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

3313

-----X  
THE PEOPLE OF THE STATE OF NEW YORK

B e f o r e:

vs.

HON. JOHN F. MCINTYRE, J.,

MOE COHEN, impleaded with LOUIS  
MEISEL, HARRY GOLDBERG, WILLIAM  
GOLEBERG and JACK LIEBENSART.

and a jury.

-----X  
Indictment filed May 8, 1919.

Indicted for grand larceny in the first degree.

New York, January 14, 1920.

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

FOR THE PEOPLE: ASSISTANT DISTRICT ATTORNEY JACOB GOLDSTEIN.

FOR THE DEFENDANT: MR. ISIDORE COHEN.

Peter P. McLoughlin,

Official Stenographer.

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Mr. Goldstein opens the case on behalf of the People.

ISIDORE BERNSTEIN, a witness called on behalf of the People, being duly sworn, testified as follows:  
(The witness states he resides at 218 Madison street.)

MR. GOLDSTEIN: At this time, if your Honor please, I move to amend the indictment so that in the first count charging the defendant with the crime of grand larceny in the first degree the indictment reads-- that the name of Louis Meisel be substituted therein where the name of Jack Liebensart appears in each and every instance in such count and the same applies to the other indictments contained in the indictment where the name Jack Liebensart is incorporated therein by record, and with regard to those counts I also ask, your Honor, for permission to amend those counts of the indictment so that the name of Louis Meisel be substituted for and in lieu of the defendant Jack Liebensart.

MR. COHEN: The defendant strenuously objects and protests against the application of the District Attorney for the reason that it is unheard of in the Criminal Law to substitute one defendant for another. The indictment or the complaint or the pleadings in this case have charged a conspiracy to have been formed by having one Jack Liebensart, one of the defendants in this case, "did represent himself and obtained these goods". In other words the position of the People's case, the real - true

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work of the indictment is founded upon the fact that one Jack Liebensart represented himself and obtained goods under false pretenses in which the other defendants were participants. Now that indictment I am prepared to meet and that indictment we have met up to the present time, in the Police Court before the Grand Jury and right on. I think at this time -- after they have tried all the defendants and the only defendant remaining is Moe Cohen -- and in order to fasten the liability, if they can, upon Moe Cohen they now ask leave to substitute one defendant for another, changing the entire pleadings and changing the entire issues in the case. I assume that the people, this being a criminal case, are bound by the pleadings which they have produced and which the defendant must meet. If ever there was any application to amend it should have been long before this when the defendant comes upon the eve of the trial, or at the trial, if you please. No word was said before, no suggestion of any kind, no utterance of any kind by the People, one way or the other, either to the lawyer for the defendant or to the defendant himself. And that is why I stated when the learned District Attorney opened his case that I was prepared to meet the indictment that we are charged with, and your Honor said you would have to listen to the proof and very properly so. I say that the District Attorney is charging us with something that we are not prepared to meet, and for that reason I object to any

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amendment at this time. It is the most unheard of proceeding I have known since I have been practicing law.

MR. GOLDSTEIN: May I just be heard for another moment in order to clarify the matter in the mind of my distinguished adversary, Mr. Cohen. The prosecution here is proceeding on the theory that all these defendants, that is, Louis Meisel, Harry Goldberg, William Goldberg and Moe Cohen acted in concert in the commission of the crime, that a conspiracy had been hatched between these men and that these men were to go out, that is, Louis Meisel, Harry Goldberg and William Goldberg were to go out and get the goods and bring them to the defendant, Moe Cohen, who agreed to receive the same. The first count in the indictment accuses the defendant of the crime of grand larceny in the first degree, referring to all of the defendants "with intent to deprive and defraud John Bischoff and Joe Harris, co-partners in trade, then and there doing business by the firm name and style of Bischoff & Harris, of certain goods and so forth." Then that count in the indictment goes on and states the method by which these goods were obtained and it refers to the defendant, Jack Liebensart, as the man who represented himself to be an employee of Frank W. Taylor and Harry Rosenagle, certain truckmen, and was used as a tool by the other co-defendant to go in and get these goods from that concern. Throughout the indictment the

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charge of grand larceny in the first degree, in the first count, and the charge of grand larceny in the first degree in the second count and the charge of receiving stolen goods in the first degree in the third count, accuses these defendants jointly including the defendant Moe Cohen. What difference does it make whether it was Liebensart or whether it was Louis Meisel or whether it was William Goldberg or whether it was Harry Goldberg that went and got the goods. I contend, if your Honor please, that the name of Jack Liebensart in the indictment is merely a misnomer, it is a mistake as your Honor will see if your Honor sees fit to allow this amendment, that it was a mistake and that the man that actually went in and got the goods, who was used as the medium by which the false representations were made by all of these defendants was Louis Meisel. You will bear in mind, if your Honor, please, that the indictment charges all of the defendants made these representations using, however, this man Liebensart as stated in the indictment, simply as the instrument or tool. So what difference does it make whether it was Jack Liebensart or Louis Meisel or William Goldberg or Harry Goldberg as long as the indictment accuses this defendant of acting in concert with the other defendants in making the representations by which these goods were feloniously obtained. Therefore I cannot see that it makes any dif-

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ference. It does not accuse the defendant of any other crime except that which is charged in the indictment. I am not asking your Honor in allowing this amendment to change the form of the indictment or to change the nature of the crime in any way.

MR. COHEN: If your Honor please there have been four defendants charged with the commission of the crime. That crime was embodied in a complaint which subsequently ripened into an indictment. That indictment charges what? It charges that on a certain day by false pretenses a man named Liebensart, acting in concert with the other defendant, obtained the goods by means of false pretenses. Now, no motion was made to amend in the case of the other defendant tried. You replied upon that and I think your Honor in the course of your remarks stated that the indictment was founded upon the fact that Liebensart was the one that falsely represented himself to obtain these goods by false pretenses and that these other defendants joined in that conspiracy. Now my friend says, "What difference does it make whether we substitute Tom Brown or Tom Jones. My friend might just as well say that he is going to substitute me or your Honor if you please., What difference does the name make. Now they know right from the time that this complaint was filed, or from the

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time that this indictment was filed, they knew the theory upon which they were going to proceed and they could have informed me-- they know my address -- they could have come to me and let me know that they are going to move to amend the indictment and say "We made a mistake". None of us are infallible; we all make mistakes. But this is not a mistake and I come here and say I am surprised. Your Honor knows because of your wide experience, both off the bench as a criminal lawyer and on the bench, having tried the most important cases that have ever been presented in the Criminal Courts,-- I dare say that in my experience of some twenty odd years I have never heard that in an indictment one defendant could be substituted for another defendant. I am here to meet this indictment. They say that Liebenson and this defendant conspired. I say that this defendant never conspired with Liebenson especially as we are charged in this indictment. Now, if you are going to change this indictment --

MR. GOLDSTEIN: That is a matter of defense.

MR. COHEN: Now, you say that Liebenson and Moe Cohen entered into a conspiracy. Now prove that conspiracy. We say we did not. If you are going to give us some other defendant or somebody else we say that we are not prepared to meet that indictment. It is not so. You

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are giving us another issue, and it is not right at this time to permit an indictment of that kind to be amended in that respect because it is a material amendment. It is jurisdictional; it goes to the very essence of the offense because you are substituting a different defendant. The courts have been loathe to amend an indictment where it was material. Here where you substitute another defendant you are changing the indictment completely. Your Honor has read this indictment, you have gone through it, and here you see it changes the entire situation. I cannot see that we should be compelled to meet an indictment of that kind charging a different crime.

MR. GOLDSTEIN: The trouble about the whole situation is that Mr. Cohen forgets that the first count in the indictment, to which I referred a moment ago, accuses the defendant Moe Cohen --

MR. COHEN: Suppose you do. You have got to show a conspiracy. You accuse more than one.

MR. GOLDSTEIN: (Continuing) That he committed grand larceny in the first degree upon the theory that he acted in concert with another in the commission of that crime.

MR. COHEN: Now you here charge that on a certain day in the Borough of Manhattan, on the 24th of April, one

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Liebensart &c. with intent to deprive Bischoff and Harris of certain goods, one Liebensart represented that he was in the employ of Taylor, under the firm name and style of Taylor & Rosenagle and was authorized to receive goods for delivery; that the defendant Liebensart had heretofore been directed and authorized by Taylor in trade, to receive these goods; I say that your indictment linked Liebensart with this defendant and we deny that.

MR. GOLDSTEIN: It would not make any difference.

MR. COHEN: Not as far as you are concerned because you are not charged with a crime.

MR. GOLDSTEIN: Whether it is Liebensart who is named or whether it was Smith or Brown. I say that my amendment does not go to the nature of the crime; it does not destroy the indictment; it does not intend to change the nature of the act charged for which this defendant is on trial at the present time. The name Jack Liebensart might be considered or is intended to be considered by the prosecution as a misnomer. We are not attempting to substitute this man Cohen for some other man whose name was mentioned.

MR. COHEN: That is what you are doing.

MR. GOLDSTEIN: That would be an entirely different question and that would be illegal.

MR. COHEN: Your Honor knows that they have to be-

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establish four elements. They must establish the intent to defraud. If you take out Liebensart and he did not intend to defraud -- because they found that he did not, because they had found that they had made an error there is nothing left. This allegation charges that Liebensart did certain things and they don't mention anybody else. How are you consistently going to ask the Judge to change from one defendant to another in a charge of this character especially in a receiving case under false pretenses or in a case of grand larceny in the first degree.

THE COURT: I notice that there are three counts in the indictment, one charging grand larceny in the first degree, that is statutory larceny; then there is another count charging common law larceny and then there is a count charging all the defendants in the indictment with criminally receiving stolen property in the first degree.

MR. COHEN: All have reference to this man Liebensart and I am prepared to meet them. I am not prepared to meet anything else.

MR. GOLDSTEIN: The name Liebensart, if your Honor please, is not mentioned in the second or third count nor is it referred to or incorporated by reference to I thought it was in the second and third counts in the indictment.

MR. COHEN: My friend is in error. I say it is re-

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ferred to in the second count. Let me read it to you by way of refreshing your recollection.

MR. GOLDSTEIN: It would not make any difference. My amendment goes to the entire indictment each and every count thereof.

MR. COHEN: It refers to it specifically in the first count and in the second count. It changes the entire situation. Your Honor can see that when I am charged with conspiring with somebody else and I come here and am met with a new name I am surprised. How can I consistently go to trial. We have prepared this case according to the pleadings and according to those pleadings I am prepared to go to trial, but not otherwise.

THE COURT: The indictment charges that all these defendants mentioned in the indictment, including your client committed the crime of grand larceny in the first degree first by false pretenses and then by common law larceny.

that  
MR. COHEN: Reciting the false pretenses were brought about in a certain way. They must prove all the elements and under the circumstances I want your Honor to place yourself in my position assuming that you represented a defendant at the bar similarly situated and when you come in to meet the allegation you are guided as your Honor knows from your long experience, by the pleadings.

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I am here to meet that issue. I am here to meet the allegations and proof according as it is pleaded. Now if you are going to substitute another name why you wouldn't want to go to trial on that indictment. Here is the fact stated in the indictment and now they say it is somebody else, Tom Brown who committed this crime and before it was Tom Smith. That would be a different thing altogether. They might have been interested in some other crime, but I know that here I am innocent of that charge. I say I don't know Liebensart, and I don't know anything of the facts in that case. How can I meet it, your Honor, I cannot meet it conscientiously. I had prepared the law according to the pleadings. I have looked up the facts in the case in accordance with the pleadings as set forth here and now my friend says, "No, I want you to meet something else. I don't mean Jack Liebensart, I mean Isidore Cohen or one of the jurors here" it would be the same thing. This arose by reason of the false pretense of Liebensart representing himself that he was authorized to receive these goods. And the receiving count is on the same theory because it all arose out of the same state of facts.

THE COURT: No, I don't think so.

MR. COHEN: The indictment charges-- here is what it charges, there is no question that it charges and the second count charges"reference is hereby made to the first

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count".

THE COURT: Well I want to give some consideration to this question and we will take a recess until half past twelve o'clock. I want to examine several cases that I have a vague recollection of in my mind.

(At this point the Court admonishes the jury and takes a recess until 12.30.)

AFTER RECESS.

MR. COHEN: My motion is -- I ask for a dismissal of this indictment and that your Honor direct this jury to acquit the defendant on this indictment and I object to the amendment asked for by the District Attorney upon the ground that it is at variance with the pleadings and the proof. It changes the indictment. It puts a different aspect upon it. We are here to meet a specific charge in that on a certain date one Liebensart, who is charged in the indictment throughout aided and abetted and conspired, with this defendant and others by which the crime of grand larceny in the first degree was committed in the different ways set forth in the indictment. That under the terms or by the terms of that indictment we are prepared to meet that proof set forth in the indictment and nothing else. And I claim surprise, that I am not prepared to meet any other charge except the one set forth in the allegations of the

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indictment. If this amendment should be permitted it will change the entire theory of the case; it will be substituting one defendant for another which makes it a different crime entirely. Of course I have heard where changes are made because it does not make any difference because as long as the crime was committed it does not make any difference whether it was committed in the day time or the night time or two days before but when you say that a defendant conspired with Tom Smith-- whether the defendant is present or absent the testimony is competent during that conspiracy. Now if there was a conspiracy between this defendant and Liebensart -- and they don't claim that the conspiracy was between any one else, nobody else was claimed to have represented himself as being authorized to receive these goods as set forth in the indictment and this was a conspiracy in which the defendant was part and parcel why then we are prepared to meet that issue and no other. But if the amendment is granted by substituting another defendant and eliminating this man Liebensart why that is an entirely different crime, a different issue, different facts and those we are not prepared to meet and the indictment is defective. You cannot amend an indictment by changing one defendant for another. You may amend an indictment by changing a date. You may amend an indictment by changing the instrument by which the crime is committed

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but you cannot substitute one defendant for another.

THE COURT: Your argument is addressed to the proposition made by the District Attorney to amend counts one and two.

MR. COHEN: And three. There is one count in the indictment charging statutory larceny or larceny by false pretenses, and then the second count in the indictment charges common law larceny, and then there is another count of receiving -- all arising out of the same transaction.

THE COURT: Now upon reflection, I am inclined to deny the application of the District Attorney to amend. I will, however, allow this case to proceed under the receiving count. The case of the People against Brien, reported in the 53 Hun bears out your contention to some extent. The opinion in that case was written by Mr. Justice Brady back in 1888. There the defendant, although indicted for grand larceny in the first degree, was tried under the indictment in that case for receiving. I am not inclined to follow the case of the People against Brien. Later, the Appellate Division of this department had before it a case somewhat similar to the case which is now subjudice, that is the case of the People against Rivel<sup>1</sup> reported in the 39th Appellate Division reports. Presiding Justice Van Brunt at that time wrote the opinion for the Court and among other

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things he said:

"Evidence given upon the trial of an indictment for receiving stolen goods to the effect that in pursuance of an arrangement between the accused, who had been accorded the privilege of removing rubbish from a manufactory and an employee of the manufacturer, the employee placed in the rubbish box divers pieces of goods belonging to his employer which the accused took therefrom paying money to the employee on account thereof and there were found upon the premises of the accused goods which had been concealed in the rubbish box and had been removed by the servants of the accused is sufficient to sustain a conviction under the indictment. The fact that under the evidence the accused might have been convicted of the crime of larceny does not prevent his conviction thereunder of the crime of receiving stolen goods".

I am inclined to follow the case of the people against Rivello.

MR. CORMAN: That is a different case. Your Honor must not lose sight of this fact that here you are bound by the case as presented to your Honor.

THE COURT: Well just read the count charging the defendant with having done that which would amount to receiving stolen goods. What difference does it make. They are separate charges, separate and distinct crimes. Larceny

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is one crime. There is a distinction -- if this case depended on the testimony of an accomplice I would not be justified in sending the case to the jury if it was said by the accomplice that he committed the crime of larceny by receiving the goods. The rule is different here. There the accomplice did not have to be corroborated.

MR. COHEN: But you must bear this in mind -- you see they are different crimes and you cannot bring different crimes in the one indictment.

THE COURT: Yes, you can.

MR. COHEN: You can charge the crime committed in different ways. In other words what is the crime here? You can charge one crime; you cannot charge different crimes in the one indictment. You have got to have different indictments but you may charge that the crime was committed in different ways. For instance, firstly, that on a certain day this defendant with Liebenseart conspired to do a certain thing by which they got possession of certain goods. Now if the People do not succeed on that count they will say, "We won't go to the jury on that but we will show that some crime was committed in a different way."

THE COURT: How is that?

MR. COHEN: Under statutory larceny. As your Honor says you could not be justified in sending the case to the jury on the evidence here in the previous case against

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this defendant, and then you fell back and say that the crime was committed in a different way. The grand larceny charge in the first count and the second count of the indictment alleges a false pretense. Now you say he is guilty of receiving these very goods. Now if he is guilty of receiving these very goods, if your Honor finds that from the fact that you are denying the application of the District Attorney on the first and second counts then it is the same crime arising out of the same state of facts. Your Honor agrees that in that case there was a specific charge. Here was a man employed at one time by the Government and they go into his place of business and they find secreted certain property, surreptitiously, which is stolen property. Now if you find with me on the first two counts how can your Honor say that you are going to leave it go to the jury on the third count because it arises out of the same thing. Either the contention is right or not. The People against Brien is on all fours. Of course, I don't know why your Honor doesn't want to follow that case, but in this Rivello case there is a different proposition altogether. That is purely and simply a case of receiving stolen goods because there was a receiver who knew that certain property was stolen. The facts here are entirely different and they are asking your Honor to change the in-

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dictment and you cannot do that.

THE COURT: Justice Van Brunt said this in the Rivello case:

"It is urged that there was error in this conviction upon the ground that if the defendant was guilty of any crime it was that of larceny. It is claimed that larceny and the crime of receiving stolen goods are separate, distinct and independent crimes requiring different kinds of proof, and that a man cannot be guilty of the crime of receiving stolen goods because he has in his possession goods that he himself has stolen. At the time of the obliteration of the distinction in the definition of crime between accessories undoubtedly the general rule of law above stated was entirely correct; but since, by the Penal Code, the distinction between accessory and others has been abolished the rule does not obtain in respect to every person who may be convicted of the crime of larceny. Under the common law rule that a person might be convicted of larceny he must be directly concerned in the commission of the crime or must aid in its actual commission and a person could not be convicted of larceny who was present at the time of the commission of the offense although he might be an accessory before or after the fact.

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Now I want to call your attention to the substance of the opinion. Now it appears in that case that Judge Van-Brunt says among other things:

"It further appears from the evidence that there was found upon the defendant's premises certain silk which had been concealed in this waste paper box and had been removed from Paschners by the defendant's servant. Upon this state of facts the defendant was convicted. It is undoubtedly true that under this evidence the defendant, under the Penal Code, might have been convicted of larceny. Under the common law he would have been an accessory before and after the fact. The moment that Lowenthal took the goods of Paschner, for the purpose of transportation to the place of concealment the larceny was complete, he having taken possession of them with a felonious intent even although they were not then removed from the owner's premises. A person receiving these goods knowing that they had been taken by Lowenthal with this felonious intent would be guilty of receiving stolen goods with the knowledge of the fact that they were stolen and hence could be convicted for that crime. The fact that under the Penal Code by aiding and abetting the crime of larceny he became a principal in no way brought such an accessory within in the principle of the rule that a person taking the goods

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feloniously cannot receive them from himself with a felonious intent."

Mr. Justice Van Brunt goes on further to say as follows:

"It seems to us that the circumstances under which the silk was removed from the store of Paschner and found upon the premises of the defendant was strong corroboration of the very material facts relating to the charge against the defendant. Unless some arrangement of the kind testified to had been made between Lowenthal and the defendant it seems to be inexplicable that Lowenthal should have adopted this means of removing the goods from Paschner's store since in the pursuance of some such arrangement it would have inevitably led to detection."

He discusses the testimony in the case and says "There does not seem to have been any error in the admission in evidence of a certain piece of silk found as it was proper for the purpose of showing the circumstances under which the silk got into the possession of the defendant and characterized the arrangement between Lowenthal and himself".

The Court affirms the judgment of conviction.

MR. COHEN: Here they are not asking you to substitute goods but they are asking you to substitute a defendant. They are trying to substitute the name of Weisel in place of the name of Liebensart who it is said in the indictment made

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certain representations and in consequence of the false representations he became possessed of the goods in question. Your Honor refuses to allow the amendment to the indictment but I say now that under this indictment this defendant cannot be tried for receiving.

I am frank to confess that this was a case where they were going to substitute or allow testimony to show certain other goods in order to show the crime there; That would be all right but here, if I am right in my contention, your Honor, I am right altogether. If your Honor agrees with me and are not going to permit the change of the name how are you going to let it go to the jury on the same testimony on the receiving count.

MR. GOLDSTEIN: My motion to amend, if your Honor please, should have been and I want it understood as having been addressed to the first count of the indictment charging the defendant with having committed the crime of grand larceny in the first degree, in other words grand larceny in the first degree by false pretenses, the so-called statutory larceny. The second count in the indictment does not refer to or does not incorporate any of the elements contained in the first count in the indictment except that portion of the first count in the indictment which refers to the property described as being a certain kind of goods,

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goods, chattels, wares and merchandise of the value of so much and so much. The second count of the indictment is a count accusing the defendant of common law larceny by reference to the allegations contained in the first count of the indictment. The crimes charged are distinct crimes, one is statutory larceny and the other is common law larceny. I do not want it to be understood that my motion to amend is directed to the second count in the indictment accusing the defendant of grand larceny in the first degree, that is to say, common law larceny. If I gave the Court that impression when I first made my motion to amend I want to remove that impression from the mind of the Court if that impression is left in the mind of the Court at this time. I also want to withdraw my application or my motion to amend the second count in the indictment. And as to the third count in the indictment your Honor has stated the position of the Prosecution correctly. The third count accuses the defendant of receiving stolen goods knowing the same to have been stolen. There is nothing in the third count of the indictment which refers to the first count in the indictment or the second except that portion of the first count of the indictment which describes the nature of the goods which were stolen or asported from the premises of Bischoff & Harris. The allegations set forth in the first count of the indictment

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accusing the defendant of statutory larceny in the first degree has absolutely no place in the receiving count and if it were in the receiving count it would be the duty of the Court, upon motion made by counsel for the defense, to take the count away from the consideration of the jury because it would be defective as being a charge of receiving and grand larceny in the one count which would be improper under the law. If your Honor will read the language of the indictment your Honor will observe that it is a count accusing all of the defendants, all of them, of receiving stolen goods knowing the same to have been stolen with felonious intent. If your Honor's disposition of the application of the People to amend is to deny the application bearing in mind its effect on the first count in the indictment and if your Honor has so decided the District Attorney desires to have it noted on the record and he will proceed at this time under the second and third counts of the indictment and at the end of the case your Honor can determine, as matter of law, if your Honor sees fit to allow this case to go to the jury as a matter of law, on which count of the indictment the jury is to consider the evidence as to the defendant's guilt or innocence.

MR. COHEN: Ordinarily there is the question of submitting the evidence first and then determining which count

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will be submitted, if any at all, and I would not have raised this objection.

THE COURT: As I have said I shall deny the application of the District Attorney to amend but I will allow this case to go to the jury on the receiving count, if at the conclusion of the People's case, I determine that there is sufficient to go to the jury on the count of receiving.

MR. COHEN: Exception.

(At this point the Court admonished the jury and took a recess until two o'clock.)

AFTER RECESS. (2 p.m.)

ISIDORE BERNSTEIN, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q Mr. Bernstein, what is your occupation? A Shipping clerk.

Q During the month of April, 1919, who did you work for?

A Bischoff & Harris.

Q Did you work there April 24th, 1919? A Yes, sir.

Q What kind of business does Bischoff & Harris conduct?

A Cotton goods.

Q Where was their place of business on April 24, 1919?

A 55 East 14th street.

Q What were your duties as shipping clerk? A Pack up

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goods and ship them out.

Q Did Bischoff & Harrie conduct a loft or store at that address? A A store.

Q On the ground floor? A yes, sir.

Q On the morning of April 24, 1919 did you have any cases or packages prepared for shipment? A yes, sir.

Q How many cases or packages had you prepared for shipment that morning? A Three or four cases and a couple of bundles.

Q What were in those bundles? A Cotton and wool goods.

Q Did you prepare those goods and packages under the immediate supervision of Mr. Bischoff, your employer? A Yes, sir.

Q Do you remember the number of pieces that were in the packages that you had prepared for shipment that morning?

A Yes, sir, I do.

Q State the number of pieces that were in the first package, package No. 1? A Package No. 1, that had silk about 4 pieces of silk and package No. 2 had three pieces of R C C goods

Q Do you remember making a memorandum of the number of yards of goods which were in each package? A Well--

Q Yes or no, if you don't remember say so? (No answer.)

Q Look at this paper and see if you can refresh your recollection as to the number of pieces and the yards of silk and other material that were contained in these packages. If it will refresh your recollection then tell us exactly what you had placed in these packages? A One package had silk and another had cotton and wool goods.

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Q Look at the piece of paper, the memorandum that I just handed to you and tell us, after refreshing your recollection, as to what was contained in the two packages that you had wrapped up that morning? A Package No. 1 contained three pieces of fancy silks 227 1/2 yards valued at \$130.81; package No. 2 contained three pieces.

THE COURT: Strike out that portion of the answer that refers to the value.

Q Just tell us the number of pieces and the yardage?

A Package No. 2 contained three pieces of R C C tweed, 239 1/2 yards.

Q Did you wrap those packages up yourself? A Yes, sir.

Q Did you put any name on the wrapper? A Yes, sir.

Q What name and address did you put on that wrapper? A Ben Fleigel, No. 30 West 21st street.

Q Was there a number on the wrapper of each package?

A Yes, sir.

Q Look at that memorandum and see if you can refresh your recollection as to the two numbers that were on the two packages that you wrapped up for shipment that morning? A Package No. 1 was 2026 and No. 2 2022.

Q Now, do you remember who the cases were to be consigned to? A Yes, sir.

Q Which you prepared for shipment that morning? A Yes.

Q Mention the names of the concerns? A The Chicago Rubber Clothing Co., Racine, Wisconsin, one case; Archer Strauss

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Rubber Co., Framingham, Massachusetts, two cases and one case for J. L. Gittleson, Montreal, Canada.

Q You mean for the account of J. L. Gittleson? A Yes.

Q Now, after looking at that memorandum see if you can refresh your recollection as to the contents of those three cases that you packed yourself. Did you pack those cases yourself? A Yes, sir.

Q Now, look at the memorandum and see if it refreshes your recollection as to exactly what was contained in those cases? A The Chicago Rubber Clothing Co., Racine, Wisconsin, case No. 788 21 pieces of plaid lining 1705 yards 1/4 value \$173.

MR. COHEN: I object to that.

THE COURT: Strike out the value.

THE WITNESS: (CONTINUING) Archer Strauss Rubber Co. Framingham, Mass. case No. 2031 and 2032, 10 pieces of R C C tweed, 802 7/8 yards; 10 pieces of 56 plaid lining 865 1/2 yards and the case for J. L. Gittleson Montreal, Canada, linings.

Q Was the name of Bischoff & Harris and the address of that firm pencilled on each of the packages and cases?

A Yes.

Q Was the name of the Chicago Rubber Clothing Co. Racine, Wisconsin on the case No. 1788 written or printed upon that case?

A Written.

Q Was it in large letters? A Yes, sir.

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Q Did you write it yourself? A No, sir; Mr. Bischoff did

Q Was it done under your observation? A Yes, sir.

Q Did you see it done? A Yes, sir.

Q You were a new man there? A I had been in the place two and a half months.

Q He used to assist you in connection with matters of this kind? A Yes, sir.

Q Now is the name Archer Strauss Rubber Co. and the address Framingham, Mass., and the case No. 2031 and 2032 written upon those two cases legibly, in large letters? A Yes.

Q Who had written the names and addresses upon those cases? A Mr. Bischoff.

Q He also marked the case numbers on them? A Yes, sir.

Q I show you these two pieces of goods, and ask you whether these are a part of the goods that you had placed in the cases that morning? A Yes, sir.

Q Who were these goods to be shipped to? A The Chicago Rubber Clothing Co. I believe.

Q Of Racine, Wisconsin? A Yes, sir.

Q What is the nature of this material? A Plaid linings.

MR. GOLDSTEIN: I ask that they be marked for identification.

(The pieces of goods are marked for identification People's Exhibit No. 1.)

BY MR. GOLDSTEIN:

Q Sir, on the morning of April 24th, 1919, did anybody

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come into the place of business of Bischoff & Harris with regard to the cases and packages you just referred to? A Yes,

Q Who was the trucking concern that did business for Bischoff & Harris? A Tay or & Rosenagle.

Q They made daily calls for the purpose of taking merchandise from your place of business for shipment to other concerns? A Yes, sir.

Q City as well as out of town? A yes, sir.

Q Is that correct? A Yes, sir.

Q It is also a fact, is it not, that it was their duty to go and get merchandise from the different railroad depots and piers and steamship companies? A Yes, sir.

Q Is that correct? A Yes, sir.

Q Now, will you tell his Honor and the jury just what took place on the morning of April 24th, 1919 with regard to the cases and the two packages which you have described a few moments ago, people's Exhibit 1 for identification?

MR. COHEN: I object to that.

THE COURT: I will allow it.

MR. COHEN: Exception.

A A man came into the store and said he was from Taylor & Rosenagle--

MR. COHEN: I object to any conversation, which was not in the presence of the defendant. We are charged with one charge only conspiracy.

THE COURT: He is being tried under the receiving count.

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count. Now, if a man came in that store tell what he did.

THE WITNESS: He came in the store and asked me if I had any case for Taylor the truckman.

MR. COHEN: I object to that.

BY MR. GOLDSTEIN:

Q What did he do?

THE COURT: The People have to establish the larceny.

MR. COHEN: That could not bind the defendant. Suppose I went in there.

THE COURT: It is not for the purpose of binding this defendant. It is for the purpose of showing the larceny of this property. It is not contended here, by the State, that the defendant was a party to the larceny.

MR. COHEN: No matter what they said it could not bind this man. He is charged with one crime, he is charged with conspiracy. We are charged with receiving stolen goods.

THE COURT: They have to show that the goods were stolen before they can show the receiving.

MR. COHEN: They cannot show it by conversations. You cannot admit evidence of conversations in his absence because he is not bound by them.

MR. GOLDSTEIN: Your Honor can receive this testimony subject to connection.

MR. COHEN: In a civil case it would be different.

THE COURT: I am going to take the testimony and if the

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defendant at the conclusion of the case, is not connected up with it I will strike it out and tell the jury to disregard it.

MR. COHEN: I take an exception.

THE WITNESS: A man came in the store, April 24th, and asked me did I have anything for Taylor, the truckman; I had three cases and two packages. I also had an order to pick up some goods from the New England Steamship Co.; I gave him everything I had. He told me he was going to deliver the two packages first at 21st street and he signed me up on a receipt; that was all.

Q Is that the receipt that you gave that man? A Yes, sir.

Q For him to sign? A Yes, sir.

Objected to; objection overruled; exception.

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

(Marked people's Exhibit 2 for identification.)

Q The cases of goods and the packages that you have referred to are the same cases and packages that you described in the fore part of your testimony? A Yes, sir.

Q Did you assist that man in taking the cases out on the sidewalk? A Yes, sir.

Q When you got outside did you find anybody else out there? A Yes, sir.

Q Who did you find there? A Harry Goldberg.

Q Did Harry Goldberg do anything at all with regard to these cases, and People's Exhibit 1 for identification? A Yes,

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sir, he did.

Q What did he do and what did the other man do and what did you do? A We were working together.

Q Do you load the truck? A Yes, sir.

Q Did you see them drive away? A Yes, sir, I did.

Q Who drove away, was it the man that came for the goods?

A Yes, sir.

Q Do you know the man's name? A I believe I do.

