfolk Street.

Q That runs north and south? A Yes sir.

Q What number? A 111

Q Which floor? A I believe it was on the second floor.

Q Did you display any badge when you entered this apartment? A No sir.

Q Was it the day time or night time you went to Chitman Brothers? A The day time.

Q About what time do you think? A Around noon time I think it was. I am not positive.

Q It may have been before noon? A I can't tell you.

Q Couldn't swear. Why do you say afternoon? A Well, just about around noon between one o'clock, I don't remember the time.

Q That is the best answer you can give? A Yes sir, that is the best answer I can give you,

Q Of course, you can't tell us the day of the week? A No sir.

Q Did you make any entry of that fact that you had been to Chitman, once with Goldberg in any book? A No sir.

Q When you went up you went to the second floor, what did you do the first thing? A Mr. Goldberg knocked at the door and I went in with him.

Q In this apartment you went into, you found this defendant? A Yes sir.

Q With his wife? A Yes sir.

Q Who else? A A couple of more men I don't know

who they were.

Q What was the first thing you heard Goldberg say to Chitman and what did he say? A "Where is my money or the jewelry." So Mr. Chitman spoke to him, I think it was in Jewish. I understand Jewish.

Q You think it was? A It was in Jewish. I understand Jewish.

Q Tell us what he said? A He said to Mr. Goldberg, "You needn't be afraid of that you will get your money or the jewelry. I won't run away."

Q There is no doubt in your mind that Goldberg said, "Where is my money or the jewelry." No doubt that he said that? A He said that.

Q There is no doubt in your mind? A No sir.

Q Did he say what kind of jewelry? A No sir. He didn't say what kind of jewelry.

Q Then, the reply that Chitman made was, "Don't be afraid you will get the money or the jewelry?" A Yes sir.

Q Now, is that all that this defendant said? A Yes sir, that is all.

Q Did he say when he would give him the jewelry or the money? A No sir, he didn't say.

Q Now, after the defendant said that what happened? Well, we walked out.

Q So you have now said everything that occurred in the defendant's apartments in your presence? A That is right.

Q You have omitted nothing at all? A No sir, nothing at all.

Q Then, on your direct examination you said that Mrs. Chitman had taken out a bag? A Yes sir, but you didn't ask me that question.

Q You want me to ask you that first? A Yes sir.

Q I asked you to state everything that happened there. Now, when was it that Mrs. Goldberg took out the chamois bag -- I mean Mrs. Chitman? A A few minutes later.

Q How long in all did you remain in this defendant's apartments? A About five minutes.

Q Was she asked by this defendant to take out the bag? A No sir.

Q It was purely a voluntary act on her part? A Yes sir.

Q Was the property in the bag displayed? A It wasn't displayed.

Q It was on that occasion? A It wasn't displayed.

Q So that of your own knowledge you didn't know what that chamois bag contained? A Yes sir.

Q When after the eighth or tenth of December did you next see Mr. Goldberg? A I did.

Q Did you hear my question? A I did.

Q Well, then answer it? A I don't remember what I
have.

BY THE COURT:

Q How long after the first occasion was it that you
saw him a second time? A It may be three or four days
later.

Q Where was that? A In Clinton Street.

Q At his place of business? A Yes sir, at his place
of business.

Q You mean the complaining witness? A Yes sir.

Q Morning or afternoon? A That was in the morning.

BY MR. SNITKIN:

Q What was the occasion of your seeing Mr. Goldberg
three days after that.

MR. SIMMONDS: I object to that as immaterial.

THE COURT: Objection overruled.

THE WITNESS: I passed by there and Mr. Goldberg
called me in.

Q Passed by Goldberg's store? A Yes sir.

Q Purely accidentally? A Yes sir.

Q He called you in? A Yes sir.

Q When after that did you see Goldberg? A I don't
think I did.

Q You never saw him? A I think I seen him, but that had nothing to do with this case.

Q You never spoke to him about this case? A No sir.

Q Before you came in there this afternoon you spoke to Goldberg out in the corridor? A Yes sir.

Q And to Goldberg's sons? A Yes sir.

Q And to Officer Kelly? A That I don't know, I don't remember speaking to him. I don't think I did.

Q You don't remember whether you spoke to a man in the corridor? A I don't think I spoke to Officer Kelly.

Q Is that the best answer you can make? A Yes sir, that is the best answer I can make.

THE COURT: Have Officer Kelly brought in here.

BY MR. SNITKIN:

Q You see the gentleman standing down there at the gate. Did you speak to him this morning? A No sir, I did not.

Q Were you a witness in the Magistrates Court? A No sir.

J A M E S J. K E L L Y; a witness called on behalf of the people being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. SIMONDS:

Q Where do you live? A 76 Madison Street.

Q Are you an officer of the municipal police force of the City of New York? A Yes sir.

Q Attached to what Precinct or Bureau? A First Detective Bureau.

Q About how long have you been on the police force an officer? A Going on fourteen years.

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

Q When did you first meet him? A Well, about 135 or 145 at the West 20th Street station on December 7, 1908.

Q Did you have any conversation with him there? A Not in the station house.

Q What was done with him in the station house? A He was turned over to my custody.

Q Who turned him over into your custody? A Captain Kane of that Precinct.

Q On the defendant's being turned over into your custody by Captain Kane what if anything did you do with him? A I left the station house and started to headquarters 300 Mulberry Street, with the defendant.

Q Now, on the way to Police Headquarters, 300 Mulberry Street, did you have any conversation with the defendant? A I did.

143

Q What was the conversation you had with the defendant on that occasion? A Well, the young man who originally came and made the complaint at the First Branch Detective Bureau --

Q What is his name? A Louis.

Q The old man is Louis and Sam is the young man?

A Sam was with me and I turned to the defendant and I asked him why he intended to beat the boy with me out of the jewelry and I told him -- I asked what the jewelry was and he told me it consisted of a watch and chain and a pin. I asked him what he had done with it. He didn't answer the question. He said he had given it to his Frau. I asked him where his Frau was and he said on the boat.

Q Did you ask him on what boat? A No sir, I didn't. I also asked him where his brother Charles was. He said he wouldn't talk any more without a bailer.

Q Wouldn't talk any more without a bailer? A No sir.

Q Was that the conversation that took place on the way from the station house to Police Headquarters? A Yes sir, right after we left the station house.

Q How did you go from the police station house to Police Headquarters? A We went on the West side to Fourth

th
Avenue to Eighteen Street. We turned through Eighteenth Street West and went down on the subway to Bleecker Street and went over as far as Mulberry, taking the East side of Street Mulberry to Police Headquarters

Q Who composed the party that went from the station house in Twentieth Street to Police Headquarters in Mulberry Street? A As far as the subway pretty near all, when we got to the subway, myself, the defendant and Sam, that is the young man were there.

Q Who else? A The defendant.

Q Any other officer? A When I was entering the station house my partner, a man by the name of Finn came up. the I was on a way that time.

Q Now, Finn, yourself, this defendant and Mr. Goldberg Senior or his son Sam composed the party that went from the station house to Police Headquarters at 300 Mulberry Street? A Yes sir.

Q All the distance? A Yes sir, all the distance.

Q At 300 Mulberry Street, what was done to the defendant? A I arraigned him in front of the desk.

Q What charge did you make against him if any? A I took out the memorandum book and I told the Lieutenant this charge that Sam had made to me on Sunday, December 29th at the First Branch Detective Bureau.

Q Have you that memorandum book with you now? A Yes sir.

Q What was the charge that you made at Police Headquarters against the defendant on arraigning him there?

A Well, I charged him and his brother Charles.

BY THE COURT:

Q Keep your voice up. A (Continuing) Getting two watches, two chains, a locket and a pin, the total value being \$94.00 and \$56.00. I made it \$150.00.

Q For both you mean? A Yes sir. They afterwards said I must have misunderstood him. It was \$147.00. The complaint is made out as \$150.00.

Q Did you search the defendant at Police Headquarters? A No sir. He had been searched at the station house.

Q Did you have any talk with the defendant at Police Headquarters? A Outside I asked him relative to how much a rubel was worth. He had three hundred forty-two rubels on his person. He was brought to the station house by Officer McKenna.

Q Did he tell you how much a rubel was worth? A No sir -- fifty cents.

Q Did you have any further conversation with him? A None whatever.

Q When did you first hear about this case? A On Sunday the 29th, I was on duty at the Branch Detective Bureau.

Q When did you learn about the case? A I paid more attention to the young man, that was Sam, because he talked English and could do it better than his father.

Q Now, on learning about the case did you start to make an investigation? A Well, on learning of the case I took the full particulars and he said --

Q Never mind what he said. The defendant was^{n't} there?
A No sir, he wasn't there.

Q After you had your conversation with him? What did you do? A I directed the young man, Sam, to go to 111 Norfolk Street, where he said Charles lived and Nathan lived 111 Norfolk Street --

Q Never mind.

MR. SNITKIN: I move that what was said in the absence of the defendant be ^Cstricken out.

THE COURT: Strike it out.

BY MR. SIMONDS:

Q You did talk with Sam Goldberg? A I did.

Q Well, after having a talk with him what did you do?

A I gave him two notices, one to go the following day to the Hamburg American Line in Hoboken, to a sergeant over

by the name of Manville.

Q He was positive that he was going to sell the watch to that party?

Objected to. Stricken out.

Q Don't say anything that was said when the defendant wasn't there. You gave the two notices to Sam. What did he do then? A He went down to the Hamburg American Line to intercept or arrest either Charles or Nathan Chitman, and notify the First Branch Detective Bureau. They were both wanted for grand larceny.

Q To whom was the second notice directed? A To any officer in the State of New York.

Q After doing that what did you do? A I didn't hear anything after for two or three days.

Q Did you go to 111 Norfolk Street at any time? A No sir, did I?

Q Didn't you go down to the steam ship pier of the Anchor Line? A No sir.

Q What did you do? A I told the man --

Q Never mind what you told him? A I saw the complaining witness at his place of business.

Q Did you have a talk with him? A Yes sir. I told him we had the watch.

