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CASE # 2734

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

3240

THE PEOPLE

-against-

ROBERT WILSON.

Before:

HON. OTTO A. ROSALSKY, J.,

and a Jury.

New York, December 24th etc., 1919.

Indicted for robbery in the first degree.

Indictment filed October 24th, 1919.

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

ASSISTANT DISTRICT ATTORNEY SOL. TEKULSKY,
FOR THE PEOPLE.

W. G. KIER, ESQ., for the DEFENSE.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,
Official Stenographer.

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THE PEOPLE'S TESTIMONY.

D U N C A N C O O P E R, of 129 West 143rd Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEKULSKY:

Q Mr. Cooper, what is your business? A Supervisor of the Pullman Company.

Q Now talk up. The last gentleman must hear you. Did you know the defendant before the 15th of September 1919? A Yes.

Q How did you come to know him? A He made a trip on a train with me.

Q As a porter? A Yes, sir.

Q And you had charge of that train? A Yes, sir.

Q Did you see him on the night of the 15th of September of this year? A The night of the 14th of September.

Q And what time? A About 12:38.

Q Now, where did you first see him on that night? A At the southwest corner of Lenox Avenue and 137th Street.

Q Is that a liquor saloon there? A Yes, sir, a regular saloon.

Q You saw him in that saloon? A Yes, sir.

Q Did you have any conversation with him? A No, not any at all, no more than — no I didn't have any conversation with him in particular.

Q Well, was there anything said between you and him in that saloon? A Yes.

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Q Now, what was said by him and by you? A Oh, he only said to another fellow that I was responsible for his -- I was responsible for the porters' things that were left on a train, when some porters got left; that I was in charge of the train, and was responsible for the porters' things left on the train.

Q And was he standing up in the saloon at the time, or where was he? A He was sitting down at a table.

Q Was anybody else with him? A Yes, sir.

Q Did you know the other man who was with him? A I didn't know him then. I know him now.

Q Now, what did you say? He said you were responsible for the things which were lost on the train? What did you say in reply? A I told him I was irresponsible for anybody's things that were left on the train, because I told the men not to get off the train, and the train was cut out three miles from Jersey City.

Q And what else was said? Tell us briefly please. A And I said, "I don't want any trouble with you." Every time I see you, you humiliates me by an argument. I don't want no arguments with you, I'm going about my business, and I ask you to leave me alone." And I got up to make an entrance on the street and they went out ahead of me. When I got out on the street, he said to his confederate --

Q No, don't say his confederate. He said to the other

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man something. A Yes, he said, "Get him."

Q When was this? A About 12:45.

Q What happened after that? A And I turned and looked, and I saw this big man -- I turned to my left, and I saw Lorenzo Watkins.

Q He is the man who was with them in the saloon? A Yes, sir

Q Now tell us what happened? A He said, "Get him." And I stepped back and put my hand in my right hand hip pocket. (Illustrating). And as I stepped back this big fellow, he got back away from me.

And he said-- Robert Wilson said ^{to} Lorenzo Watkins, "Oh he hasn't got anything."

And I pulled out a Pullman brake-key, and it was nickel plated and, in the electric light, it would look like a gun. And I pulled it this way, to make this big fellow get back (illustrating), and he got back; and Robert Wilson said, "That's no gun. That's a Pullman brake-key, that's all."

And when I turned to Wilson, because he give it away about that being not a gun, and put my back to Lorenzo Watkins, he grabs me, and pins my arms behind me, and holds me up, clear up from the ground.

And I was at Wilson's mercy, and he hit me in the mouth, with his clenched fist, causing an abrasion in the mouth, here (indicating), and I had several blows under the left eye, and then he placed his hand in the left hand trousers pocket, and took \$50.

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Lorenzo Watkins, the big fellow, throws me down on the sidewalk, that way (illustrating), causing my head to strike up against it with force; and Wilson kicked me then in the left side, fracturing three ribs.

BY THE COURT:

Q Fracturing three ribs? A Yes, sir.

