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

PART FOUR.

-----x  
THE PEOPLE OF THE STATE OF NEW YORK :B e f o r e :

-against- : HON. THOMAS C. O'SULLIVAN, J.

GEORGE E. RODGERS. : and a Jury.  
-----x

New York, November 30th, 1910.

INDICTED FOR VIOLATION, SECTION 1865 OF PENAL LAW.

INDICTMENT FILED MAY 20th, 1910.

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

OSWALD N. JACOBY, Esq., Assistant District Attorney,

For the People.

FREDERICK O. SWAIN and EDWARD CARPPEL, Esqs.

For Defendant.  
-----

A jury is duly empaneled and sworn.

Mr. Jacoby opens to the jury on behalf of the People.  
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Stewart Liddell,

Official Stenographer.

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PATRICK CONNERY, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q How old are you? A Twenty-six years old next month.

Q What is your business or occupation? A Boatman.

Q How long have you been a boatman? A Eleven years.

Q And have you worked during most of that time in and around New York Harbor? A I have.

Q Do you know a man named Dennis A. Kennelly? A I do.

Q Were you employed by him in 1909? A I was.

Q What sort of work did you do for him? A I was captain of the barge Mary A. Kennelly.

Q Is that a brick barge? A well, it sometimes carries brick, and sometimes carries other stuff.

Q Well, it is called a brick barge? A Called a brick barge, yes.

Q When did you take command of the barge Mary A. Kennelly? A First part of June, 1909.

Q And thereafter you remained in command of the barge Mary A. Kennelly continuously up to when? A To October.

Q At the same year during that time, the period from June to October, 1909, state whether or not the barge Mary A. Kennelly was ever moored at a dock in South Brooklyn?

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A She was.

Q Is that dock known as the 52nd Street pier? A 52nd Street, South Brooklyn.

Q How many times, during the time you commanded her was she at that dock?

DEFENDANT'S COUNSEL: Does that mean before July 18th or after? The indictment charges the defendant with the specific date.

MR. JACOBY: He has now testified that the brick barge was moored at this pier at a certain time, between June 1st and October, 1909.

Q What were the dates, as near as you remember it when she came to that dock? A Well, she left there the last part of June and came there about the middle of July.

Q Where there when she came there about the middle of July?

Witness: A About the middle of July.

Q And left there about the last of July.

Q Was she there during the period you were in command? A Yes, she was moored at that 52nd Street pier during that time.

Q And during that time she was there continuously? A Yes, she was there continuously.

Q And the District Attorney?

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to be more specific as to the date.

MR. JACOBY: The witness has said from the middle of July to the last of July.

A It was about two weeks.

Q Do you remember ever seeing George E. Rodgers, the defendant? A Well, I can't swear. I see a man looked like something like him- he resembles the wharfage master, but I can't say for sure that that is the wharfage master.

Q Did he have a crutch or anything of that sort? A That I can't remember.

Q Do you remember paying to anybody any money and receiving a certain paper from that person? A I do.

Q Did you make that payment the last day the boat was there? A That I can't say.

Q Did you only make one payment? A One payment.

Q What was the amount of the payment that you paid? A Seven dollars.

Q Did you receive a certain paper from the person to whom you paid the seven dollars? A I did.

Q I showed you this paper and ask you whether or not that is the paper you received from that person at the time you paid him seven dollars? A That is the paper.

MR. JACOBY: I ask that this paper be marked for identification, People's Exhibit 1.

(Paper marked for identification, People's Exhibit 1)

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Q Do you remember whether or not the person who gave you the paper wrote on it at the time he gave it to you?

A That I can't swear.

Q The person who gave you the paper have you seen him at the dock before that time? A I had.

Q How many times? A Pretty nearly every day I was there. I wouldn't say every day, but I see him a few times before that.

Q The same person? A The same person.

Q Was he standing up or sitting down? A Standing up when I always seen him.

Q Did he have a crutch at that time? A That I can't say, I don't remember.

MR. JACOBY: I ask to have the defendant stand up.

(The defendant arises).

Q I ask you again to look at the defendant and state whether or not the defendant is the person to whom you gave the seven dollars, and from whom you received the paper marked People's Exhibit 1? A He is about the size, and his face resembles the man, but I could not swear it was him.

Q You could not swear it was the same man? A No.

Q What is your best impression?

DEFENDANT'S COUNSEL: He answered. He said he could not swear that was the same man.

MR. JACOBY: Now, I ask him what was his best impression.

Objection sustained.

Q Did you turn in your report of this payment, to Mr. Kennelly? A I did.

Q Did you give Mr. Kennelly the paper marked People's Exhibit 1 for identification? A I did.

Q Did Mr. Kennelly reimburse you with seven dollars? A He did; he paid me seven dollars.

(So cross examination.)

D E P O S I T A . K E N N E L L Y , called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q What is your business, occupation? A Lighterage transportation.

Q Did you, in the year 1909 own a boat called the Mary A. Kennelly? A Yes, sir.

Q Was she what is known as a brick barge? A Yes, sir.

Q To your knowledge was she ever moored at the 52nd Street pier at South Brooklyn? A Yes, sir.

Q During what dates was she there during 1909, in the months of June and July? A My books will state, I believe.

Q Well, you may refresh your recollection from your book? A The 17th of July she left 52nd Street. She landed at 52nd Street, South Brooklyn, and she left July 31st, 52nd Street, South Brooklyn, for Athens-- May 17th to 31st.

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Q Is that the only time that she was at the 52nd Street pier in June, July and August, 1909? A Yes, sir.

Q Did you ever go down to the 52nd Street pier the time she was there? A Yes, sir.

Q Did you ever, while you were there, see the defendant? A Well, I am not acquainted with him.

Q Well, do you remember ever seeing him? A I remember seeing his face, but I don't know the gentleman personally.

Q I know you don't, but you do remember seeing the person here as defendant, George E. Rodgers at that time?

A Well, I won't say at that time, no. I have seen him at some dock or other in Brooklyn, but I couldn't say that dock, because I was not interested at the time.

Q Have you seen him more than once? A No, sir.

Q Did you talk with him the time you saw him? A Yes, sir.

Q When was it? A That I don't know.

Q Can you give us any idea of the date? A No, sir.

Q Can you say it was in 1909? A Yes, sir.

Q Well, tell us what he said.

DEFENDANT'S COUNSEL: Objected to. That is very vague.

THE COURT: Objection sustained.

Q You cannot fix the date any more closely than 1909?

A No, I went down to see my boat.

Q What boat? A Mary A. Kennelly.

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Q Was she ever moored at any other wharf in South Brooklyn during the year 1909 except that 52nd Street wharf?

A Was she ever moored at any other dock?

Q In South Brooklyn, except the Fifty second Street wharf during 1909? A Not in July.

Q Was she in June? A Yes, June 16th she was down at Bush's Dock. That is the Twentieth Street dry dock.

Q Is that a city dock? A No, sir.

Q Well, was she at any city dock in June, 1909?

DEFENDANT'S COUNSEL: I object to the line of examination of this witness.

THE COURT: Objection sustained.

Q Connery was the captain of that boat, wasn't he?

A Yes, sir.

Q Did you at any time receive from Connery the paper that I now show you, marked People's Exhibit 1 for identification? A Yes, sir, that is the paper-- a paper like that.

Q Did you pay him seven dollars? A Yes, sir.

Q Do you know what date it was that you received that and paid Connery seven dollars? A No, sir, it doesn't say what date. It says wharf at Fifty second Street, South Brooklyn, Seven dollars.

Q Can you tell on what date it was? A Yes, around about July 29th, about that time.

Q You cannot tell within about two or three days?

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A No, sir.

CROSS EXAMINATION BY DEFENDANT'S COUNSEL:

Q Did you ever pay any moneys over to defendant Rodgers?

A No, sir, not as I know of. I don't remember.

IT IS ADMITTED that the paper now marked in evidence is the book of rules and regulations of the Dock Department of the City of New York. In force in the year 1909.

Received in evidence and marked People's Exhibit 2.

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EUGENE SHEPARD, Called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q What is your business and occupation? A I am employed in the Commissioner Of Accounts as an examining inspector.

Q Did you ever see the defendant now at the bar? A Yes, sir.

Q At the office of the Department of Docks? A No, sir.

Q At what office? A At his residence.

Q Where was that? I shall have to refresh my memory about the date.

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Q I show you a paper which is signed by you and ask you whether that will refresh your recollection? A Yes, sir.

Q When did you see the defendant? A On the 17th day of April-- I think it was the 17th of May-- 1910.

Q Where? A At his residence, at 90 Milton Street, Greenpoint, Long Island.

Q In the Borough of Brooklyn? A Yes, sir.

Q Did he at that time write a letter? A Yes, sir.

Q I show you this paper and ask you whether that is the letter you refer to? A Yes, sir.

Q Will you state that all the pen writings upon the paper that you now hold, that is everything except the printed matter, was written in your presence by the defendant with ink? A Yes, sir.

MR. JACOB: I offer this paper in evidence as a standard of handwriting-- solely as a standard of handwriting.

Received in evidence and marked People's Exhibit

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MR. JACOB: May I inform a person that a certain witness will not be needed in view of the rules of the Dock department having been marked in evidence?