Q Never mind what you told him. Was this defendant there? A No sir.

Q You can't tell what was told you. After talking with the complainant what did you do? A I waited until the arrest was made.

entire
Q Was that your connection with the case? A Yes sir.

CROSS EXAMINATION BY MR. SNITKIN:

Q Now, Officer Kelly, of course, you have no interest in this case except as a public servant? A No sir.

Q Now you stated that you were at the desk doing desk duty on the 29th of November when the complaint was made?
A Yes sir.

1

Q About a larceny? A Yes, sir.

Q Now, when you saw the defendant at the Station House who was present? A Well, the captain of the precinct was present and the lieutenant behind the desk.

Q Will you keep your voice up please? A The lieutenant behind the desk and then the officer that effected the arrest, Sam Goldberg and myself; I think the father was there.

Q Now which is it do you think or are you certain he was there? A I am positive two came out, in fact three came out of the rear room; he was just simply being detained until I came after him.

Q As you proceeded to the subway was the senior Goldberg with you? A Yes, sir, Sam.

Q Louis? A Yes, sir, he was in the back of us.

Q Walked along up to the subway entrance? A yes, sir.

Q Went downstairs with you? A Yes, sir.

Q All the way to Headquarters? A Yes, sir; to the office of Headquarters.

Q When you say the office of Headquarters you mean that is where the sergeant is seated? A No, sir; it is the front office at Headquarters.

Q The front office? A yes, sir.

Q The outer office? A yes, sir.

Q Was he present at the time you arraigned the defendant before the lieutenant? A No, sir.

Q Was Samuel there? A No, sir.

Q Do you mean to say that neither the complainant nor his son was present at the time that you arraigned this defendant before the lieutenant in charge? A I told them to sit in the office and I would tell them what court to go to the following morning; I would tell them later what court to appear in the following morning.

Q You did not take the elevated road to go downtown?

A No, sir.

Q You did not alight at Rivington street? A No, sir.

Q Will you just tell the Court and jury what complaint you made against this defendant when the defendant was arraigned before the lieutenant in charge at Police Headquarters?

A Well, on November 25th--

THE COURT: How is that material?

MR. SNITKIN: The charge made in the presence of this defendant.

MR. SYMONDS: I object to it.

THE COURT: I will allow it.

THE WITNESS: That he and his brother-in-law entered the jewelry store at 96 Clinton street and obtained jewelry, two watches and two chains, a charm and a pin amounting to \$150.

3
Q What else did they say? A At that particular time-- they acted in concert.

Q They acted in concert -- what else did they say?
A Nothing that I know of, that I can remember now.

Q Now, all the information that you gave to the lieutenant in charge of the desk at Headquarters was based upon information that you had received from the junior Goldberg? A Yes, sir.

Q On the 29th of November, 1908, did Samuel Goldberg tell you that either this defendant or his brother had given him a bogus business address, yes or no? A Yes, sir; he spoke of that.

Q Didn't they state at Police Headquarters that the means by which they obtained the property was that they presented a bogus business address, didn't you say that?

A In Fourth street that is correct.

Q That is true? A yes, sir.

Q All the information you gave to the lieutenant you received from the junior Goldberg? A yes, sir.

BY THE COURT:

Q When did Goldberg tell you that? A He told me that after he had given ~~both~~ the property he was looking for his property or the money that he went to No. 41 -- 31 East 4th street and he saw a post office notice on their ^{disposal} door and while there he had met quite a few people that had

4
152
been victimized like himself.

THE COURT: Strike that out.

BY MR. SNITKIN:

Q You haven't any interest in this case? A No, sir.

Q Now this forenoon after young Goldberg left the witness stand you met him out in the corridor, didn't you?

A Which young Goldberg?

Q Samuel Goldberg? A I saw him in the corridor.

Q You had a talk with him, didn't you? A No, sir, not in the corridor.

Q In any part of this building? A I didn't after he left here; I did previous to him coming here.

Q Didn't young Goldberg, Samuel, tell you that I asked the road he took on the way from the 20th street station house to Police Headquarters? A No, sir.

Q And that his reply was the subway? A No, sir.

Q You had no talk with him? A No, sir.

Q Did you speak to the senior Goldberg? A Previous to him coming up here.

Q After he gave his testimony as a witness? A No, sir.

Q Since Friday? A I may have talked this morning to him.

Q To the senior Goldberg? A The younger Goldberg.

Q I mean Louis Goldberg? A No, sir; I did not speak to him.

5
Q You have not spoken to him since Friday? A Yes, sir.
I have spoken this morning with him.

Q He told you all the questions I asked him? A No, sir, I did not ask him.

Q He told you? A No, sir; he did not attempt tell me I would not leave him.

Q You did not discuss the case? A No, sir; the only discussion was that the boy was not here at half past 10, and I told him if he made any mistake of that kind I told him it would cost him from \$50 to \$250; I told the younger boy to go to the telephone and find out where he was; that is the only conversation I had with any of the Goldbergs.

Q Where was Officer Finn at the time you placed this defendant under arrest? A He met us on the way to the subway.

Q Where did you meet him? A On 20th street.

Q On the street? A Yes, sir.

At

Q This conversation that you claim to have had with this defendant was Finn there? A No, sir.

Q Just you and the defendant? A And Samuel.

Q And Samuel? A Yes, sir.

Q Where was the father Louis? A In the back of us.

Q How far to the rear of you? A I didn't pay any attention to how far he was.

Q You spoke in the English language to this defendant?

A I did.

Q And the reply he made to you was in the Jewish language? A He did not, he spoke so that I could understand him in the English language.

Q What did he say to you? A Relative to what?

Q You did not arrest him upon any other charge than larceny? A That's all.

Q What did he say relative to the charge you made against him? A I asked him where the goods was and he said that his frau had it; I asked him where his frau was and he said aboard of the boat; I asked him about his brother and he said he couldn't talk any more until he got a bailor.

Q Tell me what he said "I wouldn't talk any more to you"? A No, sir; I asked him, I said "Do you want to beat-- pointing to the boy-- him out of this jewelry; I asked him where it was and he said his frau had it.

Q You said to him "Do you want to beat this boy out of the jewelry"? A Yes, sir; that is what I said.

Q Did you use that language? A Yes, sir; that is the remark I made.

Q Did you testify in the police court? A No, sir.

Q When he told you his frau had it "frau" is a German word, isn't it? A Yes, sir.

Q Is that the only German word he used? A I didn't know what he meant; I asked the other young man.

Q You asked the other young man -- is that the only word this defendant used? A Yes, sir.

Q Everything else in the English language so that you could understand? A Yes, sir.

Q When he told you his frau had it did you go to see his wife? A No, sir.

Q Did you go to see his wife? A No, sir.

Q Did you go to the police court when this defendant was arraigned there? A No, sir, I had three subpoenas for this building that day and my partner went.

BY MR. SYMONDS:

Q What is the nature of the premises, 31 East 4th Street?

A A sort of a loft building.

Q How many stories high, do you know? A I think it is four.

Q Do you know whether the defendant ever did any business there? A I could not say; the Chitman Brothers did.

Q Do you know if Charles Chitman was included in the Chitman Brothers? A It just merely said Chitman Brothers.

Q On what floor of that building? A I did not go up; I understood they were dispossessed.

Objected to.

The last part of the answer is stricken out.

Q Do you know of your own knowledge on what floor of that building Chitman Brothers were? A A man who claimed he

was the janitor --

Q Yes or no? A No, sir.

Q Do you know business Charles was in? A Yes, sir,
in the fur business.

Q Did you ever ask the defendant where his brother
Charles was? A I did.

MR. SNITKIN: Objected to as already answered.

Q What did he say if anything?

THE COURT: Question allowed.

A He said he would not talk any more until he got a
bailor.

Q You said you charged him with acting in concert?

A Yes, sir.

Q Look at this blotter please? A Well, the lieu-
tenant--

Q Look at this blotther. I did not ask you to explain
it. Look at it. See if you find the entry of the arrest?

Objected to as immaterial.

MR. SNITKIN: I offer it in evidence.

MR. SYMONDS: I object to it as being incompetent,
irrelevant and immaterial.

THE COURT: I decline to receive it.

Exception.

MR. SNITKIN: I reserve the right to call the of-
ficer back if he can be found after I call the represen-

tative of the steamship company. I respectfully ask
to recall the complaining witness Louis Goldberg for the
purpose of offering a certain exhibit in evidence.

MR. SYMONDS: I have no objection.

MR. SNITKIN: I offer this paper known as the
complaint in evidence.

Marked Defendant's Exhibit #.

MR. SNITKIN: I also ask permission to recall the
boy Nathan to call his attention to one matter that I
did not notice in the police court examination.

LOUIS GOLDBERG, the complainant, recalled.

BY MR. SNITKIN:

Q Now, Mr. Goldberg, you knew that the defendant and
his brother were to return the property the following day,
didn't you?

Objected to; objection sustained.

Q Did you know that the defendant Nathan and his brother
were to return the property the next day?

Objected to as calling for a conclusion.

THE COURT: I will allow you to ask him whether he
heard the defendant or his brother say that.

Q If he heard his brother say it? A Yes, sir.

Q Now then look at this paper and state if that is
your signature? A I think it is.

Q Did you know the contents of the paper to which you subscribed your signature? A Yes, sir. (Defendant's Exhibit E)

Q Did you know the contents of Defendant's Exhibit E for identification? A Yes, sir; I can't remember at present.

Q Do you mean to say that you subscribed your name to a paper and didn't know the contents of it? A I don't remember what there was written.

Q Did you see a man write this paper? A No, sir; I don't remember.

Q What did you believe the paper contained to which you subscribed your name? A I don't remember what is written there.

Q Was it read to you, was this Defendant's Exhibit E for identification read to you? A I don't remember what is in the paper.

Q I ask you whether it was read to you before you subscribed your name to it?

THE COURT: It is perfectly plain that this witness cannot by any possibility answer one of these questions.

Q Do you remember whether the complaint was read to you after you made it? A I only made a complaint at the Detective Bureau.

Q Were you in the Essex Market Police Court to make a complaint? A Yes, sir.