Q What is the man's name that you believe came in that morning? A I believe his name is Liebensart.

BY THE COURT:

Q Do you know that his name was Liebensart? A His name was Liebensart.

Q How did you get the name? A Well, I heard so afterwards in Police Headquarters.

Q That is the only way you knew his name was Liebensart?

A Yes, sir.

Q Because you heard so in Police Headquarters? A Yes, sir.

BY MR. GOLDSTEIN:

Q You had never met that man before in your life? A No.

Q You just saw him, I assume, for a few seconds in your place of business? A Yes, sir.

Q Now, at the time that you gave that man those goods and packages did you also give him these papers? A Yes, sir.

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

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(The papers referred to are marked people's Exhibit 3 for identification.)

MR. COHEN: All this testimony is taken subject to objection and exception as not binding against the defendant.

Q When was the next time you saw these goods? A I saw the goods the same day.

Q Where? A In Police Headquarters.

Q About what time in the day? A About two o'clock in the afternoon.

Q Were you accompanied by Mr. Bischoff? A yes, sir, and Harris.

Q Did you also see People's Exhibit 3? A yes, sir.

Q For identification? A Yes, sir.

Q At the same time? A Yes, sir.

Q Did you see the cases at Police Headquarters? A yes, sir, I believe I did.

Q Did you recognize the goods in the cases and packages as the same goods taken from your premises that morning?

A Yes, sir.

CROSS EXAMINATION BY MR. COHEN:

Q Did you ever see the defendant before that? A No.

Q Before today? A No, sir; I seen him last week I believe.

Q Where? A In court.

Q He wasn't one of the men that called at your place

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was he? A No, sir, I don't think so;

Q Well, don't you know? A No, sir,-- yes, I do know.

Q Why do you say you don't think so. There was no doubt in your mind? (No answer.

BY THE COURT:

Q Do you say you have a doubt that he was the man who called at your place or was not one of the men who called at your place? A He was not.

BY MR. COHEN:

Q Who were the men that did call? A The man I identified was-- his name was Liebensart, but I don't think -- I may have made a mistake when I said that.

MR. COHEN: I object to that.

THE COURT: I will let it stand.

MR. COHEN: Exception.

THE COURT: It surely does not hurt you.

BY MR. COHEN:

Q How long are you in the employ of this firm? A At the time this occurred I was two and a half months.

Q You knew the man from Taylor & Rosenagle Company, didnt you, the man that called for the goods every day? A He had new drivers.

Q Every day? A Every day, sometimes, yes, sir.

Q Do you remember, can you describe the men that were there? A Always Taylor's men--

Q I don't know who those men were. You know, don't you? A I know some of the men.

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Q Were they Taylor's men? A Sure.

Q That called for these goods? A For these goods?

Q That is what I am asking you? A No, sir.

Q If you don't understand me, don't answer the question because I think we want to get the facts so that the jury can hear them. You say they were not the men, is that right?  
A I don't understand the question.

Q Were the men that called for these goods that you have described in answer to the question put by the learned District Attorney-- were they the men from Taylor & Company? A No.

Q You knew them at the time didn't you? A No, sir.

Q Well, if you didn't know him why didn't you give these goods to the man -- other people than Taylor? A Well because that I knew that man.

Q You knew that man, the man that called for the goods?  
A No, sir; not this man but Taylor; I believed them that they were from Taylor.

Q What made you believe that? A He came in the store and said he was from Taylor.

Q Just simply by saying that you gave him the goods? A Yes

Q Made no inquiry of any kind at all? A No, sir.

Q How can you describe the man how did they look?

A Well, I don't know.

Q Was it one or a number? A One.

Q How did he look? A Looked like a man.

Q You didn't think he looked like a woman, did he? A No.

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Q What kind of a man did he look like? A About a fellow my size.

Q How was he dressed? A In an overcoat and soft hat.

Q Do you remember what kind of a wagon they had? A Yes, sir, a single truck.

Q An open truck? A Yes, sir.

Q What kind of a horse was it? A I don't think I remember the horse.

Q Do you remember any inscription-- was there anything on the wagon? A I don't remember.

Q You don't remember anything about any of that, you are hazy, a little in doubt about any of that? A No, sir, not in doubt; I know the man came in the store and took out the goods.

Q All you know is a man came there for the goods? A Yes.

Q Is that right? A Yes, sir.

Q That is all you had to do? A No, sir; I gave him the goods on the belief he was from Taylor.

BY THE COURT:

Q Did you see somebody on the sidewalk? A Yes, sir.

Q Who was that? A Harry Goldberg.

BY MR. CONN:

Q How do you know it was Harry Goldberg? A I heard his name in Headquarters afterwards.

Q Did you know him before that? A No, sir.

A  
Q Did you talk to him? When? Before?

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Q At any times? A No, sir.

Q Well, then, you don't know anything about him, do you? A No, sir.

Q Now I am trying to find out. At Police Headquarters were you confronted with a line up? A Yes, sir.

Q Were you requested by the detectives to identify anybody? A Yes, sir.

MR. GOLDSTEIN: I object to that.

THE COURT: It only goes to the identification. It is not contended by the District Attorney that your man was there.

MR. COHEN: He has to prove his case and bring the man up and point him out.

BY MR. GOLDSTEIN:

Q Now do I understand you to say you believe it was Liebensart? A Yes, sir.

Q Do you know now whether it was Liebensart or anybody else? A No, sir.

Q Is it possible when you picked out Liebensart in the line up at Police Headquarters that you were mistaken? A

MR. COHEN: I object to that. He says he does not know. He is cross examining his own witness.

Objection sustained.

JOHN BISCHOFF, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he lives at No. 14 McDonough street,

Brooklyn.)

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## DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q Are you a member of the firm of Bischoff & Harris? A Yes

Q You are engaged in the cotton goods business on 13th street? A Yes, sir.

Q What is that address again? A 56 East 13th street.

Q You were engaged in that business at that address on April 24, 1919? A Yes, sir.

Q Did you help your shipping clerk to prepare three cases of goods and two packages for shipment on the morning of April 24th? A These goods were prepared for shipment on the day prior to that, April 23rd.

Q Did you have anything to do with the preparation of those? A I superintended it.

Q In other words they were packed up or wrapped up under your immediate supervision? A Yes, sir, they were.

Q Did you endorse on the cases the names and addresses of the different persons for whom they were intended? A The cases I marked, yes, sir.

Q What marks did you put on the three cases? A They were two consigned to the Archer Strauss Rubber Co. Framingham, Mass., and the other case was consigned to the Chicago Rubber Clothing Co. Racine, Wisc.

Q Did you see the name and address of the consignee of those goods contained in the two packages? A Yes, sir, they were consigned to Ben Fleigel, a city address, I don't know the exact address.

Q Was there a case number on the respective packages and

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cases? A yes, sir.

Q Do you remember the numbers offhand? A No, sir; I don't remember them.

Q Have you got any memorandum about you from which you can refresh your recollection? A No, sir.

Q I show you this memorandum on your letterhead and I ask you whether this will refresh your recollection and if it does why tell us what the cases numbers were and how many pieces of goods including the number of yards contained in those packages and cases, and the nature of the goods and the reasonable market value on the 24th of April, 1919 of the goods that were contained in these different packages and cases that you have just mentioned and described? A Two packages were consigned to Ben Fleigel and contained, one package, 227 1/2 yards of cotton goods and silk mixtures valued at \$130.81. The other package contained 239 1/2 yards of cotton and wool mixture valued at \$191.50, and case No. 1788 consigned to the Chicago Rubber Clothing Company contained 21 pieces of plaid linings 1705 1/4 yards, \$405.73 and two cases consigned to Archer Strauss Rubber Co were marked \$2,031 and 2,032 containing 803 7/8 yards of cotton and wool mixtures valued at \$602.16 and 355 1/2 yards of cotton plaids \$213.88. Total \$816.04.

Q What was the grand total of the goods? A About fifteen hundred dollars, \$1539.08 total.

Q When these goods were called for, where were you? A In the office, in the rear of the store.

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Q You did not see the person who called for them? A No, sir, I did not.

Q When did you see these cases again? A After they had been recovered at Police headquarters.

Q Did you recognize the goods as your property? A Yes.

Q The goods were there in the original condition and the packages also with our marks penciled on them as they had left the premises.

Q I show you these two pieces of goods known as people's Exhibit 1 for identification and ask you whether this is part of the goods that was contained in those cases? A Those two pieces were taken from the lot consigned to the Chicago Rubber Clothing Company.

Q And they were kept ever since by the Police department as evidence? A Yes, sir.

Q The balance of the goods were returned to you? A Yes.

Q That is all you know about the case? A Yes, sir.

BY THE COURT:

Q Those pieces of goods in court -- what was the reasonable market value of those goods on April 24th, 1919? A These two particular pieces? I don't know the exact contents but I should think they would amount to about fifty or sixty dollars, a little over fifty dollars as near as I remember.

BY MR. GOLDSTEIN:

Q Taylor & Rosenagle is the trucking concern who did business for your firm for a long time? A Yes, sir; they did

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our trucking.

Q They were your exclusive trucking house? A Yes, sir.

Q They did all your business? A Yes, sir; everything.

Q They took your goods from the warehouse and brought the goods that came in from out of town from the various railroad depots, piers and steamship companies and so forth? A Yes, sir, exclusively.

Q And on the morning of April 24th, 1919, did you have these documents known as People's Exhibit 3 for identification?

A Yes, sir. These are notices of arrivals from the Old Dominion Steamship Co. and the New England Steamship Co.

Q On the docks there? A Yes, sir, on the docks, a delivery order intended for our truckman to pick these up at the pier.

Q Did you give these to the shipping clerk Isidore Bernstein on the morning of April 24th with instructions? A Yes, sir, I gave them to him with instructions to deliver to the first truckman that called for our goods.

THE COURT: Strike that out.

Q When was the next time you saw these papers people's Exhibit 3 for identification? A At Police Headquarters.

Q They were shown to you by whom? A I am not sure, one of the officers down there in Headquarters.

CROSS EXAMINATION BY MR. COHEN:

Q I understand you recovered all of the property? A With the exception of what is being held by the department.

Q Everything else was just the same as if was orig-

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inally in the original package? A Everything was returned to us.

J O H N E. S H E E D Y, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he is a police officer attached to the main office division, truck squad. )

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q How long have you been a member of the Police Force of the City of New York? A Going on nine years.

Q On April 24, 1919, were you detailed, what duty? A To the truck squad.

Q Main Office Division, Police Headquarters? A Yes, sir.

Q On the morning of April 24th, 1919, about 9 o'clock or 9.30 a. m. where were you? A I was on the corner of right opposite the premises, 174 Lafayette street.

Q What were you doing there? A Watching the premises 174 Lafayette street.

Q How long had you had those premises under observation? A About a week and a half.

Q What time did you get there on the morning of April 24th, 1919? A About 7 a. m.

Q And remained there until about what time before you left? A Until around 10 o'clock.

Q Now around that hour did you see any truck? A Yes, sir.

Q Stop in front of 174 Lafayette street? A I did.

Q That is in the county of New York? A Yes, sir.

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Q Who was on that truck? A Harry Goldberg was driving the truck.

Q Did you see him stop the truck? A Yes, sir.

Q Directly in front of the premises? A Yes, sir.

Q Were there any cases on the truck? A Yes, sir.

Q What was on the truck? A Three cases and two packages.

Q Did you see any other wagon come along? A Yes, sir.

Q Who was on the other wagon? A Billy Goldberg and Louis Meisel.

Q Did that wagon trail behind the truck? A Yes, sir.

Q Upon which Harry Goldberg was riding? A Yes, sir.

Q Where did you see that truck? A That truck drove around and stopped on Grand street.

Q Was that a heavy or light truck? A A light covered delivery wagon.

Q Did you see it stop somewhere on Grand street? A Yes.

Q What did you see William Goldberg and Louis Meisel do?

A I saw them get off the wagon, walk back to Lafayette street, north on Lafayette street until they came to the truck where Harry Goldberg was. They assisted Harry Goldberg to unload the truck.

Q Was that under your observation? A Yes, Sir.

Q How many cases and packages did they first remove?

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in and Harry Goldberg got up on his truck, backed in his truck and took two heavy cases from the back.

Q You mean after he came out of the premises? A After they took the first two cases, the twopackages into the elevator.

Q In other words if I understand you correctly the three men took two cases and two packages into 174 Lafayette street?

A Yes, sir.

Q How soon after that did they come out? A About five or ten minutes.

Q Did you go over to the truck? A Yes, sir.

Q At all? A Yes, sir.

Q Did you take a look at the truck? A Yes, sir.

Q Did you look at the remaining goods on the truck?

A Yes, sir.

Q Did you observe anything about those cases that you can recall at this time? A The only mark that I observed was marked Massachusetts.

Q Did you see them come down again? A Yes, sir.

Q Did you see them take that case off the truck? A Yes.

Q What did you see them do then with respect to that case?

A I saw the three of them, Louis Meisel and Harry Goldberg and William Goldberg and also the elevator man assisted in putting that case into the premises, 174 and on the elevator.

Q After you saw them do that did you then go over to a police officer, a traffic policeman who was standing opposite

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174 Lafayette street? A Yes, sir.

Q What corner was he standing on? A Standing at the intersection of the street, Lafayette and Grand street.

Q Have a conversation with him? A I did.

Q After having that conversation with him where did you go? A Police Headquarters.

Q When you got to Police Headquarters did you find Officer Reilly there? A yes, sir.

Q Mr. Reilly is your partner? A Yes, sir.

Q You do team work? A Yes, sir.

Q You and Reilly? A yes, sir, at that time.

Q When you got to Police Headquarters did you see a man named Spencer there? A Yes, sir.

Q Who is he, Spencer? A He is chief inspector of the Pennsylvania Railroad Police.

Q He was at Police Headquarters at the time? A Ye, sir.

Q Did you take him along with you to the premises 174 Lafayette street? A Yes, sir.

Q When you , Spencer and Reilly got to the premises 174 Lafayette street what did you do? A We went into the premises , walked up four flights of stairs and went into the premises occupied by Braveman, a suit case manufacturer.

Q Did you talk to Braveman? A Reilly spoke to Braveman.

Q Was it in your hearing? A Yes, sir.

Q After Reilly spoke to Braveman what did you do, you and Reilly? A We walked around and I identified the three

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cases and two packages I saw on the truck, up in the loft.

Q What part of the loft did you identify these three cases in? A They were in the middle of the floor.

Q What did you do with them? A Officer Reilly and I walked over -- Reilly questioned Braveman about the goods and he said the goods --

MR. COHEN: I object to that.

Q Don't tell us what Braveman told you? A No, sir.

Q Was a part of that loft partitioned off? A Yes, sir, a part of the loft partitioned off.

Q Was there a door in the partition? A Yes, sir.

Q The door opened or locked? A Locked.

Q Did you go into it? A Broke into it.

Q What did you find when you got inside? A Found a lot of merchandise, corsets, kimonos, bathing suits and suspenders and a lot of toys--

Q Did you find these goods there? A No, sir, not there.

Q Where were these goods? A They were out on the floor in Braveman's loft.

Q How far from the door that led into this partition?

A About-- I should say about eight feet.

Q While you were there on those premises did you see Cohen there? A I did.

Q You mean the defendant? A Yes, sir.

Q How long after you got there did Cohen arrive? A About--

Q Or had Cohen been on the premises? A We came in while

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Reilly and Mr. Spencer and myself were there.

Q Did you see a man named Kurinsky there at that time?

A No, sir.

Q He was unknown to you? A No, sir.

Q You did not know there was such a man at that time? A No.

Q How soon after you got there did Cohen come in?

A About eight minutes-- about fifteen or ten minutes.

Q Did officer Reilly question him? A Yes, sir.

Q Did he question him in your presence? A Yes, sir, he did.

Q Did he search him in your presence? A Yes, sir, he searched him.

Q Did he find anything on his person? A He found some freight tickets.

Q Was Spencer there at the time he was searched? A Yes.

Q I show you these documents or papers here known as People's Exhibit 3 for identification, and I ask you whether these are the papers that were found on the person of the defendant Moe Cohen? A Yes, sir, these are the papers.

Q Now at the time that they were taken from the person of Moe Cohen what part of his clothes did he have them in?

A He had them in his inside coat pocket.

Q Did Spencer put his initials on these papers, in your presence? A Yes, sir.

Q At the time they were taken from Moe Cohen's pocket?

A Yes, sir; just as soon as Reilly took them off him, he hand-

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Q Who got on the telephone? A Sargeant Griffith. 49  
ed them over to him and he put his signature on them sir.

Q Are the initials on the documents now back to New York?  
A Yes, sir; he ordered me back to New York.

Q Are these Spencer's Handwritten? Yes, sir.

Q Is the date on as well? A What do you mean?

Q The date when they were taken? A April 24th, yes, sir.

Q Did Spencer make a memorandum of the date? A No sir.

Q Along side of his initials? A No, sir.

MR. GOLDSTEIN: I offer them in evidence at this time.

(Papers referred to are received in evidence and  
marked People's Exhibit 3.)

Q Now after these documents People's Exhibit 3 were  
found in the possession of the defendant Moe Cohen, what did  
you do? A I left the premises and went out to East New York.

Q When you got to East New York, did you telephone to  
Police Headquarters? A Yes, sir.

Q Who got on the telephone? A Sargeant Griffith.

Q Did you have a talk with Griffith? A Yes, sir.

Q After talking with him did you then go back to New York?  
A Yes, sir; he ordered me back to New York.

Q You went to Police Headquarters? A Yes, sir.

Q Did you there see Harry Goldberg and William Goldberg  
and Louis Weisel and a lad by the name of Jack Liebenson and  
also Moe Cohen? A Yes, sir; and a man named Sol Seligman.

Q Anybody else? A That is all.

Q Did you have a conversation with this defendant in re-

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gard to the case, if you did say yes or no? A No, sir.

Q Reilly did all the talking? A yes, sir, Reilly did all the talking.

Q Are these a part of the goods, People's Exhibit 1 for identification, that you found upon the premises? A Yes.

Q When you got upstairs on the fourth floor? A Yes, sir.

Q Did you remove these goods to Police Headquarters? A Yes

Q Were the goods in the cases intact at the time you took them to Police Headquarters? A Yes, sir.

Q Did you remove these two pieces from one of the cases?

A I helped to remove them Officer Reilly and myself.

Q Do you remember the name of the state that was written upon the case from which these two pieces had been removed?

A Massachusetts.

Q Was that the same case that you had seen going into the premises when you had the premises under observation?

A Yes, sir.

Q What did you do with the balance of the goods? A Returned them to Bischoff and Harris.

CROSS EXAMINATION BY MR. COHEN:

Q Mr. Sheedy let me ask you-- you had been in this place how long before Cohen came in there? A About eight minutes or ten.

Q Right or ten minutes? A Yes, sir.

Q You judge about that, what did you judge that by, the eight or ten minutes? A Well, I figures that is how long it

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was.

Q What, did you feel the time? A No, sir, I imagined it.

Q Imagination? A Yes, sir.

Q You are testifying by imagination, is that it, that is what you are giving? A In regard to the time, yes.

Q It might have been half an hour, mightn't it? A No, sir, it wasn't as long as that.

Q It might have been fifteen, twenty or thirty minutes, you won't say, will you, it is imagination, as a matter of fact?

A About, I say about.

Q But you have nothing to guide about it? A No, sir.

Q While you were there, your brother office, what is his name? A Reilly.

Q Who was in the loft -- was it inside or outside or outside loft? A The inside loft.

Q Where is it, on the fourth floor? A Yes, sir.

Q Whose premises? A Occupied by Braveman, a suit case manufacturer.

Q Where is it? A Fourth floor, 174 Lafayette street.

Q You went up with the elevator, is there an elevator there? A Yes, sir, but I walked up, with Officer Reilly and this Mr. Spencer.

Q When you got upstairs will you describe to his Honor and this jury your best impression now what this looked like what kind of a place is it, or was it a big loft? A A big loft.

Q How big? A Well about 50 feet.

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Q What is that? A About 50 feet, runs back about 10<sup>52</sup> feet.

Q A loft of 50 feet? A yes, sir, and runs around into Grand street on an L shape. There was a partition in the back of the loft on the left hand side which was occupied by Cohen and Kurinsky.

MR. COHEN: I move to strike that out.

THE COURT: Strike out "occupied by Cohen and Kurinsky"

The other part may stand.

BY MR. COHEN:

Q I ask you to describe this loft. That is what I asked you. How long have you been on the Force? A Going on 9 years.

Q You have been a witness a great many times? A Yes, sir.

Q I asked you whether this loft on the fourth floor was divided? A No, sir.

Q Where was it partitioned? A It was partitioned, yes.

Q Isn't it divided by a partition? A yes, sir.

Q Why do you say no? A I am telling you the loft ran on an L shape.

Q But divided by a partition wasn't it? A Not the whole loft.

Q Was it one loft? A Part of a loft was divided.

Q What part of the loft? A The rear part of the loft on the left hand side.

Q That was partitioned off? A Yes, sir.

Q By what? A By a wooden partition.

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Q That had a door? A Yes, sir.

Q That led into this little place that you speak of? A Yes

Q How big a space was inside there? A About 10 feet wide and 20 feet long.

Q Well, that was locked, wasn't it with a door that led into this space that you just described? A Yes, sir.

Q Is that right? A Yes, sir.

Q Now the merchandise, these goods that you claim you saw there-- they were not inside of this place, were they? A No.

Q Where were these goods, these cases and bundles you speak of? A In the middle of the floor in Braveman's place.

Q Where is that? A In Braveman's loft, the middle of the floor.

Q In Braveman's loft? A Yes, sir.

Q In the middle of the floor? A Yes, sir.

Q Now will you tell us who were there in the Braveman lost when you got there? A The bookkeeper was there, Mr. Braveman and a lot of his workmen around in the place.

Q The shipping clerk there? A I believe he was.

Q Any one else there? A That is all I know.

Q That is all? A Yes, sir.

Q You remained in Braveman's loft, how long you and Officer Reilly? A I remained there a little over ten minutes.

Q These goods that you have described having seen with Harry Goldberg or whatever his name is -- that you had under observation-- and this Meisel and this Willy Goldberg and

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this Liebensart and some one else, had they been in the loft when you walked upstairs? A Yes, sir.

Q And there was some one else there? A yes, sir, Mr. Braveman and the shipping clerk.

Q Wasn't Goldberg there? A When I got up there, No, sir

Q Yes. A No, sir.

Q I understood you had been across the street, isn't that right? A Yes, sir.

Q You were watching that place for a week and a half?

A Yes, sir.

Q And watching that place you discovered at the end of a week and a half examination and watchfulness these goods being brought there? A Yes, sir.

Q By Meisel and Goldberg? A Meisel and the two Goldbergs, I saw them brought in there, yes, sir.

Q Now then did you go upstairs before these goods were brought in or did you go upstairs after they were brought in? A After they were brought in.

Q Well, then what did you mean in answer to my question before, when you said you had gone up before that. Did you understand me? A I did not understand you.

Q In other words the first time you went upstairs was after the goods had been brought in? A yes, sir.

Q Into this man's loft, what is his name, Braveman? A Yes, sir.

Q And you remained there-- did you take part in the con-

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versation? A I heard part of the conversation.

Q Did you take part in it? A No, sir.

Q When you say you heard part with whom was the conversation that you heard a part of? A It was with the defendant and Officer Reilly.

Q That is the only one you heard? A Yes, sir.

Q Isn't that right? A Yes, sir.

Q You didn't hear any conversation with Goldberg, did you? A No, sir, not at that time.

Q At any time? A Goldberg was not there at that time.

Q Was the defendant Cohen there before Goldberg? A Yes.

Q How long before? A I don't know; I was not there when Goldberg came, but he was there when I was there.

Q He was there when you were there? A yes, sir.

Q How long had Cohen been there? A I don't know; I wasn't there when Goldberg came.

Q I mean the defendant Cohen. How long had he been there when you came there? A He wasn't there when I was there.

Q Didn't you just tell this jury a minute ago he had been there, which is the truth? A He was not there when I went up there.

Q Which is correct?

BR. GOLDSTEIN: I object to that. There is no such statement from this witness on the record that he did say that Cohen was there when he got there. The witness on the contrary did testify --

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THE COURT: You asked him about the time that elapsed when he got there and the time Cohen came in?

MR. COHEN: Yes, sir.

BY MR. COHEN:

Q Now what do you want us to understand. Do you want to withdraw the statement that you made now that Cohen was not there at the time when you got there? A Cohen was not there when I got there.

Q How long had you been there when Cohen did get there?

A About eight or ten minutes.

Q About eight or ten minutes? A Yes, sir.

Q That you had from imagination as you told us? A Yes.

Q It could not be twelve minutes could it? A It could be, yes, sir.

Q Why do you say it is eight or ten?

THE COURT: He said it might have been.

BY MR. COHEN:

Q Now when you got there who was on the premises? A Mr. Barveman and a stenographer and a bookkeeper and I believe a shipping clerk and several workmen.

Q Anybody else when you got there? A When I got there?

Q When you got there after the goods had been delivered?

A Yes, sir.

Q Where was Goldberg, Weissel and the other Goldberg?

A They were not there at that time.

Q Where were they? A They had gone away.

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Q Do you know where they went to? A No, sir.

Q What did you do? A At that time I didn't know where they went to.

Q Was the defendant there then? A When I got there, no.

Q I mean eight or ten minutes after that? A About that, yes, sir.

Q While they were away, is that right? A After I went up in the premises they came out. I went and spoke to the traffic officer, and went to Police Headquarters and got Officer Reilly and Mr. Spencer and came back to the premises -- I was up there about eight or ten minutes when the defendant came in.

Q Then you heard Reilly talk to him? A Yes, sir.

Q You stood right alongside of him? A Not at all times. I heard a part of the conversation.

Q You just narrated all the conversation? A No, sir, not all.

Q What else was there besides what you told the jury?

A What do you mean?

Q That your partner spoke about? A He asked the defendant who owned the goods; he says he didn't know anything about the goods; then he walked into where the partition was and asked him about this part of the loft and he says that he and his partner, Kurinsky hired that part of the loft.

Q He said that? A Yes, sir.

Q You did not tell that to his Honor and the jury on

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your direct examination? A I was not asked that.

Q That is why you didn't tell it, is that right? No answer.

Q Because you were not asked that question? A Yes, sir.

Q Then what else? A Officer Reilly searched the defendant.

Q You say he found these on his person? A Yes, sir.

Q The inside coat pocket? A Yes, sir.

Q Nobody else there but those you describe? A Yes, sir.

Q Isn't that right? A yes, sir.

Q The defendants Goldberg and Meisel, none of those boys were there at that time? A No, sir.

Q When he was searched? A No, sir.

Q You remember distinctly this was the property? A yes.

Q These were the papers? A Yes, sir.

Q You read them then and then? A Looked at them; did not read them.

Q Didn't you see what they were when you looked at them?

A I saw they were freight notices.

Q How do you know they were freight notices? A Well, Mr. Spencer looked them over, and told us they were freight notices.

Q Only what somebody told you now? Is that right. Not what you yourself saw? A I saw them.

Q Why do you say what Spencer told you? A Because I am not familiar with freight notices and he is familiar with freight notices.

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Q Can't you read English? A Yes, sir.

Q You are a police officer? A Yes, sir.

Q You couldn't tell whether they were bills of lading or freight notices? A Freight notices, I told you.

Q You say you saw these papers? A Yes, sir.

Q Did you see them with your own eyes? A Yes, sir, I saw them.

Q Where was this conversation had? A In the office, in the place that he had, his left.

Q That is what he told you? A Yes, sir.

Q Is that right? A Yes, sir.

Q When he told officer Neilly in your presence he used the same language? A No, sir.

Q Is that what you told us? A He hired that loft, he and Kurinsky.

Q He and Kurinsky? A Yes, sir.

Q Was Kurinsky there? A No, sir.

Q Did you see Kurinsky there? A Kurinsky no sir, not there, I saw him at Police Headquarters.

Q That is the only place? A Yes.

Q Do you remember you were a witness on the Meisel case, weren't you? A Yes, sir.

Q In this court? A Yes, sir.

Q That was held on January 15th. Do you remember being asked these questions and did you make these answers, referring now to page 22, Mr. Goldstein. "During the time that you

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were there did a man by the name of Cohen come in? A. He did.

Q. And did you leave? A. Yes.

Q. You left Officer Reilly behind with Moe Cohen? A. Yes.

Q. Where did you go? A. I went to East New York. "

Were those questions and answers made? A. They were.

Q. True? A. Yes, sir.

Q. Well, now, how do you explain when you tell this jury you overheard the conversation with Moe Cohen and your brother officer Reilly as you have narrated it in your examination in the Meisel case -- you said you left Moe Cohen behind with officer Reilly? A. That is after Officer Reilly had the conversation.

Q. You didn't say so, is that plain English. You understand plain English? A. Yes, sir.

Q. Do you remember saying while you were there a man named Cohen came in and that you left? A. Yes, sir.

Q. When Cohen came in you left to go to East New York?  
A. After Cohen came in I went to go to East New York.

Q. Wasn't that the situation? A. Yes, sir.

Q. As a matter of fact you never heard a word? A. I did hear the conversation.

Q. When did you hear it? A. Before I left.

Q. Why didn't you so testify in that case?

MR. GOLDSTEIN: I object to that. That conversation was not binding upon Meisel in his trial, and if the question had been asked your Honor would have been

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obliged to rule my question out. If I had proposed any question to this witness calling for a conversation with Moe Cohen in the absence of Meisel--

THE COURT: Yes.

MR. COHEN: When a man deliberately lies about a situation--

THE COURT: The District Attorney knew the proper questions to put in the Meisel case. If such a question had been put to this witness in the Meisel case I should have excluded it as incompetent evidence.

MR. COHEN: Any testimony given by a witness at any time in another case is competent against him. That is the elementary law of evidence. I take it for granted that that is the elementary rule of evidence that if I make a declaration in court or out of court that declaration is competent.

THE COURT: Upon what theory would it have been?

MR. COHEN: A declaration against interest.

THE COURT: May be you have in mind the declaration of a coconspirator.

MR. COHEN: Suppose a witness makes a statement and that statement is subsequently shown to have been untrue would you say that that was incompetent in another case?

THE COURT: I should certainly say it was incompetent. I would not allow any such testimony. So that you will say that you had a perfectly fair trial I do not desire to shut

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out anything. I will let you ask a question and go as far as you like.

MR. COHEN: We are confronted with this testimony. Here is a man that claims he overheard this conversation where this man is directly bound--

THE COURT: You may go as far as you like.

MR. GOLDSTEIN: I withdraw the objection. Mr. Cohen may go as far as he likes.

Q (Question repeated as follows:) Why didn't you so testify in that case? A Because I was not asked the question.

Q But weren't you asked this question: "While you were there didn't a man named Cohen come in? A Yes." Do you remember whether you were asked that question? A Yes, sir.

Q Were you asked that? A Yes, sir.

Q Did you make an answer? A Yes, sir, I did.

Q What did you say? A I said Cohen came in.

Q Then right on top of that weren't you asked this question: "Did you leave as Cohen came in?" A Yes, I left right after Cohen came in, after I heard this conversation.

Q If you left after Cohen came in how do you know Reilly spoke to him and you tell this jury what you overheard? A He was in there sometime.

Q You claim you left the minute he came in? A Not directly after he came.

Q Didn't you tell this jury immediately after he came in? A A short while after he came in.

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Q Now you want to make it a short while? A About five minutes.

Q Now in the five minutes you overheard that entire conversation? A Officer Reilly searched this defendant and he asked the defendant what about this paper, and the defendant said he got that off a man that gave that to Kurinsky.

Q The defendant said? A Yes, sir.

Q That is something new. Did he tell you what man he got that from? A No, sir; he did not tell me.

Q Now where was this talk? A That was in the part of the office that was partitioned off, the part of the loft.

Q That Cohen and Kurinsky were supposed to occupy? A Yes.