THE COURT: Yes.

(No cross examination)

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R O B E R T   G E R E, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q You are an employe of the City of New York, are you not? A I am, yes, sir.

Q And with what portion or part of the City government are you connected? A I am a clerk in the cashier's office of the Department of Docks and Ferries .

Q How long have you been connected with the office of the Department of Docks and Ferries? A Since 1895.

Q Where is the main office of the Department of Docks and Ferries? A Pier A, North River.

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

Q How long have you known him? A Five or six years--since the date of his appointment.

Q State whether or not he was one of the City Dockmasters in July, 1909? A He was.

Q And had been for some time before that? A Yes, sir.

Q And continued so for some time after that? A Yes, sir, for several months after.

Q Well, he was surely a dockmaster up to the 1st of September, 1909? A Yes, sir.

Q Was he assigned to any particular portion of the city as such dockmaster? A Yes, sir, assigned to a district in Brooklyn.

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Q What was it called?

DEFENDANT'S COUNSEL: We will admit that he was assigned to the district, 17th.

MR. JACOBY: It is admitted that the defendant was assigned to the 17th District, and that that includes the City docks in that portion of the water front extending from Butler Street on the east side of Gowanus Canal, southerly and easterly to and including the waters of Sheepshead Bay.

DEFENDANT'S COUNSEL: That is right.

Q Now I will show you People's Exhibit 2, being the rules and regulations of the Dock Department, and ask you to point out the portion of that book that relates to the duties of dock masters, describing it by the heading and by the pages? A Instructions for dockmasters, page 23, it starts.

Q And runs consecutively to what page? A To page 28.

Q Now, state whether or not the City charges fees or wharfage rates for the mooring of boats at any of the City docks? A They do, yes, sir.

Q And what is one of the duties of all city dockmasters - or was, in Jul , 1909 with reference to the wharfage fees? A It is to collect them or report the boats to the office.

Q You had to collect them or report the boats to the

JUL 1909

JUL 1909

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office? A Collect the wharfage.

Q In what cases were they to collect them in cash, if any? A In all cases where the owners of the boats did not have a charge account with the Dock Department.

Q In cases where the owner of the boat did not have a charge account with the Dock Department it was the duty of the dockmasters to collect the wharfage fees in cash? A Yes, sir.

Q And in cases where they did have a credit account with the Department it was the duty of the Dock Department to report to the Department as to the wharfage charges incurred by the persons having credit, is that correct? A That is right, yes, sir.

Q In 1909 state whether or not Mr. Dennis A. Kennelly had a charge account with the City? A He did not.

Q What was during 1909, and still is, the system or method by which dockmasters collected the wharfage fees from the persons that moored boats at the wharf?

— Objected to. Objection overruled.

A They would punch a triplicate ticket, give No. 3 to the captain as a receipt, and No. 1 is sent to Pier A, North River.

Q And No. 2? A No. 2 is to be retained by the dockmaster.

Q The tickets are printed in a different color each

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year, are they not? A Each year, yes.

Q What was the color in 1908? I show you a 1908 sample ticket? A In blue.

DEFENDANT'S COUNSEL: Your Honor, the mere fact of offering the ticket itself--

MR. JACOBY: I will offer merely as a sample of the system which I understand was the same in 1908 as in 1909-- the system of punching?

THE WITNESS: Yes, sir.

MR. JACOBY: I will offer ticket 162,404, of the rules of 1908, merely as a sample or method showing how the dockmasters collected the wharf charges, and how they accounted for them.

Received in evidence and marked People's Exhibit 4.

MR. JACOBY: I also offer for the same purpose only a book of tickets of the year 1908, for that purpose, as showing how it was done.

DEFENDANT'S COUNSEL: I object to the introduction of any documentary evidence bearing on this case.

THE COURT: Objection sustained.

MR. JACOBY: This, I understand, has been admitted as a sample (People's Exhibit 4)?

THE COURT: Yes.

Q I show you the sample and ask you whether all sets of tickets used in 1908 by the dockmasters were of the

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same kind as the sample you now hold, which was marked People's Exhibit 4, except, <sup>that</sup> they were of a different color in 1909 from 1908?

DEFENDANT'S COUNSEL: I object to the form of the question. It is rather too vague itself-- it is not sufficient.

THE COURT: The form of the question is objectionable.

MR. JACOBY: Then I will reframe the question.

Q State with reference to the kind of tickets that were used in July, 1909 by dockmasters, how that paper resembles the kind used in 1908, if at all?

DEFENDANT'S COUNSEL: I object to the form of question.

THE COURT: Question allowed.

A The form of ticket is the same, except the date, of course, was changed, and the color.

Q And the system was the same in 1908 as in July, 1909? A The same system.

BY THE COURT:

Q How do you know that? A I handled the records for four or five years, and there has been no change.

BY MR. JACOBY:

Q What was the color of the triplicate tickets in 1908 as distinguished from 1909? A I think it was brown. I can't just remember now-- brown.

Q Well, I show you a ticket for 1909, to refresh your

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recollection? A Yes, sir, that's it-- brown.

Q And the series of numbers were never duplicated in the same year, were they? A Never, no, sir.

Q Now, will you explain to the jury-- supposing a boat had been docked from the 17th, or let us say, from the 18th to the 31st of July inclusive, at any wharf of the City of New York, how, if at all that would be indicated on the triplicate ticket?

DEFENDANT'S COUNSEL: Objected to as simply calling for a conclusion. The question itself is rather ambiguous and simply a conclusion on the part of the witness.

THE COURT: Objection sustained.

MR. JACOBY: It is rather difficult to get before the jury the method or system by which the punching was done.

THE COURT: Yes; but you are not allowed to put your witness supposititious questions at all.

MR. JACOBY: If that was the regular, universal system, that was the usual course of business.

THE COURT: You cannot suppose a situation and allow your witness to testify upon that supposition.

Q I want to say that the dockmasters indicate the number of boats that were at any wharf during 1902.

THE COURT: Objection overruled.

Q Would you punch the ticket each day that the boat was at

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the dock, collect daily and punch the ticket daily.

Q Did they always collect daily?

Objected to.

THE COURT: Objection sustained, unless he knows whether they did or not.

A I don't know in all cases.

Q Wasn't it a fact that they would frequently collect at the end of the stay of the boat for all the days it was moored, punch them all out on one set of tickets? A There have been instances of that kind.

Q Is the punching done while the three tickets are all together in the book, if you know? A They should be punched in triplicate.

Q Do the rules require that?

DEFENDANT'S COUNSEL: I object to the form of the question. Did they do it or not, or does he know what they did there? A I don't know. I don't say that I knew. I said they should punch three at once.

Q I refer you to the section of the rules and instructions the dockmaster--

DEFENDANT'S COUNSEL: That itself might be a violation of the rules only, not a crime.

THE COURT: Well, what is your objection?

DEFENDANT'S COUNSEL: I object to picking out certain rules of the dockmaster's department. The charge is larceny.

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Objection sustained.

Q I show you People's Exhibit 3 for identification and I ask you to translate the punch markson that ticket to the jury and the Court.

BY DEFENDANT'S COUNSEL:

Q I object to the form of the question. The ticket speaks for itself.

MR. JACOBY: I practically requires expert testimony because it is so complicated.

THE COURT: Objection overruled. If you will qualify him as an expert, of course, it is one thing--

MR. JACOBY:

Q Do you doubt his competency?

DEFENDANT'S COUNSEL: We admit that he is qualified.

Q Then proceed. A The punch in the 17th District, inside berth of a brick boat, from July 15th to 31st.

Q Inclusive? A Inclusive; the sum of seven dollars.

Q What does that mean for the sum of seven dollars? A It is a receipt for seven dollars.

Q Given to some dockmaster or whom?

THE COURT: According to the exhibit?

Q According to the exhibit given to some dockmaster or whom? A Given to some--

Q What is the name of the dockmaster by whom?

A It is given to the dockmaster's receipt to the owner

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of that boat.

Q But the paper shows that seven dollars was given to some dockmaster by what person? A Paid in cash. It doesn't state the person that paid it.

Q Is there any writing on the paper which indicates what boat it was paid on account of? A Paid on a vessel called the Kennelly, 52nd Street pier, Brooklyn.

Q And what does the punch mark between 17th and 18th at the top indicate? A Punched at the 17th District, the number of the dockmaster's district.

Q What is the punch mark at the left near the top, what does that indicate? A That means an inside berth.

Q What is the punch mark there to the right of the centre near the top indicate? A B B. It is a provision for brick barge.

Q It means that the vessel in question was a brick barge? A A brick barge.

Q And the pencil word, "Cash" there at the left hand lower portion, what does that indicate? A Simply that it is a cash ticket.

Q Not a credit transaction? A Not a credit transaction.

Q Now, I show you a certain payer and ask you to tell us what that is? A That is a No. 1 ticket sent to the Dock Department's office, representing the amount of one

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day as having been collected.

MR. JACOBY: I ask to mark this for identification.

Marked for identification People's Exhibit 5.

Q Now, I ask you to compare People's Exhibit 1 for identification with People's Exhibit 5 for identification, and after looking at them closely, tell us whether or not they are two of the three triplicate tickets of that series?

A They are two of the tickets.