BY MR. TEKULSKY:

Q And you say he took out of your pocket the sum of \$50?

A Yes, sir.

Q Was that in bills? A Yes, sir.

Q And did they remain there or go away, then? A They disappeared. And I went down to the corner then and I came in contact with an officer, and I had a conversation with him.

MR. KIER: I object.

Q Don't tell the conversation. You saw an officer? A Yes.

Q And had a conversation with him? A Yes, sir; and went from there to the hospital.

Q And did you go back to the saloon with the officer? A No.

Q Did you see Wilson after that, that night? A I did not.

Q Where did you go then? A To the Harlem Hospital.

Q And were you treated there? A He examined me and he said the ribs were broken, but not fractured, and so I went home.

Q Did you remain in the hospital? A No, sir.

Q How long were you at home? A Until the next morning.

Q And then did you see Officer Battle, the next morning?

A Yes, sir.

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Q And you had a conversation with him? A Yes, sir.

Q And did you go home then? A I went home then.

Q And did you remain home after that? A I remained home pretty near three weeks.

Q And were you treated by a doctor during that time? A Yes, sir.

Q Were you three weeks in bed or did you go out again?

A Yes, sir, I was in bed most of the time.

Q When did you next see this defendant Wilson? A About four weeks and four days later.

Q About four weeks and four days later? A Yes, sir.

Q After this happened? A Yes, sir.

Q And what date was that, if you know? A It was October 12th.

Q Where did you see him? A I saw him in the same place, in the same saloon where it occurred.

Q About what time? A Oh, I don't know exactly. It was in the evening, but I judge it was around nine or ten o'clock.

Q Did you have any talk with Wilson when you got in there? Did he say anything to you? A Yes, sir.

Q What did he say? A He says, "Here's this damn nigger again." "That's the nigger that was responsible for our things in our train." The first night, he said he was going to get even with me, in the saloon; and, later on, on October 12th, he said, "Here's this damn nigger now. There is no need to start anything around here, because this is my gang, they are all my friends," and I said, "I think you and your friends act very

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dirty," and I went out.

And I walked on Lenox Avenue from 137th Street on the west side of the avenue, and I came in contact with Mr. Battle between the block.

Q And that was the same officer you had spoken to on the morning after the 14th of September, on the morning of the 15th?

A Yes sir.

Q And did you and Mr. Battle go anywhere together? Did you go back to the saloon, that night or that morning? A Yes.

Q The 12th of October? A Yes, sir.

Q Did you find Wilson there when you got back? A Yes, sir.

Q Did you then have Wilson arrested? A Yes, sir.

Q Did you have a conversation with Wilson after he was placed under arrest? A No more conversation.

Q Was anything said by Wilson? A Yes, Wilson said something.

Q What did he say? A Oh he said, "You dirty nigger. I ought to have popped you off, that night we had you." I didn't have nothing to say to him at all.

CROSS EXAMINATION BY MR. KIER:

Q Now, in the presence of the officer, he said what? A "I ought to have popped you off, that night we had you."

Q He said that in the presence of the officer? A Yes, sir.

Q Now you said you had three ribs fractured in this trouble with Wilson; is that true? A Yes.

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Q What doctor set the three ribs? A Dr. E. Elliot Rawlins.

Q Where is his address? A 101 West 140th Street.

Q Is he a white physician or a colored physician? A He is a West Indian physician.

Q Now, you say he attended you? A Yes, sir.

Q Did he attend you at your home? A Yes, sir.

Q Do you mean to say that he said that you had fractured ribs? A Yes, sir.

Q And he said that? A Yes, sir.

Q Did he bandage the ribs? You did go to the Harlem Hospital; didn't you? A Yes.

Q You went to the Harlem Hospital right afterwards, didn't you? A Yes. And the doctor in the Harlem Hospital said my ribs were fractured.

Q Did he set them? A No, sir, because he was busy, and there were too many people there, he said.

Q And he told you to wait, and went on treating others? A Yes.