BY THE COURT:

Q Did you see the clerk there do some writing on a piece of paper? A Yes, sir.

Q Was what he wrote read to you after it was written?

A No, sir.

Q Why did you subscribe your name to the paper?

Objected to as immaterial.

BY MR. SNITKIN:

Q Why did you subscribe your name to a paper which was not read to you?

Objected to upon the same grounds. Objection sustained.

Q Did you ask the person who gave you the paper the contents of it -- you didn't know what it was? A No, sir.

Q You knew you were charging some one with a crime, didn't you? A Yes, sir.

MR. SNITKIN: I offer it in evidence.

MR. SYMONDS: I object to its reception.

THE COURT: I decline to receive it.

MR. SNITKIN: I respectfully except.

MR. SNITKIN: This is his signature, your Honor, he says he has not read it. I offer it in evidence.

THE COURT: I will not receive it.

Q You said in this paper Defendant's Exhibit E that the property was to be returned the same day that this defendant received it?

Objected to. Objection overruled.

A No, sir; I don't know, I can't tell whether I told him that.

MR. SNITKIN: I now offer the paper in evidence for the purpose of impeaching the credibility of this witness.

MR. SYMONDS: I object to its reception.

THE COURT: I won't receive it now.

Exception.

Q Will you swear then that you did not state to the clerk or to any person who drew up this exhibit E that the property was to be returned the same day?

MR. SYMONDS: I submit that he has already answered that.

THE COURT: I will allow him to answer that.

A I cannot remember that.

Q By looking at this paper will that refresh your recollection as to whether you told the clerk that the property was to be returned the same day? A I cannot read English.

BY MR. SYMONDS:

Q Mr. Goldberg did you yourself ever go to 31 East 4th street looking for the defendant or his brother Charles? yes or no? A No, sir.

NATHAN GOLDBERG, a witness for the People,
resumes the stand.

BY MR. SNITKIN:

Q Now, Mr. Goldberg, in the forenoon you testified as to what this defendant, what property the defendant had selected and the man that you term his companion selected?

A Yes, sir.

Q At the time the property was selected was there any money paid by this defendant's companion? A Yes, sir.

Q What was paid? A A check.

Q Did you see that check? A Yes, sir; but I did not notice the check; I saw a check paid.

Q Did you hear as to what the defendant or his companion said when they would return the property? A Yes, sir.

Q What did they say? A They said they would return it the next day.

Q Now then do you remember this question being asked you in the Magistrate's Court and did you make this answer, reading from page 5. "Q. What did they say-- do you know Mr. Koneisberg? A Yes, sir."

Q He appeared for your father? A Yes, sir.

Q In the Magistrate's Court? A Yes, sir.

Q Now then do you remember your father's lawyer asking you this question and did you make this answer?

"BY MR. KONEISBERG: Q What did they say as to when they would

come back with them? A I did not hear that. Do you remember testifying so? A I don't remember; I may have said it.

MR. SNITKIN: That is all.

BY MR. SYMONDS:

Q Who was it gave that check that night? A This defendant's companion.

Q His brother? A Yes, sir.

Q Do you mean the brother of the defendant? A Yes, sir.

Q To whom did he give the check? A To my brother.

Q Do you know what the amount of the check was?

A Yes, sir.

Q How much? A \$13.

Q Do you know who signed the check? A Yes, sir.

Q Who? A The other brother.

Q Which other one? A His companion, the defendant's companion.

Q The defendant's companion signed the check? A Yes, sir.

Q Do you know for what that check of \$13 was given?

A Yes, sir.

Q For what? A For some small articles, children's articles.

Q What were the articles? A I don't remember the articles exactly but I think there was a locket and chain and bracelet for a child.

Q A locket, chain and bracelet for a child? A Yes, sir.

Q When were those articles selected? A Well that was after the whole transaction and they said, that is, he said, the defendant's companion said, that "Well these are small articles I can pay for them, I cannot be fooled much". He took them and paid a check for them.

MR. SYMONDS: I offer the check in evidence.

MR. SNITKIN: This is gallery play.

MR. SYMONDS: You know that is an improper thing for you to say. I object to that remark.

THE COURT: This conversation between counsel and the Assistant District Attorney is disrespectful to the Court, objectionable to the Court and ought not to occur in the presence of the jury.

MR. SYMONDS: I withdraw my request.

GEORGE W. BECK, a witness for the People, having been duly sworn, testified as follows.

DIRECT EXAMINATION BY MR. SYMONDS:

Q Where do you live? A No. 5 Bleecker street.

Q Are you an officer of the Municipal Police Force of

the city of New York? A yes, sir.

Q Attached to what precinct or bureau? A First branch Detective Bureau.

Q Do you know the defendant at the bar Nathan Chitman?
A yes, sir.

Q When did you first meet him, officer? A Well, on December 8th.

Q What year? A 1908.

Q Will you please keep your voice up so that the jury may hear? A Yes, sir.

Q Where did you meet him? A At Police Headquarters.

Q With whom was he with, if anybody at that time?
A Well with Sergeant Kelly.

Q Did you hear any conversation on the part of the defendant with Sergeant Kelly or with any other person? A No, sir.

Q Did you see the defendant subsequent to that time?
A Yes, sir.

Q Where? A Before Magistrate Crane in the Essex Market Court.

Q Did you hear the defendant say anything there?
A Yes, sir.

Q What did you hear him say? A Well he asked for his counsel, I believe, that gentleman there.

Q Indicating Mr. Chess? A Yes, sir.

Q Did he say anything else besides asking for his counsel?

A No, sir.

Q Did you make any investigation of this case? A Yes, sir.

Q Did you at any time during your investigation go to the premises 31 East 4th street? A Yes, sir.

Q Was there a firm by the name of Chitman Brothers doing business there at any time, do you know? A There was.

Q When you went there did you find the firm of Chitman Brothers?

Objected to. Objection sustained.

Q Do you know on what floor of those premises Chitman Brothers used to do business?

Objected to. Objection sustained.

Q Now whom were you looking for when you went to the premises 31 East 4th street?

Objected to as irrelevant. Objection overruled.

Exception.

A For Nathan Chitman.

Q Did you go into the premises 31 East 4th street?

A I did.

Q How far into the premises did you go? A I went to the top floor.

Q Did you go on all the floors? A yes, sir.

Q Were you able to find Nathan Chitman there?

Objected to. Objection overruled. Exception.

A No, sir.

Q Do you know what day that was that you went there to look for Nathan Chitman? A Yes, sir, on the 29th of December.

Q Do you remember about what time of day it was?

A yes, sir about 10 o'clock.

Q Did you look for Charles Chitman? A I looked for Chitman brothers, nobody in particular, but either one of the two brothers.

MR. SNITKIN: I ask that the testimony given by the witness relative to looking for Nathan Chitman be stricken from the record.

Motion denied. Exception.

BY THE COURT:

Q I understand you were looking for Charles Chitman and Nathan Chitman? A Yes, sir, Charles or Nathan Chitman.

Q This is Nathan? A Yes, sir.

BY MR. SYMONDS:

Q Did you find Charles Chitman on those premises?

A No, sir.

MR. SNITKIN: I object to that and ask that it be stricken out on the ground that it is incompetent, immaterial and irrelevant and not binding upon this defendant.

THE COURT: Strike it out.

Q Did you afterwards make any further search in any other place for either Nathan or Charles Chitman?

Objected to on the ground that it is incompetent
and the question should be confined to this defendant.

Q Did you afterwards make any search anywheres for
Nathan Chitman? A No, sir, I did not.

CROSS-EXAMINATION BY MR. SNITKIN:

Q You testified that on the night of December 9th, '08
you went to the Third street to look for the defendant?

A yes, sir.

Q Didn't you know at that time he was under arrest
and in custody, yes or no? A Yes, sir, that is right.

Q You made a mistake? A yes, sir, I made a mistake.

Q What day did you go there to look for him? A He was
arrested on the day of the 27th, and he was arraigned in
the Magistrate's Court, the third court, on the 28th on a
complaint, and on the morning of the 29th we went there on the
day of the 30th of November.

Q You went where? A 31 East 4th street.

Q So when you said December 9th you were mistaken
and you meant November 30th? A Yes, sir; I made a mistake.

Q Did you go to 111 Norfolk street? A No, sir, I did not.

Q Were you ever told that the defendant Nathan Chit-
man resided at 111 Norfolk street? A Sergeant Kelly knew
that.

Q Did the complainant ever tell you that? A Yes, sir.

Q But you never went there? A I didn't go there,
no, sir.

Q Now officer, you say you were in the Magistrate's
Court when this defendant was arraigned on the 10th?

A The 28th.

Q There was no complaint taken against him on the
8th? A No, sir; there was an adjournment made.

Q Why was there no complaint taken on the 8th of
December? A Why his counsel will tell you that.

Objected to. Objection overruled. Exception.

Q Were you present on the 10th when what is known
as the complaint was taken against the defendant? A Yes,
sir.

Q Who drew the complaint? A The clerk of the court.

Q The clerk of the court? A Yes, sir.

Q Who spoke to the clerk of the court upon which the
complaint was predicated? A Officer Finn.

Q What is that? A Officer Finn.

Q Was the complainant there? A Yes, sir.

Q Louis Goldberg? A Yes, sir.

Q You saw him there? A Yes, sir.

Q Did you hear him speak to the clerk? A Yes, sir.

Q Did he speak in the English language? A He did.

Q Now tell us what Goldberg said while the defendant

was arraigned in front of the clerk's desk upon which the complaint was predicated? A He charged him with the larceny of certain jewelry that he allowed him in his possession and which he obtained to go and have appraised and he never came back.

Q Did you hear that the complainant said that the property was to be returned the same day? A On the same day? No, sir, on the following day, he got it that afternoon, the following day.

Q Sure about that? A Yes, sir.

Q Now after the complaint was drawn up was it read to the complainant? A I believe so.

Q I didn't hear you answer? A I believe so.

Q You were there? A Well, I wasn't paying that much attention to that; it was between the clerk and the complainant in the case.