Q They are numbers what? A Numbers 1 and 3.

Q Can you say if No. 1, marked People's Exhibit 5 for identification, was on or about July 31st, turned into the office of the Dock Department? A I would have to get the report to tell that.

Q I show you a certain paper and ask you whether that will refresh your recollection on the preceding-- A That was in two returns of July 31st, 1909.

Q Was People's Exhibit 5 for identification turned in at that time to the Dock Department? A It was included in this report. It probably reached Pier A the following day. They were mailed to the office.

Q This report you just looked at--

MR. JACOBY: I ask that that be marked for identification, unless the counsel will concede that this report is in the handwriting of the defendant.

It is conceded that the paper that the witness has just

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looked at is in the handwriting of the defendant.

THE COURT: You do not refer to one of the triplicate tickets?

MR. JACOBY: I offer the page the witness just looked at in evidence.

No objection.

Received in evidence and marked People's Exhibit 6.

Q This seems concededly in the handwriting of the defendant, People's Exhibit 6. Can you state whether or not People's Exhibit 5 for identification was turned into the deckmaster's department, and if so, when? A It was turned in on the report of July 31st.

Q At that time? A At that time, 1909.

Q Is there an item in that report referring to a boat called Kennelly? A There is, yes, sir.

Q Is it a cash or credit transaction? A A cash transaction.

Q What amount does it debit the defendant with? A One dollar.

Q Now, in punching in Nos. 1, 2 and 3 before separation, before the tickets were torn apart, will the punch marks to punch the same dates, amounts and other items?

DEFENDANT'S COUNSEL: I object to the form of the question. We wasn't there. We didn't know what the defendant did or anybody else.

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Q Do you know whether when tickets are punched in triplicate, tickets of the time that we have been testifying about are punched in triplicate before they are separated from each other, whether the punchings show the same dates and amounts and other punches on each ticket--Yes or no, do you know? A They do naturally.

DEFENDANT'S COUNSEL: We don't know what the defendant does or anybody else. It is a mere conclusion whether they did it or not.

MR. JACOBY: That is not in the record, what the defendant did, but the way the tickets are folded, whether when they are punched or torn apart, the punch marks show the same dates and marks on the tickets.

THE COURT: That is assuming too many contingencies again-- punched before torn apart.

MR. JACOBY: I didn't ask that.

THE COURT: All right. That seemed to be a part of the last question.

MR. JACOBY: Whether when they are punched before torn apart, whether the punch marks appear the same as to the dates and marks.

THE COURT: Objection sustained. It is one thing, of course, to have knowledge of the rules and regulations and to have a knowledge of the system; it is also another thing to have personal knowledge of what one does and particularly

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necessary to have personal knowledge of what the defendant has done. This witness is a clerk in the cashier's office and his duties are simply clerical and he has not yet testified that he knows anything about the operations of the dockmasters with regard to the mechanical task of punching or separating tickets or anything of the kind.

MR. JACOBY: I have tried to ask him about that. The rules that are in evidence show what their duties were.

BY THE COURT:

Q Do you ever go to the place where these men, the dockmasters, are working and see what they do or how they perform their work? A No, sir.

Q You don't know anything about that except as you get the reports at the office? A That's all.

MR. JACOBY: The rules which are in evidence, which I will read to the jury at the proper time, prescribe it.

THE COURT: Yes.

BY MR. JACOBY:

Q Well, you know, don't you, that every cash item, when the dockmaster-- when the defendant made his report, as appears in People's Exhibit 5, that, for every cash item he delivered to you a No. 1 ticket? A For each item on the sheets there was a ticket rendered.

Q For each cash item on the sheet, People's Exhibit 6, he delivered you a No. 1 ticket? A A No. 1 ticket.

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Q Now, I ask you whether these tickets that I show you pinned together are the No. 1 tickets for all of the cash items on the account or report People's Exhibit 6?

DEFENDANT'S COUNSEL: I object, documentary evidence.  
 He ought to be the best person to testify.

THE COURT: All other items.

MR. JACOBY: On the same report, delivered the same day.

THE COURT: Objection sustained.

MR. JACOBY: It is simply to show the system or method.

THE COURT: No; you cannot do that.

Q Now, of these papers which are attached to People's Exhibit 6 and which--

MR. JACOBY: By the way these papers I now show you attached to People's Exhibit 6, the defendant admits they are in his handwriting. I so understand you to say?

DEFENDANT'S COUNSEL: We will admit they are in his handwriting, but we are not going to admit certain figures. May I ask what you intend to prove?

MR. JACOBY: I simply wish to show negative proof, namely, that in all of the accounts up to and including July 31st there is no other item debited by this defendant, on account of the brick barge Mary A. Kennelly?

DEFENDANT'S COUNSEL: That is simply documentary evidence itself. It is a question whether he collected the money

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or not and whether he turned it over to the City. All the other questions as to the documentary evidence and statements are entirely irrelevant. This is the question, did he turn over the money to the City or not? That is the whole point before the Court.

MR. JACOBY: I propose to show according to the defendant's own reports that he did not at any other time during the period from July 17th to July 31st debit himself with any moneys collected or alleged to have been collected on account of this bribe charge.

THE COURT: You say so that?

MR. JACOBY: I will withdraw Mr. Gere for a moment, and call Mr. Horton to the stand.

-----  
LAWYER B. C. HORTON, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q What is your occupation? A I am principal of Coleman's School of Newark, and an examiner of handwriting.

Q By that you mean you are what is commonly known as a handwriting expert? A Yes, sir.

Q For how many years have you been a handwriting expert?

A Well, I have been a student of handwriting for about fifteen years; I have testified in the courts for the last

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five years.

Q In connection with your studies of handwriting--

DEFENDANT'S COUNSEL: We will admit he is an expert and qualified.

Q Now, Mr. Horton, it is admitted that you are a handwriting expert. That will save our interrogating you further on that. I will show you two certain papers, namely, People's Exhibit 3 and People's Exhibit 6.

DEFENDANT'S COUNSEL: We admit it is the same handwriting, the letter which the defendant wrote and also the figures.

MR. JACOBY: Well, do you admit that all of the other reports, weekly reports or reports--

DEFENDANT'S COUNSEL: Take it from when on?

MR. JACOBY: Dated from July 15th, 1909 to July 31st, 1909, are all in the handwriting of this defendant?

DEFENDANT'S COUNSEL: Yes.

Q These have now become the standards, Mr. Horton, and you can use any of these that you want? A I would like some time to examine these.

MR. JACOBY: Mr. Carrel, will you admit that the pencil writings upon the two tickets which are marked for identification People's Exhibit 1, and for identification People's Exhibit 5 are in the handwriting of the defendant?

DEFENDANT'S COUNSEL: We do.

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MR. JACOBY: It is admitted that People's Exhibit 1 for identification and People's Exhibit 5 for identification are in the handwriting of the defendant, that the pencil writings upon those tickets are in the handwriting of the defendant. I offer them in evidence.

DEFENDANT'S COUNSEL: We simply admit it is the handwriting. Somebody else might have possession of those tickets since, we don't know.

THE COURT: You have admitted that the handwriting on these two tickets is the handwriting of the defendant?

DEFENDANT'S COUNSEL: Certain figures and certain signatures, yes, but anything else on there we do not admit.

THE COURT: I will admit them in evidence.

Received in evidence and marked People's Exhibit 1 and 5 respectively.

MR. JACOBY: It is admitted that the entries in a certain book described as "1st District, G. B. Rodgers, dockmaster, month of July, 1949" contained upon two certain pages in said book, and which I will now have marked for identification, respectively People's Exhibit 7 and 8 for identification, and which across in a straight horizontal line across two pages, and People's Exhibit 9 for identification, and which across in a straight horizontal line across two pages of the book, are in the handwriting of the defendant.

(The respective pages are marked for identifica-

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tion People's Exhibits 7 and 8.)

MR. JACOBY: I ask that all of the weekly reports which have been admitted to be in the handwriting of the defendant, and which the witness Gere has testified were turned in as the weekly reports during that period be marked in evidence.

DEFENDANT'S COUNSEL: Consented to. —

MR. JACOBY: Turned in as reports from July 15th to and including July 31st, 1909.

DEFENDANT'S COUNSEL: Admitted.

(Received in evidence and marked respectively People's Exhibits 9, 10 and 11; No. 9 consisting of five sheets, No. 10 of seven sheets and No. 11 of 5 sheets.)

— — — — —  
 WITNESS GERE, recalled, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q I show you these papers, People's Exhibit 11, People's Exhibit 10 and People's Exhibit 9 and People's Exhibit 6 and ask you if those are the only reports or accounts turned in showing the alleged cash and credit receipts of the City during the period from July 15th to July 31st, 1909? A Yes, sir.

Have you examined them? A I have, yes, sir.

Q And these are the moneys credited to the City or credited to the defendant as collections on the account

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of the brick barge Mary A. Kennelly or any Kennelly boat at Pier 17, or elsewhere during the period from July 15th to July 31st, 1909 inclusive other than the item of one dollar on People's Exhibit 6? A When you say Pier 17, that is Pier 52.

Q Pier 52 I mean in the 17th District? A Yes, sir.

Q Other than the one dollar? A That is the only time that it appears on the record, between July 15th to July 31st.

