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

-----X
THE PEOPLE
against
HERMAN SCHULTZ and GROVER DEISSER.
-----X

Indictment filed 24th day of February, 1911.

Indicted for Burglary in the Third Degree, Grand Larceny in the
first Degree, and receiving.

A P P E A R A N C E S:

For the People, ASSISTANT DISTRICT ATTORNEY DEMING.

For the Defendant, MR. OLCOTT.

Tried before HON. THOMAS C. O'SULLIVAN, Judge and a
Jury, on the 29th day of March, 1911.

Thomas W. Osborne,
Official Stenographer.

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P A U L K L O B E R G, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

I live at 450 East 179th street. My place of business is at 1,319 Boston road, City and County of New York, Borough of the Bronx. I am a haberdasher and hatter. I have a store at that place. I had that store there on the 4th of January of this year. On that evening I left the store about half past nine. I locked the place up myself when I left. There is only one door to the place. I locked that, and I saw that the windows were securely locked. There was a skylight. That was closed when I left. I returned to my store the next day about 8 o'clock.

Q What condition did you find it in at that time?

A Ransacked and pulled apart and found quite a number of goods missing.

Q Where had an entry been made into the store? A Through the skylight, one of the lights had been forced out, one of the panes of glass. The skylight itself was not removed, but one of the panes was out and a space left large enough to admit a man or boy to go through. The place was in a terrible condition inside. Shirts were missing, mufflers missing, and pretty nearly everything. I did not take an exact inventory of everything that was missing.

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Q Can you tell me approximately what you missed? A Two or three hundred dollars worth of stuff. They had cleaned the showcase out completely of jewelry and had taken all the jewelry that was on top of the counter. They took all the mufflers that were not in the front show window. They took mufflers and jewelry and shirts and sweaters, suitcases, neckties.

Q Did you ever see any of that stuff again? A When it was shown to me at the precinct station house the following day, or a day or two later.

Q I show you a muffler, and ask you if you recognize it? A Yes, I recognize it as being similar to the merchandise that was in the place. That is the sort of muffler that I miss quite a number of. It was taken off one of the prisoners. I saw it in the station house on one of the prisoners.

Marked for identification People's Exhibit 1.

Q I show you a leather belt and ask you if you recognize that? A Yes, positively. There is my private mark of identification there, price mark. That was one of the articles taken that night, and shown to me in the station house.

Marked for identification, People's Exhibit 2.

Q I show you these metal articles? A I cannot identify that.

Q Do you know anything about it at all? A No.

Q I show you another muffler. A That was similar.

Q A black muffler? A Similar to the mufflers taken.

Marked Exhibit 3 for identification.

Q I show you another belt. A On that you will find my name, on the tie.

Q The necktie that is attached to the belt? A Yes.

Q How about the belt, A That belt also. That is the private mark.

Q Look at it to make sure? A Yes, that is my private mark.

Q That belt and necktie were taken on that night? A Yes, and that button also.

Q Are you sure that came from your place? A Yes, I remember that distinctly.

Marked for identification, People's Exhibit 4.

Q I show you a pair of socks and some neckties altogether; examine them carefully? A Yes, sir, everything one of those have been merchandise similar to that that I lost.

Q Are there any of those you can positively identify?

A No.

Q Simply similar to those you had? A Yes, sir.

Marked for identification, People's Exhibit 5.

Q I show you a bundle containing a leather belt, some black gloves and a number of neckties, look at that carefully.

A That is also similar and that is one of the neckties, I am

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positive of. All the others are similar.

Q How about the gloves. A The gloves are similar to those in my possession, yet, and the belt also.

Q Has that belt a private mark? A No; the mark has been removed.

Q One of the neckties you positively identify? A Yes.

Q The rest of the things in the bundle are similar?

A Yes, similar to the ones I had in my premises.

Marked for identification, People's Exhibit 6.

Q I show you still another bundle of neckties?

A Also one of them had my identification mark on, of my old store. It is still on there.

Q You identify that as having been taken from your place on the night we have been talking about? A Yes.

Q The others are similar? A Yes.

Marked for identification, People's Exhibit 7.

Q All these various articles I have shown you, were shown to you a day or two after your store was robbed, in the station house, by the officers? A Yes.

Q They are all, to the best of your belief, merchandise taken from your store on that night, and those you have designated you are sure of? A Yes, sir; those I am sure of.

Q Do you know the defendant Schultz at all? A Well, only know him from being described to me in the station house, and the same with the other defendant. I never saw either one of them

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in my store, to my knowledge, that I can recollect. I am familiar with the sale and purchase value of merchandise of this description which I have identified. I have bought and sold great quantities of it.

Q What is the lowest market value of those articles that you have identified here, taking them altogether, what was the lowest market value on the 4th of January, 1911; the lowest possible market value? A About two or three hundred dollars' worth.

Q Are you sure there was as much as \$200. worth?

A Yes, sir.

Q I do not want any guess work? A There was positively at least \$200. worth, which I am ready to swear to.

CROSS EXAMINATION BY MR. OLCOTT:

Q How do you come to the conclusion that the goods which were taken from your store that night, or which you say were taken from your store that night, are worth \$200.? A I am giving the approximate figure, what I judge -- a rough guess, about two or three hundred dollars' worth. I did not employ a man by the name of Sweeney. I do not know who he is.

Q Swayne, I made a mistake? A No.

HERMAN MEYER, called as a witness in behalf of the People, being duly sworn and examined, testified as follows

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DIRECT EXAMINATION BY MR. DEMING:

I am an officer of the Municipal Police Force. I arrested the defendant, Schultz, on January 9th, in the basement of 871 Longwood Avenue, where the defendant lived. When I arrested him I searched him, and I found this blue muffler upon him, People's Exhibit No.1, and also found that belt, People's Exhibit No.2, upon him, and those two pieces of metal.

The latter articles are marked for identification, People's Exhibit 8.

THE WITNESS: Also a coat. I found that on his person.

The coat is marked for identification, People's Exhibit 9.

Q Anything else? A That was all on his person.

Q Did you search the premises? A Yes. The premises consist of a basement, front room, large front room, commonly used in other places as a storeroom, but this man made his home there. I searched that front room in the basement. I found neckties, belts and clothing, table linen, a hamper with some table linen in, tablecloths and bicycles.

Q Is any of this property here in court, other than that you have already identified, among that you found? A Yes, these ties.

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Q Pick out that which you found there? A Found this bundle of ties in the dresssuit case, People's Exhibit 6 for identification.

THE WITNESS (continuing) I found these ties and a pair of socks in a box.

Marked People's Exhibit 5 for identification.

Q What else did you find there, any more in court?
A Some clothing over there.

Q Any of that (indicating)? A I found that coat among a large bundle of clothes. This has been identified by Mr. Cohen, that was in a large bundle of clothes.

(Marked for identification, People's Exhibit 10):

Q And this bundle of coupons, was that there? A Yes.

Q Where did you find that? A In a box.

(Marked for identification, People's Exhibit 11).

Q This bundle of coupons? A I did not find that there.

(Another package is shown witness)

THE WITNESS: That pin -- I found this scarf pin in a dresssuit case.

(Marked for identification, People's Exhibit 12)

Q At the time you arrested this defendant and made this search, did you ask him any questions concerning this property?

A Yes.

Q What did you ask him, and what did he say? A I asked

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him where he got this property, pointing to bicycles and clothing and ties, and everything he had in the place. He said "I bought that at auction, bought all this stuff at auction, from time to time, and I pointed to this suit, this coat here."

Q Brown coat? A Brown coat (People's Exhibit 10 for identification).

THE WITNESS(continuing) Which was in a bundle of several suits of clothes and overcoat, and I said "Where did you get this." He said "I bought that at auction a year ago", and this other property he said he bought at auction. I said, "Do you buy all this stuff at auction all the time?" He said "Yes, always buy stuff at auction."

Q Did he tell you where he had bought any of these things at auction? A Down on the Bowery, he said, around Grand street.

Q What else did you ask him? A I asked him -- there were other boys on the premises at the time of the arrest.

Q Deisser was there? A No, he was not there. I asked him if he knew of --

Q What other boys? A Jesse Swayne and Samuel Ross -- I asked him if he knew them.

Q What did he say? A Yes, he said, they are friends of mine. Come in here and sleep here once in a while. I asked him if he knew this boy Ross whom I had arrested two years ago for a burglary. I asked him if he knew he was a thief.

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Objected to.

MR. DEMING: I do not want to know anything except about these clothes, and the Kloberg matter -- did you ask him about the Kloberg matter?

A Yes, sir; I asked him if he knew these ties were the proceeds of burglary. He said "I bought them at auction; I don't know anything about them."

Q You then arrested him and took him to the station house?

A Yes.

Q Did you have further conversation with him concerning the Kloberg matter? A Not at that time, that I recollect.

Q Later? A No, sir.

Q Did you arrest Deisser? A Yes.

Q When and where? A I arrested him in a flat house - I think the number was 861 East 161st street.

Q What date? A The same night - January 9th.

Q Did you search him at the time of the arrest? A Yes, we found a belt and tie in his possession.

Q Are they here? A Yes.

Q Will you pick them out? A I found this tie and this belt.

Q He was wearing them? A This tie bears the --

Q He was wearing them? A He was wearing the tie and belt around his waist, and had this button in his coat.

(Referring to People's Exhibit 4 for identification).

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Q Did you search the premises where you found him? A I did not find him there. I arrested him another place.

Q I mean Deisser? A No. I got him in a hallway.

Q This is all you found upon him? A Yes, at that time. This property was taken from him in the Court House by Mr. Kloberg. He identified that as his property.

Q Did you see it taken from him? A No, sir, I did not.

MR. OLCOTT: I object to that, and move to strike it out.

THE COURT: Strike it out.

BY MR. DEMING:

Q Do not testify to anything you do not know of your own knowledge -- at the time you arrested Deisser, and took from him people's Exhibit 4 for Identification, did you ask him any questions concerning it? A Yes.

Q What were they? A I asked him where he got the tie and the belt and the button. He said "Well, I might as well tell the truth. I got it up in Boston Road in a furnishing store," and I showed him the name on that tie, and I said "Is that the place?" He said "Yes". I said "Who were you there with?" He said "With Corbett and Markle." I said "How did you get in there?" He said "Corbett pried the skylight window open, and they climbed down through the skylight." I said "Where is the rest of this property, you have a lot of suitcases and stuff out

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of there." He said "Ask Schultz, he will tell you where it is." I said "Where does Schultz live?" He said "Over in 871 Longwood avenue." We went over there, and asked Schultz for the rest of the property, and he said he did not know anything about it.

Q It was after that you made the arrest of Schultz? A Yes.

Q That night? A Yes.

Q Were you present when Deisser was arraigned before the Magistrate? A Yes.

Q Did you hear him make any statement in court concerning this matter? A Yes.

Q What did he say? A He said "I am guilty, Judge, I am willing to stand my share of it. I committed this burglary with these other boys."

Q Were you there when he made his written statement before the clerk? A Yes.

Q Did you see him sign a statement before the clerk?

A Yes, sir.

BY THE COURT:

Q Which of these defendants said he was guilty?

A Grover Deisser.

BY MR. DEMING:

Q I show you a certain piece of paper, and I ask you if that is the statement he signed in your presence? A Yes.

Q Before the Magistrate? A Yes "I am guilty, Grover Deisser."

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Q Do not read it.

MR. DEMING: I offer it in evidence.

No objection.

(Received and marked People's Exhibit 13).

BY THE COURT:

Q Did he speak in English? A Yes.

MR. DEMING: I offer in evidence People's Exhibit No.4 for identification.

No objection.