Q Inside the loft or outside? A Inside.

Q When he was searched just that minute when he was searched-- who was there when he was searched? A Spencer, Officer Reilly and myself.

Q That was all? A Yes, sir.

Q Nobody else? A No, sir.

Q Didn't you say you left Officer Reilly there behind with Lee Cohen. Did you say that? A After I heard the conversation, yes, sir.

Q You didn't say you heard the conversation at the last trial, did you? A No, sir.

Q The reason you assign was because you were not asked? A Yes, sir.

Q Did you talk to anybody about this case? A Well, I

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certainly spoke it over with my superior officers -- Officer Reilly.

Q How many times have you exchanged notes with Reilly?

A Never changed notes.

Q Talked it over, spoke it over with him? A When we made the arrest, we spoke it over outside here last week.

Q How many times in all about? A Well about three times.

Q Didn't you tell him what you were going to say, and did he tell you what he was going to say? A No, sir.

Q What is that? A No, sir, we didn't say what we were going to say.

Q What were you talking about with one another? A Talking about how we made the collar and what took place.

Q That is what you were discussing? A Yes, sir.

Q How you made the collar? A Yes, sir.

Q And what you were going to testify to? A Yes, sir, what took place.

Q Did you say what you were going to testify to? A Did I say? Yes, sir.

Q Did Reilly say to you "Now what are you going to say when you get on the stand?" A I couldn't tell that what I would say.

Q Did you tell Reilly just what you saw and heard? A Yes.

Q Do you mean to tell his Honor and the jury that all you told Reilly was "I am going simply to say what I saw and

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heard", is that the language you used or anything like it?

A Why--

Q What is the truth? A We talked over the case, certainly.

Q I know you talked over the case? A Yes, sir; but I didn't tell him that word for word what I was going to say.

Q Did you compare notes about the conversation? A I didn't have any notes.

Q Anything said about this conversation, you got to connect Cohen with this loft, anything said about that? A No, sir; nothing at all.

Q All thoroughly true? A Yes, sir. That is all the truth.

MR. GOLDSTEIN: I move to strike that out.

THE COURT: That is for the jury to determine.

Q Didn't you discuss both of you, that you have got to connect Cohen with this loft? A No, sir, we didn't say anything we got to connect Cohen; we knew we had Cohen connected.

Q By the talk you claim he had with him? A Finding the papers.

Q Show me from the testimony you gave in the <sup>W</sup>hisl case anywhere where you overheard any conversation with Cohen and your brother-officer. Look at this testimony that you gave here? A I was not asked any questions during the trial.

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Q How long did you stay on these premises? A I stayed about ten minutes, ten or twelve.

Q You stayed there? A yes, sir.

Q Let me ask you this question-- "Q. How long did you remain in the premises? A. About twenty minutes."

Was that answer given by you. Look at it. Will you refresh your memory, your memory is hazy. Look at it. Is that what you testified to? A Where is that?

Q Can't you see it? A About ten minutes.

Q Q. How long did you remain in the premises? A About twenty minutes." Unless you say the stenographer put you down incorrectly? A It was about right, twenty minutes.

Q So you say about twenty minutes? A Twelve, to twenty.

Q Now it is from twelve to twenty, no difference to you?

A I was not looking at any watch; I was just judging the time.

BY THE FIRST JUROR:

Q These goods being on the floor of Braveman's loft or that part of it, did you ask Mr. Braveman whether he received these goods? A He said they came up there for the firm of Cohen and Kurinsky.

THE COURT: That would not be competent evidence against this defendant unless the defendant was present and joined in some reply.

BY A JUROR:

Q Was that loft a partly open loft, part of the loft or the opening of the loft separated from the other part of the loft. When you step off the elevator what loft were you in? A Bra-

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veman's.

Q No space for a hallway or a corridor? A No, sir, a little partition as you step off the elevator.

Q No corridor around the elevator? A Yes, sir.

Q When you step off--you were right in Braveman's loft?

A Yes, sir.

Q Where was this partition with respect to Lafayette or Grand street? A In the rear of Lafayette street.

Q It is a corner building Lafayette and Grand? A No, sir, it is about 150 feet from the corner of Lafayette street--Lafayette street from Grand.

Q You say the partitioned space was on the grand street side? A No, sir, it was in the rear of the Lafayette street side.

Q The door was locked you say? A Yes, sir.,

Q What kind of a lock was on the door? A A padlock.

Q These goods you say were within a few feet? A Yes, sir.

Q About 8 feet I think you said? A Eight or ten feet.

Q From the door that leads into the partitioned space?

A Yes, sir.

BY MR. GOLDSTEIN:

Q Did you ascertain the name of the occupant of the particular space upon which you found these goods? A Yes, sir.

Q Part of which are here known as People's Exhibit 1?

MR. COHEN: That is objected to. That is the issue here whether the defendant owned that loft. That is the

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issue to be determined here.

THE COURT: Question excluded.

G E O R G E F. S P E N C E R, a witness called on behalf of the People, being duly sworn, testified as follows.

(The witness states he lives at 251 West 31st street)

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q What is your profession or occupation? A Inspector of police, United States Railroad Administration.

Q On the 24th of April, 1919 what were your duties?

A I held the same position.

Q Sometime in the morning of April 24th, 1919 were you at Police Headquarters? A I was.

Q Did you see Officer Sheedy come into Police Headquarters? A I did.

Q What room were you in at the time? A Trunk squad, Room No. 4.

Q Did you see Sheedy have a conversation with Reilly? A I did.

Q Also a detective? A Yes, sir.

Q Did you, Reilly and Sheedy proceed to a loft at 174 Lafayette street? A We did.

Q Were you asked to go there? A Yes, sir.

Q By whom? A By Sergeant Griffith and Reilly.

Q Who is Sergeant Griffith? A In charge of the Trunk squad.

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Q This was at Police Headquarters? A yes, sir.

Q When you got there what did you observe? A Why it was a large loft and we spoke to a gentleman I think by the name of Braveman if I recall, and then we went to the rear that would be the north side of the loft where there was a partition. I think Reilly broke the door and there was a lot of cases which Mr. Braveman-- being asked if they were his said no. We examined the cases, I was looking for something, I did not see it, I was looking for a different lot of merchandise, I think some print goods and some collars in the room where we afterwards went with Mr. Cohen if I recall right-- there was a lot of boxes of socks upon the shelves. That is all I did as far as --

Q When you got there did you find any goods in the cases or packages within a few feet of the door leading into the partitioned space? A Yes, sir.

Q You say the door was locked? A I believe it was to the best of my recollection, the door going into that which I believe was Mr. Cohen's place.

THE COURT: Strike that out.

Q About how big was this partitioned space? A It was made into a kind of an office I should just about 20 feet by 12.

Q Was there any name on the door? A I didn't look for it.

Q Was it a wooden door or a glass door? A I think it

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was part wood and part glass.

Q Did you at the time you entered the premises with Reilly and Sheedy did you see Moe Cohen there? A No, sir, he was not there.

Q How soon after you, Reilly and Sheedy entered those premises did Moe Cohen arrive there, or did he arrive at all?

A Well, I should say within twenty minutes or half an hour.

Q That is your best recollection of the time? A Yes, sir; I didn't pay any particular attention to the time.

Q Did you listen to any conversation between Reilly and Moe Cohen? A Why, yes, Reilly asked him about the goods that was in there, about the goods we pointed out, different cases which we opened up and asked him about them; we asked him about the stuff in the room.

Q Did he ask him anything about the particular goods that you say you found within a few feet of the door that was in the partitioned space? A There was a general conversation all around; I was opening some of the cases; I don't recall all the conversation that took place.

Q Did you see Reilly search the defendant Moe Cohen?

A Yes, sir, I was there when he searched him by the door.

Q How far away were you from where he was searching him? A Standing right along side of him.

Q Did he take anything from his coat pocket? A Yes, sir he did, he took some bills of lading, arrival tickets and a lot

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of cards and I think a memorandum book, and to the best of my recollection a couple of letters.

Q I show you these papers, and ask you whether these were the papers that were taken by Reilly from the person of this defendant at the time? A Not positive, I am positive as to the bills of lading, and arrival tickets and checks I think they were; I am not positive.

Q Did you place your initials on these papers? A On some of them, yes, sir.

Q Which one did you place your initials on. Examine them carefully? A On this one.

Q Well describe it? A Marked April 25th, 1919 consigned to Bischoff & Harris, and also an arrival notice and an order to deliver signed Bischoff & Harris, and a bill of lading.

Q The bill of lading is addressed to Bischoff & Harris? A Yes, sir.

Q How long did you remain on the premises? A I remained or stayed there until some persons were taken away.

Q After Moe Cohen came in did Sheedy remain on the premises? A I believe he did, yes, sir.

Q Then did Moe Cohen go away for awhile? A Yes, sir he was taken to Police Headquarters.

Q Mean to say Sheedy, did he go away? A I think Sheedy-- there were several officers came and took different prisoners away; I think there were seven prisoners.

Q Did you see Sheedy leave the premise ? A I won't be

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positive; I don't know whether he left again or not.

Q After Moe Cohen came in and was searched and these documents were found on his person did William Goldberg, Harry Goldberg and Louis Weisel come to the premises? A I know that two Goldbergs and Weisel, I think there was two other men.

Q Positive however, that Goldberg, Harry Goodberg and William Goldberg and Weisel came? A Yes, sir.

Q They were among those who came into the premises?  
A Yes, sir.

Q After Cohen? A Two or three others besides.

Q They were taken to Police Headquarters, were they? A Yes.

Q And a man by the name of Jack Liebenson also came in?  
A I heard the name, I don't know the man by the name.

Q That is all you know about this case? A Yes, sir.

CROSS EXAMINATION BY MR. COHEN:

Q Who was in the loft, in this place, when you got there, was anybody there at all? A Mr. Braveman -- and I think there was a young lady in the office and another man; I was working around the loft, to the best of recollection there were three people in the loft, that is Mr. Braveman and a man working for him and a girl in the office, a clerk.

Q When these other defendants came in -- were <sup>they</sup> ~~you~~ there at the time you came there? A No, sir, they came in afterwards.

Q How long afterwards? A They came in at different intervals, one I think -- the first one got there was to the

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best of my recollection-- was one of the Goldbergs.

Q In other words you were the first man on the scene?

A No, sir, I was not the first; to the best of my recollection Sheedy was one of the very first and then he came back to Headquarters.

Q After he came back? A Reilly and myself went together.

Q When you got there what did you find with Sheedy? A I didn't go in with Sheedy I went in with Reilly.

Q What did you find? A There was produced these cases.

Q Where were these cases and packages? A Right outside this little office.

Q When you say this little office what do you mean? A It was a kind of a partition to the loft in the corner, the best way is to illustrate it is that partition there, but it wasn't as long as that.

Q A lock on that door? A To the best of my recollection there was a lock on that door.

Q Now the goods were in there, were they? A Right outside, some goods were inside.

Q What goods were inside? A I couldn't tell you. I examined the cases outside, I was looking at the cases.

Q Then you don't know? A No, sir; I know there was cases of goods in there.

Q The goods were there? A Yes, sir.

Q Not all of these goods? A I couldn't tell you that.

Q Was there a lock on the door, was the door locked?

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A To the best of my recollection it was. Reilly went over to the door.

Q He broke the door open? A I don't know, it was done by Reilly or one of the officers; I was talking to Mr. Brave-man.

Q I want the facts within your knowledge? A That is what I am giving you, the facts as far as I know. I won't give you anything else.

Q Now these cases of goods had been there when you got there with Reilly? A Yes, sir, they were there.

Q Were any of the defendants there-- when I say defendants, I say, Meisel Goldberg and these boys there? A No, sir, they came in afterwards.

Q How long after that? A Intervals of ten or fifteen minutes, coming in at the time we were there until ten minutes before we left: I guess I must have been in the place pretty near two hours.

Q How many cases were there when you got there? A I examined two.

Q You don't know how many were there? A No, sir, I examined two that had stamps of railroads on.

Q When did Moe Cohen come, he might have come in within half an hour? Q To the best of my recollection about twenty minutes, about twenty minutes.

Q Where did you see him for the first time? A When Reilly was talking to him right at the elevator, just as you

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got off the elevator Reilly spoke to him.

Q Who was there at the time? A Why Reilly, any myself were there and I ain't positive whether Sheedy or Hanley was there or not.

Q You won't say he was there? A No, sir, I will not.

Q But sure that Reilly was there? A Positive, I went with Reilly.

won't

Q You say whether Sheedy was there? A I am not positive; I know at one time there was Sheedy and Hanley; they were there at one time, Sheedy and Hanley.

Q I mean at this conversation? A No, sir, I don't know about that; I know Reilly and I were together right at the door.

Q Now you saw probably some of these exhibits, did you see these exhibits? A Reilly handed them to me when he took them out of the pocket.

Q What pocket did he take them out of? A The inside coat pocket.

Q Was it the overcoat or vest pocket? A I think that he had a light overcoat on, took them out of the inside coat pocket.

Q His overcoat pocket? A He couldn't take them out if it was buttoned.

Q Any reason for that sarcasm? A No, sir, no sarcasm. I didn't mean it that way.

Q Was it the overcoat pocket or the coat pocket?

A I believe it was the inside coat pocket; I am not positive.

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Q Which is it now, he had two coats on? A Yes, sir.

Q A light overcoat and his regular coat? A Yes, sir.

Q Was it the overcoat that it was in? A It was in the inside pocket. My best recollection I think he took his coat off and threw it on the window of the partition like; that is the best of my recollection; Reilly searched him and took these papers, and some cards, I think he said the cards were for where he was in business or where he had been in business on the east side, a memorandum book and a couple of letters. Reilly handed the papers to me.

Q I ask you again was it the overcoat or the coat? A The inside coat I told you.

Q It was not the overcoat? A No, sir.

Q These checks were not among them? A There were checks, but whether they are the checks I cannot tell you.

Q I refer to people's Exhibit 3? A That is where I put my initial on them.

Q You did not read them since you put your initials on? A I read them only to see what they were.

Q You are just after telling the jury you had them long enough to put your initials on? A Yes, sir, as I put my initials on I could look at every one of them. I am perfectly familiar with these kind of bills.

Q How long did it take to put your initials on? A A minute or so, or two.

Q Within that second that you took you read the entire pa-

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pers? A No, sir, I didn't say so.

Q You just told this jury? A I see my name on them.

Q Will you swear under oath these were the exhibits?

A I will swear under oath that was my initials on these papers, and those are the papers I put my initials on.

Q You mean what you swear to-- where is your initial here? A This one and on this one.

Q Only on this one? (Indicating)

Q It was not on the checks? A No, sir, I didn't put my initials on the checks.

RE DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q Right after Reilly took those papers, People's Exhibit 2 from the inside coat pocket of Moe Cohen were you requested by Reilly to put your initials on these papers?

A Yes, sir.

Q Did you personally observe how Reilly dug his hand into the coat pocket, the inside coat pocket? A Yes, sir.

Q Of this defendant? A Yes, sir, he put his hand into the pocket and brought them out, and I think two letters.

Q Among these papers here known as People's Exhibits 3, for instance, there are two checks about which you say you are not positive? A Yes, sir.

Q Is that right? A Yes, sir; I could not swear to the check.

Q As to the other papers, there is no doubt about them?

A No, sir.

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Q As to the checks you won't swear to the, because I understood you to say you don't remember? A Yes, sir.

Q Is that your answer? A Yes, sir.

Q You actually put your initials upon each one of these papers here known as People's Exhibit 3 with the exception of the three checks? A Yes, sir; the defendant was there when I done it.

Q Now what do you mean, what are your initials? A G.F.S.

Q Looking on the back of these two checks, dated April 24th, 1919, made by Bischoff & Harris, and see whether your initials do not appear upon these two checks? A Yes, sir; they do.

Q Now after seeing your initials upon the back of these checks does that refresh your recollection, in any way as to whether or not among the documents that were extracted from the inside <sup>coat</sup> pocket of this defendant were these two checks?

A I stated before there were two checks; the only way I have identified all these papers was my initials on them; that is all

Q These are your initials on the back of these two checks?

A Yes, sir.

CROSS EXAMINATION BY MR. COHEN:

Q The only memory you have are the initials? A Yes.

Q Any paper shown to you with your initials on you would swear that these were the papers? A I would not swear to anything only the truth,-- to a lot of papers here -- to swear they were taken out of his pocket-- I would not.

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Q How long have you been attached to the Department? A About seventeen years and a half.

Q Would you say that Cohen wore a light overcoat? A To the best of my recollection he had an overcoat, a light spring overcoat; I mean light weight; I did not mean light in color.

Q What kind of a hat did he wear? A I think he had a black derby on.

BY MR. GOLDSTEIN:

Q You are not a member of the Municipal Police Force, are you? A No, sir; I am connected with the United States Railroad Administration.

Q You happened to go there by pure accident? A I was told to go there, yes, sir.

Q You were at Police Headquarters at the time Sheedy came in? A I was there in reference to that place.

BY MR. COHEN:

Q Ever been a police officer? A No, sir.

Q Never been connected with it? A No, sir.

J O H N B I S C H O F F, a witness for the People, recalled.

BY MR. GOLDSTEIN:

Q Is the firm of Bischoff & Harris a co-partnership?

A Yes, sir.

Q Who are the partners in that firm? A Myself and Mr. Harris.

Q You and Mr. Harris were the partners on the 24th of April, 1919, when these coats were stolen? A Yes, sir.

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HENRY SPENGLER, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he resides at Remsen and Washington streets, Jamaica, L.I.)

DIRECT EXAMINATION BY MR. GOLDSTEIN:

Q On the 24th of April, 1919, were you engaged in running an elevator at 174 Lafayette street in the city of New York? A Yes, sir.

Q County of New York? A Yes, sir.

Q How long had you been an elevator runner in that building? A About a year.

Q Did you ever see this man, Moe Cohen, at any time prior to April 24th, 1919? A I saw him at that time.

Q Where did you see him? A About going up on the elevator.

Q You saw him going up and down in the elevator? A Yes, sir; when he came into the building.

Q To what floor did you take him? A The fourth floor.

Q Do you know whether he occupied a part of that floor?

A Well, I know now; I didn't know then.

MR. COHEN: I object to that as immaterial.

Q Did you know at that time, prior to April 24th?

MR. GOLDSTEIN: I consent that the last answer be stricken out.

Q Did you know that on April 24th and prior to that day 1919, this man Moe Cohen, occupied a part of the loft on the

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4th floor of premises no. 174 Lafayette street? A Yes, sir.

Q You knew that? A Yes, sir, I knew that.

Q You knew that before April 24th, 1919? A Yes, sir.

Q That is what I want to know.

MR. COHEN: That is a conclusion. I move to strike that out. That is one of the issues here.

THE COURT: He may state what he saw and what he observed. You may state what you saw and what you observed about this defendant prior to April 24th, 1919.

THE WITNESS: I cannot say that I saw him doing anything.

BY MR. GOLDSTEIN:

Q You said he went up in the elevator and down? A That is as far as I seen; I closed the elevator door and I went down about my business.

Q Where did he get off? A The fourth floor.

Q Into what place did he go when he got off? A I suppose he went into his place.

THE COURT: Strike that out.

THE WITNESS: I couldn't tell you where he went, your Honor.

BY MR. GOLDSTEIN:

Q Did he come right downstairs again or get off? A He would get off the elevator.

Q Into what place would he go? A I have a iron door that shuts; I couldn't tell you where he went to.

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Q Does that iron door lead you into a loft? A It leads on to the floor; if I let my passenger off, I close the door again, and I go on downstairs.

Q Did the defendant remain on those occasions for any length of time upon those premises before he came down again? A Why that I couldn't really say; he would walk down, sometimes I would take him down.

Q Do you know whether he brought any goods there prior to April 24th, 1919? A Not himself; I didn't see any goods.

Q Do you know whether any goods were brought there for him prior to April 24th, 1919? A The day before some goods brought were there.

BY THE COURT:

Q Were they brought for him, of your own knowledge, to the defendant? A For Kurinsky and Cohen.

Q How do you know they were brought there for Kurinsky and Cohen? A The people that were bringing them would ask for them.

THE COURT: Strike that out.

BY MR. GOLSTEIN:

Q Did Cohen and Kurinsky have a sign downstairs in front of the premises or in or about any part of the premises? A No.

Q How big a building is that? A Why I should judge about 20 by 80.

Q Isn't there downstairs on the ground floor a chart or board showing the names of the different tenants in the build-

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ing? A There is a sign there I put up for my firm-- Braveman is one.

Q Was there a sign for Cohen and Kurinsky? A No, sir.

Q Now, on the morning of April 24th, 1919, did you see a man by the name of Louis Meisel, Harry Goldberg and William Gold-  
ber at those premises? A Yes, sir.

Q You have seen them since a number of times? A Yes.

Q You have seen them here in court during this week?

A Yes, sir.

Q Do you recognize them as the same men you saw on the morning of April 24th? A Yes, sir.

Q Did they leave any goods in the premises? A That morn-  
ing, yes, sir.

Q When they came into the premises did they inquire for anybody? A For Cohen and Kurinsky.

MR. COHEN: I object to that. I move to strike out everything except yes.

Q Say yes or no? A Yes, sir.

Q Did you take them upstairs? A Yes, sir.

Q What floor did you leave them off? A The fourth floor.

Q Do you know how many cases of goods they brought in with them? A Three cases.

Q Any packages? A Two packages.

Q Did they remain upon the premises for any length of time? A Well--

Q Did you take them down again later? A The men?

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Yes, sir.

Q Took them down again? A Yes, sir.

Q Did they leave the building? A They left the building.

Q Did you see them later in the morning? A Yes, sir.

Q Did they come into the building again? A Yes, sir.

Q About how long after? A Well, I should judge a half an hour or an hour, I am not sure.

Q Did they bring any goods to the premises? A They didnt bring any goods-- they had a wagon outside.

Q Were there any cases on the wagon? A Some cases; how many I don't know.

Q You remember Reilly and Sheedy and Spencer coming to these premises, don't you? A Yes, sir.

Q Do you remember taking Moe Cohen up to those premises after Reilly, Sheedy and Spencer got there? A No, sir.

Q You don't remember that? A No, sir; he walked up I believe.

Q You don't know? A No, sir; how he got up-- I did not take him up.

Q There were times when you took him up and times when you say he walked? A Yes, sir.

Q But on the morning of April 24th you don't know whether he walked up or not? A No, sir.

Q You do know you did not take him up? A I did not take him up, no, sir.

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Q Now after Reilly, Sheedy and Spencer got there did you have a talk with Reilly, yes or no. Did he come up and talk to you? A Yes, sir.

Q How soon after that did William Goldberg arrive and Harry Goldberg? A Half an hour I suppose, or an hour.

Q Did you bring him upstairs in the elevator, Goldberg?  
A Yes, sir.

Q The Goldbergs and Weisel? A Yes, sir.

Q That is you knew them? A Yes, sir.

Q How many cases of goods were there on that truck?  
A Well, I couldn't just say.

Q Did you go out and look at it? A I seen it <sup>from</sup> the car-- from the front of the door.

Q Do you remember about how many? A I judge may be six or eight.

CROSS EXAMINATION BY MR. COHEN:

Q As a matter of fact you don't know Cohen at all? A Well I don't know him, no, sir.

Q You might have seen him a couple of times, you say, going up? A A couple of times.

Q You don't know where he went to or what he went for of your own knowledge? A He went up on the elevator I know.

Q That is all you do know? A Yes, sir.

Q You take quite a number of people on the elevator? A Yes

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THE COURT: Now, gentlemen of the jury, we will take a recess until half past ten o'clock tomorrow morning. Do not speak of this case nor permit any one to speak to you of it. If any one does report to me the name-- report the name to the Court. Do not make up your minds concerning the guilt or innocence of this defendant until the case is submitted to you, and do not go near the premises where it is said the alleged crime occurred.

(The Court then adjourned the further trial of the case until tomorrow morning, January 20th, 1920, at 10.30 o'clock.)

New York, January 20, 1920.

(TRIAL RESUMED.)

MR. McQUAID: If your Honor please I was informed this morning at about a quarter past ten that Mr. Jacob Goldstein, the Assistant District Attorney who was prosecuting this case yesterday had been taken ill and was confined to his bed. He was there by the doctor's orders and I am informed he may have to remain there for several days. Under those circumstances we are constrained to ask for an adjournment for a reasonable time.

MR. COHEN: The defendant's attorney deeply regrets to learn of the illness of the attorney for the People. I feel that I should be in bed likewise, and I join in the request-- I do not oppose any application

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that this matter be adjourned for a reasonable length of time.

THE COURT: You feel too that you should be in bed.

MR. COHEN: Yes, sir. I was taken out of a sick bed.

THE COURT: I will postpone this case until Monday, January 26th, 1920. I am compelled to grant this adjournment. In consequence of the illness of the Assistant District Attorney, and I know it is serious, I shall have to accede to the request of both the Assistant District Attorney and counsel for the defendant that this case stand over until Monday next. In the meantime, gentlemen, do not speak about this case or permit any one to speak to you of it. Do not make up your minds concerning the guilt or innocence of the defendant until I send this case to you. Those of you who wish to come between now and next Monday may do so.

(The Court then adjourned the further trial of the case until Monday, January 26th, 1920, at 10.30 o'clock.)

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TRIAL RESUMED.

(Mr. McQuaid, Assistant District Attorney, in place of Mr. Goldstein representing the people.)

WILLIAM GOLDBERG, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he lives at 365 Madison street.)

DIRECT EXAMINATION BY MR. McQUAID:

Q Goldberg you are one of the defendants named in the indictment? A Yes, sir.

Q You have pleaded guilty to grand larceny in the second degree? A Yes, sir.

Q On this indictment? A Yes, sir.

Q Do you know Moe Cohen? A Yes, sir.

Q Have you seen him before? A Yes, sir.

Q Moe Cohen? A Yes, sir.

Q Where. State to the Court and jury whereabouts? A I seen him in front of No. 1 Elizabeth street, New York City.

Q When? A It was the day before we were arrested.

Q Were you alone when you saw him? A No, sir.

Q Who was with you? A I was with a fellow named <sup>Harry</sup> Goldberg and Louis Meisel.

Q Harry Goldberg is another defendant? A Yes, sir.

Q And Louis Meisel? A Yes, sir.

Q Is still another? A Yes, sir.

Q What time did you get there? A About between three and four o'clock in the afternoon.

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Q Was Moe Cohen there? A Yes, sir.

Q At 1 Elizabeth street when you got there? A Yes, sir, he was there; there was a young lady there, I don't know who she is, might be his sister.

Q Was it a store? A A clothing store.

Q Any sign up there? A Yes, sir; I didn't happen to look is there a sign or not.

Q Did you meet the defendant there? A Yes, sir, I met this man; I didn't meet him at that moment; his sister spoke to me.

Q How much later? A Twenty minutes later.

Q Did you have a talk with him or any person with you?  
A Harry Goldberg.

Q What was said between you in the defendant's presence or between you and Harry Goldberg and Meisel and the defendant. Tell us the conversation. Where did it take place? A Outside the place, on the sidewalk.

Q Tell us what was said? A Harry Goldberg he gave us an introduction to this fellow, this Cohen there, Moe Cohen, told us who he was, said that -- Moe Cohen asked us what we were doing and we told him driving a truck. He said what do you handle, and I told him I was handling crockery. He asked the other fellow what he handled and Louis said dry goods, woollens, silks and that kind of stuff.

Q Was Meisel a truckman also? A Working for a truckman

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but he is driver. This here fellow Harry Goldberg was --  
he ain't no truck driver anywhere.

Q What business is he in? A Painting business.

Q Didn't he have a pool room? A Yes, sir.

Q He was not running it at that time? A No, sir.

Q What did the defendant say if anything? A He asked  
Louis Meisel --

Q After he asked you what business you were in what did  
he say? A He said it was a good idea, he gave us the idea  
to get the stuff from these places; he told us he should call  
up on the telephone and find out if we arrived yet, if the  
other truckman arrived yet, like this fellow, the fellow  
who worked for a truckman.

Q Is that what he said to you? A Yes, sir.

Q You may state it.

MR. COHEN: Objected to.

Q A little louder. A He said "Go up to the place  
there, this truckman where Meisel was working and get some  
goods. The truckman goes to take the goods in the morning and  
this fellow Meisel knows exactly the time they get there and  
so he called up and told him he is coming and then instead of  
him coming there he got the goods. So Meisel and I we made up  
this all right together to go over, and so Doc was getting  
the truck -- Doc Cohen said to meet him in the morning at  
Water street to get the truck and he went down to Water  
street to tell a Polish fellow where we could get that truck

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and we got that truck that morning.

Q Leisel, you, Harry Goldberg and Cohen had this talk in front of No. 1 Norfolk street? A 1 Elizabeth street, yes.

Q You say something about getting a truck? A Yes, sir.

Q What, if anything did the defendant say about the truck?  
A He said after I was to go down to Water street and Montgomery and we will get a truck there, meet him there and we will get the truck.

Q Now, did you meet him there? A Yes, sir.

Q The next day? A Yes, sir.

Q Where is this stable that you speak of? A Between Water and Gouverneur streets, that is to meet him on Montgomery and Water streets.

Q How far away from your stable is that? A Only one house from the stable.

Q What time did you meet him there? A Half past, a little after seven, not exactly half past seven.

Q That was the day on which you were arrested? A Yes.

Q Was Leisel there? A Yes, sir. He was there.

Q Was he there at the time you got there, who got there first as far as you could see? A He was there first before us.

Q Cohen was? A Yes, sir.

Q Where was he inside or outside? A Outside the stable.

Q On the sidewalk or where? A On the sidewalk.

Q You had a talk with him, did you? A Yes, sir.

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Q At that time? A Yes, sir.

Q What did he say to you? A He said he would get the trucks right away, and then Meisel came along.

Q He joined you? A Yes, sir.

Q Now was Harry Goldberg there? A He was-- after Moe Cohen went away he came down the run where you go up for the horses, he just happened to come down. I suppose he couldn't find the horses there, and after we go up.

Q He came down the runway from inside the stable? A Yes, sir.

Q That is the first you saw of him? A Yes, sir.

Q As he came from inside the stable? A Yes, sir.

Q What, if anything, did the defendant say about the truck there at that time? A We will get the truck, the Polish fellow there -- we got the truck from this fellow.

Q Where do you mean, at the stable or right in front of it? A He brings out the horses and wagons and hitch them up in the morning.

Q Was he connected with the stable? A This Polish fellow

Q What did the defendant tell him? A To give us fellow the horses, me and Harry Goldberg.

Q Were they given to you? A They were put outside and he went away and then, at the time that they were put outside--

Q What was put outside? A A one horse truck.

Q A single horse truck? A Yes, sir.

Q A single horse truck? A A single wagon and horse.

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Q A single wagon? A Yes, sir.

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Q What kind of a wagon was it? A A top wagon.

Q A covered delivery wagon? A Yes, sir.

Q Who hooked the horses up? A The Polish fellow hitched them up.

Q When Cohen had spoken to him? A Yes, sir.

Q Now after that talk what time was it when you got through with that operation, was it half an hour? A About half an hour.

Q Well, that would take you up pretty close to 8 o'clock when you left there? A Well around that time.

Q Who got on the truck? A You mean --

Q Who drove the truck? A The open truck?

Q Yes, the open truck? A Harry Goldberg.

Q Who rode in the single horse and wagon, the delivery wagon? A Mr and Louis Weisel.

Q Did you keep close together? A Yes, sir, not far apart.

Q Where did you go? A We went to 13th street and 4th avenue where Harry Goldberg got off, I got off and Louis Weisel went on the truck.

Q You mean the open truck? A The little truck.

Q Weisel got off the little wagon? A Yes, sir, Weisel got off the little wagon.

Q Where were you? A I was right behind him.

Q How far away? A About a half a block away.

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Q Did you come to a stop? A Yes, sir.

Q Meisel got down off the wagon? A Yes, sir. 92

Q And went over to the open truck? A Yes, sir.