Q Didn't you say that he said your ribs were not fractured? A No, sir, he said they were broken, but they were fractured. From the blow in the side, I asked him if they were broke in, and he said, no, they were fractured.

Q Didn't you say here, just now, when you went to the Harlem Hospital that the doctor said your ribs were not broken, but were fractured? A Yes.

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Q And you said the doctor said that, didn't you? A Well, he said they were not broke in. Being kicked in the side, I thought they were broken in, but he said they were not, but that they were fractured.

THE COURT: Are you going to have the doctor here?

MR. KIER: I would like to.

BY THE COURT:

Q How long did you remain in the Harlem Hospital? A About ten minutes. There was a big crowd, and only one doctor and he told me I would have to wait, and so I went on home.

Q And how long did you remain at home? A I remained in bed about three weeks.

Q And, after you left the Harlem Hospital, when^{did} you send for a doctor? A The next morning about ten o'clock.

Q And what did he do? A He bandaged me up, and braced me up with a whole lot of bandages. I don't know what he did in particular, but I know he had me all bandaged up.

Q And how long after that did he attend you? A Every day. He attended me every day for about ten or twelve days.

THE COURT: You can have the doctor, of course, if you desire him.

BY MR. KIER:

Q When did you go to the Harlem Hospital? A About five minutes to one o'clock, about one o'clock, on the morning of the 15th.

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Q What date was that? A The 15th of September, Monday morning.

Q And then you say that the doctor — that you went away after seeing the doctor in the Harlem Hospital, and that you remained there only ten minutes; is that true? A Only about ten minutes or fifteen.

Q And you were not attended to? A No, sir. He examined me and he told me, "Your ribs are fractured, but I can't get to you just now. I have too many people here. Wait awhile, and I went on home."

Q Now, what is your name? A Duncan Cooper.

Q You don't know the name of the doctor in the Harlem Hospital who said this to you; do you? A No, sir.

Q And you left, after remaining there about ten minutes? A Yes, sir.

Q And you didn't send for the other physician until the next day, the following day? A Yes, he came that morning, on the morning of the 15th, about nine o'clock.

Q You say that Dr. Rawlins attended you for ten or twelve days? A Yes, sir.

Q And you are not a medical man, and you don't know what he did for you, except bandaged you? A No, sir.

Q Now, you have stated that every time Wilson met you he used to argue with you about his grip and things he lost up at Binghamton, or lost on that trip from Des Moines? A Yes.

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Q He charged you with stealing those things; didn't he?

A No, sir, no, sir.

Q He didn't say that you stole his grip at Binghamton, and all that was in it? A No. He charged me with being responsible for everybody's things on the train, and I told him I wasn't.

Q Well his things were on that train? A I don't know. I didn't see them.

Q Well he was on the train; wasn't he? A Well he didn't have to have no grip on the train. I've carried porters out with no baggage at all, except their coats, that they put on in the car. I myself only carry a bag, with collars and other things in it. I don't carry no good clothes, because this was a troop train, and you don't need no good clothes on such a train.

Q But you had charge of the train, in relation to the porters, the Pullman porters? A I had charge of the train for the Pullman company. Of course, when it has got troops on it, an officer is in charge of the troops. I am on the train only to keep the train clean and iced up.

Q And you say that the porters had no right to leave the train at Binghamton? A They didn't leave it at Binghamton. They left it at a place a hundred miles from Binghamton.

MR. TEKULSKY: I submit that this is immaterial, your Honor.

THE WITNESS: He had no right to leave the train.

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MR. KIER: He says that the defendant had no right to leave the train, and this defendant, this man here, charges him with stealing his goods, and I want to go into that. They were both Pullman porters on the same car.

MR. TEKULSKY: No, this complainant is a supervisor, not a porter.

BY MR. KIER:

Q And they had no right to leave the train, these porters you say? A Yes, sure.

Q And the train left from behind, that night, didn't it?

A They had no right to get off to get anything to eat, until they got orders, because the train only stops for a few minutes, and the train left them behind.