(Received and marked People's Exhibit No.14).

MR. DEMING: I also offer in evidence People's Exhibit No.1 for identification.

MR. OLCOTT: I object to that.

Objection overruled.

THE COURT: Upon what ground do you object?

MR. OLCOTT: It has not been connected.

THE COURT: As I recall it, he said it was like the property, but other property he identified as his.

MR. DEMING: He identified People's Exhibit 2 absolutely, and the muffler, he said, was exactly like those he had.

THE COURT: I will receive it with the other property.

MR. DEMING: I also offer in evidence People's Exhibit No.2 for identification.

THE COURT: Received.

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(People's Exhibit No. 2 for identification, is received in evidence).

BY MR. DEMING:

Q Did you have any other conversation with this defendant Deisser at any time, pertinent to this Kloberg burglary?

A In reference to the Kloberg burglary?

Q Yes. A No, that was all.

Q At that time? A At that time.

BY THE COURT:

Q The question is, did you have any other conversation at any other time? A Not in reference to this case.

CROSS EXAMINATION BY MR. OLCOTT:

Q Will you tell me how you knew this storeroom belonged to Schultz? A He came in there.

Q What did he do when he came in there? A He had his coat under his arm, and came right in the room, and I asked him did he live there. He said "Yes, he did", and I had previous conversation with the othermen in the place, who told me that was his room, and he slept there, and was his home.

Q Did you notice any plumber's tools in that room?

A All kinds of tools in that room.

Q Did you ask him about the tools? A Yes.

Q What did he say? A I asked him where he got them. He said he bought them at auction.

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Q In regard to the neckties, are you sure that he said he bought those neckties at auction? A Yes, he said "Everything in this room I bought at auction. It is all my property."

Q Didn't he say "Everything in this room which belongs to me, I bought at auction?" A He said it belongs to him and Swayne. He said he bought them at auction.

Q Those neckties? A All this property.

Q Didn't you just wave your hand over the room and say, "Who does this stuff belong to" -- you did not take out one necktie? A No. I waved my hand all over the room, and he said it was all his property.

Q He said it belonged to Swayne and to him? A Yes, and that he bought it at auction.

Q He did not point at neckties and say they belonged to Swayne and to him? A No, he did not point to anything.

Q It was the whole property in the room? A Everything in the room he said was his and Swayne's.

RE-DIRECT EXAMINATION:

Q Where did he say he got the muffler and belt and black coat he was wearing? A Bought it at auction with the other stuff, he said.

J O S E P H M E R K L E, called as a witness in behalf of the People, being duly sworn and examined, testified as follows

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DIRECT EXAMINATION BY MR. DEMING:

Q Where do you live? A 1005 East 167th street, Bronx.

Q How old are you? A Sixteen years old.

Q Do you know this defendant Schultz? A Yes.

Q How long have you known him? A I have known Schultz about four years.

Q You met him when you were about twelve years old? A Yes.

Q You have recently been convicted of burglary? A Yes.

Q Burglary of what place? A Gent's furnishing and tailor store and butcher store.

Q You were convicted in the Children's Court? A Yes.

Q And sentenced? A Yes.

Q Did you have anything to do with the breaking in of Mr. Kloberg's haberdashery store at 1319 Boston Road on the night of January 4th, this year? A Yes.

Q Did anybody go there with you? A Yes, sir.

Q Who went with you? A Corbett and Deisser.

Q What is Corbett's first name? A Louis.

Q And by Deisser you mean this defendant at the bar?

A Yes, sir.

Q The defendant Deisser? A Yes, sir.

Q Did anybody tell you to go there? A Yes.

Q Who did? A Schultz.

Q This defendant here? A Yes.

Q When did he tell you to go there? A One day down in the

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cellar he said if I go up there I should stop in those stores.

Q When did he tell you that, that night? A No.

Q How long before? A About a week or so before.

Q In his basement where he lived? A Yes.

Q What streets? A I don't know the number of the house.

Q What avenue? A Longwood avenue.

Q Did he mention any particular store? A He said the gent's furnishing store, two doors up from the Nicolett.

Q Did he tell you how to get into it, or anything about it? A Yes, he said "Go around the corner by the automobile garage, and get up."

Q Did he help you in any way about it? A Not in that store; no, sir.

Q Did he tell you how to get in? A Yes.

Q What did he say? A He said "Go around the back and up around the back, and get on the roof and get down through the skylight."

Q Is that what you did? A Yes.

Q How did you get in? A The same way he told us, up through the skylight, and dropped down.

Q What did you take? A Ties, handkerchiefs, collar buttons, hats, gloves, socks.

Q Where did you take the stuff after you got it? A Down to Schultz' cellar.

Q Longwood avenue? A Yes.

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Q Was Schultz there when you got there? A Yes.

Q What did you do with it after you got there? A Brought it in the engine room and he said "Where did you get it?" and I said "Up in Boston Road in that store, two doors up from the Nicolett," and he said "Yes", and we sat down and divided it up and I gave him some ties and collar buttons, and gave him a pair of gloves and some underclothes.

Q Did Corbett give him anything? A Yes.

Q What? A Ties.

Q Did Deisser give him anything? A Not that I know of.

Q Did Schultz pay you for any of the stuff he got? A Paid me for the collar buttons.

Q What did he give you? A I gave him a big handful for five cents.

Q What time of the night was it that you met Schultz?

A About 3 o'clock in the morning.

Q What time of night was it that you broke in this store?

A About 11 o'clock or 12 -- between 11 and 12.

Q Was that the first time you had ever broken into a place for Schultz? A No, sir.

Q When did you first start stealing things for Schultz?

A About four years ago.

Q How did you come to do it? A I went in his store with a bicycle to get it fixed, and two fellows was there going in the store with a baby carriage, and I said --

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Objected to.

MR. DEMING: I propose to show, with your Honor's permission, how this boy came to be acquainted with Schultz, how he came to do these things for Schultz. This same boy, this same defendant.

THE COURT: Proceed. It is a little bit remote.

MR. DEMING: I shall connect it, and bring it up to date.

THE WITNESS: I said to the fellows, "Where did you get it," and they said "Stole it", and the fellow with me said to Schultz, "Do you buy them?" and he said "Yes." He said "If you get some, bring them over," and we went out and got them and brought them over there, and he bought them, and we went out and got more and brought them over there, and a little later he said, "Why don't you go and get some wheels," and we went and got some wheels, and then I went to work, and I stopped.

Q When did you stop bringing stuff to Schultz? A Last vacation, last July.

Q Did you go to work then? A Yes.

Q Where? A 23d and 24th street and Third avenue.

Q How long did you work there? A Three months.

Q Did Schultz pay you anything for these bicycles and baby carriages? A Yes.

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Q How much would he pay you for a bicycle? A For a bicycle if it was a good one, he would give us five dollars, and if it was not so good give us two dollars.

Q What would he give you for a baby carriage? A Half a dollar.

Q After you quit work, what did you do, did you steal anything more? A I met Schultz and he said, Why don't you get some more bicycles, and I went and got some more; then he said, Why don't you get a motorcycle, and I went and got a motorcycle and brought it over and he did not buy it yet off me, so we had that in another fellow's house. He said, There is a store up there, why don't you go up and rob it.

Q How long ago was it that he told you to go and rob a store? A This January.

Q What store did he tell you, what was the first store?
A Shoestore, right next to the Prospect Theatre.

Objected to. Objection overruled. Exception.

Q Did you go to that store? A Yes.

Q What did you do there? A Went and got shoes and came out with them and he didn't want to give me a decent price for them and so I wouldn't bring them over.

Q What was the next store you went to? A The next one, that tailor store down in Third avenue next to Miner's Theatre.

THE COURT: I think that is not quite a proper ques-

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tion--the next store he went to.

BY MR. DEMING:

Q Did you go to any other store, did Schultz tell you to go to any other stores? A Yes.

Q What was the next store he told you to go to? A Next to Miner's, Third avenue.

Q Is that Mr Silver's place? A I don't know the name.

Q Tailor's store? A Yes.

Q Is the man here in court--that man's store (indicating)? A Yes.

Q When did you go there? A On New Year's night, New Year's Eve, on Monday.

Q This last New Year's Eve? A Yes.

Q Did you steal anything there? A Yes, I got an overcoat and a suit of clothes.

Q Who was with you at that time? A Corbett and Svenson.

Q Was Rose there? A No, sir.

Q I show you People's Exhibit for Identification, No. 9, have you ever seen that coat before? A Yes.

Q Where did you get that coat? A Out of Silverstein's store.

Objected to. Overruled, and exception.

Q What did you do with it after you got it? A Sold it to Schultz for a dollar.

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Q The coat or the whole suit? A Coat and pants.

Q Did you sell him anything else from that burglary?

A No, sir, I gave him cotton.

Q That motorcycle that you stole, did you steal that by yourself or was some one with you? A Ross and a fellow by the name of Richie.

Q What did Schultz pay you for that if anything? A I didn't get out of the motorcycle. I don't know what they did with it.

Q Did Schultz tell you how to steal that motorcycle?

A Yes.

Q What did he tell you? A To go up there and get in the back door Sunday night, the fellow is out--he sleeps in there but won't be in there Sunday night. He said, You go up and get the motorcycle.

Q Anything else about that cycle? A Then he said bring it down to me and he would buy it and give us fifty or seventy-five dollars for it.

Q Did Schultz tell you to go into any other stores besides Silver's and Kloberg's and the shoestore? A I don't remember of any others.

Q How about the cigar store, do you remember that?

A Didn't tell me to go in there. There was another store a little further he sent me in, but I didn't go in, and then we went into the United States cigar store.

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Q Inside? A Yes.

Q What night was that? A I don't remember what night.

Q Was it in January or December? A I think it was January.

Q What did you do with the stuff you got there? A Brought mine down to Schultz's cellar and Swayne and Rose bunked theirs in another cellar--

Objected to.

BY MR. DEMING:

Q Never mind that. What did you do with yours? A Brought mine down in Schultz's cellar.

Q You say Schultz told you that night to go to a different store, did he give you anything when he sent you out?

A Yes.

Q What was it? A A hack saw, a pipe cutter, a chisel and screwdriver.

Q Was there anybody with you when he gave you those things? A Yes.

Q Who? A Rose and Swane.

Q Did he tell you to do anything with those tools?

A Yes, he said we can take out the bars in the windows.

Q Is that what you did? A No, sir.

Q You went to the cigar store instead? A Yes.

People's Exhibit No. 9 for Identification is offered in evidence.

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MR. OLCOTT: This coat has only been brought into this case by the detective finding it and by this boy saying that he took it from another store. It is not mentioned in this indictment at all.

THE COURT: I will receive it.

Exception.

Received and marked People's Exhibit 9.

Q What did you get at the cigar store? A I took a bundle of green coupons and a bundle of cigarettes and cigars and some pipes.

Q What did you say you did with them? A I brought them down to Schultz's cellar.

Q Was Schultz there? A Yes.

Q Did he buy any of them? A No, sir.

Q Did you give him any of them? A I gave him some cigarettes.

Q Did you give him any coupons? A No, sir.

Q Just left them there? A Yes, sir, and I took them out later.

Q Look at this bundle of coupons, People's Exhibit No. 11 for Identification, and tell me if it was that kind of coupon you got that night? A Yes.

BY THE COURT:

Q Who told you to go to that cigar store? A Nobody.

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BY MR. DEMING:

Q Is that the kind? A Yes.

BY THE COURT:

Q Schultz did not know anything at all about your going there? A No.

MR. DEMING: He has stated that Schultz sent him out that night.

THE COURT: Is there a charge for receiving in the indictment?

MR. DEMING: Yes.