Q Did you see the complainant sign his name? A Yes, sir.

Q Did you hear the clerk read it before he signed it, before the complainant signed his name? A Yes, sir.

Q Was it after the clerk, the complaint clerk read the complaint to him that the complainant signed his name?

A Yes, sir.

Q You did not give the clerk facts upon which the complaint was drawn? A No, sir.

Q It was the complainant himself? A Yes, sir.

22
MR. SNITKIN: I now offer the paper in evidence.

THE COURT: I receive it.

(Marked Defendant's Exhibit D.)

Mr. Snitkin reads the complaint to the jury.)

MR. SYMONDS: The people rest.

MR. SNITKIN: The defendant respectfully moves that your Honor take from the consideration of this jury the first count of the indictment on the ground that the people have failed to sustain it by any proof.

THE COURT: I think I will leave both counts in until the close of the entire case to see how the evidence develops.

MR. SNITKIN: I now ask your Honor to direct the jury to acquit the defendant upon the ground that the People have failed to make out any case.

Motion denied. Exception.

1

D A V I D B R A G E R , a witness called on behalf of the
defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SNITKIN:

Q Where do you live? A 4284 Third Avenue.

Q What is your business? A I am a salesman.

Q For whom? A I am a commission salesman, working for ---

Q Where do you work? A By Goodman Brothers I work now.

Q Where do you work? A I am working for Goodman Brothers.

Q Goodman Brothers? A Yes, sir.

Q Do you know this defendant, Chitman, don't you? A Yes,
sir, I do.

Q How long have you known him? A I know him for the last
three years.

Q Did you know his brothers? A Yes, sir; I do.

Q Do you know their first names? A Yes, sir, I do.

Q Just give us the names, please? A One name was Sussie
Chitman and one was Ichiel Chitman.

Q Did he have a brother Charles? A Charles?

Q What do you call it, the Jewish name? A Sussie and
Ichiel.

Q Did you know their business? A Yes, sir.

Q What was their business? A Fur manufacturers.

Q Did you know where their place of business was? A Yes,
sir.

Q Where was it? A 31 East 4th Street.

Q Were you in business with them? A I was in partnership with them.

Q What was the firm name? A Chitman Brothers & Brager.

Q Do you know Mr. Goldberg? A Yes, sir; I do.

Q The old gentleman? A Yes, sir.

Q Do you know his sons? A Yes, sir; I know both of them.

Q How long have you known them? A I knew them for about two and a half years.

Q For two and a half years? A Yes, sir.

Q What is Goldberg's business? A He is a jeweler.

Q Where is his place of business? A In Clinton Street, the number I don't know exactly.

Q How often have you been in his store? A About five or six times, maybe more than that.

Q With reference to Chitman Brothers, was this defendant in the firm of Chitman Brothers & Brager? A Never.

Q Do you know what is his business? A Yes, sir.

Q What is it? A He is a pedler with fruit.

Q Fruit? A Yes, sir.

Q Now, Mr. Brager, while you were in the firm of Chitman Brothers & Brager, did you ever send any of the Chitman brothers, not this defendant, to Goldberg's store?

A Yes, sir.

3 173
Q When? A Well, I don't remember exactly --- it was ---
let me recollect, about I think it is about two years or maybe
more ago; I think about two years.

Q Now, what was the occasion of you bringing the Chitmans
over to Goldberg's store two years ago? A Well, once Sussie
Chitman brought over his wife here to America and he wanted to
make her a present of some jewelry, I think a watch and chain,
I don't remember exactly what it was; I brought them over be-
cause I was acquainted with Goldberg that he should give him on
time.

Q On time? A Yes, sir.

Q When you say Sussie Chitman, look at either of these
exhibits and state to the jury which of these pictures repre-
sent the man you call Sussie Chitman? A This here on this
side (referring to Defendant's Exhibit D for identification).
That is Sussie.

Q Now, the likeness of the person on Exhibit D for identi-
fication was the man --- was a member of the firm of Chitman
Brothers? A Yes, sir; he was.

Q Now, who was the other brother that was a member of
the firm? A Ichiel.

Q Look at these two exhibits and identify which one?

A That one (referring to Defendant's Exhibit A).

Q You indicate the likeness of the person represented on
Defendant's Exhibit A for identification? A Yes, sir.

4 174
Q That is the person? A Yes, sir.

Q So that the persons represented on Defendant's Exhibits A and D were members of the firm of Chitman Brothers? A Yes, sir.

Q And yourself? A Yes, sir.

Q Now, which of those two persons did you bring to Goldberg's store, which one? A This one. (Indicating)

Q Identifying Defendant's Exhibit D for identification?
A Yes, sir.

Q Now, just tell us exactly what happened when you brought him in there, what you said to Goldberg and what Goldberg said to you and to Chitman?

THE COURT: Is that the person known as Charles?

MR. SNITKIN: I withdraw the question.

BY MR. SNITKIN:

Q Did you ever bring the person whose likeness is represented on Defendant's Exhibit A? A No, sir; I never brought them.

Q You didn't bring this man? A No, sir.

MR. SNITKIN: That is the man identified as Charles, your Honor.

Q Just state to the Court and jury if you will precisely what you said, as far as you can remember now, at the time you brought the person whose likeness is represented on Defendant's

Exhibit D for identification?

THE COURT: That is not Charles.

MR. SNITKIN: No, sir.

MR. SYMONDS: I object to that as being irrelevant and incompetent.

THE COURT: I will not receive it.

MR. SNITKIN: We are not bound by the complainant's testimony that this is the man that came in there. How am I going to disprove that. He says this man came in. We deny that and we say it isn't the man who came in there.

THE COURT: You have offered no evidence to that effect yet. You prove that this is the man that came in and then I will allow it. I will receive it now if you tell me you are going to offer evidence to that effect.

MR. SNITKIN: I will connect it.

MR. SYMONDS: Might I suggest that the present witness be withdrawn and let him prove it in a more orderly way.

THE COURT: I will allow this witness to testify as to anything that was said to the Chitman, whoever he was, who afterwards was in the complaining witness's store with this defendant, but not what was said by the complaining witness to another brother.

BY MR. SNITKIN:

Q Now then when you brought the person represented on Defendant's Exhibit D in to Goldberg's store what was said?

THE COURT: What is the name?

THE WITNESS: Sussie Chitman.

THE COURT: Do you intend to offer evidence that that was the person who was with the defendant?

MR. SNITKIN: Yes, sir, with whom the defendant was in Goldberg's store.

THE COURT: I will receive it on that understanding.

Q Go ahead. What did you say to Goldberg? A I went into Goldberg and I said --- he is a jeweler, he keeps a jewelry store. I went into Goldberg, his jewelry store in Clinton Street, and as I know him before I said, "This is my partner, he wants to have some jewelry, you may give him because he is in partnership with me". Mr. Goldberg gave him some jewelry but I don't remember what kind of jewelry it was on 60 days and when the 60 days comes off he paid him for it. I think that was two and a half years ago, I don't remember, I can't recollect exactly the day when it was.

Q When did you bring the person represented on Defendant's Exhibit B to Goldberg's store? A This here, this man I never brought in the store.

Q Did you bring the person whose likeness appears on

Defendant's Exhibit A? A I never brought him.

Q You did not? A No, sir.

THE COURT: Who is that?

THE WITNESS: That is Ichiel.

Q Now, do you remember when this defendant was arrested?

A This man? When he was arrested?

Q Yes, sir. A Well, one minute, let me see --- I want to remember if I know or not; I want to see if I was here at that time, at the same time if I was here in New York when he was arrested; I don't remember exactly.

Q After he was arrested did you have a talk with Goldberg?

A Yes, sir.

Q When? A It was on a Saturday ---the Sunday after Thanksgiving.

Q After Thanksgiving? A Yes, sir, the Sunday after.

Q Where did you have the talk with him? A In his store.

Q What store? A In Clinton Street.

Q Just tell the jury what you said to him and what he said to you? A I came over to Mr. Goldberg and Mr. Goldberg sent before to me --- I was not at that time present in New York and he sent for me because he knows that I know more than he does in that case and seen everything. I went over to Goldberg and asked him what is the matter, what is going on; and Mr. Goldberg told me that two partners, the two men who were

partners with me came over to him and took two watches and chains, something like that, some jewelry for about 145 or \$140 and they gave him a check for \$25 and they gave him a note for the rest and now they ain't here, the place is closed up. He asked me if I know any details about these people and I said to him, "I will tell you something, I have got an idea, if you want, they have some relatives in Brooklyn and I think they must be somewheres there hidden. I says "If you want I will telephone down, I will act as a detective, I will telephone down to them, to call the brothers down, because the brothers lived in Norfolk Street and the boy should stay there and wait, call them down; the names of these brothers, and the name of them brothers that they should come down, Nathan Chitman, and some of us should follow them and see where they go, find out where they go.

Q Now, you were to telephone to Nathan Chitman, is that it? A Yes, sir.

Q When he came down you were to follow him and see where he was going? A Yes, sir; some of us, not exactly me.

Q In that manner you were going to find out where the other Chitmans were? A Yes, sir.

Q Did you do that, telephone? A No, sir; I did not; I did not know the telephone number of that man that I wanted. I said "I will find out first the telephone number from that man" because it is a private house.

9
Q What is the man's name? A M. Trottenberg.

Q Hewas the man that knew the brothers? A Yes, he was the man that I thought that they are hidden with.

Q Trottenberg had a telephone number? A Yes, same had a telephone number I think it is a private house.

Q Where did he live? A In Borough Park, Brooklyn somewhere.

Q And then what next did you say to Goldberg? A What is that?

Q What else did you say? A I asked Mr. Goldberg how does he come to Nathan Chitman because after he told me this I said how does he come to Nathan Chitman and he says to me that he thinks he is going to get out the money through him and I said to him "It is impossible that this man should take of you jewelry because the two brothers I knew them before. I went out of partnership on account of that, because I knew that them people are going to fail and going to go out in a corrupt way. Therefore I dissolved the partnership with them and I knew they want to do it. He is trying to get out his money and he wants to try to get out his money and I was together with my brother-in-law; we went together with Mr. Goldberg's son.