Q And the defendant paid over to the City on account of the mooring of the brick barge Mary A. Kennelly during any period between July 15th and July 31st, 1909 only the sum of how much? A Of one dollar.

Q I show you a certain book, and ask you what that is? A That is a record, dockmaster's record from July 15th to 31st of the transactions of that particular dockmaster's district.

Q That is, each dockmaster keeps such a book? A He keeps his own book each month, or portion of the month.

Q How did that book come into your possession, if you know? A It is sent to the office, either brought or mailed or sent.

Q Well, do the dockmasters send them in? A They send them in once a month, yes, sir.

Q For what purpose? A As a record of the transactions

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of their districts.

Q And they are filed in the Department? A Filed in the department.

Q When was that book that you now hold filed in the department? A I don't know just when, probably in August.

Q Some time subsequent to July 31st, 1909? A Yes, sir.

Q And prior to August 31st, 1909? A Yes, sir.

Q In other words, the dockmasters start a new book each month? A Each month they have a new book.

Q I show you an entry marked for identification People's Exhibit 7 and ask you whether or not that refers to the transaction of the Mary J. Kennelly said to have been moored at the 52nd Street dock from July 17th to July 31st, 1909? A It does yes, sir.

MR. JACOBY: I offer that entry in evidence, it being concededly in the handwriting of the defendant.

Received in evidence and marked People's Exhibit

No. 7.

Q I show you another entry and ask you whether that also refers to the same vessel and the same transaction? A The same vessel and the same location.

MR. JACOBY: I offer that in evidence.

Received in evidence and marked People's Exhibit 8.

Q What, if anything, do these two items indicate to you

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as an officer or employe of the Department of Docks ? A They would indicate that the boat was there two days, on the 17th and 31st.

Q Would they indicate that the boat was there on any other day? A No, they would not.

Q Now, I ask you to examine every entry in that book between the entry People's Exhibit 7 and the entry People's Exhibit 8 , and ask you whether there is any entry--

DEFENDANT'S COUNSEL: We admit there is no other entry except those two particular dates.

MR. JACOBY: That's all.

CROSS EXAMINATION BY DEFENDANT'S COUNSEL:

Q You are known as the head collector in the Dockmaster's Department? A I don't know what they know me by. I am a clerk in the cashier's office.

Q You collect moneys from the dockmasters when they make their reports and hand the moneys over to you? A Yes, sir.

Q Do you know how long the defendant has been employed by the City in the capacity as dockmaster? A I don't know just how long, four or five or six years.. I don't know just the date of his appointment.

Q He has been there about ten years, hasn't he? A Possibly he has. I don't know just the date of his appointment.

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Q Do you know other people that know him in the employ of the city, among his associates and others? A Lots of them, yes, sir.

Q What is his reputation whilst in the employ of the City for the past ten years for honesty and integrity?

A As far as I know his accounts have always been particularly good and are all exact.

MR. JACOBY: I don't know that that is a categorical answer to the question. Counsel asked you what his reputation for honesty and integrity.

Q What was his reputation for honesty and integrity in your department? A It was always good.

Q Did you ever hear any complaints in relation to the conduct of the defendant prior to--

Objected to. Objection overruled.

A No, I never did.

Q During the ten years while he was in the employ of the city? A No, sir.

Q You say that the dockmasters are usually bound by the rules and regulations of the Dockmasters' Department, you were asked by the District Attorney? A Yes.

Q Now, as a matter of fact don't one of the rules prohibit any dockmaster from extending credit to any person? A Dockmasters can't extend credit. He must refer it to the Commissioner of Docks.

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Q But one of your rules does not prohibit extending credit to any person? A Yes, sir.

Q In face of that you do permit credit to be extended, do you not, to individual owners and corporations? A The Commissioner does not, yes, sir.

Q Now, any of the tickets which were exhibited to you as shown by the District Attorney are not dated at all-- is the date on any of those tickets at all? A Only the date punched.

Q Or rather the month you mean? A The date is punched, too.

Q It does not indicate the date of payment, do you know that, whether or not it indicates the date of payment or the date when the boat arrives? A They usually punch the ticket each day the boat is there.

BY THE COURT:

Q That is the rule? A That is the rule. Some may break it. They may break the rule, but they are supposed to punch them each day.

BY THE COUNSEL:

Q It is not mandatory on your employees of the Dockmaster's department? A I don't know, I am sure.

Q They simply exercise their discretion and judgment? A I don't know about that.



Q Did you have any conversation with this defendant in relation to the boat Mary Kennelly, where he failed to turn over this dollar to the City? A No, sir.

Q What? A No, sir.

Q No conversation at all? A No, sir.

Q I mean when he presented the book on the last day of July, the 31st day of July, as a matter of fact didn't this defendant have a conversation with you some time in the month of July-- or August, 1909, in relation to the boat Mary Kennelly? A Not that I know of.

Q Were you not told that the boat was there fourteen days? A Not that I know of.

Q Can you recollect? A No, I can't recollect.

Q You can't recollect it? A No.

WILLIAM A. BOSS, called as a witness on behalf of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. BOODY:

Q What is your business or profession? A Stenographer in the Department of Docks and Ferries.

Q And have been such in the Department of Docks and Ferries for how long? A For about two years and seven months.

Q How long have you been a stenographer? A Six years.

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Q Were you the stenographer at a hearing on May 23rd, 1910 before B. F. Cresson, Jr., Deputy Commissioner of Docks? A I was.

Q Entitled "In the Matter of Charges, George E. Rodgers, Dockmaster"? A Yes, sir.

DEFENDANT'S COUNSEL: We will concede that the trial and everything. We will concede that is the testimony delivered. It was a public hearing, so what is the use of going all over it again?

MR. JACOBY: It is conceded that the paper that I am now offering in evidence is correct and accurate transcript of the proceedings at which the witness has just testified he was the official stenographer, and on that concession I do offer the paper in evidence, except that if it is also conceded that in the answer to the third question, instead of saying, "I don't know, sir, no, sir, I have recollection", it should say, "I don't know, no, sir, I have no recollection."

THE COURT: Is that satisfactory?

DEFENDANT'S COUNSEL: Yes, sir.

Received in evidence and marked People's Exhibit 12.

MR. JACOBY: And with that paper just now offered in evidence the People do rest.

(The Court now declares a recess until two P. M., first duly admonishing the jury as usual.)

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A f t e r   R e c e s s .

TRIAL RESUMED.

DEFENDANT'S COUNSEL: Your Honor, I understand the District Attorney closed his case. If your Honor please, the indictment charges the defendant with having collected the sum of seven dollar on the 17th day of July, 1910. There is no evidence adduced before the jury that this defendant did receive the sum of seven dollars from any person. I therefore ask your Honor to dismiss the indictment and discharge the defendant as the People have failed to make out a case against the defendant.

THE COURT: What has the District Attorney to say to that?

MR. JACOBY: The receipt No. 3 states both in pencil writing and by punch marks upon it that the sum of seven dollars was received by this defendant; the pencil writing which shows among other things and acknowledges the receipt of seven dollars is admittedly in the handwriting of the defendant. Not alone without any further proof that would be enough to charge this defendant with the receipt of seven dollars.

In addition to that, however, we have the testimony of a person who paid, at that time, the sum of seven dollars to a person who looked very much like the defendant, and at that time received this receipt in the handwriting of the de-

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endant with the punch marks showing seven dollars punched out. There is also proof-- the last paper offered in evidence contains an admission by the defendant that the punch marks were made with the defendant's punch. I think there is proof of the receipt of the seven dollars.

DEFENDANT'S COUNSEL: The witness was asked if he could identify this person to whom he paid the money, and he said he could not.

THE COURT: Yes, the identification by that witness of course is not sufficient as an identification. The question is whether or not there is documentary evidence enough to submit to the jury, for them to determine the issue, and upon that I will submit it to the jury and deny your motion.

DEFENDANT'S COUNSEL: Exception. I might say further that the witness testified when he was called that he could not remember the exact date or any particular date. The indictment alleges on the 17th day of July, 1910. The witness couldn't tell when it was, what month it was, or the date. You simply cannot go in a fishing manner, charging him with having collected moneys, unless they will point out the particular dates. The indictment specifically charges him on the 17th day of July, 1910.

THE COURT: What is the date on the alleged certificate?

MR. JACOBY: The evidence shows that the barge was

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at the wharf from July 17th to July 31st, 1909. The evidence of the witness Connery, the first witness called, was that payment of seven dollars was made by him at the end of July. The evidence of the witness Kennelly was that it was paid on July 29th or a day or two later. July 31st is the date alleged.

DEFENDANT'S COUNSEL: No, 17th.

MR. JACOB: It says on the 31st day of July, 1909, said George. Connery was a public officer and dockmaster.

THE COURT: And the evidence is the amount was paid on the last of July?

BY DEFENDANT'S COUNSEL:

A No, the witness testified that he could not tell whether the early part of July or the middle part of July.

MR. JACOB: The witness did not so testify, although it is quite immaterial, because the witness Kennelly testified it was on the 29th or a day or two later, and the witness Connery says he paid it and got the seven dollars back from Kennelly at the same time.

DEFENDANT'S COUNSEL: No, that he paid this unknown person or some person. I asked him if he could recall the and he said he could not.