THE COURT: Proceed.

MR. OLCOTT: I move to strike out this testimony..

Motion denied, and exception.

BY MR. DEMING:

Q You have referred to a conversation you had with Schultz last November, after you had been at work for a while and when he asked you if you would go and get some more wheels; was there anybody there when you had that conversation with him, do you remember? A No.

Q You don't remember who was with you when you went into the cigar store? A Swayne and Rose.

Q Who was with you when you went into Silver's tailor store? A Svenson and Corbett.

Q Who was with you when you went to Kloberg's haberdashery place and got the neckties? A Deisser, Corbett and

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me.

Q Do you remember ever stealing a bicycle with Svenson?

A No, sir.

Q You don't remember that--can you remember with whom you did steal bicycles and took to Schultz? A With Corbett.

Q Any others, did you ever steal any with Rose? A I only stole a motorcycle with Rose.

Q Did you ever live with Schultz at all? A Yes.

Q How long? A About a month.

Q When was that? A Down on Longwood avenue, around in January.

Q You slept in the same room with him? A Yes.

Q Can you remember any other occasions when he told you to go out and make breaks or gave you tools or bought stuff from you? A No.

Q Don't remember any other particular occasion? A No, sir.

Q Now, People's Exhibit No. 4, this necktie and belt and button; do you remember whether you ever saw those before? A I never saw that (indicating)--there is a lot of belts down there, I don't know if that is one.

Q How about the button? A No, sir.

Q You are not sure that you ever saw it before or not?

A No.

Q That belt and necktie look like the sort of things

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you took from Kloberg's store? A Yes.

Objected to. Overruled, and exception.

Q How about this muffler, People's Exhibit '1? A I gave one just like this to Schultz.

Q When was that? A The day we were sharing up the stuff in the cellar.

Q The stuff from Kloberg's place? A Yes.

Q Did you give him anything else that night that you can remember or pick out here? A I gave him a lot of ties.

Q You would not be able to pick out any particular tie?

A No.

Q Did you give him any belts? A I gave him one belt.

Q What sort of a belt, black or brown?

MR. OLCOTT: I object. This has been very leading.

THE COURT: You had better let him describe them.

MR. DEMING: I asked him if it was a brown or black belt.

THE COURT: Ask him what the color of it was.

BY MR. DEMING:

Q What was the color of the belt? A I just don't know the color.

Q Now, about this motorcycle, do you know whether Schultz had ever had anything to do with the place where that was?

A He owned the store up there.

Q Did he own it at the time you took the motorcycle?

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A No, he sold it.

Q He left there? A He sold the store, and after he sold the store he sent us up there.

Q Did he tell you anything specific as to how to get in, anything he had done to make it easy? A He told us to go in the back way, that the fellow ain't there Sunday nights.

Q That is all you remember about it? A Yes.

The Court admonishes the jury in accordance with section 415 of the Code of Criminal Procedure and takes an adjournment until to-morrow morning, March 30, 1911, at 10:30.

March 30, 1911.

TRIAL RESUMED.

I S I D O R H. S I L V E R, called as a witness on behalf of the People, being duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. DEMING:

Q You are a tailor? A Yes.

Q Where is your shop? A 3028 Third avenue.

Q Here in the city and county of New York? A Yes.

Q Were you in your shop on the 2d of January of this year? A Yes.

Q Did you lock up the shop? A Yes.

Q And go back next day? A Next day I came back it was

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burglarized.

MR. OLCOTT: I object to that.

THE COURT: Objection sustained. Strike out the answer.

BY MR. DEMING:

Q When you came back the next morning, did you miss anything? A The officers were there, and I find the officers there and commenced to look around.

Q Did you miss anything? A Yes.

Q What did you miss? A Merchandise.

Q What sort of merchandise? A Piece goods and goods made up.

Q Suits? A Yes, suits and trimmings.

Q I show you a coat, People's Exhibit No. 9.

MR. OLCOTT: I object to this. This is not part of the indictment--the stealing of this coat, and is entirely immaterial.

Objection overruled. Exception.

Q Have you ever seen that coat before? A Yes, a customer left his coat and pants to be pressed up when he took out his new suit.

Q When did you last see them? A That coat?

Q That coat? A That coat was left the night before Christmas. That was left in my store.

Q When did you first miss it? A We missed it the 2d

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or 3d of January.

Q When you came back to your store? A Yes.

Q Have you ever seen either of the defendants in your store? A There is a man--there is two men--that man there and that little fellow was in there Saturday night.

Q Deisser? A And he selected a light suit and this man Schultz was in Thursday night. He bothered me two hours. He said, You have a nice place, and asked me if I make the work inside, and I took him to the back and I showed him I fixed up to make work inside. He said he has lots of friends and will see what he can do for me, bring me trade.

Q Was that before you missed the coat? A Yes, sir, that was the early part of December.

BY THE COURT:

Q Was this coat taken in the premises of the defendant with the other property already in evidence?

MR. DEMING: It was.

CROSS-EXAMINATION BY MR. OLCOTT:

Q Are you sure that is the coat that was in your store?

A Yes.

Q Did this man give you any name when he went in your store, this man with the mustache? A No. I tried to make a sale.

Q Are you sure this is the man? A Positive about it.

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Q When was that? A That was during--in December, right in the beginning, as soon as I opened. I opened the 12th of November, and of course I was new man and glad to get anybody in and tried to make a sale, and he asked me if I make my clothes inside.

Q How long was that before this coat was missing?

A That was in December, I tell you. The coat was missing in the 3d of January. The coat was left in my store and pants the Saturday before Christmas.

J O S E P H M E R K L E, resumes the stand:

BY MR. DEMING:

Q You spoke yesterday of having sold for five cents to Schultz a handful of collar buttons, what sort of collar buttons were they, were they anything like that (indicating)?

A Yes.

Q That sort of thing? A Yes.

Marked for Identification People's Exhibit 14.

Q You told me yesterday that you had been convicted of burglary, what were you sentenced to? A To the House of Refuge, Randall's Island.

Q For how long? A Fifteen and a half months.

Q You are now serving that sentence? A Yes.

Q Was it before or after that sentence was imposed that you first had a talk with any one in this office? A What of-

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fice--I don't know what office you mean.

Q The District Attorney's office--when did you first talk with Mr Berg? A The first time I came down here after I was sentenced.

CROSS-EXAMINATION BY MR. OLCOTT:

Q How old are you? A Sixteen.

Q When did you first steal anything? A Four years ago.

Q Have you any religion, did you ever attend any church?
A Yes.

Q Do you understand you are under oath and do you understand the nature of that, what it means? A No.

MR. OLCOTT: I move to strike out this boy's testimony. He says he does not understand the nature of an oath.

MR. DEMING: He is 16 years old.

BY THE COURT:

Q How old are you? A Sixteen.

THE COURT: It is presumed, according to our law, that one over 12 does understand, but if he says he does not understand it will be the duty of the Court to find out.

BY THE COURT:

Q Do you know the difference between the truth and a lie?
A Yes.

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Q What is it? A A lie is an untruth.

Q What is not so? A What is not so.

Q What is the other? A The truth is telling what is so.

Q Is there any duty placed upon you to tell the truth?

A Yes.

Q What is that, I mean any moral duty, religious duty?

A Yes.

Q Do you go to church? A Yes.

Q What church? A Catholic church.

Q Is there any teaching there that you should tell the truth? A Yes.

Q What is it? A The Ten Commandments.

Q By whom? A Christ.

Q A Commandment of the God of your church, the church in which you worship that you shall not bear false witness against your neighbor? A Yes.

Q Did you ever hear of that before? A Yes.

Q Suppose you do, what do you believe will be the result, what do you think is the punishment that will be visited upon one who commits perjury or tells a false story under oath?

A They get sent to prison.

Q What is your spiritual belief about it, religious belief? A It is a bad sin.

Q And that sin is punishable how and where? A When

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you die.

Q Where? A The soul.

Q Punished in the soul, but the soul is punished where?

A In Heaven--Purgatory.

Q And where else? A I do not know that.

Q Does your church teach you that there is any place of torture or punishment in the world beyond the grave for sins that you commit here? A Yes.

Q Where? A Purgatory.

Q What is the other place your church teaches you you get punished in? A Hell.

Q Why do you say that so softly--a boy who is not afraid to break into a house ought not to be afraid to say hell in the presence of the Court--that is what you mean? A Yes.

THE COURT: I guess he will do.

MR. OLCOTT: I except to that ruling.

BY MR. OLCOTT:

Q You say you first stole four years ago? A Yes.

Q Do you remember what was the first theft you ever committed? A A baby carriage.

Q Where? A Wales avenue and 155th street.

Q What did you do with that baby carriage? A Brought it over to Schultz's store and I sold it to him for half a dollar.

Q What did you tell him when you sold it to him? A I

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told him we got a baby carriage, if he wanted to buy it of us, and he said, Sure.

Q You did not tell him it was stolen? A Yes.

Q You told him it was stolen? A Yes. He sent us out for baby carriages.

Q Tell me when is the first time that you mentioned Schultz's name to any officer? A When I first got locked up out in Buffalo.

Q What were you doing there? A I heard the detectives were after me and I went away.

Q Where did you get the money to go to Buffalo from?

A I had money.

Q Where did you get that money? A From Schultz.

Q He gave you money to go to Buffalo? A I sold him stuff.

Q What did you tell him when you sold him the stuff?

A He said where did you get it, and I told him where I got it.

Q Which stuff was that? A A suit.

Q He said, Where did you get it? A Yes.

Q Then he did not send you out to steal that suit?

A He did not send me out that day, but he sent me out about a week before that.

Q Where was Schultz living at that time? A Down in a cellar in Longwood avenue.

Q How long had he been living there? A I don't know

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how long.

Q How long did you go there to see him? A About two months.

Q Where did you see him before that time? A I seen him working in a store on Longwood avenue.

Q How long ago was that? A About a month before that.

Q You say you have known Schultz for four years, where was it you first knew Schultz, where was he living? A 155th street between Union and Prospect.

Q What was he doing there? A He had a bicycle store.

Q That was four years ago? A Yes.

Q How do you know, why do you say four years ago?

A Because I know it was four years ago.

Q And every year since then you have been in touch with Schultz? . Yes.

Q All the time? A Not all the time.

Q How much of the time, can you tell me--most of the time? A Yes.

Q Four years ago from now or from the time you were arrested, did you first know Schultz, was it in the winter, spring or fall? A In the summer on vacation.

Q How did you happen to meet him? A Brought my wheels to his store to get fixed, and two fellows came in with a stolen baby carriage, and I knew them, and I said, What did you do--crooked; and they said, Sure, he will buy it; and the other

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guy with me said, Will you buy then, and he said yes, and if you get anything bring them around, and we went down to 155th street and Wales avenue and got one and brought it up and sold it to him.

Q That was the first theft you committed? A Yes.

Q A few minutes ago you said he sent you out to get it?

A I just said he did so.

Q You just said he said, If you get any bring them in.

MR. DEMING: I submit there is no discrepancy there.

THE COURT: The jury will see. It is cross-examination.

BY MR. OLCOTT:

Q Were there not any other people who suggested to you that you could steal a baby carriage? A No.

Q Who were these other boys? A They said they stole it but they did not tell me to go out--Schultz said, If you get any bring them around.

Q Did you steal a baby carriage all alone? A No.

Q Who was with you? A Another fellow by the name of George Geppert. He is up in the Juvenile Asylum.

Q You never stole anything before? A No.

Q That was in the summer of 1907? A Yes.

Q Sure it was not 1906? A No, sir.

Q Now, in the winter of 1907 and '08--you understand what I mean? A Yes.