Q What did he do then? A He went to the open truck and took the truck up there, over to Bischoff and Harris's place at 56 East 13th street.

Q Could you see where he went? A Yes, sir.

MR. COHEN: I object to that as incompetent. I object to it unless it was in the presence of the defendant. He can only testify to some suspicion that he had.

THE COURT: He may state where he went, if he knows.

Q Did you see where Meisel went? A Meisel went up on the truck, and he went back to--

Q Yes or no. A Yes, sir.

Q Where did he go?

MR. COHEN: I object to that as immaterial unless in the presence of the defendant.

THE COURT: I will allow if he knows.

Q Where did he stop? A He stopped at 56 East 13th street, right in there next to these people.

Q What is that a loft building? A Yes, sir, a loft building with a store downstairs of this firm.

Q What firm has a store downstairs? A Bischoff & Harris.

Q Meisel had been employed as a truckdriver by the same man who employed you? A Yes, sir.

Q What was the name of the man who employed you?

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Q Now before this day on which you were arrested did you see Meisel drive up to Bischoff & Harris's place of business?

A He did work for Taylor & Rosenagle.

Q Had you worked there at the same time that he did?

A Yes, sir, I worked there at the same time that He did.

Q Did you work any other place together? A Yes, sir; worked for other truckmen too.

Q Who did the trucking for Bischoff's firm? A Taylor & Rosenagle.

Q Had you carted for them before? A No, sir; never carted for them.

Q Had Meisel? A Yes, sir, Meisel did.

Q Meisel disappeared into the building? A Yes, sir.

Q Did you go into the building? A No, sir.

Q Where did you remain? A I remained about a half a block away from there.

Q Did you see where Harry Goldberg was when Meisel went into the building? A Well Meisel took the the truck from Harry Goldberg and Harry walked alongside of him to go over, to give him a help to get the goods on.

Q Did you see Meisel and Goldberg go there? A Well, you see this here fellow Meisel took and got the goods on his truck and drove away from the place.

Q Did you see them put the goods on the truck? A Yes, sir.

Q You saw them bring the goods out? A Yes, sir.

Q How many cases were there that you remember? A Three

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cases and two packages.

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Q Brought out from the building in which Bischoff had his store? A Yes, sir.

Q Placed those on the single truck? A Yes, sir, a single open truck.

Q Now, who drove thr truck away? A Louis Meisel drove the truck away, for about three blocks.

Q In what direction? A In the direction going west.

Q What did you and Harry Goldberg do? A Mr and Harry Goldberg went in that little wagon what we had about half a block away from Harris's place and then we drive in the same direction as he did, we had a little lead on him, and he hollered somebody is trying to--

Q You did not have the truck with the three cases and the two packages? - A No, sir; I was in front of them.

Q Were you in front of them? A Yes, sir, because I had a lead of a half a block away when I seen them coming--

Q In what direction did you and Harry go? A Went around the corner and he was going west on Broadway to get to the corner of Waverly Place and there I saw him on the corner of the street.

Q And where did you go? A After we was there so Louis Meisel was driving that truck, and he told him to go to Irving Place, and after they got to Irving Place he hollered somebody is on his way-- Taylor and Rosenagle had another truck they sent there, and if they heard there was another

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truck when he got to the place, he had his loaded up already. Meisel had the three cases and the two packages on his truck of Taylor & Rosenagle and he backed into the same place where Meisel was getting the goods from. So Meisel just happened to get away while this other fellow was getting off his truck, he was a lame fellow who drove that truck and it takes a cripple pretty long to get off the truck and he went over and jumped on his truck and rode away and he hollered to us fellows me and Harry Goldberg that somebody is behind him. So Harry Goldberg jumped off the truck and took the lines off Louis Meisel and Louis went into my wagon and Harry Goldberg drove down to 1 Lafayette street where we met him there.

Q Where did you stop the delivery wagon? A At Grand and Lafayette streets.

Q On the east or west side -- was it towards the East River  
A Towards the west side.

Q Where did the truck with the three cases and two packages go? A Towards 174 Lafayette street.

Q What did you see Meisel do after the truck stopped in front of 174 Lafayette street? A After the truck stopped at 174 Lafayette street me and Meisel went and got off the wagon and went around to 174 Lafayette street. I went upstairs and Meisel and Harry Goldberg was taking the goods off already.

Q On what floor? A I cannot exactly remember, I guess it was the fourth floor.

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Q Where did you put them? A There was another man upstairs there, and he told us to put it into the second loft there, a partition there.

Q Was there any sign<sup>up</sup> on the loft where the partition was? A I didn't see no sign.

Q Who was there when you took the goods up there? A When I took the goods up there were some man there..

Q Do you remember his name? A When he was arrested I heard his name was Kurinsky, Louis Kurinsky.

Q He was there? A Yes, sir; he was arrested with us.

Q Was he there when you took those three cases and two packages and brought them into the elevator? A Yes, sir.

Q Was Furinsky there? A Yes, sir.

Q Did you have any papers? A Papers, yes, sir,-- Harry Goldberg had the papers because weisel give him the papers when he took his place on the wagon.

Q What did Goldberg do with the papers? A Harry Goldberg gave them to Furinsky.

Q Did you have those papers in your hand? A No, sir.

Q You say there was a partition in the loft? A Yes,

Q Was it in the rear or the front of the loft? A In the rear.

Q Did you go into that enclosed place, did you go through the partition? A Yes, sir. the last time coming

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up with the goods there Harry and Meisel came up with the goods they came in there and were leaving them down with this fellow Louis Kurinsky, he assisted, and they were bringing the goods in that little loft there.

Q Did you leave the goods within the partition? A You mean inside of it? Yes.

Q You brought the goods inside the partition? A Yes.

Q Who opened the door? A Louis Kurinsky.

Q Was Moe Cohen there at the time? A No, sir.

Q Where did you go then? A After that this here fellow Meisel says to this Kurinsky, "How about the money".

Q Cohen was not there? A No, sir; not at that time.

Q Did you see the defendant there at any time that morning in that loft? A I seen him there the second time I was bringing a load.

Q You and Harry Goldberg and Meisel went off and got another load of merchandise? A Yes, sir.

Q From what place? A From Ferguson, 625 Broadway.

Q You brought that load back?

MR. COHEN: I object to that. It is not charged in the indictment, your Honor.

THE COURT: I will allow it.

Exception.

Q You brought that load from Ferguson's back to 174?

A Yes, sir.

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Q What did you do with the truck, was it on this same truck? A Yes, sir, on the same truck because it was empty when we went to get the goods.

Q What did you do then? A Brought the truck with the goods in front of 174 Lafayette street when Harry Goldberg went upstairs first and then Harry Goldberg did not come down so Louis Meisel went up there and I was the last man that went up there, and I saw Mr. Cohen with Kurinsky.

Q When you go up there whom did you find up there? A The detective.

Q And who else? A Cohen and Kurinsky, and some fellow by the name of Liebensart was up there and I came there, I was the last man up there in that place.

Q Did you hear the defendant say anything while you were up there on that second trip? A He couldn't say anything up there, the detectives was up there and he couldn't say anything.

Q Did the detective say anything to him in your hearing, ask him any questions and so forth? A No, sir, I didn't hear any questions. The detective went through his pockets and searched them and took the receipts out of Joe Cohen and Detective Reilly said, "I had the receipts there", that is wrong-- that ain't right -- because--

Q I show you People's Exhibit No. 2, and ask you if you have ever seen these papers before? A I didn't have any papers, but the papers from Bischoff & Harris was taken out of-- papers like these taken out of Joe Cohen's pocket because he

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was on the second trip, and Kurinsky gave me these papers--

Q You have been convicted before this time? A Yes, sir.

Q Before pleading guilty in this case you were convicted before? A Yes, sir.

Q Of what crime? A Grand larceny in the second degree.

Q Were you punished for that? A Yes, sir.

Q Where? A Elmira Reformatory.

Q Sent to Elmira? A Yes, sir.

Q Kept there for thirteen months? A Twelve months and twenty days.

Q Referring to the talk or meeting that you had with Mor Cohen on the afternoon before you were arrested did you go to a saloon with Cohen? A That afternoon? No, sir.

Q In the morning? A No, sir, I don't remember going to any saloon.

CROSS EXAMINATION BY MR. COHEN:

Q Now raise your voice. A Yes, sir.

Q William, that is your name William Goldberg? A Yes.

Q How old are you William? A 23.

Q How many times have you been convicted? A I didn't get you that time.

Q Did you get that question? A I didn't get that question.

Q How many times have you been convicted? A Once.

Q This time what did you do? A I pleaded guilty to grand larceny in the second degree.

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Q So you have been convicted twice, isn't that right?

A I don't know what you would call it, I think you would call it twice.

Q What were you convicted the first time for? A Grand larceny in the second degree.

Q What did that consist of?

MR. McQUAID: I object to that as immaterial, may it please the Court.

THE COURT: I shall exclude it. Now you have the fact that he was convicted of grand larceny in the second degree.

MR. COHEN: It is cross examination. Your Honor won't permit me to interrogate him as to that?

THE COURT: You have established the conviction. I am not going to let you go into the facts of that case. That has already been passed upon.

Exception.

Q Now did you ever know Cohen the defendant at the bar before? A No, sir; never noticed him, no, sir.

Q When was the first time you ever knew him? A One day before the arrest, Harry Goldberg gave me an introduction to this man.

Q Harry Goldberg is who? A The defendant for the trial here.

Q He was one of the defendants and he has been convicted in this case? A Yes, sir.

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Q Pled guilty? A Yes, sir, pleaded guilty.

Q After a trial? A Before a trial.

Q Which one of you went to trial, you or Harry? A I went to trial.

Q You went to trial? A Yes, sir, but I didn't stand trial because it was my lawyer told me not to stand trial.

Q That was after Harry Goldberg and Meisel had testified against you? A No, sir; only Harry Goldberg came here and said that.

Q This was when that you met the defendant? A I met him one day before the arrest between three and four o'clock.

Q This man (referring to the defendant) A Yes, sir.

Q How did you come to meet him? A Harry Goldberg took me and Meisel, Louis Meisel --

Q What is that? A Me and Louis Meisel around to 1 Elizabeth street.

Q How was it brought about-- did you have a meeting with Meisel and Goldberg before that? A I had a meeting around at Monroe street.

Q What is around on Monroe street? A Well Harry Goldberg used to have a pool room on Monroe street.

Q Oh, I see. This appointment was made between you, Meisel and Harry Goldberg for this pool room, is that right?

A In the pool room, yes, sir.

Q When was the appointment made by Cohen? A That do

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mean by Cohen? I don't understand what you mean by Cohen?

Q By this man, the defendant? A When we were supposed to meet him?

Q Yes. A Supposed to meet him the day before - was arrested between three and four o'clock.

Q Did you meet him? A Yes, sir.

Q Where did you meet him? A Right in front of his place there -- he wasn't there -- some young lady downstairs I spoke with her.

Q Did you know where she sent for him to? A No, sir.

Q What was the place of business in Elizabeth street?

A Clothing business.

Q Who was there? A Between three and four o'clock in the afternoon.

Q Who was there? A His sister was there and she sent for him; it may not be his sister; that is what they said it was his sister.

Q Who did you see? A Somebody just came there.

Q Would you know her if you saw her? A I don't know, it is eight months, I don't know if I could recognize her, if I seen her, eight months you know, this is the first time I was around there.

Q The first time you were in that street? A Yes, sir, the first time I was in that street.

Q In that place? A Yes, sir, Elizabeth street.

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Q How long were you there before the defendants there?

A About twenty minutes.

Q She went away for about twenty minutes? A I don't know where she went. She called him, she got him and he was there; she didn't go downstairs in the store, we inquired for him and she went out through the basement or the side door, I don't know what she done.

Q What kind of a day was this? A What kind of a day?

Q Was it Monday, Tuesday-- raining or snowing that day?

A Before the arrest, I don't know whether it was raining or whatever it was, I can't exactly remember, if I could remember things like that --

Q Why do you fix it on Monday? A Because we were arrested the next day. We went to go to get the goods, and that is why I fix it that day because it is right.

Q Did you talk to him? A I talked to him and Harry Goldberg gave me an introduction to this man here.

Q What did he say to you? A I don't know what he said exactly, the exact words but Harry Goldberg said to him and he asked me--

Q Who asked you? A Moe Cohen asked me what was I doing or driving and he asked the same of my girl.

Q How did he come to ask that? A Harry Goldberg told him I was working for a truckman, Harry Goldberg ain't no truckman.

Q As near as Harry Goldberg said there was introduced

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you and told him you were working for a truckman he immediately asked you what your business was? A What kind of goods we handled.

Q What kind of goods you handled? A Yes, sir.

Q What did you tell him? A I was handling crockery.

Q Were you handling crockery? A Yes, sir.

Q Who were you handling crockery for? A For Casein the truckman.

Q Who is he? A A truckman.

Q Where is his place? A This man had lots of goods, this man that me and Weisel worked for -- Weisel handled silks and I washandling crockery.

Q You were driving for him? A Yes, sir.

Q What is Casein's business? A truckman? A A truckman. I am just telling you. I ain't hard headed. You know I am kind of hungry, that's all.

Q What did you say to him? A My wife didn't send no money up to eat today.

Q Casen is a truckman where? A Front street.

Q Front and where? A Between Jackson and Scannell streets.

Q Is that anywhere near his place that you got the truck from? A Near the place.

Q Yes. A Might be about four blocks away.

Q Who knew this truckman? A Louis Weisel knew this truckman that had a bunch of stuff, as you go around shaping

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for a job, as an extra man, you get hired for one day or a couple of days if he has got work. I was extra and I was hired from over there. 105

Q That is where Louis Meisel was working? A Yes, sir.

Q Did you ever try to get a job through this man on Water street? A No, sir.

Q Sure about that? A Yes, sir.

Q What is his name? A I don't know his name.

Q You say you don't know his name? A I know I didn't do no work for him; I had nothing to do with it.

Q Did you bring Harry Goldberg there? A You go a big mistake if you say that. I am trying to tell you you are wrong about that.

Q What is that? A I am trying to tell you you are wrong about that. I didn't bring Harry Goldberg over there.

Q Did you bring Meisel there? A No, sir.

Q You don't know who paid for it? A No, sir.

Q Who got the truck? A What do you mean?

Q Did Harry get it or you get it? A You mean who took the truck out of the place there?

Q Yes. A Well, me and Meisel and Harry took the truck out of the place there.

Q The three of you took the truck out of the place?

A Yes, sir, we were outside driving it away. That is what I am trying to tell you.

Q You don't know who paid somebody for that truck?

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A No, sir.

Q You don't know the man's name? A No, sir, I don't know the man's name.

Q You don't know who owns the place? A I am just telling you about this place on Water street.

Q Maybe this will refresh your recollection, is it A, Block. You know Block, don't you, do you remember? A No, sir, I don't remember Block,-- I drove crockery, for Block-- no use talking to me-- I worked for Casen and I drove crockery for Casen.

Q Do you know Block? A No, sir, I don't know him.

Q Is that the place where this truck was taken from? A I don't know if that is the name of the place; I know it was taken one house from the corner there, there is a stable I don't know if it is Block, I don't know the name.

Q Now you and Harry had been pretty good friends, hadn't you? A By sight.

Q What do you mean by sight? A Harry and I was born and raised up on the east side.

Q So was Harry? A I don't know if Harry was born there.

Q But he was raised up there? A I suppose he was.

Q The three of you were pretty good pals, weren't you?

A No, sir, I know Meisel by Casen there, Casen, the truckman but Mr. Casen only gave me a day's work, that is all, a day and I suppose he must have heard he ain't got no work for us then so he laid me off, that is how it was, he took me in

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and put me on a truck and if he has nothing to do he paid me off.

Q You and Meisel were in the Tombs prison since you have been locked up? A You mean me?

Q You talked together? A I only seen him-- I met that Meisel but I don't talk to him.

Q Why is that because he testified in court against you here? A He testified? If you want me to bring out those facts you ask me a question like that? He didn't testify against me.

Q Meisel did not? A No, sir. He claims that Cohen met him one day afterwahe pleaded to grand larceny in the second degree when this Moe Cohen wanted to give him a thousand dollars to stand trial and I didn't want to talk to him.

Q You have been a witness in this case of Meisel? A Yes.

Q A witness? A Yes, sir.

Q In the case against Meisel? A Yes, sir.

Q Didn't you testify in that case? A Yes, sir.

Q In that case did you testify that you and Goldberg Harry Goldberg had made an arrangement in front of his pool room to go and get some goods? A No, sir,-- yes, sir, we made an arrangement to go and see him the day before we was arrested, to see this man Moe Cohen.

Q Whom you never knew? A Yes, sir.

Q Harry introduced you? A Yes, sir.

Q Now, I asked you whether you did not see each other

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and talk in the Tombs since you have been locked up, you and Harry? A Well--

Q You also talked to Weisel? A When you go downstairs from upstairs to go to Part IV, you are handcuffed to the other fellow for Part IV and that is all there is about it.

Q Didn't you discuss your testimony what you should testify to in this case against Cohen? A No, sir.

Q Haven't said a word about it to Harry? A No, sir.

Q Harry hasn't said anything to you? A No, sir.

Q Nor Weisel? A No, sir.

Q Is that right? A That's right.

Q Now you were arrested on the 24th, is that right?

A Yes, sir.

Q When you were arrested you did not tell the District Attorney that Moe Cohen and you had an appointment that he was to get some goods to meet you? A We didn't have a chance with the District Attorney.

Q Did you yes or no? A No, sir, I didn't talk with the District Attorney.

Q You didn't tell any one about Moe Cohen until after you had taken a plea, isn't that right, after you had testified in court? A Yes, sir, after we had taken the plea.

Q Were you promised anything for testifying? A Promised? Nobody is giving away things of this kind here.

Q You expected it, didn't you? A Expected what?

Q Didn't your lawyer tell you? A My lawyer just-- said

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"stand trial", and I stood trial and then cop a plea and I copped a plea, they tell me to let down and I am putting this fellow in and I don't know.

Q You didn't know anything about it, you did what your lawyer advised you? A That is the lawyer's business. If the lawyer tells you he has a chance to fight the case he will do it.

Q Did he tell you there was a chance if you testified against Cohen you were liable to help yourself in your imprisonment? A No, sir.

Q Didn't say a word to you? A No, sir, I testified against him. I am not going to say anything to send an innocent man away if he was not the responsible party, was not with the goods and they identified him-- he is locked up in the Tombs now and the man didn't know anything about it at all; he was not there, and that is why we pleaded guilty to get that man out, and put the right man in to it; that is all there is to it.

Q You worked for the very man from whom you took these goods? A I didn't handle these goods.

Q Did you take the goods along with Weisel and Harry Goldberg from the very man you worked for at first? A That I worked for?

Q Isn't that how you came to go there? A Yes, sir.

Q You three got together because you knew that concern?

A How did we get together? That's the thing.

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Q I am asking you that question? A Say it over again.

Q The fact is you worked for this very concern? A I worked for the concern but did not handle them kind of goods.

Q Now when you got there to this place in Lafayette street where you brought some of these goods up-- you said you met there where you delivered the goods? A What time do you mean the first time or second time?

Q The first time you were there-- you were only there once when you delivered the goods there? A I was there twice, I go up twice there.

Q The first time? A We met Louis Kurinsky.

Q And Louis Kurinsky was the man that you gave the receipts or bills of lading to-- that you claim was there?

A I didn't give him no receipt at all.

Q Harry Goldberg you said gave them to him, didn't you?

A Harry Goldberg gave him the receipt.

Q Those you claim were taken from Cohen, is that what you have testified to? A Yes, sir.

Q You saw him give them to Kurinsky? A Yes, sir.

Q No mistake about that? A No, sir, no mistake about that.

Q The mistake was-- A Did Moe Cohen have them for a mistake?

Q Did you see them? A I seen the detective Reilly, take them out of Cohen's pocket.

Q Did you see him? A Yes, sir.

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Q Take them out of Cohen's pocket? A Yes, sir.

Q Did you testify on your direct examination in the case of Meisel that you saw any one take the papers out of Cohen's pocket. Did you testify to that? A Well, I don't remember if I did testify.

Q Would your testimony refresh your recollect. Look through your testimony.

MR. COHEN: You can see this is an accurate transcript.

THE COURT: I won't allow him to look at the testimony. You may inquire from the record.

MR. McQUAID: Bring out any question that was asked the witness on that point.

BY MR. COHEN:

"Q Did you find anybody there when you got upstairs? A. I found a man there.

Q. Do you know his name? A. His name is Louis Kurinsky.

Q. Did you see Harry Goldberg hand the papers People's Exhibit 2 to Kurinsky? A. Yes, sir, he handed them to Mr. Kurinsky.

Q. Was that in the presence of Meisel? A. Yes, sir, that was in the presence of Meisel. "

Q That is the testimony you gave? A. Yes, sir.

Q Wasn't that the only testimony you gave with reference to these papers? A That he handed them to Louis Kurinsky the first time, but I am telling you that they took, the Ge-

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detectives took the same papers from him, this man right there.

Q When did they take those? A At the second trip.

Q When was that? A When we brought the Ferguson load, from Ferguson's up to Moe Cohen's place there right in front of 174 Lafayette street. We had a load of goods downstairs in the street and Harry Goldberg went upstairs and he didn't come down so quick and so Meisel went up and I followed Meisel up there and we was all arrested there. So Moe Cohen was standing there and the detectives came up and went back in there and they searched him and searched me too, and they found I had a license in my pocket, a chauffeur's license that is all I had there, and they took the papers out.

Q You had something made up as soon as you were arrested in this case? A If I could make up things I would not be in a place like this, but I couldn't make up no things.

Q What did you say to the officer when he questioned you when you came up there? A Well, the officer was asking me what was I doing in here, and I told him I came up to get some goods.

Q That is all you told him? A Yes, sir.

Q Is that right? A Yes, sir.

Q Wasn't this what you said to him, "What did you say to the officer when he questioned you as to anything being left at the Lafayette street address? A. To the officer, I was speaking to the officer and he just asked me what I was doing here, and I said I came up to get some goods."

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head I should get an alibi-- I came up here -- I said I came up here for some goods. I didn't say how I got the goods, I said I came up here for some goods."

A To get some goods.

Q Is that right? A Yes, sir.

Q That was a lie, wasn't it? A Well, at that present moment it was a lie.

Q Was it the truth at any other time? A I told my truth after I pleaded guilty.

Q Did you tell it then? A You are trying to choke a fellow here.

Q I am trying to test your credibility? A I don't know what you mean by credibility.

Q But when you told that to the officer you told an untruth, didn't you? A At that present moment I did.

Q Did you tell the truth at any other moment? A I didn't, not to the officers.

Q Did you ever tell the officer that you came there at the suggestion of Mos Cohen or Kurinsky? A I had nothing to tell the officer; I didn't say anything to the officer at all only at that moment; that is all I told him.

Q Did you ever tell the officer that you had an appointment with Mos Cohen at any time? A I didn't say anything to the officer.

Q Did you ever tell anybody, in court or out of court, or

to the officer when you were in the courtroom, or to the officer

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questioned you-- did you tell him that you had an appointment with Moe Cohen, that you brought these goods up at the suggestion of Cohen? A What do you mean?

Q When the officer arrested you there, that is the only time you spoke to him? A I didn't say anything to the officer.

Q Didn't you tell us you did? A I am just telling you what I told him in the loft after I got arrested, I am telling you I didn't speak to the officer after that at all.

Q That is the only time you did? A Yes, sir.

Q Now that you concede is untrue, isn't that right?

MR. McQUAID: I object to that as having <sup>been</sup> gone into at least three times.

Q Now when you brought the goods up there you spoke to Kurinsky, didn't you? A I spoke to Kurinsky?

Q You spoke to him and you wanted to get paid for them?

A I wanted to get paid?

Q You and Harry and Weisel, did you want to get paid?

A I suppose we wanted to get paid for them.

Q You said that to Kurinsky? A I was not the one that was to speak; I tell the truth because I pleaded guilty to grand larceny in the second degree, it is nothing to me; I ain't getting a thousand dollars for my bail.

Q Didn't you start to tell this jury when the District Attorney interrupted you and said, "We don't want the conversation in the absence of Cohen"? A Yes, sir, he asked for

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the money.

Q You asked it from Kurinsky? A Asked Kurinsky when we first met him for the money?

Q Didn't you just tell the jury he asked Kurinsky for the money? A I cannot explain myself so well.

Q Wasn't that all-- you would like to get Cohen in trouble here? A I would like to get him in trouble?

Q Like to see Cohen convicted? A No, sir, I wouldn't like to see my own brother convicted.

Q Did you send your wife to Cohen's family to get money after you were arrested? A My wife and Louis Meisel's wife went to Cohen.

Q You didn't get the money, did you? A He promised to get us out on bail.

Q Did he get you on bail? A Ask me some more questions. I have got to tell the truth. I sent her, me and Meisel and Harry Goldberg sent her to try to get us out on bail.

Q Did he get you out on bail? A He didn't want to-- when he was in the place he says, "Just keep still". He wouldn't say anything like that.

Q Then down where? A In Headquarters; he told us to keep our mouth shut, and that is why we didn't testify against him.

Q Then did he want you to keep your mouth shut? A The morning we were arrested.

Q After the officers had gone into the lot? A After

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the officers got us in the loft and they arrested us and put us down there; they brought the goods in front of the place and they put us down in the Headquarters, in a cell.

Q Where was the truck at that time? A 174 Lafayette street.

Q There was Cohen? A He was with us upstairs; he was also arrested in the loft.

Q What did Cohen say to you? A He didn't nothing at that time- at that present moment; when we got locked up in the cell and so he told us that we should keep our mouths shut and he would get every one of us out on bail, and that is why we kept our mouths shut.

Q That is why you kept your mouth shut? A Yes, sir.

Q You were arrested and you were not bailed out by Cohen?

A No, sir; I was not bailed out by him.

Q Did you get money from Cohen? A No, sir.

Q How many times was your family at Cohen's house?

A Only once; I have no family, that is a wife and child.

Q You said you would make him feel sorry for this? A I am not like a hippopotamus or something to make anybody feel sorry, I am sorry myself because I am here; I don't make any people feel sorry.

Q Did you think of that when you committed this crime?

A If I thought of it I would not be in a place like this; it didn't happen to get into my head at that time.

Q Isn't that the reason because Cohen would not give you

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any money or his family or bail you out that you are testifying against him? A No, sir.

Q Isn't that one reason? A No, sir, no reason at all; I got nothing in my head to make money out of this-- until somebody told me he trimmed me up.

Q Why didn't you testify -- the reason you didn't testify against him you tell this jury is because he told you that if you don't say anything against him he will bail you out?

A Yes, sir.

Q Is that right? A Yes, sir, if I don't say against him. If you put it up in different form I will answer it. I can put it up to you in a form that I can answer; I don't know the reason what you mean.

Q Did you tell this jury that the reason you kept quiet against Cohen was that he promised you he would get you out on bail, isn't that right, you told that to this jury a minute ago? A Let me think. If I thought before I would not be in here, I want to think, I made one mistake and I ain't going to make another one, that is what I want to think about.

Q Have you thought sufficiently to answer that question.

A Moe Cohen promised to get us out on bail, every one of us that was up there; he didn't get us out; that is all.

Q That is why you are testifying against him? A Why, I am telling the truth.

Q Now then after Moe Cohen did not get you out on bail

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why did you wait until after you pleaded guilty to testify against Cohen; why didn't you testify immediately against him? A I had so much liberty then at that time, I was out on bail.

Q That is the reason? A No, sir.

Q What liberty? A Yes, sir, I did not have to think anything about it.

Q How long do you know Kurinsky? A I didn't know him at all.

Q Never spoke to Kurinsky before? A No, sir.

Q Never seen him before? A No, sir, never saw him, no, sir.

Q Do you know where Kurinsky is now? A I don't know anything about the man.

Q He was arrested with the rest of the defendants in this case, wasn't he? A Yes, sir, he was.

Q Do you know where he lives? A No, sir.

Q Did you know where he lived? A No, sir; never seen the man before; only seen him when we were arrested.

Q When you came up there, you and Harry and the other man came up there, and gave the receipts that are marked in evidence, People's Exhibit 2, and Harry asked for money--you called him-- what's his first name Kurinsky? A I didn't ask him about about any first name; I didn't know any first name, the last name, he was the man in the loft there; we asked for Joe Cohen and he said Joe Cohen ain't up here now he will send for him. So they sent-- I suppose he sent for Joe Cohen to come and on

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the second trip he was there on the second trip when we delivered the goods.

Q He was sent for by the police, wasn't he? A Moe Cohen was up there when we got there.

Q Who sent for Cohen, do you know? A Louis Weisel, and Harry and me wanted to get the money up there --

Q Do you know who sent for him? A That is what I am trying to get out.

Q You are trying to get at too many things, didn't you tell the jury before that you asked Kurinsky for the money? A Asked Kurinsky for the money?

Q Didn't you testify that Harry Goldberg -- A We asked where Moe Cohen was, he said he wanted the money for the goods. You are trying to say we seen him when we didn't.

Q Did you speak to Kurinsky when you brought the goods up there? A Yes, sir, asked for Moe Cohen.

Q What time was that? A I don't know the exact time.

Q Early in the morning? A In the morning.

Q Did he tell you where to put the goods? A Yes, sir.

Q Kurinsky did? A Yes, sir.

Q You never spoke to him before in your life? A No, sir; never spoke to him before in my life.

Q Harry Goldberg asked for the money? A He asked where is Cohen-- where is Cohen, and that man was going to send for him.

Q Did Kurinsky give you anything in this case? A I didn't

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got no money; I tell you the truth, the idea trying to say I am flush with money at all.

BY THE COURT:

Q Now, what property did you take into the loft in Lafayette street, the property taken from Bischoff & Harris's place? A Yes, sir.

Q You see that property in court? A Yes, sir; I seen it right here.

Q That is the same property that was taken out of Bischoff & Harris's place? A That is the same property taken out, yes, sir.

Q That property was taken up to the loft where you saw Moe Cohen? A Yes, sir.

BY MR. COHEN:

Q When did you see Harry Goldberg last? A When did I see him; I seen him down there-- we were handcuffed..

Q When the last time? A This morning.

Q You and he were together? A Handcuffed together? Yes, sir.

Q Talk to each other? A I didn't talk nothing; wanted to know why we were going down this morning, if we were going down to get sentenced.

Q You didn't know? A No, sir.

Q You have not been sentenced yet? A No, sir.

Q Didn't know what you were coming here for? A No, sir, didn't know what we were coming here for.

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Q Did you talk to the District Attorney any one of them?

A The first time I ever seen the District Attorney is now.

Q Did you talk with anybody? A No, sir.

Q Did you tell him what you were going to testify to. Did you make a statement in this case? A Did I tell him what I was going to testify to? Well, I don't know what you are trying to get at the way you are talking here. Did I talk to the District Attorney or did I testify; I don't know exactly what you mean? Do you mean that I make out a statement what I was going to say to the District Attorney?

Q I am asking you to tell me whether you did or not? A I didn't make no statement to the District Attorney; I told him all about it.

Q Did you tell him you would testify? A Yes, sir; Harry Goldberg made the statement out to the District Attorney and I testified it was true.

Q You also made a statement? A Yes, sir.

Q In the District Attorney's room? A I don't know whose room, this room outside.

Q In another room, yes, sir, in a room.

Q You two were there? A Yes, sir.

Q You and Harry, was weisel there too? A No, sir.

Q Just you and Harry? A Yes, sir.

Q When you spoke to the District Attorney do you know which one it was? A Sure I know which one it was.

Q Who was it? A Dr. Goldstein.

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Q You say Harry made a written statement, and you just simply corroborated what he said, is that right-- you corroborated that which he said? A Yes, sir.

Q Then before you did that you and Harry had spoken together, hadn't you? A Spoken together? Well, if I--just a minute-- let me answer you. If we had spoken together? If we came up and testified against Cohen how could I speak to him, if I spoke to him I could tell him to keep his mouth shut, couldn't I, the same as the defendant told us to keep our mouths shut, and he would get us out on bail. I got proof for that.