Motion denied. Exception.

Defendant's counsel now opens to the jury, on behalf of the defendant.

MR. JACOB

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GEORGE E. RODGERS, the defendant herein, called in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What is your full name? A George E. Rodgers.

Q How old are you? A Sixty, 19th of last November.

Q Where do you live? A In Brooklyn, 96 Milton Street.

Q How long have you lived there? A Well, all my life nearly-- not in that same--

Q That is, you have been living-- A In the place called Greenpoint.

Q What was your occupation on July 17th, 1909?

A Dockmaster, Department of Docks.

Q How long were you employed by the City as Dockmaster? A Since 1903, as dockmaster.

Q Where were you employed before 1903 and by whom? A I was in the Register's office in Brooklyn four years previous; before that in the Department of Docks for nine years as hydrographer.

Q And you have been in the city employ for how many years? A In the Department of Docks seventeen years.

Q You are familiar with the methods and workings of the office as dockmaster? A As far as my work, yes, sir.

Q You have been in that work. The indictment charges you with having received the sum of seven dollars from the

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owner of the boat Mary Kennelly on the 17th day of July, 1910-- on or about the 17th, between the 17th and the 31st. I want to ask you the question, did you receive any money, the sum of seven dollars, from any boats by the name of Mary Kennelly? A Not that I know of.

Q Now, will you kindly explain to the jurors when you sent in your report on the 31st day of July to Mr. Gere, and you credited the sum of one dollar to the Mary Kennelly boat? A well, the Mary Kennelly was lying at the 52nd Street pier; for some reason or other-- It is so long ago, a year and a half, I can't recollect, and why she didn't pay daily, that is the usual custom or at the most for Sunday and Monday together. Sometimes three or four days come with a holiday, but for some reason or other she lay there. Whether the captain was responsible or Mr. Kennelly hadn't money, I don't know, but it is evident that she didn't pay daily as she should have paid. I had a record of her entrance there and the extent of time she was there, and at the end of the month-- well, all I know is that my book shows me, at the end of the 31st, I punched a ticket for a dollar to cover the entrance day and the closing day of the Mary Kennelly and turned that money in, punching that No. 1 and No. 2 tickets separately and the No. 3 separately was done to close up my July book as we opened another book in August, which was Sunday, the 1st of August. That

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necessitates a double-- which Mr. Gere and other witnesses can tell-- necessitates a double report which the manual directs in that kind. Now, the marking of the boat in the book showed that I had done so, I had punched a dollar ticket, I had received no money from Kennelly or anybody else, but the boat was there undoubtedly of Mr. Kennelly's-- That money when it was paid-- or if ever paid-- I don't know or not, no recollection, I never met Mr. Kennelly personally. I met thousands of people. I was dockmaster of ten districts in New York, until I met Mr. Kennelly here, to see him here-- the captain may have seen him. I don't think I ever saw him in my life to recognize. There are thousands of boatmen, all boatmen, there is no distinguishing mark of a captain of a brick boat; the captain of the brick boats works together, he is not dressed up, they have their working clothes on generally, and old flannel shirt and trousers, and I might have seen this man as a captain-- he may have been a captain-- I can never tell who is captain of brick boats.

Q. Have you ever punched tickets of the employee or of the owner of any boat before you received any money from them?

A. Lots of times.

Q. And you have dealt with the Department of Docks in order to close your account for the end of the month?

A. Yes, sir. I may say that the business forces used to do

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that sometimes. You cannot get payments of consignee, captain or anybody else until you catch them. But you are obliged to turn in the money and make the tickets out.

Q Sometimes the employe of the boat hasn't got the money, but he says, "Wait until the captain comes," and you would extend the credit or pay it yourself? A We would say, "I don't pay it. I don't know who paid it, the consignee pays it." We are lots of times two and three days finding out who does pay the boats.

Q How much money is there coming to you from the Department of Boats?

Objected to.

Q Now, since the time you were employed there for the last nine years as dockmaster, how much money is due you from different owners of boats that were moored--

Objected to. Objection overruled.

Q How much money is due to you? A Oh, a few fifty cent tickets from each district there may be, just a few, one or two tickets. There is a couple due me at Wallabout, 11.15-- fifteen cents it may be at Wallabout, the last district I served on.

Q For which you paid out yourself? A Yes.

Q In order to close your account? A Yes, sir.

Q And that money has not been paid back to you? A No, sir.

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Q Now, have you ever been charged with any crime?

A No, sir.

Q Have you ever been charged by your superiors while in the employ of the city of New York with having failed to account for any moneys to the City? A No, never.

Q And you were regular in your office and methods, in conducting your office? A Tried to be, yes, sir.

CROSS EXAMINATION BY MR. JACOBY:

Q Did I understand you to say that August 31st, 1909 was a Sunday? A No, July 31st was Saturday.

Q I meant July 31st. You say July 31st was Saturday?

A Yes, sir.

Q Now, I wish to refer you to this book which is marked People's Exhibit 3, Rules and Regulations of the Dock Department. A Yes, sir.

Q Have you a duplicate of that book? A Yes, sir.

Q And you were familiar with its provisions in August and July of 1900? A Yes, sir.

Q This book was the date of print, 1908-- you had a duplicate of that book, didn't you? A Well, maybe a few minor alterations might have been added to it, yes, sir.

Q Is it your recollection that among the things printed in that book is a copy of Section 648 of the Greater New York Charter, stating among other things that each of

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their dockmasters shall personally perform the duties assigned to him by the Commissioner of Docks. He shall not appoint any deputy or assistant or delegate the powers of his office to any persons whatever. Are you familiar with that rule?

A Yes, sir.

Q Do you claim, therefore, that some representative of yours may have collected the seven dollars from Mr. Kennelly or from Connery?

DEFENDANT'S COUNSEL: No evidence to show there is any representative.

THE COURT: Cross examination.

Q I am trying to find out whether your claim is that some representative or delegate of yours may have collected the seven dollars from Connery, assuming that it was paid to somebody? A Well, if money was left at the dock for me for payment, that is part of my duties. I assumed all my duties. I have never delegated any to my--

Q And you would not be prepared to say whether or not you personally were handed this seven dollars by Connery?

A Again, the date--

Q Can you say positively that you were or were not personally handed the seven dollars by Connery? A I can testify positively that they never paid me that money.

Q That Connery never paid you that seven dollars?

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A Neither that captain nor Mr. Kennelly.

Q Neither Connery, the red headed young man-- I am not saying anything about Kennelly, he doesn't claim he paid it; neither does Connery-- I am asking you whether you are sure that Connery did not personally hand you that seven dollars? A I am sure he did not.

Q Now, I show you People's Exhibit 1 and ask you-- I think you admit, don't you, that the pencil marks on that are in your writing, among them being seven dollars-- A Yes, sir.

Q "Vessel, Kennelly, berth, 82nd Street Pier", and the word "Cash"? A Yes, sir.

Q Now I ask you whether or not during the month of July you had a certain punch to punch these triplicate receipts, or did you? A Yes, sir.

Q And all the other dockmasters have the same kind of punches as you? A Different punches.

Q Your dockmaster had a punch different from any of the others? A Yes, sir.

Q Where did you get it? A I don't know, no, I think so.

Q Whether or not that be so, are the punch marks upon this receipt, People's Exhibit 1, the kind of punch marks that your punch made? A Yes, sir.

Q I show you People's Exhibit 5, and ask you whether or not you are willing to say that-- I believe you already admitted

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that the writing in pencil on that is your handwriting?

A Yes, sir, I just said I punched No. 1 and 2.

Q Including the word "Kennelly", the amount of one dollar, "52nd Street Pier", and the word, "Cash". A Yes, sir.

Q Now, the words "G. E. Rodgers" is stamped or stencilled there. I ask you whether you had such a stencil? A Yes, sir.

Q Did you used to stamp or stencil these tickets yourself?

A Most all of them.

Q Sometimes you give it to somebody else?

Q You kept that stencil yourself. Did it ever go away, it was on my desk, but I can't remember sometimes when I was gone of the office.

Q Well, he would have said that one came along and somebody would have taken it away and he would have your ticket, wouldn't he?

Q Now, I know that the ticket No. 1, reads People's Union for Peace and Democracy, and I ask you, what does the word "Union" mean? Inside berth.

Q Now, what does the word "Union" mean? Outside berth?

Q Now, what does the word "Union" mean?

Q I ask you what the word "Union" means (indicating)?

Q Now, what does the word "Union" mean of the city for

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the brick boats or brick barges was fifty cents per day, is that right? A Yes, sir.

Q Now, I show you a star at the right hand and ask you whether that does not indicate the month? A Yes, sir.

Q That the money referred to on this ticket was incurred, a liability? A Yes, sir.

Q I show you a star near the lower right hand corner and ask you whether that does not purport to indicate that the brick barge was there on the 31st day of July, 1909, is that right? A Yes, sir.

Q And I ask you to tell me whether the rest of that ticket does not indicate that the 31st of July, according to the ticket was the very day on which the brick barge Mary A. Hennelly was at that dock, 32nd Street? A Well, this must be taken in connection with the book.

Q Now, I have to strike out the answer.

Q (Repeating) It indicates all that she was there on the 31st.