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Q Did you see this man Schultz at any time during that winter? A No, sir.

Q At any time during the next summer? A I think I saw him up in Boston Road, 169th street--he had a store up there.

Q That was in the summer of 1908? A The summer of 1908 or 1909, I don't just remember.

Q Why are you so sure it is 1907 when you first knew him? A I ought to know the day I met him.

Q Is it not that you were coached to tell what day? A I don't know the day, but I know the year.

Q Is it not that you were coached to tell the whole story? A No.

Q Is it not so that you arranged with these other boys to tell this story? A No.

Q When did you first mention the name of Schultz to an officer? A When I was locked up out in Buffalo. They said to me, Who owned that store. I said Schultz owned it. Who owned the stuff down there; I said Schultz. They brought me down to New York and questioned me.

Q When did you first tell them that Schultz sent you out to steal this stuff? A On the train coming down.

Q Why did you tell them it then? A I told them because they asked me.

Q Tell me why did they say they asked you? A They did not say why. They said, Who sent you out, for it. And I told them.

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Q They said, Who sent you out for it? A And who was with you.

Q What did they say besides that, do you remember?

A No.

Q Did they offer you any inducement to tell on Schultz?

A No.

Q They did not tell you if you told on Schultz you would get a light sentence? A No.

Q Never told you that? A No.

Q How often have you seen these other boys, after you were arrested? A When I was arrested they were up in the Gerry Society with me and when I came down here once I seen them, but couldn't speak to them.

Q You saw them in the Gerry Society? A Yes, but the trial was not on yet.

Q Weren't you over here in court with all these boys?

A I was not sitting with them.

Q Haven't you talked this case over with those boys?

A No.

Q Never have? A No, sir.

Q What did you talk to them about this morning, right over here? A I didn't talk to them about anything--just asked them how did Corbett get locked up.

Q Tell me when did you steal this motorcycle? A I stole it when he had the fellow over there in Longwood avenue.

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Q When? A I think it was in January.

Q This year? A I think it was. I know it was right around January.

Q We will go back to the baby carriage you stole in 1907. How did you steal that? A I went in a hall--I was in a store and he showed me how to fold them up--they were folding, and he went around the hall and folded it up and walked away.

Q Schultz? A Yes.

Q Where did you steal it from? A Wales avenue and 155th street, in the hallway of a flat house.

Q Schultz gave you how much for that? A A half a dollar.

Q What was the next crime you committed? A I went and got more baby carriages.

Q Right along that time? A Yes.

Q Right in the winter? A We took them out of hallways.

Q Right along all that summer and all that year, through that entire year? A All the summer.

Q Not in the winter? A No.

Q What did you do in the winter? A Working.

Q When did you see Schultz next after you stole baby carriages for him? A The next I saw him on Boston Road, he had a store 169th street.

Q And you brought stuff to him up there? A Yes.

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Q What stuff? A Bicycles.

Q And you sold those bicycles? A Yes.

Q You and your friends stole them? A None of them over there--Geppert.

Q Weren't you ever caught stealing these things? A No.

Q Never had been in jail before or arrested before?

A No.

Q How did you get away with these things so easily?

A We didn't get away with them easily--walked right through the street with them.

Q Where did you get them from? A Down in cellars, in flat houses.

Q Just took them up, no janitress or janitor there?

A No janitor was down when we went down.

Q How did you know when they were out? A Just happened to go down there.

Q Never were caught at all? A No, sir.

Q And kept on stealing these things right along? A Yes. I wasn't stealing right along--I was stealing about three months and then stop and go to work, and when I met Schultz he would send me out again.

Q When he told you to go out why did you go out?

A Because I wanted the money.

The Court admonishes the jury in accordance with section 415 of the Code of Criminal Procedure and takes a recess

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until ten minutes after two.

AFTER RECESS. TRIAL RESUMED.

J O S E P H M E R K L E,

CROSS-EXAMINATION CONTINUED BY MR. OLCOTT:

Q Who is Jesse Swayne? A I only know him from down in Schultz's cellar. They went down there and they called him Jesse Swayne, and so I called him Jesse Swayne. When did you first see him to know him? A The first I know him I came down the cellar and he was down there.

Q When was this? A About a month and a half ago.

Q Never saw him before? A No.

Q Sure of that? A Yes.

Q Do you know that he has pleaded guilty a few days ago?

A No, sir.

Q You don't know that? A No.

Q You say you never saw him before a month or so ago?

A No, I never saw him before.

Q Have you been telling the truth? A Yes.

Q Did you ever tell a falsehood.

Q Are you lying now? A No, sir.

Q What reason can you give for not lying now when you lied before so often? A I never lied before often. I say the first time I saw Jesse Swayne was in the cellar one day when he came in.

Q I want to know if you are in the habit of lying--do you

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lie often? A No, sir. I ain't in no habit of lying.

Q How often would you say that you have lied during the last four years? A I don't know.

Q What do you mean by often? A I haven't lied often.

Q Have you told ten lies in the last four years? A Not that I remember--the only thing when I was home my brother said, You are working, and I said yes, and I wasn't working.

Q That is the only lie you can think of that you have told? A Yes.

Q In the last four years? A Yes.

Q You have been stealing stuff all this time? A Yes.

Q Were you one of the boys who stole the coat? A Yes.

Q Who were you with when you stole that coat? A Corbett and Svenson.

Q Are either of those boys in court? A Yes.

Q Both of them? A Yes.

Q Which are they? A The two boys standing up.

Q Those two boys? A Yes.

Q How long ago was this? A In January, on Monday.

Q Were those boys taken in Buffalo with you? A No.

Q Have you seen them before to-day since then? A I seen them but not spoken to them.

Q You have not spoken to that boy behind the door?

A I spoke to him this morning, but not before to-day.

Q Not before this morning since you have been arrested?

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A No.

Q Sure of that? A Yes

Q You remember the 4th of January, the night of January 4th, when you stole goods from this store, from the haberdashery store? A The coat?

Q No, the furnishing stuff? A Yes, I remember.

Q Who were you with that night? A Deisser and Corbett.

Q Deisser and Corbett? A Yes.

Q What time was it that you broke into this store?

A Between 11 and 12 at night.

Q Were you with Deisser all evening? A I was not with Deisser all night, but I was with Corbett.

Q When did you meet Deisser? A I met Deisser the next afternoon.

Q That night when did you meet him? A I think I met him Union avenue and 163d street.

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

Q Much before you entered this store? A Yes.

Q A long while? A Yes.

Q Was he with anybody? A Not that I know of.

Q Do you know what time the moving picture shows get out up there? A Yes.

Q What time? A 11 o'clock.

Q Was it before or after one of those shows got out?

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A We went to the afternoon show--it was five o'clock when we came out, but never went at night, when we went up there.

Q You went the defendant Deisser before you came out of this moving picture show? A Met him in the street on Union avenue about--after the matinee show.

Q You were with him all that evening? A Yes.

Q A minute ago you said you were not with him all the evening? A I was with him all the evening. I thought you meant all the night long until the next morning.

Q You were with Corbett all night? A Yes.

Q Were you and Corbett and Deisser together from the time the matinee broke up in the afternoon until you committed this theft? A No, sir.

Q You were not? A No, sir.

Q What time were you absent from Deisser? A I was with Deisser, but not with Corbett.

Q You were not with Corbett--where did you get dinner that night? A In a baker's in 161st street and Union avenue.

Q Who had the money? A I had the money.

Q Deisser did not have money? A He had money.

Q You spent the money for the dinner? A I did not spend it for his dinner. For mine.

Q Did he spend for his own? A Yes.

Q Did you and he plan to rob this store that night?

A No.

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Q You did not? A No.

Q When did you decide to do it? A Schultz says if we would run up there, two or three doors up from the nicolet is a gent's furnishing store.

Q When did Schultz say this to you? A Down in the cellar one day.

Q To you? A To me.

Q One day? A Yes.

Q What day, do you remember? A No, sir.

Q What reason did you have for doing it this time?

A Because we went up there.

Q Did Deisser ever know Schultz before? A No.

Q Deisser had never seen Schultz before? A I don't know if he ever saw him.

Q Not that you know of? A No.

Q Schultz told you to rob this store? A Yes.

Q And you told Deisser? A I brought Deisser up there with me.

Q You brought him up there with you? A Yes.

Q We went up there by the store and walking around for a while and went over and went back where Schultz told me to go in, and we went up and down in the store.

Q Where did you meet Deisser first that evening?

A Corner of 161st street and Union avenue.

Q When? A I don't know what time it was, I know it

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was after the matinee show.

Q You said you went to the matinee show with him?

A This is the evening--I met him after the matinee show again.

Q You said you were with him all evening? A Until three o'clock in the morning.

Q With Deisser? A Yes.

Q If you were with him from the time of the matinee until three o'clock, you could not have left him, and therefore you could not meet him again? A I left him after I came out of the show and met him again on Union avenue and 161st street.

Q You went to the show with him? A No.

Q A minute ago you said you did? A I never said I went to the show with him. I met him in there, but never went to the show with him.

Q You met him in there? A Yes.

Q You met him again outside the show? A Both came out together and I met him on 161st street and Union avenue after the matinee show.

Q When did you leave him, if you saw him in the show and then met him outside of the show and then met him at 161st street, when did you leave him? A We came out of the show and he went in some fellow's house, I don't know, and he said, We will meet corner of 161st street and Union avenue; and so I met him there.

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Q You had planned while you were in at the show? A No.

Q Why did he meet you at 161st street? A I don't know why. He said, Where will I meet you, and we said that very night.

Q You saw him every night? A Nearly every night only--

Q Yet he has never met Schultz? A Not that I know of.

Q When did you see Schultz? A I saw Schultz 155th street and Dawson street.

Q Just happened to meet him? A When I first got in with him?

Q No. When did you meet Schultz after you planned to make this robbery? A Down in the cellar Schultz told me to go up there.

Q Why did you go to the cellar? A I was down there talking with him.

Q What time of the day? A About 10 or 11 o'clock.

Q In the morning? A Yes.

Q He was down there at 10 or 11 o'clock in the morning?
A Schultz was down there.

Q Deisser down there also? A No, sir.

Q You were the only person who was there? A Jesse Swayne was there.

Q Did not Jesse Swayne tell you and not Schultz to rob this store? A No, sir, Schultz told me.

Q What did Jesse Swayne have to say? A Nothing.

Jesse Swayne did not commit that robbery with you?

A No, sir.

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Q What did Corbett have to do with it? A Nothing.

Q You and Deisser committed this robbery? A No, Corbett went up there with us.

Q A minute ago you said Corbett had nothing to do with it? A I thought you meant down in the cellar when Swayne was talking to me, I thought you said what had Corbett got to do with it. Me and Corbett and Deisser broke in that store.

Q Did you go to Corbett and tell him to do it? A No.

Q Who did? A Nobody went to him. We went up there and when we got up there he said "here is the store Schultz told me to come up around," and so we went in.

Q Corbett never committed any other robberies with you?

A Yes.

Q Does Corbett know Schultz? A I think he does.

Q You never heard Schultz say anything to Corbett about committing these robberies? A No, sir.

Q You were always the person who went to Schultz? A No.

Q Who did? A Ross went to Schultz.

Q Ross did not have anything to do with this furnishing store robbery? A No.

Q You were the person in this furnishing store robbery who got a message from Schultz? A Yes.

Q You communicated to Deisser -- what did you tell him-- did you tell Deisser there was such a person as Schultz?

A We were talking about Schultz, and he said "Who is Schultz?"

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and I said "A fellow down in Longwood avenue."

Q You told him that Schultz was the man who told you to rob this store? A I never told Deisser. I told Corbett.