Q The train left them behind? A Yes, 12 or 14 of them.

Q And he claims that you had taken his grip, with his things; didn't he, and had taken possession of them, and taken them for yourself; didn't he? A Well, ^{that} /don't make it so. A may might say I'm crazy, and that wouldn't make it so. I told him I wasn't responsible for anybody's things, and to go and get a warrant, and prove it, and I told him I was tired of being humiliated on the streets. That he could go and get a warrant from a Judge of a court. I says, "And you and everybody else can't make me responsible for anything that was left on the train."

I went and told the yard master at the Erie yards, out there in Jersey, about three miles from the Jersey City depot. I said,

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"All the fellows' things are left on the train. There is two or three men staying on," and he said, "You got to walk a mile and a half to get to the car." And I said, "And I've got a grip that belongs to A. C. Hoffman, and here's a telegram from him, asking us to look out for his things," and he said, "leave that grip with me here, and I will ship it in on the Produce Exchange train, in the morning," which he did.

Q And you told the defendant that you were tired of this charging you with stealing his grip, and you wanted him to go and make a charge? A Yes, sir. I said, "I'm tired of being molested on the street. There is Judges and courts. Go and bring me before the court and prove these things, and stop molesting me on the street."

Q You said you were tired of this molesting you on the street about his baggage? A His baggage and everybody else's baggage.

Q Didn't he claim it was stolen; didn't he say that in the saloon, that night? A No. He said, "Here is the nigger as is responsible for the loss of our stuff."

Q And he had had several quarrels with you about it; hadn't he? A Well, he come up to me to quarrel, and I said, "Go and get a warrant for me before a Judge. I won't quarrel with you. And you ought to go to Bellevue Hospital, for observation, because you are gone in the head. If I'm crazy in the head, you are, too. I told you all not to get off the train."

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Q And seventeen others got off the train; didn't they?

A Yes. And I had the train stopped, by speaking to the conductor, and he said to me, "Your men have got twenty minutes to eat." And the men were quarreling because they couldn't get anything to eat, and the train would ^{not} stop, and I saw the conductor and he said, "I'll stop, but I'll give your men just twenty minutes to eat."

And the men got off the train to eat, and I said, "You only got twenty minutes. You must eat and come back in twenty minutes." And Robert Wilson and the other porters, I was informed, said, "The hell with the supervisor," and ordered steaks and chops and ham and eggs that would take more than twenty minutes to cook. One of them came back and told me that before the conductor, and then he said, "If they send you that kind of message, I will let the train go."

Q Didn't he, the very night you say you were attacked, charge you with the stealing of the silk shirt you had on, and the tie you had on, and didn't he say those things were his things? A No, he didn't.

Q The tie was his; wasn't it? A Of course not. I couldn't wear nothing he's got. He's too little.

Q Well, didn't he make the charge that you had on his necktie? A Yes, he made the assertion before Mr. Battle, that I had on his necktie, but it wasn't true.

Q But he said in the station house that you had it on?

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A But that don't make it so. It wasn't true.

Q And you had quite a quarrel in the saloon; didn't you?

A Well no. He always comes up and molested me.

Q And when you got outside you had a fight on the sidewalk didn't you? A No, sir.

Q Don't you know that this story of robbery is all a fake, because you are sore at him?

(Objected to. Allowed)

Q And you were sore because he charged you with stealing his things? A No, sir. I'm not sore at him or anybody else.

Q And he made you angry so many times that you put up this charge of robbery against him for that reason? A I did not.

Q Who ever saw you lose any money up there, who else besides yourself? A I've got a charge now against a fellow named Roy, for a robbery on October 11th. He came right in my house and robbed me.

Q You are a very unfortunate man; aren't you; as to robberies? A I guess I've made enough money from the Pullman Company to get robbed of.

Q Now, what night did this alleged assault and robbery take place? A I told you Sunday night, the 14th of September, at 12:45 in the morning, which was Monday morning then, the 15th of September, the morning of the 15th.