Q He wouldn't do it? A Sure he wouldn't do it; he promised, he said there is a man, an attorney here who goes for a smaller sentence and he has given a thousand dollars bail.

Q You never met him before in your life? A No, sir, never seen him in my life.

Q And he told you all this story? A He told it to different people.

BY MR. McQUAID:

Q Who told you about 174 Lafayette street? A Moe Cohen.

Q What is that? A 174 Lafayette street.

Q What did he say on the subject? A He said over there we deliver the goods, he told me that, Harry and Weisel.

Q Told you to deliver the goods where? A 174 Lafayette street.

Q That is the goods were taken from Bitter? A Yes, sir?

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A Yes, sir, from this place that you took the goods from.

Q Cohen told you to take the goods from Bischoff & Harris?

A I am trying--

Q Question repeated. A Moe Cohen don't know Bischoff & Harris.

Q Did you answer a question put by his Honor-- did he tell you to take these goods from Bischoff & Harris, and your answer was yes, from Bischoff & Harris? A From Cohen's place, 174 Lafayette street.

Q Do you remember his Honor asking you a question whether Moe Cohen stated to you or advised you to bring the stolen goods in that place, 174 Lafayette street, told you to take them from Bischoff & Harris's? A Well, he told us where we could get the goods from.

Q Did he tell you to take them from Bischoff & Harris's? A Well, he never worked for any truckmen that goes to Bischoff & Harris; when he said to Meisel, he asked him what firm he was working for, and Meisel said for a dry goods firm and so he told him he has got two houses, and this house Meisel picked out Bischoff & Harris; he didn't pick out Bischoff & Harris.

Q Do you remember his Honor asking you a question whether you went to Bischoff & Harris's on the suggestion of the defendant Cohen, and that he told you to bring these goods? A I understood his Honor to say that the goods came from Bischoff & Harris's.

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Q You didn't mean what you said, is that right? A I don't know exactly.

BY THE COURT:

Q Did Cohen tell you to take any goods that you might get-

A Told me to take them to 174 Lafayette street.

Q He told you to take them to 174 Lafayette street, in what part of the building? A The fourth floor.

Q Did he say whose place it was? A He didn't say whose place it was.

BY MR. COHEN:

Q You didn't talk to Cohen at all that day? A I didn't talk to Cohen.

Q At no time? A Only when down at Headquarters in the basement.

Q When he told you he was going to bail you out? A Yes.

Q And what you are after telling now to his Honor and this jury in answer to questions there is no foundation for that at all? A What do you mean?

Q That is what you said? A Well, now, your Honor asked me if --

Q Whether Cohen spoke to you and told you to bring those goods to 174 Lafayette street? A I was just telling you before starting for these goods, between three and four o'clock in the afternoon he told us about this-- about bringing them to 174 Lafayette street.

Q Told who? A Told Cohen and the man that was with him.

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Q How long were you together if you were together at all?

A I couldn't get that.

Q In Elizabeth street? A It might be three-quarters of an hour.

Q Talking three-quarters of an hour? A Yes, sir.

Q With Moe Cohen? A Yes, sir; I didn't have much conversation with him.

Q You didn't talk with him at all? A I talked to him there.

Q What did you say to him? A Well, what do you mean what I said to him?.

BY MR. McQUAID:

Q Did you tell him what kind of goods you carried? A He asked me what kind of goods I carried, and I told him crockery and the other fellow told him dry goods. You can find out if it isn't true. The other fellow is sorry he didn't testify to the truth.

Q You three were together there? A Yes, sir? A Yes, sir

Q And had a talk between the three of you? A Harry Goldberg did most of the talking.

Q He knew him? A Yes, sir.

HARRY GOLDBERG, a witness for the People, being duly sworn, testified as follows:

(The witness states he lives at 236 Madison street.)

DIRECT EXAMINATION BY MR. McQUAID:

Q You are one of the defendants in this indictment on which

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Moe Cohen is being tried? A Yes, sir.

Q You pleaded guilty to grand larceny in the second degree? A Yes, sir.

Q Have you ever been convicted before of any crime?

A No, sir.

Q This is your first conviction? A Yes, sir.

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

Q How long have you known him? A Before we were arrested.

Q Did you see him on that day two days before you were arrested or when was it you saw him? A I seen him two days before we were arrested.

Q Did you have a talk with him? A Yes, sir.

Q What did he say -- where did it take place? A It took place at his store.

Q Where is that? A His father's store.

Q Where is that? A On Elizabeth street.

Q Do you remember the number? A No, sir.

Q No. 1? A I ain't sure.

Q What kind of a store was it? A A clothing store.

Q Were you alone when you talked with him? A No, sir.

Q Who was with you? A William Goldberg and Louis Meisel.

Q Where did you, Meisel and William Goldberg meet? A On Jackson and Madison streets.

Q Is that near where you kept a pool room? A Yes, sir.

Q What time was it? A About 1 in the afternoon.

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Q What time was it you got over to Moe Cohen's place?  
or his father's place? A Between two and three, three and  
four, I ain't sure.

Q Are you sure that was two days before or might it not  
have been one day before?

MR. COHEN: I object to that as cross examining his  
own witness.

THE COURT: You listen to the questions and answer  
them. I am not going to spend too much time on this case.

Q Was it the day before you were arrested or two days be-  
fore you were arrested?

THE COURT: Answer the question.

A The day before.

Q The day before? A Yes, sir.

Q What talk did you have with Cohen when the three of you  
met, who was the spokesman for the three of you? A I was.

Q You had met Cohen before that? A No, sir, that was  
the first time I had met him.

Q The first time you met him? A Yes, sir.

Q Who did the talking for you three? A I did.

Q What did you say to him and he to you? A Asked him  
if he received stolen goods, and he said yes, and I told him I  
will have something for him the next morning, you give me the  
place where to drive to, and I will take it up there.

Q What place? A Lafayette street.

Q The number? A I don't know.

Q What time? A I don't know.

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Q Was it 174? A I know it was between Grand and Broome.

Q Grand and Broome streets? A Yes, sir between grand and Broome.

Q Did he tell you the floor? A Yes, sir, the third floor.

Q Wasn't it the fourth floor? A Well three flights up, it is three stair cases.

Q That would be the fourth floor when you get to the top?  
A Yes.

Q Did he tell you what place to put it in up there? A He told us to bring it in and ask for Moe and just leave it in there and we did.

Q Meaning Moe Cohen? A I suppose he meant him.

Q Now how about the truck, was anything said about the truck to get the goods there? A I don't know, William Goldberg told me about that, I don't know.

Q Well, did you get the truck? A Well, we did get a truck load of goods.

Q Where did you get the truck? A From Bischoff & Harris's.

Q What did Cohen say about the truck, if anything? A You mean the goods on the truck?

Q This afternoon between two and four, somewhere around there you say the three of you met Cohen? A Yes, sir.

Q What, if anything, was said about getting a truck. Did you have a truck? A No, sir.

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Q Did Weisel have a truck? A No, sir.

Q Did William Goldberg have a truck? A He told me about it, I suppose he had a conversation with Moe Cohen about it.

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

THE COURT: Strike it out.

Q Well, did you hear? A I didn't hear anything about it.

Q When did William Goldberg tell you about it? A The same night when we met Cohen the same day we met Cohen.

Q Did you go around to that stable the next morning? A Yes

Q Did you go around to that stable the next morning? A Yes

Q Did you see Moe Cohen there? A No, sir.

Q Were you inside the stable? A Yes, sir.

Q Did you see Moe Cohen there? A No, sir.

Q Were you inside the stable? A Yes, sir.

Q Did you come out of the stable at any time? A Yes, sir.

Q Come down the runway? A Yes, sir.

Q Whom did you see outside? A William Goldberg and Louis Meisel.

Q Did you get a truck? A Yes, sir.

Q Was it a double horse or single horse truck? A Two single horse trucks.

Q One covered and the other uncovered? A Yes, sir.

Q Who paid for those trucks? A I don't know.

Q Did you pay for them? A No, sir.

Q Did you see anybody pay for them? A No, sir.

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Q Now who drove the uncovered truck away from the place?

A I did.

Q Who drove the other covered truck? A William Goldberg and Meisel.

Q They were both in it? A Yes, sir.

Q Where did you all go with the two trucks? A Went up to Bischoff & Harris's.

Q Where are they located? A 13th street.

Q Did you drive the truck all the way to Bischoff & Harris'? A Yes, sir.

Q Didn't you stop just before you got to Bischoff & Harris?

A No, sir.

Q Did you know Bischoff & Harris? A No, sir.

Q Are they truckmen? A No, sir.

Q Had you ever carried any goods for Bischoff & Harris?

A No, sir.

Q Now, are you sure you drove the truck right up to Bischoff & Harris' door? A A block away from Bischoff & Harris's.

Q What did you do? A I left the truck and I gave it to Louis Meisel to take it.

Q Where did you see Louis Meisel take it? A Where did you see Louis Meisel take it? A He went into Bischoff & Harris's for the goods.

Q Did you go up there to help him? A Yes, sir.

Q What did you do? A Gave him a hand with the cases on the truck.

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Q How many cases? A Three cases.

Q How many packages? A About two.

Q They were placed on the truck? A Yes, sir.

Q Who drove away from the place? A Meisel.

Q How far did he drive? A About half a block.

Q Then what happened? A I jumped on and I drove the rest of the way over.

Q You drove over to this place in Lafayette street? A Yes.

Q You drove the truck to Lafayette street? A Yes, sir.

Q Did you see what Meisel and William Goldberg did? A No.

Q Ahead of you or behind you? A When I got there they were there before me.

Q What did you do when you drove up to this building in Lafayette street? A We took the cases off and took them upstairs.

Q Did you carry them all the way up? A In the elevator-- took them up.

Q You took them in to the elevator -- what floor did you stop at, the floor you described? A The third floor.

Q Who took them off the elevator? A We did.

Q Whom did you find inside when you stepped off the elevator-- there was a loft there? A Yes, sir.

Q Who did you find in there? A I didn't find anybody in there; we asked some girl there, asked her for Moe?

MR. COHEN: I move to strike that out.

THE COURT: Strike it out.

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Q What did you do with the cases? A We put them inside.

Q Did you see a man there named Kurinsky? A Well, I don't know what his name is. I seen a fellow there, yes, sir.

Q Did you say anything to him or was there anything said to him? A Well, nothing was said to him; I just put the cases in and we left.

Q Anything said about money? A No, sir; we were not talking about money then.

Q What did you do, did you leave? A Yes, sir.

Q Brought around another load of goods? A Yes, sir.

Q Where from? A Ferguson on Broadway.

Q Do you remember the number? A No, sir, I think it is near 8th street.

Q Was it 625? A I ain't sure.

Q Who drove the truck that had the merchandise on it?

A I did.

Q Who went in and got the merchandise? A I did.

Q You brought it around to the same place? A Yes, sir.

Q What did you do there? A When we got back there I walked upstairs and we were arrested.

Q Who went up first, upstairs? A I did.

Q You went up first? A Yes, sir.

Q Whom did you find up there? A I did not see anybody until the detective questioned me and then I seen Lee Cohen standing in the back there.

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Q There was more than one detective, was there? A Yes.

Q Was anybody searched there by the detective in your presence? A Yes, sir, I was searched.

Q You were searched? A Yes, sir.

Q What did they find on you at that <sup>time</sup> if anything? A Some bills of lading and checks.

Q Was that the Ferguson lot? A Yes, sir.

Q It was the Ferguson lot? A Yes, sir.

Q It wasn't the Bischoff & Harris lot? A No, sir.

BY THE COURT:

Q Who gave you the bills of lading? A Bischoff & Harris and Ferguson.

BY MR. McQUAID:

Q Who gave them to you, did you get them from Bischoff & Harris? A Yes, sir.

Q Whom did you give them to? A The first bill of lading I gave that to Kurinsky.

Q That is the Bischoff & Harris lot? A Yes, sir.

Q You gave to Kurinsky? A Yes, sir.

Q Did you give it to him or did Maisel give them to him? A I gave them to him.

Q That was the Bischoff & Harris? A Yes, sir.

Q Are these the papers? A If that was the Bischoff & Harris that must be the papers; it was something like that, the check was there.

Q Was there any order on the New Zealand Steamship Co.

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there? A I didn't notice that; I just put them in my pocket.

Q Did you see Moe Cohen searched? A No, sir.

Q You did not? A No, sir.

CROSS EXAMINATION BY MR. COHEN:

Q When the officer came there he searched all you boys?

A I was searched alone; I did not see what happened to the other boys.

Q Did you see Moe Cohen searched? A No, sir.

Q You came up with Willy Goldberg? A No, sir.

Q Was Willy ahead of you? A I was the first one.

Q You were the first one? A Yes, sir.

Q Willy Goldberg came up the last, is that right? A They came up second last.

Q You came up ahead of Willy? A Yes, sir.

Q When you came up there you found the officers there, didn't you? A Yes, sir.

Q Isn't that right? A Yes, sir.

Q That was on your second trip? A Yes, sir.

Q On your first trip you only found Kurinsky there?

A Yes, sir.

Q Isn't that right? A Yes, sir.

Q And Kurinsky told you where to put the goods, didn't he? A Yes, sir.

Q He told you to put them inside there, is that right?

A Yes, sir,

Q He directed where to put them? A Yes, sir.

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Q After he directed where to put them you gave him these bills of lading? A Yes, sir.

Q Of Bischoff & Harris? A Yes, sir.

Q How much money did you ask him for? A I didn't ask him for anything.

Q Didn't ask him for money? A No, sir.

Q Did Willy Goldberg ask him for anything? A I don't know whether he asked him or not.

Q What did you say to Kurinsky outside of handing him the papers. You did the talking? A Yes, sir.

Q Nobody else spoke? A They might have spoken when I was handling the cases in the back.

Q You say Willy might have spoken? A Yes, sir.

Q You didn't ask Kurinsky for anything, did you? A No.

Q You simply just came in there?-- he knew these cases, didn't he? A I suppose so.

Q How long do you know Kurinsky? A That is the first time I seen him.

Q Did Willy Goldberg know Kurinsky better than you?

A No, sir, he might have known him.

Q Did Willy Goldberg tell you that he knew him? A No, sir, he never said anything about him.

Q You gave him the goods, didn't you? A He said "Is Moe Cohen in--" I supposed it was all right.

Q You did not know anything about it? A About what?

Q About the goods? A No, sir.

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Q About this man Kurinsky? A No, sir.

Q It was simply you gave him the bills of lading and the goods? A Yes, sir.

Q You said nothing to him at all? A No, sir.

Q Outside of that? A Yes, sir.

Q You were arrested immediately after that? A After that first time we went out.

Q Now when you went out you then came back a second time, is that right? A Yes, sir.

Q When you came back the second time who was there then? A Well, when I came up there I seen the detective; that is the only ones I seen.

Q Those are the only ones? A Yes, sir.

Q Was this man Kurinsky there? A Yes, sir, I seen him there.

Q Was Cohen there? A Yes, sir, I seen him there.

Q Who spoke to Cohen, do you know? A I don't know.

Q You know he was sent for? A I don't know.

Q You don't know anything about that? A No, sir.

Q Now you didn't talk to Cohen, did you? A No, sir.

Q At no time at all? A No, sir.

Q The first time I understand, that you met Cohen was when you told us in answer to a question put by the District Attorney -- at first you said it was two days before and then you said it was one day, you wavered about it, is there a doubt in your mind? A Well it is one day before.

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Q Why did you say two days before? A Well I had it mixed up.

Q What made you mixed up? A Well, I was thinking of meeting William Goldberg the day before that and meeting him on the day-- that is what I was mixed up on.

Q Well, Willy Goldberg you had met the day before? A Yes.

Q At your home? A No, sir, Jackson and Madison streets.

Q This pool room of yours, was that in front of your pool room? A No, sir.

Q Willy Goldberg said in front of your pool room?

A About a block away.

Q About a block away? A Yes, sir.

Q It was not in front of your pool room? A No, sir.

Q You had never known Cohen before? A No, sir.

Q Never spoken to him before in your life? A No, sir.

Q How did you come to go to Cohen? A Well, I knew through some friends of mine.

Q Answer the question, A Friends of mine told me that there is a fellow by the name of Moe Cohen on Bayard street who buys stolen goods.

Q Now that is how you happened to know Moe Cohen? A Yes

Q To see Moe Cohen? A Yes, sir.

Q When did you see him? A Well when we met him-- saw him the next day before.

Q It was one o'clock? A Yes, sir.

Q You told this jury? A Between two and three, some-

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thing like that.

Q Did you tell this jury you had an appointment?

(No answer.)

Q Were you a witness in the last case against Meisel?

A Yes, sir.

Q Did you testify in that Meisel case that your appointment was for one o'clock? A Well, I made the appointment for one.

Q To meet Cohen? A To meet there.

Q Did you testify in the last trial that your appointment was for one o'clock? A For one one o'clock.

Q You went down to Cohen 's at one o'clock? A Yes, sir.

Q What is that? A We didn,t get there at one.

Q What time did you get there? A About two or three or later than three, something like that.

Q Now when you met him the next day -- speaking now of Willy Goldberg -- "Where did you go? A. One o'clock in the afternoon" is your answer. Q. Where? A. On Madison and Jackson streets. Q. Where did you proceed? A. Go straight over to Cohen's place." That is what you testified, was that correct? A Yes, sir.

Q It was not one o'clock? A By the time we got there it was later, took an hour,s time to walk there.

Q From where? A Madison and Jackson over to Elizabeth streets.

Q How far is it from Madison and Jackson to Elizabeth

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street? A Well about fifteen blocks.

Q What is that? A About fifteen or twenty blocks.

Q From Madison to Elizabeth streets? A Yes, sir; something like that; I do not count it.

Q That took you an hour? A Well we stopped off.

Q Where did you stop off at? A To buy a glass of soda.

Q Where? A In a candy store.

Q You testified at the trial that you went right over to Cohen's? A Yes, sir.

Q You made a mistake, didn't you, you stopped off first?  
A Yes, sir, we did stop off first.

Q You did stop off first? A Yes, sir.

Q Where did you stop off? A A couple of candy stores, bought some soda, an icea cream parlor we stopped off.

Q Then when did you meet Cohen if you met him at all?  
A That was that day.

Q What time? A Between two and three o'clock; I didn't look at the time; something like that.

Q Was it right after dinner? A Well, I don't know if it was after dinner or before dinner.

Q Well, now as I understood you you never met Cohen before in your life. How did you introduce yourself to Cohen. Willy did not know him? A No, sir.

Q Meisel did not know him? A No, sir.

Q Sure this was Cohen, isn't it? A Yes, sir; I met him there.

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Q Sure that you met him? A Yes, sir.

Q Where did you meet him? A Right near his store.

Q Near his store or in front of it? A Right in front of it.

Q What store has he got there? A A tailor store or something like that.

Q Don't you know? (No answer.)

Q How long did you stay there? A About two or three minutes.

Q That is all? A I didn't stay long.

Q You didn't stay there longer than two or three minutes?

A I didn't look at my watch.

Q About that time? A Yes, sir.

Q It wasn't over five minutes was it, it wasn't three-quarters of an hour, was it? A No, sir.

Q It wasn't half an hour? A No, sir; it was about five minutes.

Q Two or three minutes? A About five, six or seven minutes.

Q In that five minutes what did you say to Cohen? A I told him that some boys told me you buy stolen goods, and he said yes.

Q Told you right out? A Yes, sir.

Q Didn't ask anything about you, didn't question you, but said, "I buy stolen goods"? A Yes, sir.

Q Is that right? A Yes, sir.

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Q Continue the conversation. A He told me he buys stolen goods, that is what he told me.

Q What else did he say? A Well, then he asked me if I got anything.

Q What did you say? A Yes.

Q What did you say? A I said "yes, I will have something for him tomorrow morning", and he gave me the address on Lafayette street.

Q What did he say, he gave you the address? A He said "Any time you have anything bring it up there."

Q Up where? A 174 Lafayette street.

Q What did he say was there, do you know anything about it-- he didn't tell you anything? A He didn't say what it was or anything like that.

Q You didn't know what it was? A No, sir.

Q That was the only talk you had with him, is that right about that? A Yes, sir.

Q Then you went away, is that right? A Yes, sir.

Q You and Willy Goldberg-- was Meisel there? A Yes, sir.

Q Now you haven't any truck, have you, or any livery stable or any place to get a truck? A No, sir.

Q Who was to get the truck? A We were all there--

Q When you say we were all there, what do you mean?

A Me and Willy Goldberg and Meisel.

Q And Meisel? A Yes, sir.

Q Who got there first? A Well, when I got there I

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didn't see none of them.

Q You went in first did you? A Yes, sir.

Q Did you go in and get the truck? A Yes, sir.

Q Did you go in and ask for the truck? A There was a Polish fellow there, and I told him to give me a truck.

Q I see. Did you pay him? A No, sir.

Q You never knew that man before? A No, sir.

Q Never spoke to him? A No, s r.

Q Simply asked him for a truck and he gave it to you?

A Yes, sir.

Q The next time you saw Cohen was where? A Up in the loft.

Q That is the only time you saw Cohen from the time that you saw him the day before as you claim now? A Yes, sir.

Q For five minutes, that is all? A Yes, sir, about five.

Q From that time until the next day? A Yes, sir.

Q At the place when you were arrested? A Yes, sir.

Q You didn't see him before that? A No, sir.

Q Or in the meantime? A No, sir.

Q You and Willy Goldberg -- you were together weren't you? You and Meisel and Goldberg? A We were, <sup>not</sup> together all the time.

Q But practically all the time? A Yes, sir.

Q He didn't know this Bischoff and Harris, did he, Cohen?

A No, sir.

Q He didn't know the place where you got these goods from?

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did he? A No, sir.

Q Whose idea was this about getting the goods? A This was William Goldberg.

Q Willy Goldberg's idea? A Yes, sir.

Q He was the one? A I suppose he was because the place to go--

Q He talked you into it about it being the place, didn't he, this boy Willy Goldberg, didn't he? A No, sir, he didn't talk it into me.

Q Well, he spoke to you about it? A Yes, sir.

Q He submitted the proposition? A Yes, sir.

Q He submitted the proposition to Meisel? A I suppose he did.

Q Did you know Meisel before that? A No, sir.

Q You never knew Meisel before that? A No, sir.

(At this point the Court admonishes the jury and takes a recess until 2 o'clock.)

AFTER RECESS. 2 p.m.

LOUIS MEISEL, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McQUAID:

Q Where do you live? A 89 Sheriff street.

Q Now, Meisel, you are one of the five defendants named in the indictment on trial now with Moe Cohen? A Yes, sir.

Q He is another one? A Yes, sir.

Q And the other one? A Yes, sir.

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Q And William Goldberg is another one? A Yes, sir.

Q And a man named Jack Liebensart is named in the indictment? A Yes, sir.

Q You were tried on this indictment, weren't you? A Yes.

Q You pleaded not guilty? A I was.

Q You went upon the stand and testified in your own behalf did you not? A I did.

Q You lied to protect yourself, didn't you? A Well--

MR. COHEN: I object to that.

Q Did you tell the truth upon the stand? A I lied.

Q Now do you want to tell the truth now? A Yes, sir, that is the whole truth.

Q Well, now, have you ever seen this defendant before?

A I did.

Q Will you tell the jury when and where you saw him? A I saw him on Wednesday about 3 o'clock in No. 3 Elizabeth street.

Q What was that? A Well, it was a -- his father had a store there.

Q What kind of a store? A Second hand clothing, a buyers' store.

Q Were you alone when you saw him? A I went there with William and Harry Goldberg.

Q Was he there when you got there first? A No, sir, he was not there. Harry Goldberg went inside, and we stayed outside by the stoop, from there, and Harry Goldberg went inside and asked if Mac Cohen were in. His sister came outside and

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she said--

MR. COHEN: I object to all that.

THE COURT: Strike it out.

Q Any way he wasn't there. You did not see him there?

A No, sir.

Q How long were you there before you did see him?

A About fifteen or twenty minutes.

Q Then did you have a talk with him? A Well--

Q You were all three there? A Yes, sir.

Q Harry Goldberg, William Goldberg, yourself and this man? A Yes, sir.

Q There were four altogether? A Yes, sir.

Q Did a talk take place? A There was a talk taking place

Q Tell the Court and jury what that talk was? A Harry Goldberg said that he knew a buyer --

THE COURT: Tell what Cohen said or what was said in his presence.

Q Tell us the conversation that took place there when Cohen was present at 3 Elizabeth street? A Cohen said to us, "He buys stolen goods", and he said, that if we could get any goods he will buy it from us; he told us that he would meet us tomorrow at Jefferson-- I don't recollect where it was -- on Water street, there is a stable there and we would meet him down there, I just can't place the street.

Q Did he say what was there? A He didn't say what was there, he said he would come down there. He was down

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there. I went to William Goldberg's house,

Q When the same day? A No, sir, the next day in the morning. William Goldberg said I should meet him at half past six. I got up kind of late, I got to his house at 7 o'clock. I wasn't up; he wasn't there; and all of a sudden William Goldberg came along Madison street, and said he was waiting for me where we were told to meet, and I said, I thought you were upstairs.

THE COURT: Strike that out.

Q We are trying to find out what Cohen said, and where you saw him? A At that stable.

Q What did you hear him say there at the stable? A He said that the Pollack would give us the trucks; he waited there; the trucks came outside and he said, "Do you know where you can bring the stuff to when you get it-- he said 174 Lafayette street, care of Braveman on the fourth floor.

Q That is what Cohen said to you? A Yes, sir, to and to the other two defendants.

Q That was in front of the stable? A Yes, sir.

Q Now what stuff did he refer to? A All that stuff that was taken.

Q Taken from where? A From the two firms Bischoff & Harris, and Ferguson.

Q Now in that conversation that took place in front of 3 Elizabeth street or in Elizabeth street was anything said about the business you were in? A Well, he asked me what did

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I do, and I told him I was a driver, and he said who do you work for, and I told him Charlie Casen, so he says, "Do you ride any good stuff", and I told him-- that means on the truck if I cart any good stuff, and so I said, what? and he says dry goods or anything like that, that is the kind of stuff I buy he says I can always sell it easy, that's why.

Q Did he ask William Goldberg any questions about his business? A Yes, he did ask him and William said he works for the same boss, but he drives a crockery truck for Blocks, 10 Bowery.

BY THE COURT:

Q Did you go anywhere afterwards? A After I saw Cohen that morning when I brought the goods upstairs.

BY MR. McQUAID:

Q Just tell the jury where you went to after you had the conversation with Cohen, you and Goldberg? A We left the store and we all went home.

Q You left who? A Cohen at 3 Elizabeth street from where William went home.

Q What did you do after that? A I went home; I left them there; I walked through Grand street; William lived on the east side of Grand street and I lived on the other side.

Q Was that the day before you were arrested? A Yes, sir, that was the day before I was arrested.

Q Now on the day that you were arrested what place if any, did you go to? A I went to Bischoff & Harris's.

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Q Who went with you? A William and Harry.

Q Did you have a wagon? A We had a single shipping truck, an open truck and we had a wagon.

Q Where did you go to from there? A Well, the place we went I was told to go down--

MR. COHEN: I object to that.

THE WITNESS: We went down to Jefferson street and Water street-- I ain't sure.

Q Is that the place where you saw Cohen? A Yes, sir, I was told to meet him there.

Q Whom did you see there? A I seen -- when I got there I seen Moe Cohen was there, he was standing there and Willy was speaking to him, me and William Goldberg just came up and William spoke to him, and he told us the directions in case we got any goods where to leave them.

Q Who said that? A Cohen.

Q Give us the exact words? A He said "In case you get any stolen goods or such stuff"-- in other words he meant stolen goods--"in case you get any stolen goods bring it up to 174 Lafayette street.

Q What place in 174 did he tell you to take it to?

A On the fourth floor, care of Braveman.

Q Now did you get any goods? A I did; I went to Bischoff & Harris's.

Q What did you get there? A I got three cases and two packages.

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Q What kind of goods were they? A Dry goods I understand; I put the cases on the truck and I signed the receipt there, and I went around the corner and I handed the receipt over to Harry Goldberg and the truck up there too--

Q Where to? A 174.

Q What, if anything was done when you got to 174 Lafayette street? A The cases were taken off and brought up on the elevator to a man named Kurinsky, he was up there and Harry Goldberg gave him the receipt.

Q Into what place were the cases taken? A They were taken in the middle of the loft, and Kurinsky said it was all right, leave them there, he would take care of them.

Q Did you see Braveman's place? A It was an office, when you come up in the elevator it was an office, and I understood that was Braveman's place.

Q Where were the cases put? A Right in the back. I understood it was Moe Cohen's place.

THE COURT: Strike that out.

Q Did you ask Kurinsky where was Cohen's place?

Objected to.

THE COURT: Not what Kurinsky said.

Q You can testify to anything that Cohen said concerning the place the goods were to be taken to? A I brought the goods up and we put them away in the back in a little small place there. I went inside there and I noticed a lot of anten-

the front and the back there, and I said to Kurinsky--

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Q I want you to tell us what you did with these goods?

A Put the goods right back of that door there, a small space, couldn't get the cases inside, I put them right alongside the door.

Q You and two others stole the goods in question? A Yes.

Q When you put the goods in the place which you just mentioned what happened? A Kurinsky said to me-- they asked him where is Moe Cohen.

Q You inquired for Moe Cohen? A Yes, sir.

Q What happened after that?

MR. COHEN: I object to that.

THE COURT: I will let him tell that he inquired for Cohen.

MR. COHEN: But it is incompetent your Honor.

THE COURT: No, it is merely an inquiry.

A I asked for Moe Cohen.

Q After you asked for him you got a response, you couldn't say what it was? A I did.

Q As a result of that response that you got from some one what did you do? A We went to this Ferguson's.

Q What did you do after you got that response?

A After I got that response why I went downstairs with William and Harry.

Q William and Harry Goldberg? A Yes, sir, the three of us went downstairs, got on our trucks and went to Ferguson's place.

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Q Never mind about Ferguson's place. Afterwards, eliminating anything you did in Ferguson's what happened, where did you go? A Well, after we left the loft we didn't go no place.

Q What happened to you then? A Me and William got on the little truck and Harry drove the big truck.

Q Where did he drive to? A To Ferguson's place of business.

Q After getting to Ferguson's place of business where did you go? A We went back to the same place with the goods we got from Ferguson's.

Q What did you do there? A We did not bring the goods upstairs, they were downstairs, and Harry said "We will go on upstairs."

THE COURT: Not what he said now.

THE WITNESS: Harry went upstairs with the receipts in his hand.

Q When you go upstairs did you see Cohen? A Well, when we went upstairs, fifteen minutes after Harry-- when we came up there, Moe Cohen was up there.

Q What occurred when Moe Cohen was there, what you said to him and what he said to you? A The officer s were there and there was nothing said, but there was a search made; they searched me and Willy and Harry and took whatever there was on us; they didn't find anything in our possession, and then they searched Kuzhsky and searched Moe Cohen and officer Reilly

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took from Moe Cohen's pockets the bills of lading which I had received from Bischoff & Harris.

Q I ask you to look at People's Exhibit No. 2 and look at them very carefully? A This is a pick up from Bischoff & Harris which I gave Goldberg, and he gave to Kurinsky.

BY THE COURT:

Q How long was it after you delivered the goods at this place in Lafayette street that the defendant came there?

A That was after we left the first time?

Q Yes. A Well, I couldn't say but we left the first time and we were back inside of three-quarters of an hour.

Q And the defendant was then there? A Yes, sir, the defendant was then there. Me and William went upstairs, fifteen minutes after Harry went up and we found Moe Cohen was up there being questioned.

Q Did Moe Cohen say anything to you? A Well, in the loft there he couldn't very well say anything to me on account of the officer being there.