Q Why didn't you tell Deisser? A Because I did not tell him.

Q Didn't want him to know such a person as Schultz -- who did the breaking in of this store? A Me and Corbett.

Q What did Deisser have to do with it? A Deisser came in.

Q Where was he while you were breaking in? A Over on the next roof.

Q What was he doing there? A Sitting down there.

Q Why should he sit down and you break in? A I don't know.

Q As matter of fact, Deisser didn't have very much to do with this, did he? A No, sir.

Q He had but little to do with it? A Yes.

Q He simply knew you were doing it and watched you?

A Yes.

Q Deisser is not a thief, is he, as far as you know?

A Not much, not that I know of.

Q What do you mean by "much"? A The only thing I know, he went in that store.

Q Did he take anything when he was in the store? A I don't remember.

Q You carted away all this stuff? A No.

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Q Corbett did with you. A Yes.

Q You and Corbett took all this stuff? A Yes.

Q And Deisser had nothing to do with it as far as you know? A No, sir.

Q Do you know how Deisser got the scarf pin which he was found with? A I think I gave him that pin.

Q You gave him that? A I think I did.

Q He did not know that was stolen, did he? A I don't know.

Q You never told him, at any rate? A No.

Q The belt and the necktie? A I did not give him a belt and necktie.

Q You did not? A No, sir.

Q Do you know who did? A No, sir.

Q Deisser was never with you at any other time, was he?
A No, sir.

Q After you got all this stuff, what did you do? A I brought mine down to Schultz' cellar. Corbett brought his down, and we went down there and gave Schultz some ties.

Q What did you say to Schultz when you gave him the ties?
A I said we got them out of that store on Boston road, that gent's furnishing store.

Q Did Schultz know what you were talking about? A Yes.

Q How did you get in the store that night? A Through the skylight.

Q You had seen that skylight before, hadn't you? A No.

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Q Do you know what Corbett did with the stuff he had?

A I think he brought his home.

Q A minute ago you said you and Corbett brought it to Schultz? A I said we brought it down that cellar to share up, and I gave Schultz some ties, and Corbett brought his home.

Q Did you get any money from Schultz? A Not for the ties, but I sold him some collar buttons.

Q You are sure you told Schultz that you had robbed the store? A Yes.

Q And Schultz paid you money for the collar buttons?

A Yes.

Q He did not give Corbett any money? A Not that I know of.

Q You asked him for permission to leave the stuff there?

A No, sir.

Q What did you do with the stuff you kept? A I kept it down there in a valise.

Q Why did you go to Buffalo? A I heard the detective caught them down the cellar and I said "I am not going to get caught," and so I beat it.

Q Why did not Schultz beat it, did he tell you? A No.

Q He was not guilty, was he, he did not do anything?

A He did not do any of the robbing.

Q He only told you to do it? A Yes.

Q What did he say to you about robbing the store? A He told me in case I go up that way, that there is two or three

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doors up from the Nicolette a gent's furnishing store, and to go around the corner and next to the garage, and get in, only one story high, and you could get in through the skylight.

Q You had never seen this skylight before? A No.

Q What did Jesse Swayne have to do with this? A Nothing.

Q Sure of that? A Yes.

Q Was Jesse Swayne in the cellar when you brought this stuff back to Schultz? A He was asleep and Schultz -- when we came in Schultz got up and came in the engine room and I gave him some ties, and Jesse Swayne stayed sleeping there.

Q Did you give any of this stuff to Jesse Swayne? A No, sir.

Q You do not know why Schultz did not run away when you did? A He did not have no time to run away, that I know of.

Q Why didn't he -- he had more time than you did? A No, I was in the theatre when the detectives raided the cellar.

Q How do you know the detectives raided the cellar?

A I came out and saw the patrol wagon there and some fellows told me Schultz went over to the station house with the detectives.

Q Do you remember this morning that you said Schultz gave you money to go to Buffalo?

Objected to.

A I said I sold Schultz that suit and I got money off him and had money, and I went to Buffalo.

Q How long ago was this suit sold? A I sold it to him

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on the 2nd of January in the morning.

Q What did you get for it? A A dollar.

Q How much did you get for the other stuff you sold as the result of this furnishing store robbery? A I only sold him collar buttons.

Q How much? A Five cents.

Q You got to Buffalo on a dollar and five cents? A No, I had other money from wheels I sold him.

Q How long ago did you sell him those wheels? A About a week -- the next day I sold him one.

Q To Jesse Swayne? A To Schultz.

Q Not to Swayne? A No.

Q Didn't Schultz know these wheels were stolen? A Yes, he asked me where I got them; I said from up on Caldwell avenue and he said to Jesse "That is right, around the houses where we fixed the bells.

Q Did you do any stealing in the winter that you knew Schultz? A No, sir.

Q Did you ever do any stealing except when Schultz was in town? A No, sir.

Q Sure of that? A Yes.

Q The only time you ever stole was when you could sell it to Schultz? A Yes.

Q Didn't you go and steal without Schultz knowing you were stealing, often? A No, sir.

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Q Do you mean to say you told Schultz every time you stole? A I went in the store , and Schultz said "Why don't you get something if you want some money."

Q What store? A Into his bicycle store. And I went out and got something.

Q Which bicycle store? A The one on Dawson street and the one on Boston Road.

Q What do you hope to gain by telling on Schultz?

A I don't hope to gain anything.

Q Why are you doing it? A Because I am just telling the truth, and that is all. I am just telling what I am supposed to tell.

Q Who told you to tell this? A Nobody.

Q Nobody ever asked or went over this testimony with you?

A Yes.

Q Asked you a great many questions? A No, sir.

Q You just told this story right along? A Yes.

Q Where was this? A Upstairs in the office.

Q What did you say about Deisser? A I just said Deisser was in that one store. He stood on the next roof and we went in.

Q He did not rob the store with you? A He came in, but I did not see him take anything.

BY MR. DEMING:

Q You say Deisser went into that store? A Yes.

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Q You did not see him take anything? A No.

Q When you went back to Schultz' cellar with Corbett, where did Deisser go? A Deisser came down the cellar.

Q He was there when you divided up the stuff? A Yes.

Q Did anybody give him any stuff at that time, do you know? A No, sir.

Q You don't know where he got the necktie and pin he was found with? A Unless Corbett or Schultz gave it to him.

BY THE COURT:

Q Where was he when you broke in that skylight? A On the next roof.

Q What was there between you and him to prevent his seeing what you were doing? A The wall came up between, and separated the houses.

Q Could he see you breaking in? A I don't think he did.

Q What did you say to him about breaking in? A I said "We got it open now, come on over."

Q What, A I said "We got it open now, come on over", and so we went in, and he came in after.

Q When you broke in, he came in? A Yes.

BY MR. OLCOTT:

Q You did not see him take anything? A No.

Q You don't believe he did take anything? A I didn't see him carrying anything.

Q Did he go up to the counters with you? A No, sir.

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Q He just stood around? A Yes.

Q He did not do any of the breaking at all, simply walked in after you had opened the skylight? A Yes.

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

DIRECT EXAMINATION BY MR. DEMING:

Q How old are you? A Fifteen.

Q You have been convicted twice for burglary? A Yes.

Q Within the last how many months? A Three.

Q You have recently been sentenced, A Yes.

Q What to? A The Juvenile Asylum.

Q At Dobbs Ferry? A Yes.

Q For what term, do you know? A No.

Q An indefinite term? A Yes.

Q You are serving your sentence now? A Yes.

Q Did you go with Merkle to Kloberg's furnishing store on the night of the 4th of January? A Yes.

Q And break in there with him? A Yes.

Q What did you do with the stuff you got? A Brought it down to Schultz' cellar.

Q How long have you known Schultz? A About four years.

Q How did you happen to first meet him? A I met him where he had his store on 155th street.

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Q Bicycle store? A Yes.

Q When did you first steal anything for him? A When I first met him I stole a baby carriage.

Q Did you sell it to him? A Yes.

Q Do you remember what he gave you for it? A Thirty-five cents.

Q How long did you keep doing that? A For the whole summer about.

Q What made you stop? A He left there -- he left that store and he moved somewhere, and we could not find out where he moved.

Q What did you do when he moved away? A I did not do nothing; I stayed home.

Q When did you see him again? A About four months later upon Boston road.

Q Did you steal any more things? A Got baby carriages.

Q What did you do with them? A Sold them to him.

Q When did you first make a break into any house?

A I never made a break to a house.

Q When did you first break in anywhere to get stuff?

A When I first met him he gave me a file and something to break into a cellar for a wheel.

Q Did you do it? A Yes, sir.

Q Did you bring the wheel to him? A Yes.

Q Were you concerned in the stealing of the clothes from

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Mr. Silver's store? A Yes.

Q What did you do with what you got? A I only got buttons and a few spools of thread, and I brought the buttons home and kept the few spools of cotton in my pocket. I went into Kloberg's store one night and had these few spools of cotton in my pocket.

Q Did you have anything to do with robbing the United Cigar Company's place in January? A No.

Q What was the last place from which you stole stuff for Schultz? A I never stole anything for Schultz, only the baby carriages and wheels.

Q What was the last place where you got stuff which you took to Schultz? A Up at Kloberg's store.

Q Where these neckties and things were got? A Yes.

CROSS EXAMINATION BY MR. OLCOTT:

Q You say you are fifteen? A Yes.

Q You understand what an oath is? A Yes.

Q What is it? A Swear to a thing.

Q What does it mean to swear to a thing? A To keep the truth.

Q You go to church? A Yes.

Q You are telling the truth now? A Yes.

Q Have you ever lied before? A Yes.

Q Often? A Not very often.

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Q Quite often, A Yes.

Q Why should you tell the truth now when you often have not done so? A Because I took an oath to do so.

Q What do you hope to gain by telling this story? A I don't hope to gain nothing. Just put here as a witness.

Q Don't you think if you tell this story, the officers in the institution which you are in, will look kindly on you?

A If I tell the truth, yes.

Q How do they know you are telling the truth -- you mean if you tell what the District Attorney wants you to, they will look kindly on you? A No.

Q How did you happen to rob this store that night? A We walking around that night, Deisser and I and Merkle, and we passed this, and we saw it was a low one story place, and we went in there. We went in the back way and climbed up the shutters.

Q You say you saw it was a low story building? A Yes.

Q What put the idea in your head about this particular store? A We just went passit, and we thought it would be easy.

Q Schultz never spoke to you about this? A No.

Q You had nothing to do with Schultz? A Not this time.

Q You had not seen him in a long time? A No.

Q Did you give any of the things you stole to Schultz?

A No, sir; when I was in his cellar, we went down there to share them up.

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Q You had nothing to do with Schultz then? A No -- I just went down to sell it.

Q Didn't give any of your stuff to Schultz? A No. After awhile --

MR. DEMING: Finish your answer.

THE WITNESS: The next night when I went down there to get my things, I gave Swayne five ties, and that night I gave Schultz a few collar buttons, and I think I gave him a tie.

BY MR. OLCOTT:

Q Did Schultz know this stuff was stolen? A Yes, sir.

Q And Swayne knew it also? A Swayne was not up out of bed. He was in bed.

Q You say you gave him something? A The next night I gave him something.

Q How long have you known Swayne? A I only knew him that next night I went down there for the stuff.

Q Is that the first time you ever saw him? A Yes.

Q You gave Schultz some collar buttons? A Yes.

Q Did you tell him where you got these collar buttons from?
A Yes.

Q Where did you tell him and why did you tell him?

A Because Merkle told him where he got them from.

Q Have you seen Merkle since the time you were sentenced until to-day in court? A No.

Q Never saw him? A No; not this last time I was sentenced

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I have not seen him.