Q It indicates the fact that either the 30th, 29th, 28th, 27th, 26th, 25th, 24th, 23rd, 22nd, 21st, 20th, 19th, 18th, 17th-- that none of these were punched out-- indicates that it wasn't there on any of these dates, doesn't it? A Yes, sir, because the book would show the entry.

Q I show a punch mark near the lower left hand corner and ask you whether that does not mean that the obligation

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of the amount of money due the city on account of the docking of that boat is the sum of one dollar? A Yes, sir.

Q And that corresponds with the pencil writing one dollar on this ticket? A Yes, sir.

Q Now, I show you People's Exhibit 1, being No. 3 of the series of 1909, No. 86,905, being the same number as appears on People's Exhibit 5, and ask you whether that ticket, People's Exhibit 5 is not the No. 1 ticket that corresponds with the No. 3 ticket, People's Exhibit 1? A I have also the No. 2 here.

Q I am asking you whether that is so. A That is so, the private number is the same. They were punched differently, of course, at different times.

Q I understand that they were punched at different times. Will you produce No. 2 ticket? A Yes, I have it right there. Q Now, let me produce my counsel for the defendant and ask him to ask the witness.

Q I show you No. 2 ticket, series of 1905 and ask you whether it is not the same as No. 1 and No. 3 and put them side by side and ask whether they were in the book together and ask whether they are correct. A The perforations are together.

Q Now, is that the way they were in the book, 1, 2, 3? A Yes, sir, that is the way they are, right.

Q Well, were they fastened together while in the book

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in the same way that these are? A The same way.

Q 1, 2 and 3? A Yes, sir.

Q So they were all fastened together as appears in the paper People's Exhibit 4 at a certain time while they were in your book, is that right? A Yes, sir.

Q So that No. 1 came on top, No. 2 in the middle and No. 3 on the bottom? A Yes.

Q And when in that position, if punched at the same time, the punch marks that would appear on No. 1 would correspond exactly to the punch marks that appeared on ticket to No. 3 and the punch marks that appear on No. 3? A Yes, sir, if properly printed. Of course, they nearly all are, but some are not.

Q If perfectly printed the punch marks would coincide, would they, Nos. 1, 2 and 3 tickets would all show the same dates, amounts, kind of boat and inside or outside dock? A Yes, sir.

Q Now, I mark No. 3 ticket, the ticket produced by the defendant in evidence as a People's Exhibit--

DEFENDANT'S COUNSEL: I produce it at your request.

MR. JACOBY: As People's Exhibit 12.

A Will you put in together with that my pencil copy of that day?

Q I don't quite understand what you mean by your pencil copy of that day? A Merely explaining the report I made

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on the 31st of July.

Q Do you refer to a paper which your counsel asked me to hand you? A Yes, sir.

MR. JACOBY: I have not looked at the paper. If you desire to offer it in evidence I shall not object to it.

A It don't amount to anything, only a pencil copy.

Q Now, showing on People's Exhibit 5, People's Exhibit 12, People's Exhibit 3, I ask you whether you can now detect anything wrong with the printing on them that would prevent them being punched simultaneously and from showing the same dates, when the spot was there and the same amounts of money? A These are perfect tickets, but occasionally there are a few--

Q These are perfect tickets? A Yes, sir.

Q Now, I understood that you told your counsel that ticket No. 1 was punched at a different time from ticket No. 3? A Yes.

Q Is that right? A That's right.

Q Now, referring to Rule 7 of the Dock Department, I read you the rule, and ask you whether you are familiar with it. Section 7 and page 25 of People's Exhibit 2. "Dockmasters shall in the presence of the captain or person in charge of the vessel punch in triplicate the wharfage tickets for wharfage due to the corporation of the City of New York from all vessels or craft that may be moored within the limits

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of his district." You understand that that means to punch these three tickets all at once before they are separated, don't you? A Yes, part of it. That is impracticable, that is broken daily and always has been some time and time again because you do not see the captain half the time.

Q You mean that portion of the rule that says they should be punched in the presence of the captain should be broken daily? A Yes, sir.

Q You don't mean to tell me that the portion of the rule that requires them to be punched before they are separated is broken daily, do you? A No.

Q "And to transmit each day to the cashier of the department, unless otherwise ordered, ticket No. 1, showing with the name, number and description of the vessel, the name and address of the freight agent or consignee, the wharf, pier or bulkhead at which craft is located, on the date and hour at which said vessel or craft arrives and the date and hour of leaving and shall submit thereafter a daily statement showing amount of accrued wharfage, paid, amount of credit". That means the amount accrued, does it, at that time? Isn't that so? A Yes.

Q Accrued means due up to that date? A Yes.

Q It doesn't mean that you always collected each day from every boat, does it? A No.

Q As a matter of fact when a boat was moored up

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for quite a long time, you used to collect at the end of a few days? A Very seldom.

Q Sometimes? A Very seldom.

Q Sometimes? A Sometimes.

Q "Ticket No. 2 shall be retained by the Dockmaster and ticket No. 3 shall be delivered to the owner or agent or consignee or representative thereon, if it be a cash transaction." Now, this was a cash transaction? A Yes.

Q And if said consignee, agent or owner has a credit account with the Department the ticket No. 3 will be sent him with the bill at the end of each month. Is that right? A Yes.

Q Then in this instance the three tickets were separated before they were punched? A Yes, sir.

Q And I presume that 1 and 2 were punched at the same time, weren't they? A That I judge from the book only.

Q Can't you tell by comparing them? A Yes, of course I can, yes.

Q See if the punch holes come over each other, can't you? A Yes.

Q In other words, you retained for use an exact copy punched the same time, of the ticket that you had to file with the Department? A Yes, sir, and that was the 31st of July.

Q I understand your point, I am not going to try to

EXHIBIT

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conceal from or confuse the jury on that. Now, we come to ticket No. 3, being People's Exhibit 1. I ask you whether the punch marks on that ticket do not mean that from the 18th to the 31st of July, 1909 the brick barge Kennelly was at the 52nd Street dock and that on account of that fact the brick barge Mary A. Kennelly or its owner paid to you the sum of seven dollars for the fourteen days he was there? Does that ticket mean just that or does it not? A The ticket means in conjunction--

Q Answer yes or no? A I can't answer directly. I will answer it no, but that is not possibly what you want.

Q Mr. Rodgers, I don't want anything except what is the fact. Does that ticket or does it not mean, indicate, show or demonstrate that you intended to give a receipt or acknowledgment to the person who gave you the sum of money at that time to the effect that the sum of seven dollars was paid you as a city dockmaster, being the accrued wharfage charges for the brick barge Kennelly at the 52nd Street wharf for the period from July 18th to July 31st, 1909? A I will have to answer no.

Q It doesn't mean that? A No.

Q You are sure of that? A No, in conjunction with my book and what I know of the--

Q I am not talking about the book? A I will answer no. I will have to.

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Q Now, I want you to tell me whether or not the ticket just as it is handed to some person or handed to a person at or about the same time as that person handed the person that gave him the ticket the sum of seven dollars-- A If I handed it I would say yes, but I don't know that I ever did hand it to anybody.

Q Do you dispute that the brick barge Mary . Kennelly, of which Mr. Connery was the captain was moored at the 52nd Street dock for fourteen days, from the 18th to the 31st of July, 1909, inclusive? A No, sir.

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Q You know he was, don't you? A Yes, sir.

Q And you remember Connery, don't you? A No, sir.

Q Never saw Connery in your life? A No, sir.

Q Did you ever see Kennelly in your life? A No, sir, not to my knowledge.

Q Isn't it a fact that you don't know whether you ever saw Connery or not? A Well----

Q Isn't it the truth that you don't know whether you ever saw Connery or not? A Well, that is about the same answer, that means the same to me. I mean to answer that that way.

Q You can say you have seen a man, or you can, "I never to my knowledge did see him", or you can say, "I don't remember whether I did or didn't see him"? A That is what I want to say.

Q Well, I want you to say whatever you wish to. A I am here-- I might see a thousand men and not recollect them.

Q But you might see a man and say, "I positively don't recollect ever seeing him at all"? A I might say that.

Q You won't go to that extent with Connery? A No.

Q You may have seen him? A I may have seen him because he is in business---

Q Assuming that Connery was captain of a brick barge and was up there every day from the 1st to the 31st of July, assuming he told the truth about that-- you heard him say it? A Yes, sir.

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Q Will you say it is not probable that you did see him?

A I might be down there fifty days and not see him.

Q But isn't it probable you would have seen him there?

A Certainly, I may have seen him, or everybody on the dock I may have seen.

Q Do not the punch marks, punching out from the 18th to the 31st of July, being seventeen distinct punch marks with your star punch-- do they not indicate that this ticket, People's Exhibit 1, on which seven dollars is also punched out, was given over as payment for fourteen days of the brick barge Kennelly being at that dock? A It indicates that the boat was there that number of days, but it does not indicate to me when I look at my book other than that a memorandum ticket for collection at some future time possibly. I don't know that I ever collected that money. There is records on my book---

Q Mr. Connery testified that he received this ticket and paid seven dollars at the time he received this ticket---

DEFENDANT'S COUNSEL: He didn't say that.