Q Did he say anything to you any where? A Wehn I got to Headquarters we stood inside to get our fingerprints taken and Moe Cohen went like this (illustrating) everything is all right.

Q He said everything is all right? A Yes, sir.

Q What did you say to him when he said everything is all right? A I didn't answer him.

Q What did he say to anybody else, to the other defendants?

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A Moe Cohen to the three of us. When they took us in Headquarters that night he told us in Jewish that we should not worry, that he will get bail for us, everything will be attended to, we ain't got nothing to worry about.

Q What, if anything, did he say about these particular goods that were there? A He said we should not squeal on him; we need not tell the truth.

Q This word that you say "yes", what does that mean?

A That means "keep still, don't say a word, just keep still, hold your tongue, we that is the understanding of it; I understood what he meant when he told me that.

Q Did you see him after that, did you ever see Cohen after that? A Officer Sheedy came to my house, September 23, and I told him that I was --

Q Was Cohen there? A No, sir.

Q Did Officer Sheedy come to your house? A Yes, sir.

Q Did he say something to you? A Yes, sir, he did.

Q In consequence of that which he said to you where did you go? A On Sunday-- that was Saturday -- I seen him on Sunday, and I went to see Moe Cohen, he was standing across the street from his house, and I told him I had somestuff that was stolen and to get a person to sell the stuff if he could.

MR. COHEN: I object to that.

THE COURT: I will take any conversation that he had with Moe Cohen after the commission of the particular larceny.

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Exception.

THE WITNESS: He said to me to go to three places, he has got a drop and that means a place where he receives stolen goods, one place is on 28th street and one at 353 Grand street, and on account of too many arrests at 28th street we will have to receive these goods at 353.

Q What goods? A What I was to get, when I first delivered up there at 353--

(Stricken out.)

Q What I want to know is what did Moe Cohen say about these particular goods that were taken from Bischoff & Harris'?

A Well, he was going to buy these goods from us.

MR. COHEN: I object to that.

Q Tell us what he said? A When we came upstairs we didn't have a chance to say anything to him on account of the officers being up there, but he spoke to us in Headquarters, and he told us it is too bad it turned out this way, everything would be all right, he went to school with Reilly, he is going to have things straightened out with Officer Reilly.

Q Did he say anything about seeing these particular goods in the place in Lafayette street where he told you to go?

A He was up there.

Q Did he say anything about seeing the goods there? A I don't remember.

Q These are the receipts that you got from Bischoff & Harris? A Yes, sir.

Q Are they pick ups? A That one is a pick up for freight

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on the dock, that is left on the dock.

Q That is you received a paper from Bischoff & Harris?

A That represented a certain amount of goods, a pickup.

Q They gave you these checks in payment for the New England Steamship Company? A Yes, sir.

Q You had those papers there People's Exhibit 3? A Those were Ferguson's, and Harry Goldberg got those, he went up there to get the goods.

CROSS EXAMINATION BY MR. COHEN:

Q You have been convicted before, haven't you? A Yes.

Q What was the charge? A petit larceny.

Q You were sentenced on that charge? A I was.

Q Now in this particular case, Meisel, you were put on trial, weren't you? A I was.

Q You testified in your own behalf, didn't you? A I did.

Q Let me ask you whether these questions were put to you, and did you make these answers?

(Mr. Cohen reads the direct examination of Louis Meisel as defendants in his own case.)

(During the reading the witness states that the name Sullivan should be Hubbs.)

Q (Reading from page 78)" Drank nothing at 11". Was that a lie? A Some of it is the truth-- the part where I don't drink.

Q That is the only part you did tell us that time that you didn't drink? A I did.

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Q So you did meet Willy Goldberg? A When was that?

Q That was Wednesday? A Yes, sir, I did.

Q What time did you meet him? A I went to Taylor on Wednesday to get paid.

Q What time did you meet him? A About one or half past one something like that.

Q Where did you meet him? A I met him on Jackson and Cherry streets.

Q So when you testified here that on Wednesday you were loading rolls of paper that day down on the dock that was false? A A falsehood.

Q That you got five dollars and you went home Wednesday night, that was untrue? A Yes, sir, that was untrue.

Q So you tell this jury that when you testified to that on the witness stand you testified to a deliberate falsehood? A I did.

Q You knew you were telling an untruth when you swore to tell the truth when you gave that testimony? A I did.

Q Why did you do it? A I want to tell you if you give me a chance. I have no lawyer, and his Honor, the Judge said he would appoint a State lawyer for me. I walked outside and that lawyer told me to meet him in the morning and I walked outside and Cohen came over to me.

Q On Wednesday? A Yes, sir, about three o'clock, and he says to me, "Well, how do you make out, are you going to do like you told me, are you going to stand pat", and I said, "Well

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if you promise me something" so he says to me, he says, "Don't worry. You stand trial, everything is fixed up. Reilly went to school with me, it is all fixed up, nothing is going to happen to you."

Q What Wednesday was this? A The Wednesday prior to my trial.

Q Listen to the question and get this correct. You are asked what Wednesday this was? A The Wednesday before my trial.

Q In this court? A Yes, sir.

Q What time was that? A That was two weeks this coming Wednesday.

Q That you went to trial, two weeks ago? A Yes, sir.

Q Were you locked up in prison or out on bail? A Well, that night I was out on bail.

Q You had been on bail all the time? A Yes, sir.

Q Did Moe Cohen furnish bail? A I guess he did.

Q Did he promise it? A Yes, sir, that was the agreement we made.

Q Not what the agreement was, when did you have the talk?

A When I first met him by his store, 3 Elizabeth street, he said in case of any trouble or anything like that he would look after us with bail and everything.

Q That was not after you were arrested? A No, sir, before we did anything wrong.

Q Before you thought of doing anything wrong he already

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told you that? A After we had the talk with him then he told us, after we had arranged to get these goods he said, "In case there is trouble I will always back you up."

Q We will come back to that later on. Do you remember testifying in your own behalf "So Thursday morning I had no business". Did you testify to that? A I did.

Q That was a falsehood? A Yes, sir.

Q You knew it was a lie when you testified to it? A Yes,

Q "Did anything happen there on the stable on Water and Cherry streets?" A. On Water street.

Q Didn't you testify on Water and Cherry streets? A No, sir; I knew where they had it.

Q On Water street? A Yes, sir; I ain't sure whether Water or Cherry. I did work there at one time.

Q Did you testify to that? A I did.

Q You did work for him at one time? A Yes, sir.

Q Now this happened Thursday morning? A This happened Thursday morning, but I told a falsehood in that also because first we had an arrangement on Wednesday and we were supposed to meet there.

Q Meet at Brant's place? A That was right next to Brant's place.

Q Who picked out Brant's place? A Moe Cohen told us he would meet us there in the morning; that was Wednesday when we had met him.

Q You met William Goldberg next door to Brant's? A We

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got the truck outside.

Q You met William Goldberg's next door to Brant's? A We got the truck outside.

Q Was it next door to Brant's? A I understand it is.

Q You met William Goldberg there? A Yes, sir.

Q Did you testify to the following "Said hello, ain't you working", and he said "I will put you to work" William Goldberg? A Yes, sir.

Q "Put the cover on the outside". Did you testify to that? A I said, William put the cover on the truck.

Q Did William Goldberg put the cover on? A Well, he did; Moe Cohen was there at the time.

Q You are anxious to bring Moe Cohen in? A He is as guilty as I am.

Q Weren't you there? A I was at Water street, I didn't go no other place but Water street.

Q The part of this that you testified that this was supposed to be William Goldberg's truck-- A I did, but as I say--  
for

Q There are other buts. A I had it in William Goldberg; I came up on the stand to testify because he testified against me; all those statements that I have made are all untrue. I am willing to tell the truth.

Q Because you had it in against Goldberg, is that the reason you testified? A Yes, sir.

Q That is the reason you want the jury to believe? A Yes.

Q In your own behalf? A Yes, sir.

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Q Harry Goldberg came down the run? A Yes, sir.

Q That is true, isn't it? A Yes, sir.

Q And said, "Well, Willy, we have got to get another man". That is true? A If I said that that is a lie.

Q A deliberate lie? A That is a lie.

Q You got that out of your head? A Yes, sir.

Q Just an imagination? A Yes, sir.

Q "William said Meisel is going to work for me, he is a regular truck driver. I wouldn't take a stranger". A I passed this remark.

Q You only passed those remarks? A No, sir.

Q "Well, you know what you are doing, to my understanding Harry and William were partners in the trucking business". You understood that, didn't you, that Harry and William were partners? A I said that to protect myself; that was my alibi; Cohen told me that if I would put up a good alibi I will be able to beat the case.

Q When did he tell you about the alibi. Listen to the question. A That was the same day I had a lawyer assigned to me in this court.

Q Did the lawyer say that? A No, sir, not the lawyer, I said that Moe Cohen said to me if I could get a good alibi, if I am clear of this case there would be money coming my way and I would get out of this whole trouble, that he is there, right in back of me, and I should not worry. He told me to say a good alibi and state that I didn't know anything about it

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that I am innocent.

Q You testified under oath didn't you? A Yes, sir.

Q When you were put on the witness stand to tell the truth? A Yes, sir, I know I did.

Q It was a deliberate falsehood? A Yes, sir, I say it was.

Q In other words Harry had a pool room? A I don't know whether he had a pool room. It was only Wednesday night when I went down to see Moe Cohen, the first time I was there; I don't know whether he owned the pool room or not.

Q Who gave you the idea about testifying about the pool room? A William told me. He says, "After we get out of the trouble", he says, "you know Skid used to own that pool room."

Q "174 Lafayette street". Did he tell you to meet him there? A No, sir; that is a deliberate lie.

Q You tell that without a quiver in your voice? A Yes,

Q To this jury? A Yes, sir, I am willing to tell the truth. That is true about driving the truck.

Q And these streets that you testify, did you testify to that? A No, sir.

Q That was false? A Yes, sir.

Q Did you get that idea out of your own mind? A I did.

Q What streets did you drive the truck through? A I drove through Third avenue all the way up to 12th street to Bischoff & Harris' place of business, I backed in there and I got the goods.

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Q You were at Montgomery street when you got the wagon?

A Yes, sir, and I drove way over to Grand street, into the Bowery and all the way up Third avenue to 12th street.

Q This here is all untrue? A All untrue.

Q Did you go into the Busy Bee? A I did not.

Q Did you go anywhere and eat anything? A No, sir, I didn't eat anything.

Q Where is the Busy Bee? A Right across from the Cable Building.

Q Did you know where it was? A I worked around there before.

Q You didn't have a few things to eat that day at all?

A No, sir.

Q Did you eat frankfurters? A I did not.

Q You testified you did, didn't you? A I knew I did but it was a falsehood.

Q That is part of the alibi? A Yes, sir.

Q Eating frankfurters? A Yes, sir.

Q Did you testify, "I think he made three trips and finally Cohen came down and put the cases on"? A No, sir, I didn't state he made three trips. It was a mistake.

Q Did you testify "Finally the elevator man came down and put the cases on"? A I did not.

Q Is that in the minutes here? A I testified to this-- finally the elevator man came down and put the cases on but--

Q I want to know whether you gave that testimony? A Well,

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I did.

Q Is that true now or you guessing? A Well, I can't exactly remember. You see I wanted to explain to you how I got there.

Q The District Attorney will give you a chance to make all the explanations you want after I am through with you? A "I went upstairs with the goods as directed by William Goldberg". Did you testify to that? A That is all untrue.

Q Deliberately false? A Yes, sir, deliberately false.

Q That was gotten up in your imagination, is that right?

A Yes, sir.

Q "I went up, the three of us and put the goods in the middle of the loft". Did that happen? A Not exactly in the middle of the loft. I said that the goods were placed all the way back.

Q Did you testify in the middle of the loft? A I don't recollect as I did.

Q Look at it.

THE COURT: He says he does not remember.

Q "We went upstairs"? A That is untrue; the three of us went down again. I gave that testimony but it is an untruth. A In regard to the shipping clerk, I didn't give it to him, he was there, but the other statement is untrue.

Q I am only asking you if you testified to that? A You mentioned about the shipping clerk, and I am telling you he was there, but the three of us went down together.

Q "As I went down alone my instructions were to go over

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with my horse and so forth" was that true? A That was untrue.

Q Was that an imagination created in your mind as part of the alibi? A Yes, sir, part of the alibi.

Q Did you testify to that? A No, sir, that was untrue.

Q That was untrue? A Yes, sir.

Q (Reading from page 13) "threatening me". Did you testify to that? A Well, I did.

Q Was that all untrue? A That last part of it was.

Q How much of it was true? A Well, Officer Sheedy came over to me and he says to me "Do you know, Louis, it looks bad for you. You were caught right with the goods", he says, "Don't be a damned fool, go up and take your plea like a man", so under instructions from Moe Cohen that we were to hold our mouths and say nothing I kept still because --

MR. COHEN: I move to strike that out as not responsive.

THE COURT: I will let him go on now and let him state what Moe Cohen said to him. I will tell him, however not to volunteer anything. Your question was whether that which he testified to was true or untrue. I say now that the District Attorney may ask him at the conclusion of your examination what Moe Cohen said to him.

MR. COHEN: There is no question about that.

Q "What I will tell you is the absolute truth" A But it was untrue.

Q You said "What I will tell you is absolutely true".

A That was true.

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A That was a lie.

BY THE COURT:

Q You did go on the witness stand, didn't you? A I did.

Q And that was the testimony that you gave, is that right? A Yes, sir.

Q And that testimony was false? A The most part of it is false.

Q (Reading from page 14) "A wise guy-- to prove I was the man who hired you". Did you testify to that? A I did.

Q Was that untrue? A Yes, sir, that was untrue.

Q "(Page 15) I am going to ruin you". Was that testified to? A My wife called him.

Q Was that testified to by you? A Yes, sir.

Q Was it true or untrue? A That was the truth.

Q "I told Officer Sheedy I will stand trial". Did you testify to that? A Half of that is untrue.

Q What part of it is untrue? A I have told Sheedy I wanted to turn State's witness after what he had proposed to me, and I told him I was going to tell the truth, and he had made arrangements for me to go and see the District Attorney.

Q Did you tell him, "I am not guilty, there is no use my talking to him"? A That part is a lie; I didn't tell him that; that is a lie there.

Q You testified to that? A Yes, sir.

Q (Page 17) "To get out on bail, is that true? A Yes, sir.

Q He came up to my house, William Goldberg? A That's

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before I was arrested? Yes, sir, he did come up to my house.

Q You told him to go to Charlie Casen, and to tell Charlie Jackson"? A Jackson, that is a mistake there.

Q Did you testify to that? A Well, that is a mistake there; I didn't testify to that.

Q "He lives above the stable". A Yes, sir.

Q Counsel reads from page 19 "To get me out"? A That interview happened with Max Goldberg, that was his brother.

Q Was that true? A Let me explain myself.

Q Was it true or false? A Well, the truth was I had that talk there but it was a talk --

Q But was the testimony under oath, what you testified to, was it true or false? A That was true, it was the truth. I want to make myself plain on that, half of it is the truth and half untrue.

Q You just said a minute ago it is true I know I did--

Q Now you state half is true and half is untrue? A You don't give me a chance to explain myself. Let me explain myself, and I will tell you how it happened.

Q I am asking you a simple question. A I understand the question.

Q If you understand the question will you please give me a direct answer, was it true or was it false? A Well, I am telling you.

BY THE COURT:

Q Was it partly true and partly false? A Partly true.

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and partly false.

Q Counsel reading from page 20. "Necktie and shirt",

A Yes, sir. I brought up this to his mother-in-law; he was upstairs in his house.

Q Is that true? A Part of that is true.

Q Isn't that all true? A No, sir.

Q What part of it is untrue and what part is true?

A The part that he came around to my house to try and straighten things out -- not exactly to go with him because he came around in the afternoon.

Q What did he come there for? A To take in a picture show or things like that.

Q How many times did he come to see you? A Quite a number of times; I can't remember.

Q Twenty times? A A good deal more than that; certainly he came around to the house every night.

Q You said "Never having been in trouble before I received twelve hundred marks", is that a mistake of the stenographer?

A It looks that way as I was arrested I testified before that when I was questioned in Police Headquarters I told them I was in trouble and where I was convicted and everything, they have the record down there exactly and the records are there to prove it. I admitted I was arrested and I had served time

Q After you left the Reformatory you were a truck driver? A Yes, sir.

Q You became a truckdriver for the first time? A Yes.

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MR. COHEN: I will now read the cross examination.

THE COURT: You are simply reading all the testimony given on the previous trial. I have permitted you to read that in contradiction of what he has testified to here. He says he has been convicted and sentenced. There is no contradiction about that.

MR. COHEN: Your Honor states there is no contradiction in the evidence of this witness when he testified in his own behalf. He deliberately says that all that was false and untrue, that is what I have called his attention to.

THE COURT: Did you want to establish that he testified untruly when he said that he was convicted of a crime?

MR. COHEN: No, sir.

THE COURT: You are referring to that now. Unless you want to show that he lied then ask some other question.

MR. COHEN: I simply wanted to call the jury's attention to the fact that he testified that he was away at one time and then he comes here and he says that he testified in a different way.

THE COURT: Go on.

(Mr. Cohen reads a portion of the cross examination.)

"I had worked for Henry Brant, and also for another firm right next door".

A: I did not say that.

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Q Did you testify to that? A I did not; I said I had worked for Henry Brant.

Q Did you testify to the questions put to you. Did you make that answer? A Half of it is true and half of it is untrue; I had worked for Henry Brant.

Q There was no chance to go to work and I noticed William Goldberg" Did you testify to that? A That is untrue.,

Q Then William Goldberg asked you to go to work for him? A Yes, sir. He told me to put the single wagon and the horse on Cherry street and then they brought it around by way of Montgomery street." Did you testify to that? A That is untrue.

Q You testified to that? A Yes, sir. Half of it was true and part of it is untrue.

Q "I want upstairs, they were speaking<sup>to</sup> some fellow there and in five or ten minutes he came down". A I did. That is untrue.

Q Now let me ask you , your wife testified in this trial too, didn't she? A Yes, sir.

Q Substabtially testified the same as you did? A She only answered two questions; that is, she didn,t follow me up in any way; she only testified that Officer Sheedy was down at my house, and I asked him for a suspended sentence. She testified that William Goldberg had sent me over to Mr. Cohen's to see what he could do for us.

Q As a matter of fact you never knew Cohen before in your

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life, did you? A No, sir.

Q You never spoke to him in your life, did you? A Never seen him.

Q The first time that you met him, if you met him at all, taking your testimony today as the testimony that you want the jury to believe, was on the morning of the day you were arrested or the day before? A Just once I said. I told you I met him Wednesday, you are referring to Thursday morning, I met him Wednesday at three o'clock.

Q You met him Wednesday at three o'clock? A Yes, sir, as I recollect.

Q How long did you stay there? A He wasn't there and I waited there about fifteen minutes until he finally came.

Q You, Harry and Willy? A Yes, sir.

Q When he came who spoke first? A Harry spoke first.

Q What was said? A Well, Harry said to him like this-- I don't know there must have been some arrangement made.

Q Answer the question. Harry said to him he has got the stuff.

Q What is that? A He is going to get the stuff, he has got a place where he has got the stuff. Moe said, "Well, all right I got a drop", meaning a place where stolen goods is stored, he says I have one place at 174 Lafayette street and another place on Elizabeth street, he says "I have been receiving too much stuff at Elizabeth street, I want you to take this over to 174 Lafayette street."

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Q How long did you stay there? A I stayed there probably, I think I got there about half an hour--

Q Half an hour? A Yes, sir.

Q That is all that was said in half an hour? A Well, I have only spoken to him and I am telling you--

Q Answer the question directly? A I was there half an hour -- I was there fifteen minutes waiting for him and they were speaking together there.

Q Who was that? A They didn't speak to me because I was-- in a way, I understood I was a new man. There must have been some arrangement made before that I don't know of. All I know is that I came down there and I was there half an hour.

Q Why didn't you give the testimony that you are giving today while you were on trial for your liberty? A Well Wednesday afternoon --

THE COURT: Let him answer.

THE WITNESS: Wednesday afternoon as I have left this court room Cohen came over to me and says, "Well it looks pretty good for you, the only thing to do is stand trial, let me tell you right now if you get in trouble or you get hurt" he says, "I will give you a thousand dollars - to your wife." He says, "You won't have nothing to worry about", he says, "I know you won't turn against me" he says "but if I give you a thousand dollars to take care of your wife I know you won't mind doing a bit for me". I says to him, I says, "I don't know what I am going to say

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yet". That was the answer I gave him. We walked downstairs in front of the building, and he says, "You stick to me, everything will be all right," and I said to him, "all right", and I went away. Then Thursday I was on trial, and I had not taken the stand all day Thursday-- the officer testified against me and the two defendants, William and Harry said I was implicated in the case and the officer testified against me and I was standing trial, and then I went down Friday morning and Moe Cohen was at that time imprisoned downstairs in the room where they come in and bring them up to court. And Moe Cohen says, "How does it look", he says, "you won't turn State's evidence against me, and I won't talk at all", and he says "You are a damned fool, you know what I promised you. I am in Reilly, he went to school together with me, everything will be straightened out, I am in with Detective Spencer from the Pennsylvania Railroad, and he is going to come down and say a good word for me, that no papers was taken from my pocket, no shipping receipts were taken from my pocket". After we got to Headquarters, I said to Cohen, "How did you come to have the receipts with you, why didn't you throw them away", and he says, "I was a damned fool, I forgot all about them, I didn't think they were going to catch me."

Q Is that the statement he made? A Yes, sir.

Q Did you make a statement to the District Attorney?

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A When was that?

Q Any time? A No, sir, nothing at all; he hadn't spoken to me at all.

Q Didn't you have a talk with the District Attorney after you were convicted? A He came downstairs.

Q Did you yes or no? A No, sir, I didn't talk to him; he said "I feel sorry for you and he went out.

Q The District Attorney? A Yes, sir, but--

Q Did you make a written statement here? A I didn't say anything at all to him; he came downstairs with my wife, and he said to my wife; anything you want to speak to him speak to him" and then my wife she is starting to cry and she says to me, "Well", she said to me, "Louis you made a big mistake", and I said, "What can I do", and she says "the only thing Louis to tell the truth. Don't be a damned fool, tell the truth."

Q Who told you to implicate Cohen? A Nobody told me to implicate Cohen; he is in the case as well as I am.

Q Repeated. A Nobody told me.

Q When was the time you were told to implicate Cohen?

A I was not told that I am telling you.

Q Didn't you make a written statement to the District Attorney after you were convicted? A I didn't make no written statement at all.

Q Upstairs in the District Attorney's office? A No, sir nothing at all, nobody called me.

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Q Who did you tell you were going to testify? A I didn't tell anybody.

Q How did the District Attorney know you were going to testify? A Because my wife told the District Attorney I was willing to testify.

Q Did anybody promise you anything? A Nothing at all was promised to me.

Q Before the District Attorney called you to the witness stand did you talk to him? A I did not-- well, he asked me how did I come to be in the case and I told him.

Q When did he ask you that? A That was Wednesday when a lawyer was assigned to me in this court.

Q When did he ask you? A Right there at the bar; I didn't speak to anybody.

Q Did you tell him Moe Cohen was the man you had these various talks with? A No, sir, I told him my alibi which is an untruth, I told him the alibi which I stated at my trial.

Q You admit that you are a perjurer, don't you? A Well, I admit it.

Q And an ex convict? A Yes, sir, I cannot help that. I admit it.

BY MR. McQUAID:

Q Did you ever speak to me in your life? A No, sir.

Q The few words you spoke to Mr. Goldstein was at the bar there? A Yes, sir.

Q Did you ever speak to me in your life? A Yes, sir.

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Q Did you ever make a statement to him with a stenographer present? A No, sir, no statement, only when my wife was downstairs with him.

Q She told him that you were going to tell the truth?  
A Yes, sir, she told me to tell the truth in front of his presence; that was all.

F R A N K T A Y L O R, a witness called on behalf of the People, being duly sworn, testified as follows:

(The witness states he lives at 27 Seventh street.)

DIRECT EXAMINATION BY MR. McQUAID:

Q What is your business? A Truckman.

Q What was your business on April 24th, 1919? A 21 East 4th street.

Q The same business? A Yes, sir.

Q Trucking? A Yes, sir.

Q Did you ever employ Louis Meisel? A Yes, sir.

Q Did you ever employ him-- was he a driver with you on April 24th? A The 21st and the 22nd.

Q Did you send him out to drive for Bischoff & Harris?  
A Yes, sir.

Q Did you send him around to that firm that day? A No.

Q Did you employ William Goldberg? A Yes, sir.

Q What day did you employ him on? A He worked for me on the 21st and 22nd.

Q Were either one of these men in your employ on the 24th

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of April? A No, sir.

Q Did you authorized either of these men or Jack Lieb-  
sart, Harry Goldberg, William Goldberg, Louis Weisel or Jack  
Liebensart or Moe Cohen to call at Bischoff & Harris's and  
get any merchandise there on that day? A No, sir.

Q No one of these men on that day were in your employ?  
A No, sir.

CROSS EXAMINATION BY MR. COHEN:

Q Do you know Moe Cohen? A No, sir.

Q Never met him before? A No, sir.

W I L L I A M R E I L L Y, a witness called on behalf of the  
People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McQUAID:

Q How long have you been a member of the Police Force?

A 12 years.

Q You see this man the defendant? A Yes, sir.

Q Tell the Court and jury when and where it was you saw  
him? A I saw him at the premises 174 Lafayette street on  
April 24th, 1919.

Q What floor? A The fourth floor.

Q Whose loft was it? A In the loft occupied by Bra-  
veman & Company.

Q Where had you come from to go there? A Police head-  
quarters.

Q Before you left Police Headquarters, did you have a  
talk with a police officer? A Yes, sir.

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Q What is his name? A Sheedy.

Q Did he accompany you? A Yes, sir.

Q Anybody else accompany you? A A man named Spencer.

Q Who is he? A He is attached to the Pennsylvania Railroad.

Q Who was in that loft when you got there on the 4th floor of the building, 174 Lafayette street? A Mr. Braveman and a shipping clerk and a girl.

Q That is all, those three? A Yes, sir.

Q Did you see any packages and suit cases on the floor?

A I did.

Q How many? A I saw three cases and two packages.

Q Did you notice the address on the cases? A Yes, sir.

Q What were they, do you recall? A Well, all I remember was Mass.

Q Now you say you saw the defendant on that occasion?

A Yes, sir.

Q Not when you entered? A No, sir.

Q How long after you had been there did you see the defendant? A I should say about fifteen minutes.

Q Did you have any talk with him? A I did.

Q Did anybody else come in after the defendant? A A man came in before the defendant.

Q Who was he? A A man named Seligman.

Q Tell us what talk you had with the defendant? A I asked the defendant if these goods were his. He said no. I asked

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Q You were indicating three cases? A Yes, sir.

Q And two packages? A Yes, sir. I then asked the defendant if he owned the safe that was set aside in the corner, and he said "yes". "I occupy it with my partner Kurinsky." I then searched the defendant and took a lot of papers from him.

Q Now let me see. I show you this sheaf of papers to you and ask you if you cannot identify them? A Yes, sir.

Q Are those the papers you took from him? A Yes, sir.

MR. McQUAID: These have not been offered in evidence as yet.

Q Did you ask him anything about these papers? A yes, sir.

Q What did you ask him? A I asked him where he got these papers, and he told me a man gave them to him to give to Kurinsky, his partner.

Q Did he say who the man was? A I did not question him about the man at that time.

Q What else was said to him? A While I was talking to the defendant, Cohen, three other men came in.

Q Who were they? A William and Harry Goldberg and Louis Meisel.

Q Did you know any of them before they came in? A No, sir.

Q You learned their names? A Yes, sir; I then brought the defendant Cohen out, and asked him if he knew any of the three men and he said no; I asked the men in the presence of Cohen, and they said they did not know Cohen.

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Q What else was said, if anything, in the presence of the defendant Cohen? A That is all I remember.

Q What was then done? A Why they took all the goods out and we brought the defendant Cohen and the other defendant to Headquarters.

Q Were the goods opened there in the loft? A No, sir, in Police Headquarters.

Q People's Exhibit 1, are these the goods? A Yes, sir.

Q The merchandise? A Yes, sir.

Q From what case or cases were these taken? A From one of the cases.

Q Do you know what the mark was, the destination? A No, sir, I do not now; I saw the goods in Police Headquarters.

Q Did you have any further talk with Cohen at Police Headquarters? A I did.

Q Tell the jury what it was? A I asked him if he ever met any of the other men before and he said no; they said they never met him. I asked Cohen if he knew anything about these goods, and he said no. I asked him if he received any of the goods, and he said no, he didn't know anything about anything. That is all the explanation he would make.

Q What kind of a loft is this on the fourth floor of 174 Lafayette street? A A loft partly on Grand street and partly on Lafayette, the loft runs through from Grand to Lafayette.

Q You saw there was a partitioned off? A Yes, sir.

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Q Did you go inside of that? A I did.

Q Was there anything there? A There was.

Q What was there? A A lot of merchandise, corsets, stockings and kimonos, face powders, toys and so forth.

Q What part of that whole loft was referred to by Cohen as the one occupied by him and his partner Kurinsky? A A small space in the corner.

Q The part that was partitioned off? A Yes, sir.

Q How big was it? A I guess it was about twenty feet square.

Q Where were these goods, the three cases and the two packages with respect to the partition? A They laid about six feet away from the partition.

Q Inside of it or outside? A Outside. The partition was secured with a padlock when we first got there.

Q Who opened the lock? A I broke the lock off.

Q Where did you get these papers? A I took them off Goldberg at Police Headquarters.

Q Did you have any talk with the defendant Cohen since then? A No, sir.

Q In this court room or in the corridor? A No, sir; I have seen him but I have not conversed with him.

CROSS EXAMINATION BY MR. COHEN:

Q Reilly, you were a witness in the case of Meisel, weren't you? A Yes, sir.

Q Now, as a matter of fact your attention was called to

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this place by Officer Sheedy? A Yes, sir.

Q You were at Police headquarters? A Yes, sir.

Q When you got this information from brother Sheedy, your side partner, you and Spencer went up into this place? A Yes.

Q When you got there none of these defendants were there? A No, sir.

Q Now, Sheedy was there, wasn't he? A He went with me.

Q He stayed with you how long? A He didn't stay long; he went to East New York.

Q He stayed how long with you? A Well, I don't just remember about eight or ten minutes.

Q Now let me refresh your recollection. I know it was not intentional. Was this question put to you and did you make this answer, "How long did Sheedy remain upon the premises at 174 Lafayette street? A. About 25 minutes."

A It might be fifteen or twenty minutes.

Q But that is the answer you gave? A Well, it is about 25.

Q Was that correct now that your recollection is refreshed? A About that time 20 or 25 minutes.

Q Now after Sheedy remained there about 25 minutes nobody came in then, did they-- while Sheedy was there? A yes. The first man that came in was Seligman, that was right after we got there, and after him came Cohen.

Q Was Sheedy there? A He was outside in the loft while I was inside the partition; he was in the premises.

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Q Did he hear the conversation you had with Cohen?

A I don't know.

Q Will you say yes or no? A I won't say yes or no.

Q Let me refresh your recollection. Will you testify that he was there? A He was in the premises.

Q He told you that, didn't he? A He didn't tell me anything.

Q Now here is the testimony that you gave, I assume it is correct, if it is not, let me know. "How long did Sheedy remain upon the premises at 174 Lafayette street? A. About 25 minutes.

Q. Then what did Sheedy do? A. I sent him to East New York.

Q. He went away, did he? A. Yes, sir.

Q. You and Spencer remained upon the premises? A. Yes,."

A That is right.

Q Now after Sheedy left did anybody go up?"A. Yes, Moe Cohen."

A I said Sheedy was in the premises; he was not inside the partition where I was with Spencer.

Q Here your testimony is that Spencer was not there, that he went to East New York after he stayed there twenty five minutes and then after he left Moe Cohen came? A Sheedy says he left for East New York.