Q What were you sentenced for before? A For these burglaries.

Q This same one? A Yes, here. I was sentenced the first time; my second time I was sentenced for a different thing.

Q Where were you caught? A On the first case?

Q Were you caught the first time you were sentenced?

A I was not caught. I went down ^{to} the police station with them. They came to my house.

Q With whom? A Two detectives.

Q Were you caught at your house? A Yes.

Q Now, when was this that you were first caught?

A Some time in February I think.

Q That was the first time? A Yes.

Q What happened to you, did you plead guilty? A Yes.

Q And you got what - suspended sentence? A Paroled.

Q For which burglary was that, which larceny, or whatever it was, what was that for? A On the Silver case, Isidor Silver case, and I don't know his name, the tailor.

Q Did Schultz have anything to do with that? A No.

Q Then you went out on probation, and you robbed again?

A Yes.

Q As matter of fact, you often robbed? A No, sir.

Q How often have you? A Four or five times, with the ex-

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ception of baby carriages. I took them more than once.

Q That was a long time ago? A Yes.

Q You had not seen Schultz from that time until now, except the time when you went in the store? A I saw him on Boston Road one time.

Q A long time ago, A Yes, and from the Boston road store I never saw him since.

Q What about Deisser that night, what did he do?

A Nothing -- we got up on the roof and he just stood there, sat thereon the coping stones.

Q He did not take anything? A He was standing around the counters. I do not know if he took anything or not.

Q Did you give him any of the stuff? A We shared it all up down in Schultz' cellar.

Q What do you mean, with Deisser? A I don't know if Deisser got any of the stuff. Merkle and I shared our stuff up.

Q You did not have anything to do with Deisser? A No.

Q He just happened to be there and you knew he would not tell on you, you let him stay there, is not that the case?

A Yes.

Q Do you know anything about a belt he has on, do you know how he got that? A No.

Q Was not all this clothing that you stole out of this store, distributed around the neighborhood among your friends, didn't you give each one of them something? A No, I did not.

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I brought my stuff home.

Q What do you mean by "home", your mother's and father's house? A Yes.

Q Did you give it to them? A No, I put it in a drawer.

Q They didn't know anything about it? A No, they did not know anything about it.

Q Now, Corbett, tell me what your relation to Merkle is? A None.

Q How did you happen to meet him that night? A I came home from work. I always played around Union avenue from 158th street to 161st street at night --- we were all standing, the whole bunch standing on the corner, and I saw Merkle come along and I generally went with him, and I went with him that night.

Q Did you know where Schultz was at this time? A No.

Q Merkle did not tell you anything about Schultz, did he?
A No, I just heard Schultz was around, but never knew where he was.

Q Schultz was not behind this robbery at all, he did not know you were going to do it? A I don't know if he knew I was going to do it. I don't know anything about that.

Q Merkle came to you and suggested to you that you rob the store, or did you and he plan it together? A No, sir; we were walking around that night and we passed it and Merkle saw it and he said come on up there.

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Q You said that? A I did not say it; we passed it and we looked at it.

Q It looked easy? A Yes.

Q Looked easy to you? A Yes.

Q It was your plan as much as Merkle's to rob this store?

A No, I didn't make no plan about it.

Q You went up and did what, you were perfectly agreeable to do it, you wanted to do it? A Yes.

Q Schultz did not know what store you robbed when you came back with the stuff, did he? A I don't know; I didn't say nothing to him.

Q He did not act as if he knew, did he? A I don't know. He came from another room into the cellar.

Q He did not appear to know anything about it? A No.

Q You would have robbed the store whether you knew Schultz was around or not? A I don't know, because I went with Merkle that night. I did not know he was going to do it.

Q You were willing to do it with him, and he did not say anything about Schultz to you? A Schultz did not say anything to me.

Q Merkle did not say anything to you about Schultz?

A No, sir.

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H A R R Y R O S S, called as a witness in behalf of the
People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. DEMING:

Q Where do you live? A 846 East 156th street, Bronx.

Q How old are you? A Sixteen last February.

Q You were convicted recently of burglary in the Children's
Court? A Yes.

Q And sentenced? A Yes.

Q Where to? A Hart's Island Reformatory.

Q For how long? A No time at all.

Q No definite time? A No.

Q How long have you known Schultz? A Three to four
years.

Q How did you first happen to meet him? A In one of his
stores.

Q Did you ever steal anything for him? A Yes.

Q What was the first thing you stole for him? A A monkey
wrench.

Q How did you happen to do that? A That was on my own
accord.

Q What did you do with the monkey wrench? A I sold it
to Schultz.

Q Did you have any conversation with him at the time?
A Yes.

Q What was it? A Told me how to get some bicycles and

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stuff.

Q Did he tell you where to get them? A He just told me to get them, -- told me where to get a few.

Q Did you get some? A Yes.

Q What did you do with them? A Sold them to Schultz.

Q About how much would he give you for a bicycle?

A Two dollars and three dollars.

Q How long did you keep that up after you first met him?

A About threemonths.

Q What made you stop? A I got arrested.

Q What was the occasion of your arrest? A Robbing a store.

Q What happened on that arrest? A Suspended sentence.

Q That is how long ago? A About 1908.

Q When did you start stealing again? A This last time.

Q About how long ago is that? A Four months ago.

Q How did you happen to start stealing again? A I went down the cellar with a friend of mine -- he told me it was another man, and I met Schultz down the cellar, and Schultz told us where to get a motor cycle and we got it. We did not want to lug it all the way, and we left it in the lots.

Q Who was that friend? A Winkleman.

Q Did you ever steal anything with Merkle? A Yes.

Q What things? A A motorcycle.

Q What did you do with it? A Sold it to Schultz -- gave it to Schultz.

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Q He did not pay you for it? A No, he said he was going to.

Q How long ago was that? A November.

Q Were you concerned in robbing the store of the United Cigar Company? A Yes.

Q In January? A Yes.

Q Who was with you there? A Merkle and Jesse Swayne.

Q What did you do with the stuff you got? A Brought the proceeds to Schultz.

Q Did you sell any of it to him? A No, sir.

Q Give any of it to him? A Yes.

Q What did you give him? A A quarter share.

Q What sort of stuff did you give? A Cigarettes, coupons, pipes and cigar lighters.

Q Swayne took a quarter and you took a quarter? A I just took the coupons and the rest was divided between Schultz, Merkle and Swayne.

Q What did you do with the coupons? A Gave them to Merkle and told him to mind them for me.

Objected to.

CROSS EXAMINATION BY MR. OLCOTT:

Q You say you first stole a monkey wrench? A Yes.

Q That was on your own hook? A Yes.

Q Schultz had nothing to do with that? A Not with the monkey wrench.

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Q The robberies which you committed afterwards, the crimes that you committed afterwards, many of them Schultz had nothing to do with, did he? A Yes.

Q But some of them he did not? A Very few of them.

Q But some of them? A That some is only about two.

Q When you robbed this tailor shop, why did you rob it?

A To sell the stuff to Schultz.

Q Schultz did not tell you to rob it? A Told us to go out and find a place.

Q What sort of place? A Some kind of a new clothing place.

Q You had nothing to do with this robbery of a furnishing store? A No.

Q Who is Jesse Swayne? A Some other boy over in the Tombs.

Q You had never seen him before that? A Yes.

Q Do you know him? A I just know him through Schultz.

Q What do you mean by "through Schultz"? A I met him down in Schultz' cellar.

Q Why did you go to Schultz' cellar the first time -- you said a minute ago that you went there with a motorcycle?

A Went down there with a friend of mine, and Schultz told us.

Q What is his name? A Winkleman.

Q When you went down with Winkleman, did you know Schultz was down there? A No.

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Q You went down with Winkleman ? A Yes.

Q You had stolen a motorcycle? A No.

Q Where did you get the motorcycle from? A We went out afterwards and got it.

Q You say you went there for the first time when you had a motor cycle? A Yes -- you see this motor cycle was up in the street and another fellow minding it, and I went down with this fellow.

Q You had already stolen it? A Yes, certainly.

Q Schultz had nothing to do with it, with the theft of the motor cycle ? A He told us where it was -- told a friend of mine.

Q You said the first time you saw Schultz lately was the time you brought him a motor cycle ? A When we got it down -- we left it outside.

Q That was the first time you saw him, A Yes.

Q Then you had already committed the theft? A No, before I saw him, and I gave up stealing, and through this friend of mine, I commenced stealing again, and he said it was some squint eyed fellow, and I went down with him, and we left the motor cycle up at Rockaway, and I went down there with another fellow and he told me it was a cross-eyed fellow and I went down and I saw it was Schultz.

Q That was after you had the motor cycle? A Before.

Q You said it was on the street? A Yes, before we brought

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it down to him.

Q But you had the motor cycle then? A Yes.

Q You had stolen the motor cycle before Schultz had anything to do with it? A Before Schultz had anything to do with it.

Q In other words, you had it on the street? A Yes.

Q You did not know Schultz was downstairs? A I did not know it was Schultz; I thought it was some other man.

Q You had not seen Schultz at all? A No.

Q You had stolen a lot of things between the last time you saw Schultz three or four years ago, and the time when you brought him the motor cycle? A No.

Q Had not been stealing? A No, I gave up stealing.

Q What started you stealing again? A Through this friend of mine.

Q Not Schultz? A This friend was connected with Schultz.

Q Who is this friend? A Richard Winkleman.

Q He is not in court? A No.

Q He has stolen a whole lot of things? A Winkleman?

Q Yes. A Might have, and might have not.

Q He was a pretty bad fellow? A Yes.

Q Had been so for a long time? A Yes, he has been with Schultz all the time.

Q Been with Schultz all the time? A Yes.

Q How do you know he has been? A He has been with Schultz

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ever since he was in Longwood avenue and he told me that.

Q Don't you know Schultz was away from the city a long time? A yes, certainly I know. That was the time I was not stealing.

Q Don't you know it was only last year? A Yes.

Q You say Winkleman has been stealing right along? A Yes.

Q You have only heard it said that Winkleman has gone with Schultz? A yes, he told me that. He told me he sold him lots of stuff, and Schultz told him just how to get the motor cycle and how the alarm was set, and everything, and I found it just that way when I got there.

Q He said Schultz told him that? A Yes.

Q You don't know if that is the truth? A No, but --

RE-DIRECT EXAMINATION:

Q How many motor cycles did you steal for Schultz? A Two.

Q The first one you have been telling Mr. Olcott about?

A Yes, that is the one we left in the lot.

Q How did you come to steal the second one? A Through Schultz' planshow to get in the place.

Q What were his plans? A Told us how to get the hinges off the back door and how to get in, and how to get it out and everything.

Q Did you follow his instructions? A Yes.

Q What did he tell you to do to the hinges? A Told us

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to put the screw driver back of the hinges and it would fall right out, and we did that, and it did exactly so.

BY MR. OLCOTT:

Q Schultz did not tell you to do that? A Yes.

Q When? A About three weeks before we stole the motor cycle, he told us to go there on Sunday night. He said this man would be out and he said the man goes out on Sunday nights and leaves the store alone, but week day nights he sleeps there and we went up two Sunday nights before, and he was inside, and we went up the third Sunday night and he was out, and we went back and took the hinges off, and Merkle took the motor cycle out the front, and we brought it on Duncan avenue and Merkle run up and told Schultz, and Schultz came down.

Q Did he give you any money for this? A No.

Q Why did you turn it over to him? A Schultz said he couldn't take it that night. He said, you keep it awhile. Winkleman, he wanted to take it, and Winkleman didn't want to do it, and Winkleman put it in his house, and Winkleman went away to the country, and I thought the motor cycle was in his house, and afterwards when I went around with the detectives, I found the motor cycle in Kelly street, in one of the cellars where Schultz attends the furnace.