Q What is your brother-in-law's name? A Joseph Eager.

Q Which of the sons did you speak to? A The older one.

Q That is Samuel? A I don't know his first name.

Q Where was this talk had between Samuel and yourself and your brother-in-law? A I think in Delancey Street, on the street, we walked on the sidewalk.

Q What did you say? A My brother-in-law said to him to be careful, you are a young man, how do you come to talk like that; and he says "If I can't get in one way to get it out I will try to get it in another".

Q Goldberg told you he received a \$25 check from the men who were your partners? A Yes, sir.

Q And a promissory note? A Yes, sir; that is what he said and told me.

BY THE COURT:

Q Did he say when he got the check and when he got the note? A Then at that time when they ---

Q Did he say when he got the check and when he got the note? A He said when they came over and took the jewelry.

Q When was that, did he say? A No, sir; he said to me that was on the day before Thanksgiving, either Thanksgiving night or the day before Thanksgiving, because I can't remember it; it is a long time ago.

Q Goldberg told you that they had either the day before Thanksgiving --- A Yes, sir; either the day before Thanksgiving this year --- I can't remember.

Q Was it at that time that Goldberg told you that these men gave him a check and the note? A Yes, sir.

Q Did he tell you what the check and note were for?

A Well, the check was for a deposit for the jewelry because they took jewelry off him.

CROSS EXAMINATION BY MR. SYMONDS:

Q Now, didn't you know Trottenberg's telephone number?

A No, sir; I did not.

Q Speak loud enough so that we all can hear you. Why didn't you look it up? A Well, he had got a private telephone and I could not find it in the business directory and I thought I will go over and get some brother's boy --- that we meet together --- I meet him every day in the street and I said to Goldberg "I will go over and ask him the telephone number".

Q Did you ask for the information at any telephone --- for Mr. Trottenberg's number? A Yes, sir; I did.

Q Didn't you receive the information? A I received it.

Q Did you telephone to Trottenberg? A No, sir, I did not.

Q Why? A Because at that time I thought it is all right and then Goldberg told me that this is not a good idea.

Q How long after your talk with Goldberg was it before you found out ~~that~~ through the telephone information the telephone number of Trottenberg? A How long after?

Q How long after you talked with Goldberg was it before you found out Trottenberg's telephone number? A I think it was about two days later.

Q You knew they were some relative of Trottenberg's, you say? A Yes, sir; Chitman brothers were relatives to Trottenberg.

Q Now, what reason had you to think that the Chitman Brothers were hiding with Trottenberg? A Because it was a plan; I was in partnership with them two and a half years and they wanted to go into bankruptcy. I cannot express myself exactly.

Q Well, let us begin at the beginning. When did you go into business with the Chitman brothers? A I was together with them two and a half years.

Q When did you go into business with them? A Well, I think in 1906 or 1907, two and a half years.

Q Now, what are the names of the two brothers with whom you went into business? A Sussie and Ichiel Chitman.

BY THE COURT:

Q Now, write the name of the one that you went into business with? A (Witness writes "Ichiel").

BY MR. SYMONDS:

Q I show you Defendant's Exhibits A, B and D and ask you if you see on those exhibits pictures of the two persons you went into business with? A This is one and this is the other.

Q You identify the one represented by Exhibit D as one of them? A Yes, sir.

Q Which is that? A Sussie.

Q Which is he? A This is Ichiel.

Q Is he known in English as Charles, or do you know?

A Well, we never called him Charles.

Q What kind of business were you in with these two men?

A In fur manufacturing.

Q Where was your place of business? A 31 --- at the time we had three places.

Q Where was the first one? A 27 Bond Street.

Q 27 Bond Street? A Yes, sir.

Q How long did you stay there? A Well, about six or seven months; we had a fire there and afterwards we took another place.

Q Where did you go then? A Well, then we went in Bleecker Street I think No. 40.

Q How long were you there? A Well, there we were only about a month until we took another place, a bigger shop.

Q Why did you leave the place in Bleecker Street? A Because it was too small a place for us.

Q Then where did you go? A 31 East 4th Street.

Q How long were you at 31 East 4th Street? A Well, about a year and eight months.

Q When did you leave the partnership? A The partnership I left in last July.

Q Last July? A Yes, sir.

Q 1908? A Yes, sir.

Q Why did you leave the partnership? A Because I knew that they are going to fail and therefore I dissolved partnership.

Q How did you know they were going to fail? A Because they wanted me I should agree, the business was in bad condition and they wanted me that we should fail.

Q They wanted you to fail? A Yes, sir; that we should fail, and, therefore, I seen I am a young man and I don't want to spoil my name and I said to them "I will go out from the business and you may do as you like".

Q Did Charles or Ichiel --- did the person represented on Defendant's Exhibit A say anything to you about failing in business? A Well,, both of them; it was talked between both of them.

Q Tell us which gentleman this was? A Ichiel.

Q Did he say anything to you about the business? A All three together --- they made me the proposition.

Q Did Ichiel talk to you in making that proposition to you? A Yes, sir.

Q Tell us what Ichiel said to you? A Well, this thing I can't remember.

Objected to. Objection sustained.

Q So you left the business and got out? A Yes, sir.

Q You didn't want to have anything to do with these men, is that correct? A Yes, sir.

Q Then what did you do after that? A For 14 weeks I didn't do anything and after that I went into business again.

Q Were you ever in business with this defendant Nathan? A Never.

Q When was the first time that you saw Nathan, the defendant now here? A Well, about the same time when I met them.

Q The same time when you met them? A Yes, sir; maybe about two or three weeks later I seen them, or about the same time.

Q The same time when you met who? A Sussie and Ichiel.

Q Have you seen him very often since that time? A Yes, sir; very often.

Q Where did you generally see him when you did see him? A He just came in my place; sometimes he used to come up to their place and I met him by his brother and sometimes I was up in his place.

Q Did the defendant use to come to your place of business when you were in business with the two other Chitman brothers? A Yes, sir.

Q Did he have any business relations with your house then? A Certainly he did.

Q What were they? A Well, we owed him some money.

Q You owed him some money? A Yes, sir.

Q The firm did? A Yes, sir.

Q For what? A We took cash from him.

Q For what purpose? A That we needed in the business; we needed some money and he had some money lying in the bank and therefore we took from it some money.

Q He loaned you some money? A Yes, sir.

Q Did he ever bring you any furs? A Never in my life.

Q I am speaking of the defendant, not of you. A If he brought me any furs?

Q Did the defendant ever bring furs to the Chitman brothers' place of business? A No, sir.

Q Now, when was it that you had this talk with Louis Goldberg in which he stated that he had received a check for \$25 and a note for the balance? A It was on the Sunday after Thanksgiving --- I think Thanksgiving was on a Wednesday, I don't remember exactly.

Q On Thursday? A Yes, sir; and that was the Sunday after that.

Q How did you happen to be in Goldberg's place of business on the Sunday after Thanksgiving? A Well, I wasn't here at present when the Chitman brothers failed; I was in Philadelphia.

Q Did they fail? A Yes, sir; certainly.

Q When did they fail? A They failed Thanksgiving --- the

day before.

Q Did you see the person represented by Defendant's Exhibit A after they failed? A No, sir.

Q Go ahead now and state how you happened to be in Goldberg's place of business that night? A I was in business again. I went into business again and I was in Philadelphia on the road, selling goods, and then I came home Saturday night. I went over to my brother-in-law, Mr. Eager, and he said to me that Goldberg was up in his house to look for me, he wants me. It was already late at night and I could not go to him and I came to my brother-in-law --- the other day, Sunday, I went over to Mr. Goldberg and asked him for what purpose he wants me and he says to me --- he told me all about it.

Q What did he tell you about it? A He told me that Sussie Chitman before Thanksgiving, I don't remember when it was, came over to him --- my partners --- and they took some jewelry for 140 or \$145 and they gave him a check for \$25 and a note for the rest.

Q By your partners you mean the two gentlemen who are represented on Defendant's Exhibits A and B? A Yes, sir, Sussie and Ichiel.

Q What did he tell you? A They gave him a check for 25 and a note for the rest and took some jewelry ---- he deposited the check; he didn't know that ain't good and the check

came back because they didn't have money there. He went to the place and he seen the place closed. Now he asked me if I know anything about them, where they should be, because he knew that I was in partnership with them such a long time that I may know everything about them.

Q Were Chitman Brothers doing business at 31 East 4th Street when they failed? A Yes, sir.

Q Now at the time that Mr. Goldberg was talking with you did he say anything about this defendant Nathan Chitman? A No, sir; not before, but he did a little after. He asked me ---

Q At this time when he first told you about the transaction did he say anything about this defendant Nathan? A I guess two days later he said to me ---

Q At the time you talked with Goldberg that Sunday night were either of his sons there? (No answer)

BY THE COURT:

Q Was his son Samuel there? A I don't know the name of the son.

Q Was either son there or was he all alone? A I think it was one son was there.

Q Which one, if you know? A The older one I think; I don't remember exactly, but I think the older one.

BY MR. SYMONDS:

Q The dark complexioned one or the lighter one. Do you

see those two young men there? A The older one.

Q The one on the right? A Yes, sir.

Q That is Samuel. How far away from you and Louis Goldberg was Samuel at the time you were talking to Louis? A He was--there is a counter in the store and he was standing on the other side; I don't remember exactly ---

Q Tell us whereabouts you were standing in the store.

A We were standing near the door.

Q Were you outside of the counter? A Yes, sir.

Q Was Louis Goldberg back of the counter? A Which is Louis?

Q The father? A No, sir, the father was together with me outside the counter.

Q You were not far from the door? A No, sir.

Q Where was Samuel? A He was on the other side of the counter.

Q How far away from you? A He was about a yard, maybe more than a yard.

Q A yard or maybe more? A Yes, sir.

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

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

Q When is the last time that you saw Nathan Chitman before the night when you had the talk with Louis Goldberg in his store? A The last time? I didn't see Nathan Chitman at all.