Q Then the testimony that you gave on the trial was true? A It was true.

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Q Which is it? A Sheedy was in the premises and then he went to East New York; I was inside the premises with Spencer when Cohen came in.

Q Now here your testimony is that he went away? A He did go away.

Q He went out, that means that he went away, and after he went away Cohen came? A I don't see that.

Q There is the testimony "After Sheedy left did anybody show up?" A I say Sheedy was there and he left there and went to East New York; I was inside the partition with Spencer and Sheedy was in the premises when Cohen came in.

Q Was he there when you searched Cohen and the rest of them? A Yes, sir.

Q Will you kindly reconcile this testimony that you gave with the testimony in the case of Weisel? A Well--

Q Can you reconcile that? A Spencer and I were together inside the partition when I searched Cohen.

Q Isn't that in conflict with your testimony? A I don't think it is.

MR. McQUAID: He is asking him to reconcile it. Now let him do it.

THE WITNESS: Spencer and I were together inside the partition when I searched Cohen and found the papers.

Q Where was Sheedy? A I don't know whether he was outside or whether he was gone.

Q He wasn't with you? A No, sir, not at that time.

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Q He was not in your presence? A I did not see him.

Q Now did all the defendants come up together or come up one by one? A First came Seligman and after awhile came Cohen and after awhile came Goldberg, Goldberg and Meisel.

Q In other words they came separately, is that right?

A Cohen and Seligman and then the other three came together.

Q Now was this question put to you and did you make this answer, Mr. Reilly, -- was this question put to you and did you make this answer: "When did William Goldberg arrive at the premises? A. The same time as Harry."

"Q. When did Louis Meisel get there? A. The same time as William Goldberg.

Q. Did they come up together one by one? A. Together. "

A Right together.

Q They did not come up one by one as Spencer testified?

A No, sir; they came up together as far as I know.

Q Now, you did not testify before that you spoke with Cohen about the ownership of this loft, did you, this is the first time you have discussed that, isn't it? A Well, I don't remember, I think it is; I think it is.

Q Do you remember when questions were put to you by the District Attorney you started in to relate the conversation and that afterwards you were stopped but you did not tell that Cohen told you that; you told the jury that graveman told you something about it? A So he did.

Q It was not Cohen? A Cohen and graveman; graveman

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first and then Cohen afterwards.

Q While they were there? A The first talk I had was with Graveman.

Q After you spoke to Graveman you spoke to Cohen? A yes, sir; after Cohen came in.

Q Did you talk to anybody about this branch of your testimony? A I spoke over the whole case with the other detectives, certainly.

Q This branch of the case in particular? A No, sir.

Q Recently? A No, sir.

MR. McQUAID: The People rest.

MR. COHEN: Now, if your Honor please, I respectfully move to dismiss this indictment and for the direction of a verdict upon the ground-- I call your Honor's attention to the People against Hartwell, 166 N.Y. I also refer your Honor to the People against Kudon, 173 Appellate Division, the People against Willett, 159 Appellate Division.

THE COURT: These so-called thieves. You say they have not been corroborated. I hold that there is no need of corroboration in a receiving case as it is a separate and distinct crime. The case in 159 Appellate Division, if I recall correctly, was a case which was decided in the upper part of the State. That held that corroboration was required but in the first and second departments they have disregarded the rule laid down in that case in the upper part of the State. In the lower case, decided in the

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Third department in May, 1916, the Court said, among other things; that the corroboration must be substantial and must tend to render probable the story of the accomplice. Here you have the presence of the goods in the loft, and you have the presence of the defendant subsequent to their delivery and then, in addition to that, evidence tending to show that the goods were sent to that loft by the defendant's direction and then his admission to the police officer that he occupied a portion of the premises where the goods were found.

I will deny the motion to take the case away from the jury at this time.

# D E F E N S E.

J A M E S D. H E N D E R S O N, a witness called on behalf of the defendant, being duly sworn, testified as follows.

(The witness states he lives at 780 Riverside drive.)

## DIRECT EXAMINATION BY MR. COHEN:

Q You are in what business? A In the commission business.

Q You say commission? A Dealing in porcelain and enamel ware. I am the Eastern representative.

Q Do you know the defendant, McE Cohen at the bar? A Yes.

Q You did business with him, don't you or with the concern? A Yes, sir.

Q That is you sell this enamel ware? A Yes.

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

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Q How long have you known him? A About seven or eight years.

Q From your knowledge of him what do you know about his reputation for truth and vveracity and honesty? A Always considered him an upright young man; never knew him to do anything that was improper; I have always looked upon him asa very nice young fellow.

Q You know the defendant's father? A Yes.

Q You did business with the firm ? A Yes.

Q You have never known him to be dishonest? A No, sir; never heard anything against his character yet.

(No cross examination.)

ELIAS ELLERSTEIN, a witness for the defendant, sworn, testified as follows:

(The witness states he lives at 601 West 177th street.)

DIRECT EXAMINATION BY MR. COHEN:

Q You are connected with Alexander Brothers? A Yes, sir.

Q Do you know the defendant? A Yes.

Q How long have you known him? A About ten or twelve years.

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

Q Do you know what his reputation is for honesty, truth and veracity? A Yes.

Q Do you know what it is, is it good or bad? A Very good.

CROSS EXAMINATION BY MR. MCQUAID:

Q Are you related to him? A No.

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Q By marriage or otherwise? A No.

Q How did you become acquainted with his reputation? A His father and his family have been dealing in our store for the last thirty odd years that I have been with them; they buy their furniture there and besides that Mr. Alexander tells me he knows his father from the old country yet as an honorable made man. I have met him in the street and I have inquiries in the neighborhood and when his sister was buying furniture-- I met him about six or seven years ago when I used to come down to his place of business on business.

J O S E P H D. R E A R D O N, of 438 West 47th street, a witness for the defendant, sworn, testified as follows:

DIRECT EXAMINATION BY MR. COHEN:

Q You are the principal of what school? A Public School 23.

Q That is situated where? A 70 Mulberry street.

Q How long have you been principal of that school? A 16 years.

Q Do you know the defendant Moe Cohen at the bar? A Yes.

Q How long have you known him? A Well, I have known him about 16 years.

Q What do you know of him? A I knew him as a pupil, and have known him since, met him on the street and I have kept track of him since that time, since his graduation from school.

Q How did you find him? A A very good boy, excellent.

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Q And since then? A I have always known him to be a very good young man.  
BY THE COURT:

Q From the speech of other people what has been his reputation for truth and honesty? A Very good, your Honor.

Q Known him to be an honest boy? A Yes, sir.

Q Never heard anything bad about him? A No, sir.

Q Even up to the present time? A Never.

CROSS EXAMINATION BY MR. McQUAID:

Q Who have you talked with about him in the last five years? A Other graduates, other boys of the school, I meet them frequently on the street.

Q Who are they? A I can't recall.

Q You can't recall a single one? A Well, I do keep track of them by speaking to them.

Q Tell us by name a single person you talked to about this boy? A I don't know them exactly but very frequently I have spoken to graduates, former pupils, about this young man and I have always learned--

LOUIS BRAVERMAN, a witness called on behalf of the defendant being duly sworn, testified as follows:

(The witness states he lives at 1607 45th street, Brooklyn)

DIRECT EXAMINATION BY MR COHEN:

Q You are a brother-in-law of the defendant? A Yes.

Q What is your business? A Leather goods.

Q Where is your place of business? A 174 Lafayette street.

Q That is where this thing happened? A Yes.

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Q You occupy a loft there on the fourth floor? A Yes.

Q How long have you occupied that loft?

THE COURT: Is he the braverman referred to?

MR. COHEN: Yes, sir.

Q You are the man that occupied that loft? A Yes, sir.

Q And have been for how long? A I have been since February of last year.

Q Do you know a man named Kurinsky? A Yes.

Q You know him? A Yes.

Q Did you hire a part of that loft out? A Yes.

Q To whom did you hire that part out? A To Kurinsky.

Q When did you hire that out? A On March 1st.

Q Of last year? A Yes.

Q Last year or this year? A Last year.

Q Kurinsky was keeping company with the defendant's sister, wasn't he? A Yes.

Q Did you hire any part of that loft to Cohen? A No.

Q Was Cohen a member of that firm? A No.

Q To your knowledge? A No.

Q The morning of this trouble who was there when the goods were received? A Well, I saw Kurinsky there in the morning; I did not see him when the goods was received.

Q That morning what time did Kurinsky get there? A About 9 o'clock.

Q Was that before the goods came there? A Yes, sir, that was before.

Q Did you see Weissel, Goldberg and this other fellow?

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A After the checkers got there I saw him.

Q Did you see Cohen there that morning? A No.

Q He wasn't there that morning? A Well the detectives told me to call him up.

Q He was there? A Yes, sir.

Q How did he come to come there? A Well, the detectives told me to call him up.

Q Were you about to say that the detectives told you to call up Cohen? A Yes, sir.

Q When they told you to do that did you call them up?

A Yes.

THE COURT: That would account for his presence.

Q Who did you have call him up? A The bookkeeper.

Q What is her name? A Her present name is Cooperstein; she got married; her maiden name was Perlman.

Q She is not in your employ any more? A No.

Q Has not been for how long? A About eight months.

Q When she called him up how long after that did he come there, how soon after that? A He came there about five or ten minutes after.

Q When he came there who was there? A The detective.

Q Who do you mean by that? A Well, I don't know the names.

Q Was Reilly there? A Yes.

Q Was the other gentlemen there alongside of him? A I guess so.

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Q Was Spencer there? A Yes, sir; they came afterwards.

Q What is that? A Detective Reilly was there, and then they came out.

Q Reilly was there first? A Yes, sir.

Q The others came up? A Yes.

Q Now tell us what happened, will you? A As soon as Cohen came up Reilly went over to search him.

Q Search who? A Cohen.

Q Search anybody else? A Yes.

Q Who else did he search? A Searched Kurinsky and the rest of the fellows there.

Q Did he find anything? A On whom?

Q On Cohen? A No, sir, he didn't find anything on Cohen.

Q Did he find anything on Kurinsky? A Yes, sir, he took some papers out that I saw.

Q From whom? A Kurinsky.

Q From Kurinsky? A Yes, sir.

Q After he took those papers from Kurinsky did he take any papers from Goldberg? A I don't remember exactly; he took some papers from every one of them; I know what he did with them--

Q Did he look them over? A Yes, sir.

Q Take them all to Police Headquarters? A Yes, sir.

Q Is that right? A Yes.

CROSS EXAMINATION BY MR. McQUAID:

Q Are you related to this defendant? A Yes.

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Q What is the relationship you bear to him? A Brother-in-law.

Q You say Kurinsky was keeping company with his sister?

A Yes, sir.

Q Had you ever seen Cohen up in your place before? A He was probably once since I moved in there to see the place.

Q Did he ever receive any merchandise there? A No.

Q What did these young men say when they came in there that morning, the young men that brought in the three cases, you were there, weren't you when three cases and two packages were brought in? A No.

Q I thought you said you were there? A After the packages was there I was there; they must have taken the packages upstairs on the fifth floor.

Q You were not there when the packages were brought in?

A No.

Q Who was there? A Well, I don't know who was there.

Q Whom did you leave there when you went away -- had you been in your place of business? A The bookkeeper.

Q On the fourth floor before you went upstairs? A The bookkeeper was in the office I am sure.

Q That is the woman you spoke about? A Yes.

Q You were there? A Yes.

Q You left her alone and went upstairs? A I suppose so.

Q Was Kurinsky there when you left? A I saw him there before I went upstairs.

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Q. You just said the only person that was there was the bookkeeper, you haven't any right to assume, have you, who was there? A. Well, I was questioned if I saw Kurinsky there; I saw him in the morning there; I must have been upstairs when I left the bookkeeper alone there.

Q. What part of the premises is that you saw him in? A. I don't remember what he did because this is a big place.

Q. How long were you upstairs in the factory? A. I don't remember how long I was up there exactly.

Q. About how long? A. About twenty minutes.

Q. Did you have a written lease over there? A. No.

Q. Month to month tenancy? A. Yes.

Q. What rent do you pay there? A. \$20.

Q. \$20 a month for the loft? A. Yes.

Q. What rent did Kurinsky pay you? A. That is what I say.

Q. How much did he pay? A. I paid \$3600 a year.

Q. \$300 a month? A. Yes.

Q. Kurinsky paid you \$20 for that part of the loft? A. Yes.

Q. Was it paid in check or cash? A. Cash.

Q. Did you give him a receipt? A. I don't remember if I gave him a receipt or not.

Q. What is that? A. I don't remember whether I gave him a receipt or not.

Q. How did you say it was paid in check or cash? A. Cash.

Q. How long had he been there? A. About since March, till April about two months, a little less than that.

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Q From March until April? A Yes.

Q You say Moe Cohen was never in your place but once before that morning? A Yes.

Q Never was there before but once before that morning?

A Well I don't remember, probably he was around when I wasn't there; that is all I know.

Q Why didn't you telephone for Cohen? A I sent for Cohen

Q Why didn't you telephone for him? A Well, I said I did

Q I understood you to say a moment ago you had your bookkeeper do it? A Yes; she called him up and I spoke to him.

Q She got the number for you and then you spoke to him over the phone? A Yes.

Q Where did you get him, do you remember? A I got him from the house.

Q In his house? A Yes. I spoke to his sister and his sister told me she was going to the place of business and she will call him to the phone because they have the telephone in the house.

Q You didn't speak to him over the phone? A Yes, I did.

Q You stayed there and held the phone? A Yes.

Q While the sister went down to get him? A Yes.

Q He came upstairs? A Yes.

Q Then you spoke to him over the phone? A Yes.

Q While the sister went down to get him? A Yes.

Q He came upstairs? A Yes.

Q Then you spoke to him over the phone? A Yes.

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Q What did you tell him? A I told him a detective is up to see him.

Q Asked him to come around? A Yes.

Q Where does he live -- where is 174? A That is near Grand street.

Q Between Grand and broome? A Yes, sir, between Grand and broome.

Q On the west or east side? A The west side.

Q Where is his place of business or where was it? A It is about five blocks away from the place.

Q His home right over the store? A No, sir, the home is on Canal street.

Q His home is on Canal street? A Yes, sir.

Q That was a walk from Elizabeth street to Canal street?  
A Yes.

Q He had to go over home? A Yes.

Q You stayed all that time holding the receiver? A Yes; the girl was holding the receiver until she got him and then I spoke to him.

Q How long a time was that after she was holding the receiver? A I don't know, a few minutes.

Q How long? A I can't tell exactly how long; I didn't have a watch.

Q You say he was over there within five or ten minutes?  
A Yes, a few minutes after.

Q How many blocks is that away? A Only one block.

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Q Did you say you are related to him? A Yes, sir.

BY A JUROR:

Q How much time do you spend in your business, how much of the day? A I am pretty near all day-- well, not all day, it all depends on what business I got to attend to outside, sometimes I got to go and sometimes I will be back in half an hour or sometimes I will be in the factory upstairs, I don't know exactly.

Q This relationship between Kurinsky and Cohen's sister when was that broken off? A I don't know; I have no idea.

Q You knew it existed? A I knew they used to go out together; I heard of it; I never paid much attention.

Q You know it is off now? A Yes, sir.

Q When did you first hear it was off? A No, sir.

BY THE COURT:

Q When did you hear from Kurinsky last? A I didn't hear anything from him since that happened.

Q He has not been seen since that time? A No, sir.

BY MR. McQUAID:

Q Did he owe you any rent when he went away? A No.

Q That was the 24th of April? A Yes, sir, he paid for two months, March and April.

Q He paid you for March and April? A Yes, sir.

BY A JUROR:

Q What business did he say

he was doing? A I don't know, he was a laborer in --

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around buying auction goods, and he simply had that room as a storage room.

Q Going around buying auction goods? A Yes, sir.

BY MR. McQUAID:

Q Did he have customers coming in there? A I didn't see any.

Q You saw no customers coming in there? A I don't know who has called there I am busy in the factory; I only attend to my own business.

Q You say you didn't see any customers coming in? A No, sir I did not see any.

Q None of them inquired of you whether he was around or not? A No, sir; not that I know of.

Q Was he there very much? A Well, he used to be around

Q How did his goods come in, in cases or packages? A I don't know.

Q You never saw any of his goods come in? A I don't bother with no receiving.

Q Did you see any goods come in? A No, sir; I very seldom see my goods come in; the elevator man takes up the goods and the shipping clerk takes away the goods.

Q It is an open loft, the elevator opens into your loft? A Yes, sir. I don't see his particular loft if I am upstairs in the factory I can't see it.

Q But sometimes you are in the office? A When I am in the office I can't see it because it is partitioned off.

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Q And glass in the partition? A Yes, sir, there is glass but you can't see nothing through the glass.

Q But when you are outside in your loft-- what have you got there, sewing machines? A Yes, on the top floor.

Q On the top floor? A Yes.

Q What have you got in that big loft? A A shipping room and the stock.

Q That is where your stock was made up, packed in cases and shipped? A Yes, sir, we have a partitioned room there.

Q Didn't you ever supervise that loft there? A No, sir.

Q You never did? A No, sir, if I pass by I saw the stock there or I go in for a minute and I go out that is all.  
BY THE FIRST JUROR:.

Q Did you say you saw the detectives taking papers from Kurinsky? A Yes, sir.

Q Could you identify those papers-- did you see those papers yourself? A It is hard for me to tell; I didn't see what kind of papers they were; it looked like a bill of lading.

Q Did you know the class of goods in that enclosure? A No.

Q You never looked at them? A No.

Q Didn't you know whether there was inflammable material there or no? A No.

I D A A. T U R I T Z, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(The witness states she lives at 441 Alabama avenue, Brooklyn.)

DIRECT EXAMINATION BY MR. COWEN:

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Q You are now married? A Yes, sir.

Q Your marriage name? A Turitz.

Q Where do you live? A 441 Alabama avenue, Brooklyn.

Q When were you married? A August 16th, 1919.

Q Last year? A Yes.

Q Before you were married where did you work? A I worked for Mr. Braverman, Lafayette and Grand streets.

Q What were your duties there? A Bookkeeper and typewriter.

Q Were you there on the morning of the 24th of April, last year? A Yes.

Q You were employed there as a bookkeeper? A Yes.

Q Do you remember Mr. Braverman asking you to phone, to send some man there? A Well if I well remember it was --the detective had come up-- I didn't know whether detective--, later on I found out and Mr. Braverman came to me and told me to call up some number Canal, which was Cohen's address.

Q Moe Cohen's? A Yes, sir. I called him up and I handed the receiver to Mr. Braverman.

Q Then after that -- do you remember-- were you there when he spoke to him? A I was there, yes, when he spoke to him and told him-- I don't remember what was said exactly; he told him to come over that detectives were over there, there was some trouble and he should come over what he answered I don't know.

Q Did he come over? A Yes.

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Q. How soon after that? A. He came over in about ten minutes later; I couldn't just tell.

Q. When he came over there did you see Officer Reilly there?

A. Well Mr. Reilly was there before him.

Q. Before he came over? A. Yes.

Q. Was Sheedy there, the other officer? A. Yes.

Q. Was Spencer there, a man named Spencer, a man who claims he was working for the Pennsylvania Railroad Co.?

A. I don't remember whether he was there or not.

Q. Do you remember Moe Cohen being searched? A. Yes.

Q. Do you remember the others being searched at that time?

A. At the time Moe Cohen was searched-- Moe was about the first one being searched I think, as I remember.

Q. Who searched him? A. Mr. Reilly.

Q. Who was there at the time when he was searched? A. Nobody.

Q. Only themselves? A. Yes, sir, Mr. Reilly searched him.

Q. Were you present? A. Well, so I stopped work to see what happened.

Q. Did you see him take anything from Moe Cohen's pockets?

A. I saw him take some papers but he gave them back to him.

Q. Did he keep any papers that he found, that he took out and examined? A. Not that I saw.

Q. You would have seen wouldn't you?

Objected to. Objection sustained.

Q. The papers that he took out he gave them back to

him? A. Some papers that he took out he gave them back to

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ant.

BY THE COURT:

Q Did Mr. Cohen come to the place afterwards? A Yes, sir.

Q After you telephoned for him to come? A Yes, sir.

BY MR. COHEN:

Q How long did you say that was after the telephonic communication was sent? A It could not be more than about ten minutes because it is right around the neighborhood.

Q Did you ever see him around that place? A Very seldom.

Q Did you ever see the man Kurinsky around there very much? A He was there that morning too.

Q He was there? A Yes, sir.

Q Kurinsky was there that morning? A Yes, sir.

Q What time was he there -- was he there when somebody came up there with some goods? A Yes -- well it was this way, Mr. Kurinsky -- I came to the office at half past eight that morning when I came there Kurinsky was there already; then the office was partitioned so I could not see the goods brought in, but it seems he had received the goods.

Q He had part of that loft didn't he? A Yes, he has part of that loft in the shipping room.

Q Cohen was not interested in that concern?

Objected to.

Q Was he interested in it? A Not that I know of.

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Q You would have known?

Objected to.

Objection sustained.

Q You are not related to the defendant? A No, I was book-keeper at the time I was married six months ago.

Q You quit them right after? A Yes, I quit them in June about two months before I was married.

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## CROSS EXAMINATION BY MR. McQUAID:

Q Now, tell us how this telephone message was conveyed, how that was done? A How this telephone message was conveyed?

Q Yes. A Mr. Braverman came to me and he told me that detectives were here about this room in the back. So he told me to call up Moe Cohen. So I called him up, and I got his sister on the phone and so I told his sister that Mr. Braverman wanted to speak to Moe Cohen so she went down to the store to call him, and she said she would call him and Mr. Braverman was busy with something in the meantime and I held the wife and when Moe came I handed the receiver over to Mr. Braverman.

Q Did you speak to him on the wire yourself? A No, sir, Mr. Braverman spoke to him.

Q Has anybody talked with you about your testimony today, about what you were going to testify to? A Nobody, who should I have spoken to -- I was out there in the corridor and there were people coming out and I saw them coming out but I didn't ask them anything.

Q You haven't spoken to anybody about it? A Spoken to the people I know, naturally I knew the people and I spoke to them.

Q About your testimony? A No, sir.

Q You haven't said a word to Braverman about it? A No.

Q You have not compared notes as to whether you held the wire while the radio was sounding for him? A No.

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Q You have not discussed with him a word about it?

A No.

Q Of any kind? A No.

Q Or with counsel for the defendant? A No.

Q Or with the defendant? A No.

Q Or any of his relatives. You come here to give your story for the first time? A Yes, sir, of course I heard that.

Q To give your testimony? A Yes, sir, that is all.

Q Did you ever see any merchandise being brought into that place, this partitioned place in the loft? A Well, there was lots of cases being brought up but I didn't have any interest in it, because I was busy in the office and there was a little window outside in the office which led this hallway; but I never bothered with it.

Q You say you did see cases being brought in there? A Yes

Q Did you see those two cases being brought in there that morning? A I didn't pay any attention to them.

Q This partition ran all the way up to the ceiling or only part way up? A There is an opening on top but not as far as I could reach or as I could look over.

Q But isn't away up like this, away right up to the ceiling? A No.

Q But this was partitioned too high for you to look over? A Yes.

Q Did you hear any cases being brought in there that morning? A Yes, sir, I heard cases being brought in that day, but I

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didn't pay any attention because I was busy and the shipping clerk took charge of those things, when the elevator boy had the cases brought up he called this fellow Joe to take them.

Q Did you see these cases brought in that morning? A I don't know whether they were exactly these cases; there were a lot of cases brought in that morning; I didn't pay attention whether these cases belonged to these fellows or not.

there  
Q Wasn't there some particular goods that were singled out for identification by these people who were there? A I did not pay any attention to that.

Q The officers referred to two cases as being under observation or inspection? A No, sir, I didn't pay any attention.

Q You were right close to them? A I heard the cases coming in but I didn't pay any attention as to who they belonged to.

Q Where was Cohen searched? A In the back, in that little room.

Q Was there any discussion that morning after you came in between Kurinsky and who ever it might be that caused Moe Cohen be sent for? A Did I know what?

Q Do you know whether there was? A Well, I later learned that there was.

Q Well, didn't you see them there when you went out there while the searching was going on? A These cases-- it seemed some cases were brought up there before.

Q Didn't you see them, that is the question, when you

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went around to see Moe Cohen searched? A Well, there were lots of cases in that room; I didn't ask, I didn't bother asking whose goods they were; they all looked about the same.

Q In the conversation was there anything said about the cases? A Not that I know of.

BY THE SIXTH JUROR:

Q You were the bookkeeper for Braverman? A Yes.

Q Do you have any account with Kurinsky on the books?

A Well, I don't remember whether I did or not being that the small money was used for petty cash in the office.

Q What small money? A Small money that he paid for the room.

Q What did he pay? A He used to pay a monthly rent.

Q What was it? A \$20.

Q Did he pay you? A He paid me, yes.

Q In cash? A Yes.

Q No receipt ever given? A No.

Q He paid two months ahead of time as I understand it, \$20 and no receipt? A I did not give him any receipt.

Q You put the \$40 and put it in the till without giving him any memorandum? A We didn't bother with that; it was small cash.

BY MR. McQUAID:

Q You called up the defendant on the phone, Moe Cohen the defendant? A Yes, sir.

Q You called him up on the telephone? A Yes, sir.

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Q Told him the detectives were there? A No, sir, I didn't tell him that.

Q Who said that? A Mr. Braverman told me to get Moe Cohen on the phone and so I called him and I got the defendant's sister on the phone and I told his sister that Moe Cohen was there -- Mr. Braverman wanted to speak to Moe Cohen and she said "Hold the wire I will call him" and she went and called him and in a short while he got on the phone and I handed the receiver over to Mr. Braverman and he spoke to him.

Q Did you hear Braverman say that the detectives were there? A Yes.

Q Then he came up after you saying that? A Yes.

Q Prior to this telephone conversation did anybody else call Mr. Cohen? A Not that I know of.

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

Q That was the only telephone there? A Yes.

BY MR. COHEN:

Q He came in response to this call? A Yes.

M A R T H A C O H E N, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(The witness states she lives at 161 Canal street.)

DIRECT EXAMINATION BY MR. COHEN:

Q Martha, how old are you? A 21.

Q You are a sister of Moe Cohen? A Yes.

Q The defendant? A Yes.

Q Do you know Kuzinsky? A Yes, I did.

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Q How long did you know him? A Well, about three years.

Q Kept company with him, didn't you? A Yes, sir, I did.

Q You have not been with him since this trouble? A No.

Q Don't you know where he is? A No.

Q When did he stop calling on you? A Why, eight or none months ago.

Q That is before the trouble or after the trouble?

A After.

Q How soon after it? A About two weeks or so.

Q It was after you learned of the trouble he was in that he quit, didn't he? A Yes.

Q There has been testimony given here by a man named William Goldberg and Harry Goldberg and one Weisel to the effect, in substance, that on a fixed date, the 23rd, they claim, either the 23rd or the 24th they came to your place of business, that is your father's place of business, 1 Elizabeth street in the afternoon-- they say that between one and two o'clock or four o'clock, within that time, they came there and they asked where Moe Cohen was, your brother, and that you went and got him in about ten or fifteen minutes, as a result of that they had a talk with him in front of your father's place of business. Did that thing happen? A No.

Q Did you ever see this Weisel or the other two defendants on that day? A No.

Q Did you ever know them before that day? A No.

Q Did you ever talk with them before that day? A No.

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never.

Q Did they speak to your brother on that day? A Never, no, sir.

Q Are you there in the place of business? A No, sir, I have been in my home.

Q Were you ever around in your place of business in Elizabeth street? A No.

Q Where were you or where are you? A I am at home, 161 Canal street, keeping house for my folks.

Q What is the business? A Enamel ware.

Q You have no second hand clothing there? A No, sir, nothing at all.

Q These boys testified that there is a second hand clothing store there kept by your father? A No, sir, not by my father.

Q There is no such business there at 1 and 3 Elizabeth street? A No.

Q Was there such a tailor shop? A No.

Q Now let me see. You did not see them on that day?  
A No, sir, never seen them.

Q After the 23rd, after this alleged interview, do you remember on the day of the arrest, on the 24th of April, did you get a telephone message at your home and did you go and get your brother? A I don't remember.

Q Did you go and get your brother from the place of business to go to your brother-in-law's place? A Well, there is so many telephones I can't recollect.

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Q Do you know whether you went over to get him? A I don't remember.

THE COURT: She says she does not remember that there were so many telephone messages and that is quite possibly. It is hard to remember every message.

Q Now these defendants did you ever see them in connection with getting your brother at any time? A No, sir.

BY A JUROR:

Q Are you the only sister this man has? A Why--

Q Would there be any other sisters in that store? A No, sir, I have one younger sister.

Q At that time she was not there? A No, sir; she was not; she never answers or anything.

CROSS EXAMINATION BY MR. McQUAID:

Q Now you remember the day your brother was arrested?

A Yes, sir, that I remember.

Q Do you remember any telephone message that day being delivered to you? A Well, I am telling you there were so many I don't remember one from the other.

Q So many on that day? A Yes, sir; they are always busy because we get all our business telephoning in the home; the line is always busy.

Q You haven't got a telephone in the store? A No; anybody who calls my father or my brother for business they call up the home first and I usually go to the store and call my father or call my brother.

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Q You do go to the store occasionally? A Yes, sir, to call my father; that is about all.

Q How far is your store from the house? A About a block and a half.

Q You say there is no telephone in the store? A No, sir.  
M O E C O H E N, the defendant being duly sworn in his own behalf testified as follows:

(The witness states he lives at 161 Canal street.)

DIRECT EXAMINATION BY MR. COHEN:

Q How old are you? A 25.

Q When were you 25? A Last December.

Q Where were you born? A New York.

Q Whereabouts in New York, where were you born? A 10 and 12 Elizabeth street.

Q What business is your father in? A Enamel ware.

Q Where? A 1 & 3 Elizabeth street.

Q Are you connected with him? A Yes, sir.

Q You went to school, did you? A Yes, sir.

Q What school? A P. S. 23.

Q Where is that situated? A 70 Mulberry street, corner of Bayard street.

Q How many years did you go to school? A Eight years.

Q Did you graduate? A Yes.

Q When did you graduate? A 1909, I believe it was I graduated.

Q In 1909? A Yes, sir.

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Q Mr. Reardon who testified was the principal that you served under all those years? A Yes, sir.

Q The jine years that you went to school? A Yes, sir.

Q After you graduated from school what did you do? A I went to High School.

Q How many years did you go to High School? A Three years.

Q After you went to High School three years, what did you do? A I gave up High School and went in business with my father.

Q You worked for your father? A Yes, sir.

Q You have been there since? A Yes, sir.

Q How many years? A Eight years.

Q Were you ever interested directly or indirectly in any other business except with your father? A No, sir.

Q Do you know that there has been testimony given here on the part of Meisel and Willy Goldberg and Harry Goldberg to the effect that on a certain day, on the 23rd, I think they said, of April of this last year that they met you in front of your father's place of business which they characterized as a clothing business or a tailorshop about from one to four o'clock where in you had a conversation as follows: That they told you, Harry Goldberg claims that he introduced the others to you and that you told him that you were a receiver of stolen goods, that you would buy stolen goods, that you got several places -- one witness testified essentially that you told him that they

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should go out and if they got any stolen goods to bring it up to you, to the place of your brother-in-law and that you would take care of them if they got into any trouble. Did you have any such concersation with any one of the three? A No, sir.

Q Either collectively or individually? A No, sir; never met them.

Q Did you know any one of them until you got into this trouble? A No, sir.

Q Were you ever interested in any business at your brother-in-law's place of business in Lafayette street? A No, sir.

Q They testified also that you arranged to get trucks for them? A No, sir.

Q Do you know of any such place in Water street? A I don't know where they got them.

Q Did you ever tell them anything about that? A No, sir.

Q Did you know Kurinsky, you know him? A Yes, sir.