Q Don't you know that Schultz used to be in the bicycle business? A Certainly.

Q How do you know it was the same motor cycle? A How do

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I know it was the same one? He told us to go in and get it.
I don't know what kind it was.

Q You don't know it was the same motorcycle at all?

A The same as what?

Q The same motorcycle you stole? A Certainly I knew it was the same, because the detective had the number from the man and the same number was on the motorcycle.

Q I asked you if you knew it was the same? A Yes.

Q Because the detective told you so? A Yes, because he had the number down in his book, and the same number was on the motorcycle.

Q The detective told you it was the same number? A Yes.

Q You don't know it was the same number? A Yes, I looked at it.

Q Looked at it, looked at what? A At the number. It was down on the pipe on the bottom.

Q The same number as the one you took out of the store?

A The same number as the detective had in his book.

Q Have you had much to do with Merkle? A Yes, this one burglary.

Q Which one? A This motorcycle.

Q Did you have anything to do with robbing a clothing store? A Yes.

Q That is two? A No, sir; that was with Jesse Swayne.

Q Merkle did not have anything to do with that? A No.

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(People's Exhibit 5 for identification is offered in evidence and received).

THE PEOPLE REST.

MR. OLCOTT: I ask your Honor to dismiss the indictment for burglary and grand larceny, upon the ground that the evidence here is solely that of accomplices as to those two crimes, uncorroborated by any other person's statement.

THE COURT: It is corroborated by recent possession of stolen property, and as to Deisser, by confession.

Motion denied and exception.

MR. OLCOTT: I ask your Honor to dismiss the indictment of criminally receiving stolen property upon the ground that possession is not proven to be exclusive.

Motion denied and exception.

GROVER DEISSER, called as a witness in his own behalf, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Where do you live? A 257 East 141st street.

Q Do you remember the night of January 4th? A Yes, sir.

Q What did you do that night? A I went to a show that night, the Prospect Theatre.

Q When you came out of the show, what happened? A Went

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to the room I was at where I was sleeping.

Q You stayed there? A Yes.

Q You had nothing to do with the burglary that night?

A No.

Q Do you know Merkle? A Yes, I know him.

Q You have known him a long time? A Yes.

Q You know he stole things often? A No, sir.

Q You don't know that? A No.

Q You don't know that he stole anything on the night of January 4th? A No.

Q Did you ever see Herman Schultz before this? A No, the only time I got locked up was the first time I saw him.

Q Have you ever heard of him? A Yes, I heard of him.

Q Who spoke to you of him? A Merkle spoke to me of him.

Q What did he say about him? A He just said he was a friend of his.

Q He never told you Schultz wanted him to commit any crimes? A No.

Q Never told you Schultz was a bad man of any description?

A No.

Q Nobody else ever told you anything about Schultz? A No.

Q Do you know Corbett? A Yes.

Q You know him quite awhile? A Yes.

Q You never heard Corbett speak of Schultz? A No.

Q Do you know Ross? A No, sir; I don't know Ross.

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Q Don't know him at all? A No.

Q You never were mixed up in any of these crimes these boys say they committed? A No.

Q You never had anything to do with any of these boys?
A No.

Q Or any of their crimes? A No.

Q They were friends of yours? A Yes, they were friends of mine.

Q Tell me where you got that pin and belt and necktie, I mean the scarf which was found upon you when you were arrested?

A I got the pin the 5th of January.

Q Who gave it to you? A Markle.

Q What did he say to you when he gave it to you?

A Just gave it and said "Here, do you want this pin?" and I took it. I said "Yes, I will take it."

Q What about the muffler and belt? A I got that off him.

Q Did he give them to you? A Yes.

Q He did not tell you they were stolen? A He did not give me the same day; he gave me two days after, the 7th of January.

Q He did not tell you they were stolen? A No.

Q You did not know they were stolen? A No.

Q Do you remember the night of the 4th of January -- you are sure, A I am sure.

Q That you were not with Markle or Corbett when they robbed that store? A Yes, I am sure I was not with them.

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Q How do you remember the 4th of January? A How do I remember it?

Q Yes. A The same as I remember any other night.

Q Was there any night the first part of January, that you were with Corbett or Merkle? A I was with them on New Year's Day, that was the last time.

Q Do you think you may have gotten the date of January 4th mixed up? A What?

Q Do you think you may have gotten the date of January 4th mixed up with some other night? A No, sir.

Q At any rate you, at no time in January, helped them rob a store? A No.

Q You have never been arrested before? A No.

Q That means you never have been convicted before? A No.

Q You don't know anything about Schultz? A No, never knew him.

Q You are sure of that? A I am sure of it. Never saw that man before.

CROSS EXAMINATION BY MR. DEMING:

Q How long have you been in the Tombs? A I was in the Tombs since January 12th.

Q Schultz has been there all that time? A Yes.

Q You have seen him frequently in the Tombs? A No, sir.

Q You have not? A No.

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Q You have been in the pen together the last few days?

A Yes.

Q All the time? A Yes.

Q Have seen him there in the pen? A Yes.

Q A good deal of the time? A Yes. Saw him all the time in the pen.

Q Why did you plead guilty in the Magistrate's Court?

A Asked me to plead guilty, and I did not know what I was pleading guilty for.

Q None of the other men pleaded guilty? A No.

Q You were the only one? A Yes. I was excited.

Q The other fellows were not excited? A No.

Q When you were arrested, what did you tell the officer?

A I did not tell the officer nothing.

Q Did not say a word? A No.

Q They asked you no questions? A They just came up and asked me what was my name.

Q That was all? A Yes.

Q When you got down to court, who was it asked you to plead guilty? A Who asked me -- the Magistrate.

Q The Magistrate asked you to plead guilty? A Yes.

Q And you did it? A Yes.

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HERMAN SCHULTZ, one of the defendants, called as a witness in his own behalf, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Where do you live? A 871 Longwood avenue, Bronx.

Q What is your business? A Electrician and bicycle business.

Q For the past few months, you have been attending steam engines in these apartment houses? A Yes.

Q Furnaces which make steam heat for apartments? A Yes.

Q Where did you do that? A I was doing the same at 871 Longwood avenue.

Q How long have you been there? A Three weeks.

Q Three weeks from when? A Three weeks.

Q When did you first go there to 871? A I went there.

Q Early in December? A December, yes.

Q What time in December? A I was there about six weeks altogether, but I was steam fitter there three weeks, putting new pipes.

Q Where were you before that? A I was in the Steamship New York, American Line.

Q For how long? A I was with that company eight years.

Q I mean this last time how long? A Two months.

Q Before that, last winter, where were you? A 169th street I had a store.

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Q What kind of a store? A Bicycle and sporting goods, motorcycle store.

Q Have you ever seen this boy Merkle before? A Maybe I saw him; I don't recently recognize him.

Q You never had much conversation with him any way?

A No conversation at all with him.

Q Did you ever know any of the other boys who have been witnesses against you, Corbett? A Corbett -- who is he?

(The witness Corbett stands up).

THE WITNESS: Yes, I saw him one time.

Q Those are boys around the neighborhood? A Yes, he came there in my store and bought a carriage.

Q Have you ever seen him down in the basement of this 871?

A No, not that place -- 169th street.

Q Did you ever buy any stuff from him? A No.

Q Who is Jesse Swayne? A He was my helper. Three years ago I had a hardware store, and he was -- I hired him.

Q When you came to 871, you hired him again? A Yes.

Q He was your helper? A Yes, he was my helper.

Q He knew these boys? A He knew them boys.

Q You have heard him speak of them? A Yes.

Q Late on the night of January 4th, did any one come to your store? A I had no store, 871.

Q Storage room? A It is not mine; the storage room belongs to the apartment house.

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Q Place where you slept? A Slept with the janitor.

Q Did Merkle and Corbett come to you that morning about 3 o'clock? A No, I did not see them.

Q You were asleep? A Maybe I sleep, I don't know.

Q You don't remember? A I don't remember.

Q But you know they never came to you early in the morning? A No. I never go out after 6 o'clock in the evening -- never, and I prove it.

Q What sort of a storage room is this you had down there where you kept some of your things? A Storage house for everybody.

Q In the apartment? A Yes, in the apartment house.

Q Was there any lock on it? A Lock on it, temporary lock.

Q Just a catch? A Just a catch.

Q Jesse Swayne had access to that room? A Yes.

Q Anybody could go into the room, A Yes.

Q You were not in this cellar all the time during the day and night? A No; I was doing outside work.

Q What was that work? A What work?

Q Yes, what kind? A Plumbing work.

Q You had all your plumbing tools in there? A Yes.

Q In this storage room, A Yes.

Q Used to keep a bicycle shop? A Yes.

Q And you had lots of parts for bicycles in there? A I had.

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Q These things belonged to you, didn't they? A Some parts.

Q There was a lot of stuff in this room that you don't know anything about? A Yes, plenty.

Q Did you ever see other people go in this room?
A Yes.

Q Tenants of the place? A Tenants.

Q Who was the janitress? A The janitress is Mrs Loew.

Q She could come in there when she wanted to? A Certainly. I took a permit from the janitor to put tools there-- I did not finish my job--I to the janitress, Cannot I put my tools in here, and she said yes.

Q Did you sleep down in this cellar? A Yes, I slept down in the cellar.

Q Why? A The kindness of the real estate man, he said, I will give you to-morrow or to-day some place.

Q What kind of a place? A Furnished room, First avenue, 841.

Q You were making money at this time? A I was making a living.

Q You got some money for attending this furnace in this place? A Yes.

Q What was it, how much? A I was making about \$55.

Q A month? A Yes.

Q And you were attending to the steam in other apartment

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houses? A Yes, for all of those.

Q Owned by the same people? A Owned by the same people.

Q Who? A The Johnsons.

Q That is a company--what is the name of the man in that place whom you knew? A Mr King. Mrs McFarlane is janitress.

Q That is a janitress in another building? A Yes.

Q Where you work? A Yes, every house has a janitor, but he don't understand attending steam.

Q You got this job about six weeks before you were arrested? A Yes.

Q You had been working steadily at it? A Every winter I had that job.

Q They keep you busy in the morning and then you can go out during the day? A No, no go out, I had no chance to go anywhere. I had to go to these houses attending to steam, the water, the coal and taking the ashes out.

Q Any one of these boys could go down in that basement, couldn't they? A Any one could go down. I can't stop them.

Q When you were sleeping at night, any one of the boys could come down there without you knowing it? A Certainly.

Q You do not know that they did? A No.

Q You never saw any of them before? A Never saw them before.

Q Do you mean to say you never saw them before? A I

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never them before. I didn't notice--maybe he knows me, but I don't know him.

Q Have you ever seen Deisser before you were arrested?

A No.

Q Never spoke to him? A No, never spoke to him.

Q Did you have anything to do with the robbery of the haberdashery store? A No, I never stole anything.

Q Did you ever see these goods? A Saw Jesse Swayne have them.

Q What about the blue muffler you had on? A I had nothing on. I was as I am now, overalls and coat, when the detective caught me. He searched me and found in my pocket a battery tester.

Q When the detective came you were not there? A No.

Q You walked downstairs? A Yes, I walked right downstairs.

Q When you saw the patrol wagon? A No, I didn't see nothing.

Q Just walked down? A Yes.

Q What did the detective say? A He said, Who owns this stuff? I said, What stuff. He said, The wheels here. I said that the wheels belonged to me and a few tools belong to me.

Q There was a lot of tools that belong to you? A Certainly I used them as I worked there in the house.