Q I say Mr. Connery testified that he paid seven dollars to somebody at the time he received this ticket People's Exhibit 1. see? A Yes, sir.

Q Now this ticket is a just and proper acknowledgment of payment of seven dollars, a correct and usual acknowledgment of the payment of seven dollars for fourteen

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days of the brick barge Kennelly being at the 52nd Street dock, don't you? A An unusual ticket. I will say unusual case.

Q But correct? A As a memorandum ticket. I never had a boat fourteen days in my life before, but I don't recollect---

Q Well, have you had a boat thirteen days? A No, sir.

Q Have you ever had a boat eleven days? A No, sir.

Q Eight days? A No, sir.

Q Six days? A Seven days.

Q So on this particular occasion-- A And that was under permit particularly, that was a peculiar thing and under permit.

Q It was an unusual thing that the boat should have been moored fourteen days consecutively at that dock?

A Yes, sir.

Q Nothing illegal about that? A Oh no.

Q I show you People's Exhibit 6, being what I believe you called a daily report. It is headed a daily report?

A Yes, sir.

Q Daily report, New York July 31, 1909, Department of Docks and Ferries? A Yes, sir.

Q Received three dollars and fifty cents from G. E. Rogers, dockmaster, seventeenth district? A Yes, sir.

Q All the pen writing on that paper is in your hand-

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writing, isn't it? A You don't mean that.

Q Except the mark of the stenographer showing that it is in evidence. That is the mark of the stenographer, see, showing that it is in evidence. I call your attention to the item 86, 905, that means, doesn't it, one dollar, Kennelly?

A Yes, sir.

Q It is in the cash column? A Yes, sir.

Q That means you collected a dollar in cash on ticket 86, 905, on the Mary A. Kennelly? A That means to me-- that means that on that day I punched a ticket for one dollar on the 31st to close up my July book, and held responsible for one dollar, for money out of my own pocket from Mr. Kennelly, to close my account.

Q That is 86,905, is the number of all the three tickets People's Exhibit 1, People's Exhibit 12, People's Exhibit 5, isn't it? A Yes, sir.

Q And that paper People's Exhibit 6 was delivered by you to the main office of the Dock Department at Pier A North River, in the County of New York, by you personally?

A Probably mailed. 31st of Jul we mailed them.

Q This was delivered to you by mail on the 31st? A We mail our reports.

Q But the place where it was delivered, or where it was mailed, was it Pier A North River, in this County?

A Yes, sir.

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Q That is the main office of the Department of Docks?

A Yes, sir.

Q That was mailed by you on the 31st of July or the 1st of August? A 31st.

Q I show you this book which has certain entries in evidence, which entries are marked People's Exhibit 7 and people's Exhibit 8, and ask you whether this book is what is known as a copy of the daily report? A Yes, sir.

Q That contains a summary of the collections during the month of July, 1909? A Yes, sir.

Q What? A No, it don't for me, it represents the boats and the charges against them. I don't know those amounts were collected.

Q Represents the boats and the charges against them during the month of July, 1909---

MR. JACOBY: I offer the rest of the book other than the two particular entries in evidence, as one exhibit.

(Received in evidence and marked People's Exhibit 13.)

Q Now I will ask you whether the writings in this book other than, for instance, People's Exhibit 13, I mean the main writings, whether they are not all in your handwriting.

A Yes, sir.

Q Now did you deliver this book personally? A Yes, sir.

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Q Over in the main office of the Dock Department?

A Yes, sir.

Q On what date? A Oh, we turn them in any time during the following month.

Q You will swear you delivered it between July 31st and August 31st, 1909, at the department, to Mr. Gere? A Well, whoever is at the desk.

Q It might have been Mr. Gere and might have been some other official? A Yes, sir.

Q Now isn't it a fact that this book was written up by you subsequently to the time you filed your daily reports?

A You mean afterwards.

Q Was it written up afterwards or before you would file your daily reports? A It is written when I file my reports, when I make out my daily report. My crosses representing the tickets I make.

Q Now will you say that this entry here, People's Exhibit 7, was made on or about July 17, 1909? A No.

Q Answer yes or no, will you say that this entry here, all but the stenographer's mark, was made in this book on or about July 17, 1909? A It was made on the 31st and so marked.

Q Made on the 31st and so marked? A Yes, sir.

Q I show you the number 17 there and ask you whether that does not indicate a date when the boat was there. A Yes, sir,

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but no ticket had been written for it.

Q No. 17 at the head of that column, or was it 17 or 18? A Whatever it is.

Q 18 indicates the date when the boat referred to there was berthed? A Yes, sir, it indicates the date.

Q Why isn't it a fact then that you made all of that entry, including R.B., fifty cents rate per day? Do not July 18 and later on the number 31 at the bottom indicate the boat's length of stay at the dock? A Because there was no money paid, the man had not paid for his boat and I had to close up my book and I made it the 31st in order to close up my book to get some charge to fill up that column.

Q But you told me that these entries right along in this book were made on the very day that the incident occurred, didn't you? A Well----

Q Didn't you tell me two minutes ago that the entries in this book run along and were made by you on or about the very day that the incident referred to occurred? A Yes, but there is one where it states why it was not made.

Q But you take the next entry-- fifty, don't you suppose or don't you believe that that entry was made before July 1st in that book? A Oh yes.

Q It was made about the 1st or 10th? A Yes, sir, they all are, with the exception noted.

Q Do you mean to say you left the blank space in that

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book to put in the Kennelly? A If I had that one there, but Kennelly was written there, and I wouldn't disturb the order of my books, and I marked that. She had not paid all the way along, marked with the blank there, and we carried it over to the 31st.

Q Then I come back to my original proposition, which is this, isn't it a fact that all the entries in that column except the number 31 written there, and of course the four at the extreme right of the column-- but all the rest of the entries excepting the No. 31 and the one made on or about July 18, 1909? A No, sir. There wouldn't be any record, there would be a ticket to show for that.

Q Was the word "Kennelly" written in there on or about July 18, 1909? A It was written in when she was reported in.

Q Assuming that was the 18th, that the word Kennelly was written on the 18th? A Yes.

Q The whole fifty dollars and the two dollars show that it was cash? A Yes.

Q Or written? A 18, Yes.

Q And the x--- A No, sir. The cross represents when I completed the ticket.

Q Presumably, as you are telling in that entry, X31, McClellan's Exhibit 7, except, the paper was made on or about July 18, 1909? A Except the cross mark and the



cipher.

Q When it got up to July 31st, isn't it a fact that you then made a new entry of Kennely B.B., cash, fifty, then a cross, one dollar, being People's Exhibit 8? A That was done to close up the books the 31st, yes.

Q I know, I am willing to let you say why it was done-- I am only asking you whether it was not. I refer you to People's Exhibit 8. A This is the fact you and I have spoken about it, were you referred to. Go on---

Q Isn't it the first time? A I don't remember we have talked that over.

Q I mean since I have been examining you isn't this the first time I have turned to People's Exhibit 8? A Well, we have had the book, I didn't notice, I have been trying to follow you as closely as I can.

Q People's Exhibit 8 is the last entry but one in this book and it was made on or about July 31st, wasn't it?

A Yes, sir.

Q And isn't it a fact that that number 17 over the cross mark is written in in your handwriting? A Yes, sir, that refers to this entry here and that makes a dollar to complete that No. 1 ticket.

Q Haven't you got in this book on the page where People's Exhibit 7 is, a series of numbers so that you could have marked with this one entry, with this one entry all of the

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times that the Mary A. Kennelly-- all of the days that the Mary A. Kennelly was at 52nd Street in July? A I have, but I want to make crosses around it all.

Q Isn't it a fact that People's Exhibit 7 has a space for each date in July up to and including the 31st where you could have marked the fact that the Mary A. Kennelly was there one each of those days? A That book I use to represent the tickets that I write.

Q Is that the best answer you can give to that question?

A Yes, sir. The tickets I write, yes, sir.

Q Now it is a fact, isn't it, that you broke the rule of the Department in failing to punch these three tickets at the same time? A We have to do that; yes, sir.

Q Well, it is a fact that you did? A We have done it often, yes, sir.

Q It is a fact that you did on this occasion break a rule of the Department? A Yes, sir.

Q And not punch the three tickets at the same time?

A Yes, sir.

Q And it is a fact on or about July 31st you gave somebody or put in the hands of some person-- at present you say you don't know who it was-- but you put in the hands of some person the paper People's Exhibit 1 with your handwriting on it and you placed these punch marks on it? A I don't remember ever giving it to anybody.

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Q Do you remember that you did not? A No, I have no recollection. It is a year or more ago and I had other reasons for being in shape not to recollect them.

Q Do you say that you did not receive the seven dollars personally? A I do, yes, sir.

Q I will read you your examination before Hon. B. F. Cresson, Deputy Commissioner of Decks, on May 13, 1910:

"Q Did you receive seven dollars for that boat? A I don't know, sir; I have no recollection.

"Q You couldn't say whether that is true or not? A No, sir, I couldn't. I might have received the money indirectly through another party, I might have received it personally. I don't remember having received it personally myself. I might have received it from the man on the dock.

"Q That is, you might have received seven dollars and only turned in one dollar? A Yes, sir. If the proof is. If there is a ticket for seven dollars that may be proof positive that that man actually paid me or somebody else seven dollars. I have no recollection of it whatever. I don't remember ever such an amount being paid; for a brick boat."