BY THE COURT:

Q You had a talk on a certain night in the store of Mr. Goldberg. A Yes, sir.

Q Now how long before that was it that you last saw this defendant? A I will tell you about six or seven months ago because I parted with them ---

Q Six or seven months? A Yes, sir; I think so; I don't remember.

BY MR. SYMONDS:

Q When did you next see him after that Sunday night --- when you had talked with Goldberg? A I seen him two days later.

Q Where? A At his place 111 Norfolk Street.

Q 111 Norfolk Street? A Yes, sir.

Q What was the occasion of your going to 111 Norfolk Street. Why did you go there? A I spoke to Mr. Goldberg how does he come to Nathan Chitman, he must have a mistake there and I said to Mr. Goldberg "You will have some trouble because this is not the right man for what I think, I think if you do that you should have some trouble. I will go to Chitman and try and settle the case in a good way because it is no use spending money on one side and he should spend money on the other side.

Q You went to Chitman? A Yes, sir.

Q You are talking about the defendant now? A Yes, sir.

BY THE COURT:

Q What did Mr. Goldberg say to you, if anything, that Sunday night about Nathan Chitman? A On Sunday night it was not talking about Nathan but only about that he lost \$140 or \$145.

Q What did you say on Sunday night to Goldberg about Nathan Chitman? A Not on Sunday night; it was two days later I said to Mr. Goldberg ---

Q Two days later you saw Mr. Goldberg? A Yes, sir.

Q Where? A At his store.

Q What hour of the day? A It was the night time between seven and eight, or after eight o'clock.

Q When you went in what did you say to him? A I said to Mr. Goldberg "I have a good idea, I think that Mr. Chitman must be there by Mr. Trottenberg because I know all the plans they had that time when we were in business; they wanted to fail and they told me everything what they think about it, where to hide themselves and leave this country and go away to Europe because they will search for them on the steamer"and I said "for my estimation they must be hidden by a friend of them, by Mr. Trottenberg"and I thought it would be advisable I should go over and telephone down and call down and the boy, his boy and another boy, should stay and wait.

BY THE COURT:

Q Did you on Tuesday say anything to Goldberg about

Nathan Chitman? A I asked him how does he come with the idea to have to do with Nathan.

Q Why did you say that to him if he hadn't said anything to you about it? A It was talking all about it.

Q When? A This was not on Sunday; it was on Tuesday, two days after Sunday on Tuesday.

Q On Tuesday in the store of Mr. Goldberg did Mr. Goldberg say anything to you about Nathan Chitman? A Yes, sir.

Q What did he say? A I said to him that I will call down Nathan Chitman.

Q Why? A Because we want to find out where those other two brothers are and we should follow Nathan Chitman where he will go, one of us should follow him and see where they are and we should catch them.

Q Is that the first thing said between you and Goldberg about Nathan Chitman? A I think it was the first.

Q The first thing was that you spoke to Goldberg on Tuesday night about Nathan Chitman? A Yes, sir, on Tuesday it was.

Q On Tuesday you spoke to Goldberg about Nathan Chitman? A Yes, sir.

Q Before you spoke on Tuesday to Goldberg about Nathan Chitman he had not spoken to you about Nathan Chitman? A No, sir.

BY MR. SYMONDS:

Q Was it before you went to Nathan Chitman's house on Tuesday that you spoke to Mr. Goldberg about Nathan Chitman or after? A Well, I was ---

Q Before or after. A Repeat the question.

Q (Repeated) A I was before by Mr. Goldberg and then I went up to Nathan Chitman.

Q First you talked with Goldberg on Sunday night in his store? A Yes, sir.

Q There was nothing said between you about Nathan Chitman at that time? A No, sir.

Q Then on Tuesday you spoke to Mr. Goldberg about Nathan Chitman? A Yes, sir.

Q Then after you had spoken to him about Nathan Chitman you went to Nathan Chitman's house? A Yes, sir.

Q 111 Norfolk Street? A Yes, sir.

Q Is that correct? A Yes, sir.

Q Now why did you speak to Mr. Goldberg about Nathan Chitman if he hadn't said anything to you about him? A Well, I will tell you, because we wanted to call down Nathan Chitman to the 'phone and we should follow then and therefore it was the talk about Nathan Chipman.

Q When you went to 111 Norfolk Street on Tuesday did you see Nathan Chitman there? A I had to wait for about half an

hour or an hour.

Q Well then did you see him? A Then he came

Q Was he living there on that day? A No, sir,
in his mother's rooms 111, I think in his house or in his
rooms, I don't remember.

Q It was not his home? A I don't remember exactly if
was Nathan's house or the house of his mother but it was in
111 they lived, the both of them.

Q Who lived? A That his mother lived one flight higher
than he lived, but I don't remember if it is his house or in
his mother's house.

Q How many flights up did you go to see Nathan Chittman
on Tuesday? A I think three flights.

Q How many flights up does his mother live? A Three
flights up; it must be in his mother's house.

Q Is his mother living there now? A No, sir, I
think she is.

(The Court then admonished the jury, calling
their attention to Section 415 of the Code of Criminal
Procedure, and adjourned the trial until to-morrow,
Tuesday morning, April 20th, 1909 at 10.30 o'clock.)

New York, April 20, 1961

TRIAL RESUMED.

D A V I D B R A G E R, a witness for the defendant resumes the stand.

CROSS- EXAMINATION CONTINUED BY MR. SNITKIN:

Q Mr. Brager you went around to Mr. Goldberg's store on the Sunday following Thanksgiving day because Mr. Goldberg sent for you, is that correct? A Yes, sir.

Q How did he send for you? A Well, he was up, he sent to my brother-in-law's house because he did not know my address.

Q Who is your brother-in-law? A Mr. Joseph Iger.

Q Where does Mr. Iger live? A He used to live in 154 Houston street at that time.

Q After Goldberg sent Mr. Iger for you what did you do? A He didn't send Mr. Iger; he sent up to Mr. Iger's to ask him.

Q How did you finally receive word that Mr. Goldberg wanted to see you? A I was not there at that time; I was not present in New York; I was in Philadelphia.

Q How did you receive word? A I came back and I was up to my brother-in-law and he told me about this case because I didn't know that these Chitman Brothers failed and they went away; he told me all about it and said Goldberg is look-

ing for me, he wants me.

Q When was it you came back to New York and had a talk with Iger, your brother-in-law? A Saturday night.

Q What did Iger tell you when you saw him? A I should go over to Mr. Goldberg he wants me for something.

Q Did Iger tell you at the time that Chitman Brothers had failed? A Yes, sir.

Q When did you say they failed? A They failed before Thanksgiving; I think the day before Thanksgiving.

Q Either the day before Thanksgiving or on Thanksgiving day? A Yes, sir.

Q Now, was the first news that you had of the failure of Chitman Brothers received from your brother-in-law, Mr. Iger? A Yes, sir.

Q Now you went to Goldberg's store? A Yes, sir.

Q Sunday night? A Yes, sir.

Q You had a talk with him there? A Yes, sir.

Q You stated yesterday that during that conversation Mr. Goldberg told you that he had received a check for \$25 and a note for the balance? A Yes, sir.

Q Did he say who had given him the check? A He said my partners.

Q Did he say what partners? A Ichiel and Sussi Chitman.

Q Ichiel and Sussi Chitman? A Yes, sir.

Q Did he say who signed the check? A No, sir, he did

not.

Q Did he say on what bank the check was drawn?

A Well I can't remember exactly if he did or not.

Q Did he mention the name of any bank during that conversation? A Well, I can't recollect now if he did mention or not because it is a long time ago for that and I can't say yes or no.

Q Did Mr. Goldberg tell you what he did with the check? A Yes, sir; he deposited it.

Q Did he say where he deposited it? A No, sir, he did not, no, sir, maybe he said but I can't remember it exactly.

Q Did he tell you when he deposited it? A No, sir, I don't remember that; I don't think so if he said that.

Q Did he tell you just when he received the check from the Chitman brothers? A Yes, sir; it was at that time when they bought the jewelry.

Q The night of the 25th? A Yes, sir; I think either the 25th or the 24th, I can't remember.

Q The same night that they got the jewelry?

A Yes, sir.

Q Now, did Mr. Goldberg tell you what the result of depositing that check was? A It came back.

Q Did he say why it came back? A Because they didn't have any money there.

Q No funds? A No, sir; the check came back no good.

26
or something like that. 198

Q Did he say why it was no good, or say whether it was stamped "no funds" or no account? A No, sir; he did not.

Q Did he tell you what he then did with the check, if anything? A Well as soon as he received the check back he went up to their place 31 East 4th street.

Q He told you that? A Yes, sir.

Q When did he say he went there -- did he say when he went to 31 East 4th street? A No, sir; I don't remember that.

Q What did he say about going to 31 East 4th street? A He went up there and found the place closed.

Q Did he go to Chitman Brothers place of business, 31 East 4th street? A Yes, sir.

Q And found it closed? A Yes, sir.

Q Did he tell you that he did anything else then about the check? A No, sir.

Q Now, he didn't show you that check, did he? A No, sir, he did not.

Q Did you ask him to see it? A No, sir; why for should I ask him.

Q Please answer the question? A No, sir.

Q Now then when was it that you quit doing business with Chitman Brothers, that you got out of partnership?

A In July.

Q What date? A Well it was, I can't remember exactly.

Q 1908? A yes, sir; last year 1908.

Q Now, when you were in business with Whitman Brothers, I suppose, you had a bank account? A Yes, sir.

Q That is the firm had a bank account? A yes, sir.

Q In what bank? A The German Exchange Bank.

Q Did the firm have any other bank with which they did business? A Pardon me.

Q Did the firm have an account in any other bank?

A We had the first time when we started; we had an account in the Fourteenth Street Bank.

Q And then in the German Exchange Bank? A yes, sir.

Q Did your firm have an account in any other bank?

A No, sir.

Q Do you happen to know whether either of the Whitman Brothers had a private account in any other bank? A No, sir; they never had.

Q Now let us get straightened out about this note. You say that Mr. Goldberg told you that he had received a note for the balance? A Yes, sir.