Q Did the detective ask you about the stealing of those

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tools? A Yes; where I got them.

Q What did you say? A I said I bought them.

Q They were yours? A Yes, they were mine.

Q They were all plumbers tools and bicycles and tools?

A Bicycle tools, yes.

Q Did he ask you about this necktie and stuff? A Yes, he asked me about that.

Q What did you say? A I said I didn't know anything about it.

Q Was Jesse Swayne there at the time? A Yes.

Q Did he have stuff in this storeroom? A Yes.

Q You let him leave the stuff there, could not have stopped him? A No, I could not stop him because it is not my place.

Q Where does Jesse Swayne live, there? A Yes--I don't know how the detective got in. I wasn't there.

Q He was your helper? A Yes.

Q You never bought any goods from these boys? A No, sir.

Q At any time? A No.

Q When you had a bicycle shop before, did you used to buy second hand bicycles? A No. That one there brought me at one time a baby carriage to be repaired, and then went out in five minutes and I didn't give him a cent. That boy there (indicating).

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Q Which one? A That one there.

Q Brought you a baby carriage to repair? A Yes.

Q When was this? A About two years ago.

Q When you had a store? A Yes, and my helper was there.

Q In the store? A Yes.

Q You don't know anything about the robbery of January 4th? A No.

Q You never told these boys to go out and steal anything?
A No.

CROSS-EXAMINATION:

Q Didn't you say a minute ago you did not think you had ever seen Corbett except one night recently? A One night.

Q Didn't you just say that you did not think you had ever seen Corbett, that boy, except one night recently? A I didn't recognize him two years ago.

Q Now you say that two years ago he brought a baby carriage to you? A For repairs.

Q You have a pretty good memory of his face? A I remember him now. I did not see him before.

Q Do you know a boy named Winkleman? A No.

Q Or Merkle? A No.

Q Or Svenson? A No, sir.

Q Do you know that boy (indicating)? A No.

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Q Never saw him? A Never saw him.

Q You do know Corbett? A No.

Q You don't know him now? A Which one is Corbett?

MR. DEMING: Stand up, Corbett.

(A boy rises in the court room.)

Q That one? A Yes.

Q You know Swayne very well, Jesse Swayne? A Yes.

Q You know Deisser? A I see him here.

Q You knew Ross who sat here? A What.

Q You knew Ross? A No.

Q Nor Miller? A No.

Q Did not know these boys? A No.

Q Do you know a boy named McAnerney? A No.

Q You don't know who these boys are? A No.

Q Where did you get that coat? A Thatcoat was not mine.

Q You were not wearing that when you were arrested?

A No.

Q The officers did not take that coat off your back?

A No.

Q Where did you get that--you never had that in your possession? A No.

Q Never saw it before to-day? A I saw it in the store.

Q What store? A In the store.

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Q Where did you get that belt? A It is not mine.

Q Were you ever in Mr Silver's store who testified here this morning? A No, sir.

Q Never was in his store? A No.

Q You say you don't know any one of these boys? A No.

Q What reason can you give this jury why they should stand up here and lie about you and accuse you of something?

A Intimated by the detectives.

J E S S E P. S W A Y N E, called as a witness on behalf of the defence, being duly sworn and examined, testified as follows:

DIRECT-EXAMINATION:

Q Do you know the defendant Schultz? A I do.

Q Were you employed by him? A I was.

Q Down in the cellar? A Yes.

Q 871 Longwood avenue? A Yes.

Q Do you know whether Schultz owned any of the stuff down there in that cellar? A I would not say for certain that I know of anything he owned there.

Q Do you know anything about these neckties which are supposed to have been stolen from a store on January 4th?

A In what way do you mean?

Q Do you know how they came in that storeroom downstairs there? A Must have been brought into the storeroom by a fel-

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low named Jody--his last name is Jody Merkle.

Q Is that the boy (indicating)? A Yes.

Q Did he ever speak to you about this stuff? A Yes, about this stuff--yes.

Q Did he say that he had stolen it? A No, he didn't tell me he stole it.

Q Do you know if he told Schultz that he had stolen it?
A I do not.

Q Did Schultz ever ask you to steal anything for him?
A No.

Q As far as you know Schultz is a thoroughly honest man? A Yes, as far as I know about him.

Q How long were you employed by Schultz? A Some over three weeks.

Q He never asked you to commit any robbery or theft?
A No, sir.

Q He simply appeared to be attending to his business down in the cellar? A Yes.

Q He had charge of the furnaces there? A Yes.

Q And some other furnaces? A Yes.

Q Tell me about that storehouse, what sort of a place it is? A The storage room where the tenants in the house keep their old rubbish and stuff they send down that they are not using.

Q There was a lot of stuff brought down to that place

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which did not belong to either you or Schultz? A I don't know how it came down there. It was in there.

Q You never heard Schultz claim any ownership in any of that, he never said he owned any of the stuff outside of the tools? A No.

Q Do you know how he happened to get permission for you and him to sleep in this place? A By the janitress.

Q She let him sleep there? A Yes.

Q He had only been there a little while? A A little over three weeks.

Q Do you know any of these boys here, Merkle and Corbett and the young boy next to him, do you know any of them? A I have seen that fellow once or twice, but don't know his name.

Q They are boys around the neighborhood? A Yes.

Q Did they ever come down in the place? A I can't say for certain. They may have come down there.

Q Merkle brought some stuff down there once? A He did.

Q Do you know if he saw Schultz at that time? A Yes, I suppose he saw him.

Q You don't know that he saw him, do you? A I can't say positively if he saw him or not.

Q Did Schultz know any of these boys? A I suppose he might have known them.

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Q You don't know that he knew them--they never came down there and interviewed Schultz? A Sometimes they were talking to Schultz.

Q Some of these boys? A Yes, passed words with him.

Q What did you plead guilty to? A Robbery.

Q Robbing what? A A store.

Q Which store? A Cigar store.

Q What did you do with the stuff? A Carried it down the cellar where I was sleeping.

Q Schultz did not know anything about this? A I don't know if he knew it or not.

Q You never told him? A I never told him anything about it.

Q You just took the stuff there? A Kept it until I divided it, and then got my part of it.

Q Who did you divide it with? A With a fellow they called Dutch and also a fellow called Jody.

BY THE COURT:

Q You remember you are under oath? A Yes.

BY MR. OLCOTT:

Q Schultz had nothing to do with it at all? A Nothing to do with this stuff?

Q Yes. A Not that I know of.

Q Tell the truth, didn't all these boys come down in the cellar and leave stuff there without Schultz knowing anything

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about it? A Not that I know of.

Q Did you know Schultz knew anything about it? A I do not.

Q Do you know when that stuff was left there? A I can't say for certain.

Q You knew it was left there? A It was left there some time during the time I came to New York and the time I was arrested.

Q Do you know if Schultz knew anything about it?
A I am not certain that Schultz knew.

Q So far as you know, you were Schultz pretty constantly?
A I was not.

Q Where did Schultz go when you were not there--did you go out? A Part of the time I was out attending to furnaces, and Schultz was somewhere else, and part of the time he was out attending to furnaces, and I was somewhere else.

Q These boys did not come down all the time and consult this man Schultz, did they? A I saw them four or five times I suppose.

Q These boys? A Merkle, I seen him, and also Ross.

Q Is it not true you put these boys up to stealing this stuff? A I did not.

Q Is it not true you knew them pretty well? A I did not even know their last names, I was with them.

Q But you were with them? A I was with them.

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Q You committed some robberies with them? A I did.

Q Anybody could get in that storeroom? A That depends; if they broke the door open they could.

Q Was there a lock? A There was a lock.

Q One of those catch locks? A Yes.

Q That was not always caught so that it was impossible to open it--who had the key--did the people have keys? A The janitor had the key to it.

Q Who else? A I don't know of any one else besides Schultz.

Q Did you? A I did not.

Q Didn't you go in there whenever you wanted to ?

A Yes.

Q How? A Through a boy getting the key from the janitor.

Q Didn't get in any other way? A No.

Q Schultz never put you up to any tricks? A No.

No cross examination.

BY THE COURT:

Q You say that Schultz had a key to that place? A Yes.

Q You say that Schultz never put you up to doing any of these things? A No.

Q Did he ever talk to you about doing any of them?

A No.

Q Did you ever hear any of his conversation with the

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boys? A I never paid any attention to it.

Q Do you own any of these ties here? A No--won't say for certain any of those, but there was some ties given to me.

Q Look at those goods and see? A These ties, some of these ties I know of.

Q Are they all your property? A I don't know about these gloves, they are not mine.

Q Are the ties yours? A Yes.

Q Who gave them to you? A Merkle.

Q What about those ties (indicating)? A I don't know those.

Q Don't know anything at all about them? A No.

Q Were they in the house with the other ties? A I can't say for certain, I seen them in the police station.

Q Have you ever seen them or ties like them, in that place where these ties were? A Yes, there was a whole suit case very near full.

Q In this room up there? A Yes.

Q Then they were not yours? A No, they were owned by Merkle.

BY MR. OLCOTT:

Q These things did not belong to Schultz? A I can't say for certain. All I know is what Merkle gave.

Q You know Merkle brought them there? A Yes.

Q When did Merkle bring them there? A I don't know

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the exact date.

BY THE COURT:

Q Look at the coat there; did you ever see that coat?

A I can't say for certain. I have lots of different clothes there. I don't know which ones they were.

Q Did this man, the defendant Schultz, have anything else there? A No more than shirts and collars.

Q Do you know if that coat was up there? A This coat?

Q Yes. A I can't say for certain.

Q You don't know? A It may have been in the bundle.

Q You say you committed robbery? A Yes.

Q What sort of robbery, did you rob somebody?

MR. DEMING: He means burglary.

BY THE COURT:

Q How long have you been doing that thing, getting into stores and stealing? A I only did the thing twice.

Q During the time you were doing that where were you living? A Living with Schultz.

Q Have you been sentenced yet? A No.

Q Did you plead guilty? A Yes, I pleaded right here.

Q I am to sentence you? A Yes, I suppose so.

Q Do you know what transactions any of these boys had with this man Schultz? A No.

Q You were there? A Yes.

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Q You saw them talking to him? A Yes, but never paid any attention to Mr Schultz's transactions with these boys.

Q Did you see them bring anything into that place?

A I saw Merkle bring a suit case down there.

Q That suit case filled with neckties? A Yes, I kept it over night for him.

Q Who did? A I did.

Q Do you know if this man Schultz knew anything about what was in that suit case? A I can't say for certain if he knew or not.

Q Did you ever talk to him about any of the stuff that was in that place? A No, never asked him any question s about it.

Q To whom was that stuff brought, all those neckties, who received it down there in that cellar? A Merkle asked me would I take care of his suit case, and I did so.

Q Did you know what was in it? A I did the next morning when he gave me the ties.

Q He did not take the case away? A Yes, he carried the case away.

Q And took the ties away too? A Yes, all but what he gave me, as far as I know.

Q What did these boys want down in that basement talking to this man? A I don't know.

Q How often have you seen them there? A Twice or

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three times I suppose, maybe more.

Q You were there only three weeks altogether? A Yes.

Q During that time you saw them there how many times?

A Twice or three times.

Q Try and be as accurate as possible? A I cannot say for certain how many times I saw them.

Q How many boys did you see go in and out talking with this man, try and be as accurate as possible? A I saw Merkle and Ross--that is all I know had any conversation with him.

Q You never knew what business they had down there with him? A No.

THE DEFENCE RESTS.

TESTIMONY CLOSED.

The jury rendered a verdict in the case of Schultz of burglary in its third degree and grand larceny in the second degree; and in the case of Deisser of burglary in the third degree.

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