Did you so testify before Commissioner Cresson? A That is the first I knew of the charges against me and I was trying to answer truthfully about things I knew nothing about.

Q So that, in other words, now that it has got to be December or November instead of May, you remember better now

than you did then? A No, I saw my book then. Mr. Chaffee let me look at my book. I said, "Mr. Chaffee, I know nothing more than the man in the Moon about this", and he allowed me to look at my book, and I told him and the Commissioner that those records I made were there sufficient enough for me to look at, I could check all this in Court.

Q Isn't it a fact that you put down in your book marked "The Seventeenth District", as one transaction-- I mean in this book People's Exhibit 17-- isn't it a fact that you marked the 18th of July as one transaction and the 31st of July as a separate transaction so as to make it appear that that amount was collected for the City on account of the Kennelly barge was one dollar, being fifty cents for July 18th and 50 cents for July 31st? Yes or no, did you do it for that purpose? A No, there is positive proof there that there was never any transaction made on that. I tell you there was never any entry written on that day. My report shows there was no---

Q I understand, the only entry in any of your reports at all in regard to the Mary A Kennelly is the entry contained of the 31st which credits two days, one dollar, to the City, is that right? A Yes, sir.

Q And debits you with two days, one dollar, to the City, is that right? A Yes, the 31st of July.

Q Precisely, the 31st-- A But you asked me about the

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book. Well, no ticket has been made for that excepting the ticket from the 31st, which goes over to explain while not having written--- my crosses show a ticket written for that day. These reports will show for that day there was no ticket written for the Kennelly.

Q In 1909, the accounts were not examined very closely, were they? A Yes, sir, I believe my accounts were examined closely at all times.

RE-DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q How many miles does your territory cover as dockmaster?

A Well, it is from the head of Gowanus Canal around through the water front-- about eighteen miles.

Q And you cannot be at every particular landing where the boats are moored and you have to cover a distance of twenty miles? A Not at all times. I couldn't go up from Gowanus at all some days.

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C H A R L E S A. M A N L E Y, called as a witness on behalf of Defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q How long have you been superintendent of docks? A Why, thirteen-- twelve or thirteen years.

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

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Q What is his position with the Dock Department? A From my recollection of him he has been a dockmaster since 1903, some time in 1903.

Q How long have you known George E. Rogers, the defendant? A Since he was appointed as a dockmaster in the early part of 1903.

Q Do you know other people that know him in your department? A Yes, sir.

Q What is his reputation for honesty and integrity? A To the best of my knowledge, excellent.

CROSS EXAMINATION BY MR. JACOBY:

Q I just want to ask you a question or two. I show you a book People's Exhibit 13 and call your attention particularly to an entry upon a page, which entry is marked in evidence People's Exhibit 7. It says Kennelly-- that is the name of the vessel, isn't it?

Objected to. Objection sustained.

MR. JACOBY: I am making him my witness for this purpose.

THE COURT: All right. Proceed.

Q B. B., what does that mean?

THE COURT: You must not lead him.

A I should judge it meant brick barge. I am not familiar with these books.

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DEFENDANT'S COUNSEL: I object to any further examination.

Objection overruled.

Q The two dots ? A Mean ditto, I suppose.

BY THE COURT:

Q You don't know anything about these accounts? A No sir.

J O H N M. P H E L A N, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What is your occupation? A Auditor in the Department of Docks & Ferries.

Q How long have you been such? A Since 1902.

Q How long have you been in the Dock department? A Since 1891, about nearly twenty years.

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

Q How many years have you known George E. Rogers?

A Since I entered the service of the Department.

Q Since 1891? A Yes, sir.

Q Do you know other people that know him? A Yes.

Q What is his reputation for honesty and integrity?

A Very good, so far as I know.

Q What is the custom of punching tickets, extending credit?

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Is there any custom permitting credits by the dockmasters to persons? A No, sir. The Commissioner is the one who authorizes the opening of a credit account.

Q But the Dockmaster can extend the credit if he chooses if he pays it out of his own pocket? A If he pays the money, yes.

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P H I L I P W E L C H, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Where do you live? A Brooklyn, Greenpoint Avenue.  
Q How long have you lived there? A Twenty-two years.  
Q What is your business? A Restaurant business.  
Q Do you know the defendant George E. Rogers? A I do.  
Q How many years have you known him? A Over twenty.  
Q Do you know other people that know him? A I do.  
Q What is his reputation for honesty and integrity?

A Excellent.

(No cross examination.)

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A N D R E W J. V A L E N T I N E, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Where do you live? A 96 Kate Street, Brooklyn.

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Q What is your occupation at present? A I am a member of the Bar but I am not in active practice.

Q How long have you been a member of the Bar? A Since 1872.

Q You are retired now? A Yes.

Q Do you know the defendant George E. Rogers? A Yes.

Q How many years have you known him? A Since boyhood.

Q About fifty years? A Yes, sir.

Q Do you know other people that know him? A Yes.

Q What is his reputation for honesty and integrity?

A Excellent.

(NO CROSS EXAMINATION.)

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J O H N D. W A L S H, called as a witness on behalf of the defendant, being first duly sworn, testifies as follows:  
DIRECT EXAMINATION BY THE PROSECUTOR'S COUNSEL:

Q Where do you live? A 399 Hancock Street, Brooklyn.

Q You have lived there how many years? A Fourteen.

Q Do you know the defendant George E. Rogers? A Thirty-five years.

Q Do you know other people that know him? A Yes, sir, lots of them.

Q What is his reputation for honesty and integrity?

A First class in every particular.

(NO CROSS EXAMINATION.)

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EDWARD CARLEY, called as a witness on behalf of defendant, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q What is your business? A Plumbing business.

Q Do you know the defendant George E. Rogers? A I do.

Q How many years have you known him? A Well, for over twenty.

Q And you know other people that know him? A Never knowed anything wrong.

Q Do you know other people that know him? A Oh yes.

Q What is his reputation for honesty and integrity?

A Always been good.

CROSS EXAMINATION BY MR. JACOBY:

Q He always paid his plumber's bills? A Well, I never done any plumbing business with him.

JAMES E. FAY, called as a witness on behalf of defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q Where do you reside? A 82 Franklin Street, Brooklyn.

Q How many years have you lived there? A About forty years.

Q What is your business? A Member of the Legislature at present.

Q What other business have you outside? A I have been

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in the show business.

Q Do you know the defendant George E. Rogers? A Very well.

Q How many years have you known him? A Well, close on to forty years.

Q Do you know other people that know him? A Yes.

Q What is his reputation for honesty and integrity?

A The best.

CROSS EXAMINATION BY MR. JACOBY:

Q You say you are a member of the Legislature? A Yes, sir.

Q At Albany, you mean? A Yes.

Q And I suppose Mr. Rogers is a member of your organization, is he? A No, he is not.

RE-DIRECT EXAMINATION BY DEFENDANT'S COUNSEL:

Q How many times have you been in the Assembly? A This is the fifth, going in.

DEFENDANT RESTS.

ROBERT G. K. K., recalled in rebuttal in behalf of the People. Having been previously duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JACOBY:

Q I hand you the Book People's Exhibit 13, directing

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your special attention to the entry in the horizontal column which whole entry is marked People's Exhibit 7, and I ask you to explain each item. A The name of the boat, Kennelly, brick boat, cash 50 cents.

Q What is that fifty cents? A The rate per day.

Q The rate that the boat was to pay per day? A Yes.

Q What is the next entry that you find in the horizontal column? A Under the 18th, the cross would indicate that the boat was there on the 18th day.

Q If the boat had been there on the 18th, 19th, 20th, 21st, 22nd, 23rd, 24th, 25th, 26th, 27th, 28th, 29th, 30th and 31st of July in addition to the 18th, would the entry subsequently to the x mark be as it is there? A There would be a cross each day.

Q You are sure of that? A Well, that is a form.

Q And does this number 31 written above the x mean anything to you? A Not at all, no, sir.

Q It means nothing? A No, sir.

Q Now turning to People's Exhibit 8, which reads "Kennelly, B.B., cash fifty cents", and has a cross mark at the date 31 and the number 17 and then, "Cash \$1", and ask you what that means. A That would mean that the boat was there on the 31st of July.

Q And what would the number 17 mean, if anything, to you?

A Evidently a reference to---

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Q Reading these two entries together, People's Exhibits 7 and 8, what would they indicate-- that the boat was there on the 17th? A On the 17th.

Q And on the 31st? A And on the 31st.

Q And what would be the charge for the boat to be there on the 17th and 31st? A It would be one dollar.

MR. JACOBY: People rest in rebuttal.

C A S E C L O S E D .

DEFENDANT'S COUNSEL: We rest upon your Honor's charge, if the District Attorney wants to.

MR. JACOBY: The case is a complicated one, and I ask your Honor to permit me to sum the case up.

DEFENDANT'S COUNSEL: I thought I might facilitate matters by----

THE COURT: You need not do so do not want to.

COUNSEL NOW CLOSED TO THE JURY.

THE COURT: NOW CHARGES THE JURY.

(The Jury now retires, and upon its final return render a verdict of not guilty.)

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