Q Did he tell you how much the balance was? A He told me he only took a note for how much jewelry they bought.

Q How much did he say they bought? A I can't remember either \$140 or \$145, something like that because it was a

long time ago and I can't remember about it.

Q Did he say who gave him the note? A No, sir; he did not; he said he received only a note from the partners that were with me but which one gave him the note he did not mention.

Q Did he say where that note was payable? A No, sir; this here was nothing to talk about.

Q Did he say who signed the note? A No, sir.

Q Did he say what kind of a note it was, whether it was a demand note or a promissory note? A No, sir; that was the only talk about the note, that is all, that he received a note but what note I never asked him.

Q Did you ask him what he did with the note? A No, sir, I did not.

Q Did he tell you the note turned out to be no good?
A No, sir, he did not.

Q Did you ask him to see the note? A I did not.

Q Did he show you the note? A No, sir.

Q Now I believe you said yesterday that at that time there was no talk about Nathan Chitman this defendant here?
A No, sir.

Q Then you went away did you? A Yes, sir.

Q Before going away did you have some talk with Mr. Goldberg about finding the Chitman Brothers? A Not at that night.

Q Not that night? A No, sir; not that night.

Q Did you subsequently or rather afterwards return to Mr. Goldberg's place of business on Tuesday? A Yes, sir.

Q You had another talk with him? A Yes, sir.

Q Now, what did you say to him then? A I said to him that from what I think they must be somewhere hidden in New York or in Brooklyn by a cousin of theirs, a friend of theirs.

Q What is the cousin's name? A M. Trottenberg.

Q What made you think that the Chitmans might be in hiding at Mr. Trottenberg's place? A Because I was in partnership and they made a proposition to me that they wanted to fail and they told me all their plans, before they wanted to leave this country they want to stay there a few weeks because they said nobody should search there or look for them.

Q Did they say they were going to leave the country?

A Yes, sir.

Q Did they say where they were going to go? A To Russia.

Q Did they say where in Russia? A Well, they did not mention that.

Q Then during the time they were telling you about their plans they spoke of hiding for a few days over in Brooklyn.

lyn? A Yes, sir; a few days or a few weeks.

Q So that is what made you think they might be in Brooklyn? A Yes, sir.

Q Did you tell Mr. Goldberg that you tried to find them? A yes, sir.

Q Now, you said something in your testimony yesterday about following Nathan Chitman in order to catch the Chitman Brothers? A yes, sir.

Q Why did you think that if you followed Nathan Chitman you would catch the others? A Because I thought I will telephone to Nathan Chitman under another name and some boy should stay by the 'phone outside and he should call down, that boy should be from us, if the Goldberg boy or another boy, and I will call down Nathan Chitman in the name of the Chitman prothers and then we will know if they are here, or if they left the city.

Q Who were you going to telephone to? A To Nathan Chitman.

Q Where were you going to telephone to Nathan Chitman? A From any drug store.

Q What was Nathan Chitman's telephone number? A There was a drug store just across from him.

Q Did you know where Nathan Chitman was living at that time? A Yes, sir.

Q Where was he living? A When he left Norfolk street.

Q On what floor? A I think on the second floor. 203

Q That is how many flights up? A Two flights up.

Q You were going to call him up on the telephone?

A Yes, sir; and that man -- not in my name only in his brother's name.

Q Say you were his brother? A Yes, sir.

Q That is you were going to have him come to the telephone? A Yes, sir; I wanted to have him come.

Q There was no telephone in his home? A No, sir.

Q You were going to call him up on some telephone nearby? A Yes, sir.

Q When had you last been at Nathan Chitman's home at 111 Norfolk street before your talk on Tuesday with Mr. Goldberg? A Well, I didn't come there since I dissolved partnership with his brother; I did not come after that because we were not good friends.

Q Not on good terms? A No, sir.

Q What was Charles Chitman's address? A What is that?

Q At the time he was in business? A What is that?

Q What was the address of the person who is represented on Defendant's Exhibit A? A 111 Norfolk street.

Q 111 Norfolk street? A Yes, sir.

Q That is in the same house with the defendant Nathan Chitman? A Yes, sir; but he used to live by his mother.

Q What was the name of that man? A Ichiel.

Q Ichiel lived at the same address that Nathan lived at? A Yes, sir; but by his mother.

Q Both lived in the same apartment together? A No, sir.

Q What floor did Ichiel live on? A Three flights up.

Q Did you telephone to Nathan Chitman? A I did not.

Q Why not? A Because the next day I -- I didn't know that I should have to go away again for business and in the morning my partner called me and said I should go out again for business because I had to be by some customers, I left the city and I was in Philadelphia.

Q That is the reason why you didn't telephone to Nathan? A Yes, sir.

Q Did you go to Philadelphia? A Yes, sir, I did.

Q When did you come back? A I came back again Saturday night.

Q You went to Philadelphia on Wednesday? A Yes, sir, in the morning.

Q You returned on Saturday night? A Yes, sir.

Q Will you tell us again why you thought that if you followed Nathan you would catch the others?

Objected to.

MR. SYMONDS: I would like the privilege of asking that witness the same question again and I ask your Honor that you will address him to answer it resposively

THE COURT: The idea was that Nathan Chitman would not come to the telephone in response to such an inquiry if he, Nathan, knew that the brothers were abroad; he would only come on the assumption that they were here and that he would know whether they were here or not.

BY MR. SYMONDS:

Q Have you any reason to believe that Nathan Chitman knew where the Chitman Brothers were?

Objected to; objection overruled; exception.

Q Yes or no?

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

THE COURT: I will allow it.

Exception.

Q Answer yes or no? A Yes, sir.

Q Now, what reason had you to believe than Nathan knew where the brothers were? A Because he is a brother of them.

Q Was there any other reason? A No, sir; I never had any other.

Q Now, when Chitman Brothers were talking over their plans to you about failing in business did they mention Nathan's name? A Never.

Q Do you know what business Nathan was in? A He was a peddler.

Q What did he peddle? A Fruit and vegetables.

Q Fruits and vegetables? A yes, sir.

Q Did you ever have any talk with Nathan about going to Europe? A never; I never knew than Nathan is going to Europe.

Q Do you know Nathan's wife? A Yes, sir; I do.

Q Do you know where she is now? A Yes, sir.

Q Where is she? A She is out side.

Q Now, when was the next time you saw your brother-in-law, Mr. Iger? A When I came back from Philadelphia I went home, it was rather late, and the next day my mother told me that they caught the Chitman Brothers.

Q You are speaking now of your returning from Philadelphia the second time? A Yes, sir.

Q Had you seen Mr. Iger between the time when he talked with you and told you that Goldberg wanted you and the time when you came back from Philadelphia the second time? A I seen him afterwards when I came back from Philadelphia the second time.

Q But between those two occasions? A I don't remember exactly.

Q When you came back from Philadelphia the second time you had a talk with whom, your wife? A No, sir; I came home, it was already late, and the next day in the morning, Sunday, my mother told me that "Here it is in the paper that they caught the Chitman Brothers on the steamer and they arrested them" and certainly I wanted to see, to read that paper and I seen in the paper that they caught Nathan Chitman and I Says "Here is a mistake" and as soon as I read that in the

207
2
paper I went over to Mr. Goldberg to see him about it.

Q But the question is when did you next see Mr. Iger?

A I then seen Mr. Iger; I first seen Mr. Goldberg.

Q You saw Goldberg first? A Yes, sir; I was out by my brother-in-law and I told him about it.

Q You and your brother-in-law had a talk about it?

A Yes, sir.

Q What did you and your brother-in-law do? A He was surprised just as I was.

Q I didn't ask you what you and your brother-in-law were surprised at-- what did you do if anything? A I have told you first what I did. I went again by Goldberg and I told him that "Here is a mistake" and I went to Mr. Goldberg and I said to him "You will have some trouble on account of that" I said "Mr. Goldberg you will ^{have} some trouble," he said and "certainly as a friend of you I don't want you should have trouble" and I said that I think it would be the best way to fix that mistake.

Q Fix what? A I said to him "You know I am acquainted with Chitman and I will try to find something about him!"

Q What Chitman? A Nathan Chitman because Nathan Chitman was arrested at that time.

Q You said you would go up to Nathan Chitman? A Yes, sir.

Q For what purpose? A Because I wanted-- I knew Mr.

208
Goldberg would have trouble and I wanted to save him trouble.

Q What did Goldberg say? A Goldberg said to me that I should go up to find something about it.

Q What did he want you to find out? A I should make the-- the real words were "Square it up" and then I went out.
said

Q That is what Goldberg said to you? A Yes, sir; and then I went up to Nathan Chitman.

Q Did you go alone? A Yes, sir; I went a lone.

Q Did you see Nathan Chitman? A I did not see him.

Q Where did you go to see him? A In 111 Norfolk Street.

Q Who did you see if anybody when you arrived at 111 Norfolk Street? A His mother was there and his wife was there.

Q You saw Nathan's mother when you arrived there? A Yes, sir.

Q Did you inquire for Nathan? A Yes, sir.

Q What were you told? A I should wait a few minutes and he will be soon up.

Q Did you wait? A Yes, sir.

Q Did Nathan come? A Yes, sir.

Q Where did he come from? A I didn't ask him.

Q Did you wait inside the house? A Yes, sir.

Q Did he come from out there? A Yes, sir.

Q He came from outside? A Yes, sir.

Q Now, did you have a take with Nathan? A Yes, sir.

4
Q What was the talk you had with him? A First he had suspicion of me-because they thought--

Q Never mind about that. What did you say to Nathan and what did he say to you? A I said to Nathan Chitman that I thought, in my estimation that the best way would be they should straighten that out because it should not come to expenses and should not come to Courts, it is better to cost him a few dollars because he wants to go away to the old country than to have trouble and go to court and waste time for nothing.

Q Because who wants to go away? A Nathan;...

Q To go away to the old country? A Yes, sir.

Q Before we go any further let us get this date fixed. This was on a Sunday? A Yes, sir.

Q Which Sunday was it? A Well that was already two weeks after, the second Sunday after Thanksgiving.