Q Kurinsky was to marry your sister, the one who testified here? A Yes, sir.

Q Isn't that right? A Yes, sir.

Q He had part of this loft of your brother-in-law, didn't he? A Yes, sir.

Q Were you in business with him? A No, sir.

Q In any way directly or indirectly? A No, sir.

Q After he got into this trouble your sister quit him, didn't she? A Yes, sir.

Q Do you know where Kurinsky is now? A No, sir, never

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met him after that; I don't know where he is; I have never seen him since.

Q Have you seen him anywhere? A No, sir.

Q He does not call upon your sister any more? A No, sir.

Q And she does not talk to him-- he does not call at your house? A No, sir.

Q He did before he got into this trouble? A Yes, sir.

Q Now did you ever meet these defendants at any time particularly this defendant Meisel and this defendant Willy Goldberg at any time outside in the corridor while their cases were pending or on trial, wherein you substantially or in effect said words telling them to keep quiet or in Police Headquarters you told them, through some private signal, not to say anything that you were going to give one of them a thousand dollars to stand pat, to use his language, and that you were going to give them money at all, or did you ever advise them to stand pat or anything at all? A No, sir.

Q Never discussed their cases with them? A No, sir.

Q But you do know they came to your people for money, didn't they? A Yes, sir.

Q Do you know that? A Yes, sir.

Q Who came there? A Meisel's wife and Willy Goldberg's wife.

Q Your people chased them out of the place? A Yes, sir.

Q You didn't give them any money? A No, sir.

Q Did you ever give anything in common-- and when I say

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that I mean do you know anything about these three boys at any time? A No, sir.

Q Now one of the officers testified, Sheedy, that he was present at the time that you were searched, was he there? A No

Q Were you searched by him? A (No answer.)

Q How did you come there? A I spoke to Mr. Braverman on the telephone and he says, "Come down-- Mr. Braverman was in his place of business, and I asked him what he wanted and so he said she doesn't know she thinks there is trouble up there-- I got on the telephone and Mr. Braverman told me a couple of detectives were there and I should come down at once.

Q You came over? A Yes, sir, I took my hat and coat and I went down and in a few minutes I was there.

Q You were searched? A Yes, sir.

Q Did they take papers from you? A They didn't take anything out of me; they did take something but not related to this case, and they gave them right back.

Q Did you tell these boys at any time that you wanted to buy stolen goods? A I never met them before,

Q Were you ever convicted in your life? A No, sir.

Q Were you ever in any trouble in your life? A No, sir, never was in a police court.

Q Never in court in your life up to the time you were charged with this crime, is that right? A Yes, sir.

Q The first time you were in the court house? A Yes, sir.  
BY THE COURT:

Q Did you ever go to this place in Lafayette street?

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A Yes, sir.

Q Where Kurinsky was? A Yes, sir, in Lafayette street.

Q What did you go there for? A My brother-in-law.

Q Why did you go? A Because I went to visit my brother-in-law; he is a brother-in-law of mine.

Q Mr. Braverman? A Yes, sir; he was in there about two months and I went up to see just when he moved in; that is about all I was up for.

Q At any time did you ever direct any goods to be sent there? A No, sir.

Q What time was it you got the telephone message to come up to the loft? A That was in the morning, about, I am not sure of the exact time but around ten o'clock.

Q Give me the exact language as near as you can recall it, that was employed when you were communicated with, what did he say to you over the phone? A Braverman spoke to me and he spoke "there is a detective up here, a little trouble you better come down right away." I asked him what it was, what kind of trouble and he said, "You just come down here" so I took my hat and coat and I went down, that is about all I recall.

Q Did you at any time during the course of this trial tell Meisel to stand pat? A No, sir, I never did.

Q That you would provide a thousand dollars for him?

A No, sir, I haven't got a thousand dollars to give him or a thousand cents; I never spoke to him.

Q What do you do for a living? A Working for my father.

Q How much do you earn? A Fifteen dollars a week; he says

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me whatever I need.

CROSS EXAMINATION BY MR. McQUAID:

Q How did you lose your eye? A By an accident, I was hurt.

Q How long ago? A About sixteen years ago.

Q You were then about nine years of age? A Yes, sir.

Q You say you are not interested with Kurinsky in this business up there? A No, sir.

Q Did you have three drops anywhere in the city of New York? A No, sir; never had any dealings with any drop, don't know what a drop is; until I heard it in court.

Q The first time you heard about a drop? A That is about all I know.

Q You didn't have a drop at 174 Lafayette street? A No.

Q Or anywhere in the city of New York? A No, sir.

Q On the 23rd of April in the afternoon you say you didn't have a conversation with Goldberg? A No.

Q In Police Headquarters did you go this way (illustrating) telling them to keep their mouths shut? A No, sir.

Q You did not? A No, sir.

Q Say that you never met them before? A No, sir.

Q They never met you before? A No, sir.

Q You didn't know them? A No, sir.

Q Now why do you suppose that they should say that in Police headquarters you did that, told them to shut up? A Because I refused to give them any more, refused to give their

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wives money when they called on us.

Q This took place in Headquarters, the very day you were arrested before you had any chance -- A So they claim.

Q Before they had any chance to make any demands for money?

A They claim it.

Q You claim that in Headquarters your answer was that because you would not give them money but they didn't have a chance to ask you for any? A That is not the truth.

Q But the reason you gave was because they had asked you for money? A I thought you referred to a different time.

Q Did you ever see them since then in Headquarters? A No.

Q You only saw them once in Headquarters? A That is all.

Q Why do you say some other time? A I thought you were referring to a different time when their wives came around and asked for money.

Q Did their wives see you and ask for money at Police Headquarters? A No, sir.

BY THE COURT:

Q When did their wives come to see you about money?

A When they were staying in the jail.

Q After they were arrested? A Yes, sir.

BY MR. McQUAID:

Q How many days after they were arrested? A I don't exactly remember.

Q You were bailed out at once? A Yes, sir.

Q But you remained in jail for awhile? A Yes, sir.

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Q During that time the wives came around and asked you?

A Yes, sir.

Q How did the wives find out where you lived? A Well they found out, I don't know, I suppose they spoke to their husbands. That is how they found out, otherwise I don't know; I never asked them.

Q When the officer said he found these papers in your possession and took them away from you-- will you look at the papers? A There is no need looking at them because I had never had them in my pocket; I don't know what they are; I know what a bill of lading is, but I don't know what these are.

Q Are these bills of lading? A Yes, sir, sure, and these are pickup notices, a notice to pick up an order-- and a bill of lading.

Q This one is a bill of lading? A And that is a pickup

Q That is a pickup? A Yes, sir.

Q You had never seen these papers before? A No, sir.

Q What papers did he take from your pocket? A I had just a small memorandum book, and he returned it at the same time.

Q A book like that, and he returned it right away? A Yes.

Q You were in the corridor while Weisel was being tried and in and out of the court room? A I think I was in the morning, answered the roll call, I believe, but not in the afternoon.

Q Where were you in the afternoon? A I went back to business, to work.

Q But you were here in the morning? A Yes, sir, at roll

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call.

Q Did you meet him in the corridor? A No, sir; I didn't meet anybody.

Q Wasn't there a lot of people around? A I saw him but not to speak to.

Q You didn't speak to him? A No, sir.

Q It was true that he stood trial-- didn't he stand trial? A Well, of course he stood trial, I know he did.

Q It was not because you told him you would stand behind him? A No, sir, I never said a word.

Q Never had a word of conversation with him? A Never had anything to do with him.

Q Did you go around on the 24th of April to a livery stable? A No, sir.

Q And speak to a fellow there to give these men two checks? A No, sir.

Q You don't know any livery stable down there at all? A No, sir.

Q Who does your trucking? A Price, 68 Bayard street.

Q All of it? A Yes, sir. He has done our trucking for the last twenty years.

Q The only reason you can think of that these young men are trying to pin guilt on you in this connection is because they came around to your house and tried to get money from you? A Yes, sir, a conspiracy.

Q A conspiracy? A Yes, sir, that is the way I think it

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Q In a conspriacy to implicate you in a crime? A Yes.

Q How do you account for their going to your brother-in-law's place at 174 Lafayette street? A This Kurinsky I suppose knew that I was a brother-in-law of his and so them being up there doesn't implicate me in any way; I don't know for what reason they came there.

Q Were you ever in this little partitioned plade? A Yes, sir, sure I was.

Q You had been in there? A yes, sir.

Q What merchandise did you see there? A Well when I was in there-- I was in there when Braverman was in there.

BY THE COURT:

Q Have you been in any other occuptation than that of your father's business? A Nothing else; nothing at all.

Q You say you never saw these Goldbergs or Meisel before? A No, sir.

Q When did you see them for the first time? A The first time I seen them up in the Lafayette Building, 174 Lafayette street, the time they were arrested.

Q How long have you known Kurinsky? A The last two years

Q When did you see them for the last time? A The last time? It was about two weeks after this here case happened.

Q Where did you see him? A In the homeway

Q What was he doing there? A Keeping company with my sister; he kept company with my sister.

Q What was Kurinsky's business? A Well, at one time he

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was a suit salesman.

Q Did he have any other occupation? A I don't know, your Honor.

BY MR. McQUAID:

Q Did Kurinsky have two good eyes? A Yes, sir.

G E O R G E R U B I N, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. COHEN:

Q Where do you live? A 212 Clinton street.

Q What is your business? A Shipping clerk.

Q Who are you shipping clerk for? A Louis Braverman.

Q Were you shipping clerk for him in the month of April, on the 24th of April, 1919? A Yes, sir.

Q Where was his place of business? A 174 Lafayette street.

Q You still work for him? A Yes, sir.

Q What is his business? A Manufacturer of suit cases and bags.

Q Now were you there on the morning of this trouble when the arrest happened? A I was in that place.

Q Were you there when they telephoned for Moe Cohen? A Yes

Q Did he come up there to the place? A Yes, sir.

Q Now were you there when the detective searched Moe Cohen? A Yes, sir.

Q Did they find anything on Moe Cohen? A They took something out, I don't know what they took out, but they gave it to him back.

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Q They gave it to him back-- you know Kurinsky? A Yes, sir.

Q What was Kurinsky, a tenant of that place? A Yes, sir.

Q What part of it did he occupy? A Well, there is a partitioned place over there in the place, in the loft.

Q Were you there when the goods were received? A Well, I was.

Q Did the goods come to you? A I was at Braverman's place.

Q Now how long was Kurinsky in that place-- was he there that morning? A That morning, yes, sir.

Q Was he there when the goods came or some goods came? A Yes, sir.

Q Who took the goods-- did he take them, was he there when they brought the goods in? (No answer.)

Q When the goods were brought there by the Gobbbergs and Weisel or either of them who did they ask for? A Who did they ask for? I was not there when they asked, because I worked upstairs.

Q Who did the three men ask for when the goods were you there, were upstairs on the fourth floor? A Kursinsky.

Q For Kurinsky? A Yes, sir.

Q They asked for Kurinsky? A Yes, sir.

Q Kurinsky spoke to them? A Yes, sir.

Q Then they were all arrested? A Yes, sir.

CROSS EXAMINATION BY MR. McQUAID:

Q How often had you seen Cohen there, Doc Cohen, the defendant?

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A Well every once in awhile.

Q About how often, once or twice a week or how often?

A Every three or four weeks, maybe that, once a month or so.

Q He would drop in there? A Yes, sir.

Q And see Mr. Braverman, would he? A Yes, sir.

Q Were you acquainted with him? A With whom? A With Cohen? A Yes, sir, I knew him.

Q Did you see him with Kurinsky when he was there? A No, sir, I never saw him with him.

Q You never saw them together? A No, sir.

Q You saw Cohen go into that back room? A No, sir.

Q Where were your duties right on that floor? A Yes, sir.

Q The same floor on which the office is? A In the front.

Q In the front? A Yes, sir.

Q Where the office is, on the fourth floor? A Yes, sir.

Q That is where your duties were? A Yes, sir.

Q That is where the cases and packages that contained the merchandise intended for your employer were? A Yes, sir.

Q In the loft? A Yes, sir.

Q Were you stationed near the elevator doors? A No, sir, I was stationed away up in the front.

Q That is away from the elevators? A Yes, sir, away from the elevators.

Q But you saw those three cases and two packages come in that morning? A After the packages came to the place I saw them.

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Q Didn't you see them before that? A No, sir.

Q You did not see them brought in there? A No, sir.

Q Well, then, explain to this Court and jury how it was you heard them ask for Kurinsky then if you were not there when the goods were brought in, how was it that you heard them ask for Kurinsky? A I was there after the cases were brought up.

Q You said when the packages were there you were there?

Q Yes, sir after the cases were brought up,-- when the cases were brought up.

Q When was it that they asked for Kurinsky? A After the cases were brought up.

Q How long after? A How long after?

Q Yes? A Well, maybe about a half an hour or maybe not ever that.

Q How do you know if you didn't see these cases brought up? A Because I went in the office to see something, and I saw the cases there and I heard the noise and I knew all about it.

Q When did you hear the noise while inside in the office? A In the office.

Q Were you inside in the office when you heard the noise?

A What noise?

Q The noise you just spoke about? A I was right there.

Q Where? A Right near the office.

Q Near the office? A Yes, sir.

Q But out in the left? A No, sir, not out on the left;

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the office is a different place where the loft is.

Q Well, isn't the office part of the loft? A No, sir, on a different side it was a loft with two different entrances.

Q What do you mean two different entrances? A It was on the Lafayette street side and the loft is on the Grand street side.

Q Don't they adjoin one another? A They do but there is a fastened door to go through.

Q But had you come through that? A I had.

Q Is that where you were when the goods were brought in?

A Yes, sir.

Q How long did you stay there? A Quite some time, I stood there until the detectives searched everybody there.

Q You stayed there until the detectives searched everybody? A Yes, sir.

Q Then you did not hear whom they asked for at all, did you, when the cases were brought in? A Who they asked for?

Q When the cases were brought in you didn't hear who they were asking for? A I did.

Q How did you hear it when in this passageway? A You could hear, I was standing right near the door; you could hear when anybody asked for anybody you could hear.

Q You did not step to the door and look out and see who was bringing the package in? A No, sir; I did not step to the door but when they asked for Murinsky I hear it many times because most of the time I would hear the bell ring and I go

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Q That is any time, I am talking about a particular time-- the bell did ring at that time? A I heard somebody ask for Kurinsky but I didn't take no interest much just because somebody else answered that party already.

Q Does Kurinsky always take his own goods in or did you ever take goods for him? A No, sir.

Q Receipt for him? A Receipt for him, yes, sir.

Q Kurinsky always takes his own goods? A Yes, sir.

Q Even on this morning and before that? A Yes, sir.

Q Was he always there to receive goods? A Well-- in other words the goods would lie there for an hour or part of a day.

Q Waiting for Kurinsky? A Surely.

Q They did? A Yes, sir.

Q Cases? A Well, whatever it was. I was not too much inquisitive.

Q Ever notice the marking on any of them? A No, sir, I mind my own business.

Q You are a shipping clerk? A Yes, sir for Braverman.

Q Are you also a receiving clerk? A Yes, sir.

Q If any goods were coming in for Kurinsky in his absence would anybody receipt for them; was he always there when goods came in? A Well, I don't know sometimes they bring it up and leave it there.

Q You would not receipt for it? A No, sir, I would not receive any unless it was for Braverman.

Q Where were you when these goods were brought upstairs?

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A I was in the front.

Q What do you mean in front, on the grand street side--  
when the goods were brought up? A The cases.

BY THE COURT:

Q What time did Kurinsky get there on the morning in  
question? A I don't know, I imagine it was about nine or  
half past nine or so; I can't exactly remember the time but  
sometime in the morning, I know that.

Q Do you know whether the goods in question were on the  
floor of the loft when Kurinsky got there--did the goods get  
there after Kurinsky arrived? A After Kurinsky arrived.

Q They got there after Kurinsky arrived? A Yes, sir.

Q What is that? A Yes, sir.

MR. COHEN: When they came up there with the goods  
Kurinsky was there and they gave them to him. Willy Gold-  
berg and Harry testified that Kurinsky was there at the  
time the goods came there, and they gave him these bills  
of lading.

THE COURT: Yes.

Q Were you there when Cohen came? A Was I there when  
Cohen came?

Q Yes. Under what circumstances did he come if you know.

A Under what circumstances? He wasn't there that morning, but  
they called up for him.

Q How do you know? A Well, I was in the office when the  
bookkeeper called up.

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Q Do you remember what was said over the phone? A What was said over the phone? Well, I know they called him up but I exactly don't remember, I know they called him up, I don't remember the words they said because I did not--

Q Well, in substance what was said? A I can't remember that.

Q You are quite positive however that he was called up?  
A Yes, sir.

Q Have you been in the court room while the testimony was being given? A No, sir, I was out in the hall all day.  
BY A JUROR:

Q Do you remember who called him up? A Well, I think Kurinsky called him up if I ain't mistaken.

Q Who is that? A Kurinsky.

Q You think it was Kurinsky called him up? A Yes, sir.

Q Did you hear any famel voice on that occasion? A Well I did not have the receiver and so I couldn't hear that.

Q In the pace up there on Lafayette street? A A female voice? The bookkeeper was there I suppose.

Q Did you hear her speak over the phone? A Yes, sir, she was there.

Q Did you hear her speak over the phone? A I didn't listen to what she said; she was talking on the phone; I don't know what she said.

Q You don't know what she was speaking about, did she call up Cohen? A Yes, sir, I know she called up Cohen's over-

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Q Did Braverman use English or Jewish in speaking? A Jewish, yes, sir.

Q The telephone call took place after the packages arrived? A Yes, sir.

Q Now Kurinsky goods, how did they go out. You told us how they came in. How did they go out? A I never paid any attention how they went out.

Q Did Kurinsky have any help at all to handle the goods? A Yes, sir a truck.

Q He didn't have any one to help him at all? A Not that I know of.

Q Did he have anybody to pack the goods and to ship them out or anything of that kind? A No, sir.

Q Had you ever seen anybody around there? A No, sir, nobody gave him a hand with the different packages.

Q You? A No, sir, not at all.

Q Have you ever seen customers come in? A No, sir.

Q As far as you know he never did any shipping from there? A Not that I know of.

Q You don't? A I don't know.

BY MR. McQUAID:

Q You were the shipping clerk on that floor? A Yes, sir.  
went

Q You saw everything on there? A When my business was on I did; I was interested in my business; I wasn't interested in his.

Q What are your hours of business? A From 8 to 6.

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Q Answer the question. A 8 to 6 is my hours.

Q You were busy at your business? A Yes, sir.

Q From 8 to 6? A Yes, sir.

Q During those business hours did you ever see any merchandise shipped out of that back room? A When I ship I ship in the back and when I examine I examine in the front, and then I ship out, I was examining.

Q Did you ever see him ship out? A No, sir.

Q Did you ever see him hammering on cases or anything of that kind? A No, sir.

BY A JUROR:

Q Did you ever see any customers come in there to look at goods, to look over the goods? A I don't know, sir.

Q Never? A I don't know; not that I know of.

BY THE COURT:

Q You say when the goods, wares and merchandise were received on the morning in question in the place that Kurinsky was there at the time, was he there? A Was Kurinsky there?

Q I have asked you to tell us? A Well he was there in the morning.

Q Do you remember when the cases containing the goods were received in that place? A Yes, sir. When these cases were received?

Q Answer that yes or no. A I don't know.

Q The cases that we are talking about? (No answer.)

BY THE COURT:

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Q When you said they asked for Kurinsky was he there to receive them? A No, sir.

Q When was he there? A Sometime after that.

Q How much time? A I don't remember.

Q Who got there first, Kurinsky or Cohen? A Kurinsky got there first.

Q Didn't you tell us Kurinsky received goods before?

A He received the first load.

Q But the first load he did receive? A Yes, sir.

Q Kurinsky? A Yes, sir.

Q That was early in the morning? A Yes, sir.

Q You mean the second load whether he received it or not?

A Yes, sir, that is what I am talking about.

Q The second load the police received? A Yes, sir, that is the time I asked about the goods--

MR. COHEN: The defendant rests, your Honor and I renew my motion.

OFFICER WILLIAM REILLY, a witness for the People, recalled, testified as follows:

BY MR. McQUAID:

Q Officer are you positive that you took from the pocket of the defendant this sheaf of paper?

MR. COHEN: I object to that as not rebuttal. He has testified to that.

THE COURT: I will take the testimony.

Q Positive about that? A I took them, took them and a lot of other papers.

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Q Some of which you handed back to him? A Yes, sir.

Q You returned these? A Yes, sir.

Q Now you heard the testimony in the court room, testimony about this telephoning after you got there of Braverman and his bookkeeper calling up Cohen on the phone. It was after that that Cohen came there? A Yes, sir.

Q Did anything of that kind take place? A I didn't instruct anybody to telephone.

Q Did you hear anybody telephoning? A Where I was I couldn't hear; I was in the rear inside the partition and not where the telephone is in the front part of the building.

THE COURT: He said he was not in a position where he could hear.

THE WITNESS: I was 60 feet behind.

Q Was this young lady present, the bookkeeper when you searched Doc Cohen? A I don't remember seeing her there.

Q You don't remember seeing her in that part of the back room? A No, sir.

Q At any time? A No, sir.

BY THE COURT:

Q What did you do to Furinsky, did you examine him? A I did.

Q What did you find on him? A I found a lot of papers on him, cards.

Q These papers here? A No, sir, memorandum book and papers that I returned to him, personal papers.

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Q Why was he allowed to go, Officer? A He was not allowed to go; he was arrested and he was discharged in the Magistrates' Court.

Q He was? A Yes, sir.

Q Was he brought up for a hearing? A I arrested him.

Q What Magistrate discharged him? A I don't know.

Q Was there a hearing had at all? A He was arraigned on a short affidavit, 48 hours, then we went to draw the complaint and the clerk would not draw the complaint.

Q He was arraigned before the magistrate? A (No answer)

MR. COHEN: I was there and I know that before this boy was arraigned I said that naturally they had to come to court but the clerk refused to take a complaint against him. No complaint was taken against him, and afterwards they arrested him for receiving stolen goods.

THE COURT: I want to ascertain why the Magistrate let that man go.

MR. COHEN: They were both discharged and then Cohen was re-arrested charged with grand larceny.

THE COURT: What became of Yurinsky afterwards?

MR. COHEN: I have never seen him; I have never seen him since.

THE COURT: Do not think for an instant that I am reflecting on you Officer but somebody did not do his full duty.

MR. McQUAID: There is no question about that. Yurin-

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sky should have been held.

MR. COHEN: They held the defendant for larceny and Kurinsky was discharged for receiving-- they held this boy for grand larceny. Kurinsky was arrested and then discharged. He was never arrested after that and never indicted by the Grand Jury, and I have not seen him since that day.

BY A JUROR:

Q Your brother officer testified that 174 Lafayette street was under surveillance, did you know of that? A I did.

Q Why was it under surveillance? A Well, from information that we had received.

Q That stolen goods were being received there? A Yes, sir.

Q Did you know the name of anybody that was running that particular section there? A No, sir, our information was that there was stolen goods being brought into the fourth floor and a man named Braverman occupied that loft.

THE COURT: If you object I will have to exclude that.

MR. COHEN: It is incompetent.

BY A JUROR:

Q When you came to the loft did you ask Mr. Braverman who had that loft?

THE COURT: It would not be binding in the absence of this defendant.

Q At any time when in the presence of the defendant did you hear him state that it was leased by Cohen? A The ques-

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tion was never asked in the presence of the defendant.

THE JUROR: That is all.

MR. COHEN: The defendant rests.

MR. McQUAID: The people rest.

MR. COHEN: I respectfully renew the motion made at the close of the People's case now upon the entire case. There has been a reasonable doubt created. Your Honor, in order to send this case to the jury you must be satisfied that the defendant is guilty beyond a reasonable doubt and a reasonable doubt has been created here I know from your Honor's long experience.

THE COURT: That is really a question of law for the Court to decide.

MR. COHEN: But here it is a question of law. I renew the motion upon the entire case because it affirmatively appears that the defendant Cohen is not guilty of the crime charged beyond a reasonable doubt. There is more than a reasonable doubt for it appears that this loft was in charge of a man named Kurinsky. It appears that Kurinsky was arrested on a charge of receiving and discharged on that charge. This defendant was re-arrested on the very same charge only they made it grand larceny. We have testimony here which is not contradicted that this loft was controlled by this man Kurinsky and that he was in exclusive charge of it; and no time was taken in-

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interested directly or indirectly in it. We have the further denial of Cohen that he had ever spoken to any of these boys and the probabilities are, taken their own version of it, that they only spoke to him once in their life time. Your Honor knows from your great experience that if a man talks to you once you are not going to tell him that you are going to buy or receive stolen goods. The probabilities are the other way. You have this boy's character which, in itself, creates a reasonable doubt. Here is a boy twenty five years of age. We have the principal of the school here who has known him from childhood. You have two other splendid character witnesses who swear that they have known him all his life time and that the boy has never been in trouble, he has never been in a court house before. Is it probable or is it fair to assume that this boy would break out into a statement that he buys stolen goods to three professional thieves who have been convicted before.

THE COURT: Now you have said enough on the question of reasonable doubt.

MR. COHEN: The goods were not in the exclusive possession of the defendant. Are you going to take the testimony of the thieves who claim that they had a conspiracy with this defendant or a contract with him by which he was to go and get this money and upon in which...

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steal the property and bring it to him. There is not any corroboration on that score; there is not a scintilla of proof here that the boy was in the exclusive control at any time of any property. There is proof to show that Kurinsky was in the exclusive control, that Kurinsky was the man who received the property, he was the man who hired the loft, he was the man that was there early in the morning, and the testimony of the other witnesses is to the effect that he was there. There is testimony that Kurinsky received the goods and that they gave him this bill of lading and he is the man that they were going to ask for the money. Now taking all these facts together with the boy's good character I cannot conceive how this boy can be charged with receiving stolen goods. Your Honor knows that the truth must be beyond a reasonable doubt. You are not going to send this case to the jury when there is a reasonable doubt -- there is no question about that. I feel that your Honor thinks that there is a reasonable doubt and under the circumstances your Honor would be perfectly justified in taking the case from the jury. I am glad to see that your Honor has taken a deep interest in interrogating these witnesses and the facts all points in one direction.

THE COURT: I take a deep interest in every case to see that no injustice is done.

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MR. COHEN: Your Honor can see that Kurinsky had a motive to shift the blame on to the defendant. He had been keeping company with this boy's sister. When he got into this trouble he threw overboard and now he says "I am going to get him". I believe he was the man who was responsible for the whole business.

THE COURT: I do recall in the course of the testimony last week that one of the Goldbergs did mention the name of Kurinsky and Kurinsky was spoken of as the person who occupied a portion of the loft in question. I recall that very well. That testimony emanated from the Goldbergs. Mr. McQuaid what have you got to say?

MR. MCQUAID: Well, as far as the people are concerned on the evidence of the People's witnesses it appears that these three boys met, the two Goldbergs, William Goldberg, Harry Goldberg and Meisel met the defendant Cohen in front of his father's place of business; that they there entered into an arrangement by which the defendant was to receive goods that were to be stolen by the three accomplices and that he, Cohen, was to furnish them with the truck. While the testimony of the two Goldbergs is not convincing it seems to me that the testimony of young Meisel was very convincing and satisfactory to the point of convicting the defendant.

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MR. COHEN: He was the worst liar I ever heard in my life.

MR. McQUAID: Now when it comes to the delivery of the goods -- the larceny is proved, by the shipping clerk of the firm of Bischoff and Harris from whom the goods were taken and then one of the officers had the place under observation to which the goods were brought. There is no doubt that the goods were brought up there and left there. There is no doubt, from the People's point of view, that they were brought there by the connivance and under the direction of the defendant. But when it comes to exclusive possession I am frank to say that the evidence is not as conclusive as I should like it to be.

THE COURT: Now there are three propositions that arise here. Counsel for the other side has called my attention to the case of the people against Kudon and the case of the people against Willard. Those cases were decided years ago in other departments. I am not inclined to follow the law laid down in those cases. But there was a case decided in the Second department where presiding Justice Jenks wrote the opinion where he held that corroboration was not necessary, expressing the same view that I entertain inasmuch as there are two separate and distinct crimes. Now at common law corroboration was not

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required. Before the adoption of the Penal Law corroboration was not required in this case. In England corroboration has never been required although the custom or practice has grown up in England which requires the presiding justice to tell the jury where a case is dependent upon the testimony of accomplices that they should examine the testimony of <sup>the</sup> accomplices with care and caution, at the same time, that every person has a motive, more or less, to escape the responsibility of criminal conduct. Judge Werner said, in a memorandum that he made some few years ago where an application was made for a certificate of reasonable doubt and the point was made that the testimony of the thieves was not corroborated and that that would justify a reversal of the judgment of conviction-- in that memorandum -- and he was a very distinguished Judge of the Court of Appeals as you may remember, he said corroboration was not necessary. It was not a decision by the full court but it was a memorandum written by him. The Court is inclined to follow Judge Werner and my associates certainly have been inclined to follow the ruling there made by Judge Werner. So that I should say in this case that on the question of corroboration that, in my judgment, following the rule laid down in the Second Department and the suggestion as made by Judge Werner

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ner that corroboration was not necessary I would be inclined to hold that way. Now, in this case, however, the testimony which connects the defendant up with it is given by three self confessed thieves, one, a self confessed perjurer. Meisel went on the stand before me last week and he was tried and convicted and swore by all that was good and holy that he had nothing to do with the commission of this crime. He has absolutely stated that he committed perjury and you can readily understand how dangerous it would be to convict on the testimony of a man who stands here and says that he committed perjury only last week. The more important question, however, is one of possession. The evidence in this case is slight on the question of possession. In the O'Reilly case, which was argued some eight or nine years ago, I argued that case in the Court of Appeals when I was at the Bar and the point made there was that there was no possession. O'Reilly went into a cab with three others, one of the thieves being present. The bonds that were stolen from some bank in Wall street were placed upon his leg, his companion being there but he never had the possession of the stolen property. The Court said that while it was necessary to have physical possession they held that the delivery of those bonds upon that day, in law, amounted to physical possession. I might say here that I would be inclined to hold

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that constructive possession would be enough, I am vain enough to say that I know something about this law. I would be inclined to say that constructive possession would be enough, but there is not, to my mind, that degree of evidence here that would indicate that possession of any kind was in this defendant. He was not there at the time that the goods were received. Kurinsky was there and he took some measure of direction over the goods. There is not any evidence in this case showing that he exercised possession ownership or direction. Now the statute says "that" A person who buys or receives any stolen property, or any property which has been wrongfully appropriated in such a manner as to constitute larceny according to this Article, knowing the same to have been stolen or so dealt with, or who corruptly for any money property, reward, promise or agreement for the same, conceals." There is no evidence here of concealment "or withholds", there is no evidence here of withholding "or aids in concealing or withholding any property knowing the same to be stolen is guilty." Now the whole case is barren of any evidence showing that he did anything which would amount to a concealment or withholding of the property. On the other hand his presence there is accounted for by the young lady who was in the establishment at the

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time and who stated that she was asked to call the defendant up on the phone; that she stated to him that there were police officers present who were making some trouble and asked him to come over. Now that seems to be uncontradicted and undenied; it is not impeached. The question in my mind is whether Cohen had guilty knowledge or knew that it was stolen. If he did would he come to the place where the property was then being sought out-- property which was contended was stolen property. That is hardly within the range of probability. Now we know that probabilities are always the approaches to truth. Now it likely that if he were told that the police were up there concerning some property which had been stolen, if he at that time had guilty knowledge would come there. That looks to me as highly improbable. I think the question of possession is a doubtful one. I am not prepared to state that the possession which was had at that time would come within the meaning of the statute. It is a question of law and it must be resolved in favor of the defendant and my inclination is to resolve the doubt in favor of the defendant in this case and grant your motion to take this case from the jury.

(The jury return a verdict, of not guilty. )

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