Q It was on the sixth of December then, was it not? A I can't remember that.

Q Thanksgiving was on the 26th of November? A It might be.

Q Thursday the 26th, Friday the 27th, Sunday the 29th? A It was the second Sunday after Thanksgiving.

Q That would be the 6th of December? A Yes, sir.

Q About what time of day was it? A It must be between four and five o'clock.

Q In the morning or afternoon? A In the afternoon.

Q Now, what were the first words that you spoke to Nathan when you went in there about four or five o'clock on the afternoon of Sunday the 6th of December? A I first asked him the trouble that he has got; because I didn't see him before.

Q What were the first words you said to him. Now you have to tell us? A I can't remember.

Q Tell us a nearly as you can? A I can't remember the words which I spoke to him.

Q Can you remember the substance of the words, what you said, the substance, of the conversation as it went along?

THE COURT: If you can't give it word for word give it according to the best of your recollection.

THE WITNESS: I said Mr. Chitman that I think that the best way would be that we should straighten that even, that we should straight that even and he had suspicion on me.

Q Never mind about the suspicion. Go on and tell us what was said? A Well, he didn't want to believe me.

Q How did he indicate to you that he didn't want to believe you? A Because I seen the way he spoke with his brothers that he hasn't got no confidence in me.

Q Were his brothers there? A Yes, sir.

Q What brothers were they? A I think Joe and I think Harry was there; I don't think it was somebody else.

Q Was Sussie there? A No, sir.

Q Was Ichiel there? A No, sir.

Q How did he indicate to you that he had a suspicion of you as you say, what did he say to you that indicated that?

A I seen he went away to his brothers and spoke to his brothers and the way he asked it I seen it.

Q Did you hear what he said to his brothers? A No, sir.

Q How long did he talk to his brothers? A About five minutes.

Q Was that just after you had told him that you thought that they had better make that straight or even as nearly as you can recall? A Yes, sir.

Q That was the first thing you said to him when you went in? A I can't recollect exactly but that was the first thing.

Q It was about the first thing as nearly as you can remember? A Yes, sir.

Q Now after talking with his brothers what did Nathan do? A Nathan said to me-- I made a proposition to him, I can't remember it exactly, I made a porposition to him that the best way would be that he should take a strange person and Mr. Goldberg should take a strange person and they should tell them it all about, and whatever he will say about it he should agree to, what ever they would say about it, these two people.

Q Now, did you make that proposition before or after

7 212
Nathan went up to talk to his brothers? A After.

Q What is the next thing that took place? A Well then Nathan Chitman said to me how does he-- he got nothing why should he go and say, he don't owe anything.

Q What did you say to that if anything? A I said to him the best thing would be even if it should cost you a few dollars because ^{if} it comes between people the people will never permit you to pay all the money which he asked you but it may cost you about \$25 or \$30 and it would be the best way if you think to leave this country that should pay that amount that you couldn't have any trouble.

Q What ^{did} Nathan say to that? A Well he admitted to that.

Q What? A He agreed already that it should go between strange people.

Q What else did you say to him if anything? A Well, as soon as I heard that I went over to Mr. Goldberg to speak to Mr. Goldberg.

Q Did you go alone? A Alone.

Q Where was Mr. Iger at this time? A He was up in his house.

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

Q Now while you were in Nathan Chitman's house did Nathan say anything about going to Europe? A Yes, sir.

Q What did he say? A Well, that he wanted to go to

213
Europe and he sold out every thing already for nothing, and then they arrested him from the steamer and now he has got to fix new rooms until the case is finished; I told him that the best thing would be to straighten it out between two people.

Q Was he already arrested at the time you were talking with him? A He was under bail.

Q Did Nathan say anything more about going to Europe?

A No, sir.

Q At that time? A No, sir; I don't remember that.

Q Did you ask Nathan anything about the jewelry in question, the lady's watch and chain and the lady's pin?

A I never thought to ask him because I was more than sure that he did not take it, why should I ask him.

Q You did not ask him? A No, sir.

Q Now you say you left Nathan's house and went to Goldberg's? A Yes, sir.

Q Alone? A Yes, sir.

Q Did you see Mr. Goldberg? A Yes, sir.; I was waiting for him.

Q Did you see him? A Yes, sir.

Q Where did you see him? A In his store.

Q That is the elder Mr. Goldberg? A Yes, sir.

Q The father of the two boys? A I never spoke with any body else.

9 214
Q Now was there anybody in the store when you went there besides Mr. Goldberg on this occasion? A I think one of his boys was in.

Q Which one? A The older boy.

Q The older one? A Yes, sir.

Q Whereabouts in the store was Mr. Goldberg, the father, when you went in? A We had a talk near the door.

Q What is that? A We had a talk near the door.

Q You and he talked near the door? A Yes, sir.

Q Was it behind the counter? A No, sir.

Q In front of the counter? A Yes, sir; on the other side of the counter.

Q Now which is the other side, was he in front or behind the counter? A This is the counter and he was on this side.

Q Was he in front of the counter, was he where the customers stand? A Where the customers stand.

Q Where was his son? A On the other side, just opposite.

Q Just opposite? A Yes, sir.

Q There was a show case on the counter? A Yes, sir.

Q About what time of the evening was it? A It was about I think about seven o'clock.

Q About seven o'clock? A Yes, sir.

Q It was between four and five when you went to Chitman's

house and around seven o'clock when you got to Goldberg's place?

A No, sir; because Mr. Goldberg wasn't in and I was waiting there.

Q How long did you wait there? A Well I can't remember exactly how long I was waiting.

Q Five minutes or an hour? A Well, I was waiting a long time because Mr. Goldberg went out for business.

Q Now, what was the talk you had with Mr. Goldberg when you finally saw him? A I told him every thing what I spoke with Mr. Chitman.

Q Just what you have told us here? A Yes, sir.

Q What did Mr. Goldberg say as to whether he agreed to it and whether he was willing? A He agreed to it and was willing.

Q He was willing to have two strange persons go into this matter? A Yes, sir.

Q And decided it? A Yes, sir.

Q And he would agree to whatever they said? A Yes, sir.

Q Is that correct and straight? A Yes, sir.

Q What further conversation did you have with him if any? A Well that was the main conversation; I don't remember anything else that we had.

Q After you had a talk with Goldberg what did you do?

A I went over to my brother-in-law.

Q Mr. Iger? A Yes, sir.

Q Where was he? A He lived at 154 Houston Street.

Q Did you see Mr. Iger there? A Yes, sir.

Q At his house? A Yes, sir.

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

Q What happened after you talked with Iger? A I told him he was a friend of Mr. Goldberg and I told him--

Q Iger is a friend of Goldberg? A Yes, sir; I said to him " Iger I think it would be the best thing to save Mr. Goldberg all the trouble that we should stay to straighten that thing out, I think Mr. Goldberg is going to take you as one of those two people, you will be one, you try to straighten this thing out that it should not come to any trouble"

Q What made you think Goldberg was going to take Mr. Iger? A Because the way Mr. Goldberg spoke to me about Iger and I spoke to him, he thinks very much about Iger.

Q But at the time you talked to Goldberg and told him the proposition that came from Nathan here you did not mention Iger's name?

MR. SNITKIN: I object to the question.

Q Do you remember talking with Goldberg? A Yes, sir.

Q After the time you came from Nathan's house? A Yes, sir.

Q At that conversation did you mention Mr. Iger's name to Goldberg? A I don't remember exactly now.

Q Did he mention it to you? A I don't remember it now.

Q Had you any reason to think that Mr. Goldberg would use Mr. Iger except the reason you have already given? A Because I knew Mr. Goldberg is Mr. Iger's friend, both good friends from before, not exactly at this time.

Q Now is Mr. Iger related to Nathan Chitman? A No, sir.

Q Had he been in business with the Chitman Brothers? A Never.

Q What did Mr. Iger say to that when you told him about Goldberg? A He said that he was very glad that I thought of it in this way already.

Q Now did you have any further talk with Iger? A I said to Iger he should try to finish it because I am very busy at that time, it was the busiest time, I cannot be here in town because I have to leave again and I said he should finish it.

Q You were anxious to get it finished? A Because I had to go for business.

Q You wanted to see this thing straightened out?

A Yes, sir.

Q What ^{did} Iger say to that? A "All right" I should leave it to him.

Q Now why were you so anxious to have this thing straightened out? A Because I had to go for business; it was the busiest time when we only have a few weeks season.

Q What difference does it make to you whether it was straightened out or not? A Because Goldberg had the trouble on account of me; I brought in these brothers and he had trouble on account of me and I didn't want him to have trouble on account of me.

Q Did Nathan Chitman ever tell you where the jewelry was?

A I didn't speak with Nathan Chitman about the jewelry.

Q Did you see his wife when you went to his house?

A Yes, sir.

Q Did she say anything to you about the jewelry?
any

A No, sir; it wasn't talk about jewelry.

Q After your talk with Iger what did you do? A I went home.

Q Did you see Iger again? A No, sir; the next day I again left town.

Q Did you see Mr. Goldberg again? A No, sir; then I seen him already, I don't remember whether it was this week or in another week I can't remember; I went up by Mr. Goldberg but he was not in the place, that I should inform my self how this case stands, and they made up between themselves just what I was told already but I don't know if it is true or not because I was not present.

Q They made up between themselves? A Iger fixed it up already and he brought it--

Q You were not there? A No, sir.

Q Was it Iger did this? A No, sir.

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

Q Do you know where Ichiel went to? A I know? How could I know that.

Q Do you know? A No, sir; I don't.

Q Do you know when he left New York? A No, sir.

Q He is one of the brothers who were talking to you about going in to bankruptcy, isn't he? A Yes, sir; he is one of the brothers.

Q Now do you happen to know whether he engaged any passage on any boat?

Objected to. Objection sustained.

BY A JUROR:

Q Did you at any time telephone to Mr. Goldberg that you wanted to see him at your house in regards to Chitman? A No, sir.

BY MR. SNITHIN:

Q The day you went there Goldberg sent for you to your home? A Yes, sir.