Q Did you go to the station house and make a complaint, that night against this man for robbery? A I told an officer.

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Q (Question repeated). A I reported it to appliceman, he said he would report it to Headquarters.

Q Yes or no. Did you go to the station house? A No, I didn't. I reported it to the officer and he said he would report it.

Q What is the name of the officer? A I remember --

Q The name of the officer you made your complaint to, or his shield number? A Thatnight?

Q Yes. A I don't know his name.

Q Where was he when you made the complaint to him? A It was on Lenox Avenue and 138th Street.

Q On the corner? A Well, just a little off ^{of} the corner, on the east side of Lenox Avenue.

Q You made the complaint that you were robbed to this officer? A Yes.

Q Did he take you to the station house, to enter the complaint on the blotter? A No. He said, "where did the robbery occur?" and I told him where it occurred, 138th Street and Lenox Avenue, and he said, "I'll go in and see if I can find the man," and I said, "inside of this place I had an altercation, and I walked out on the sidewalk."

And I told him what occurred and so he went into the place, and I said, "There is the man that held me for Robert Wilson and beat me up and robbed," and I pointed out this Lorenzo Watkins, the man that was with him.

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And this fellow put up some alibi, corroborated in some way by the bartenders, - there was only two in the place.

And the officer said, "On this alibi, I will let him go. If you know that's the fellow, go up and get a summons."

And I said, "The man could be in Europe before I get a summons, tomorrow morning."

Q Was he an officer in uniform? A Yes, sir. But I don't know his number or his name. I know there was a 96 in it, in his number. I'm not sure whether it was 1496, but I think so.

Q And he told you to go and get a summons? A Yes, sir.

Q And he didn't arrest anybody? A No, sir; only through an alibi, he let this fellow go.

Q The alibi satisfied the officer? A Yes, sir; and he didn't arrest him. He told me to go and get a warrant.

Q And the officer let him go, even when you explained everything to him? A Yes, I said that was the man, and he put up some kind of an alibi, and the bartender hollered something to the officer, and the officer said, "I don't think that's the man, go and get a summons for him, if you want to."

And he said to go on to the hospital, and he would make a report of it.

Q Did you say he told you to get a summons? A Yes, sir.

Q Now, at that time you told him it was a fight; didn't you? A I told him everything before he told me to get a summons. Through some pretext, he didn't arrest the man, and he come

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out of the saloon and told me, "I'll report the case, and you go and get a summons, and go on to the hospital and get treated." And I told the doctor -- there was only one doctor there -- and I told him I wanted to know if my ribs were broken in, and he said, "No, they are not broken in. They are fractured."

Q Then you never made a complaint at the station house?

A I told the officer that the Judge in the court told me that was sufficient, to report it to an officer.

Q Now, this occurred at 137th Street and Lenox Avenue; is that it? A Yes, sir.

Q Now, the station house is up on 135th Street, between 7th and 8th Avenue? A I didn't know where it was before this thing occurred.

Q How long did you live in that neighborhood? A I have been living up there in Harlem seven or eight or nine years.

Q Right around 135th Street and Lenox Avenue? A Yes. But I had no cause to go to a station house. I didn't know a policeman's name in New York until this thing occurred, and I didn't know where a station house was, or the Criminal Court building.

Q And, so you say you were robbed, beaten and robbed, you never lodged a complaint in the station house? A I didn't have no need to. I told the officer, just as I did to the Magistrate, that I reported the case to an officer, and he said he would report it to the station house. I reported it to the officer.

Wasn't that sufficient?

Q Isn't this the fact, that, when you saw Officer Battle in the station house, you claimed that you had reported this affair, and the detectives in the station house then and there looked it up, and said no, you had n't reported it? A I didn't say I reported it. I reported it to the officer, and he reported it. That was just as good; wasn't it? The Judge said it was. I didn't go to the station house, and I didn't say so.

Q The detective, in your presence, looked it up and said you did not report. A Well naturally an officer wouldn't report anything in the police department. He would report it in the detective's place.

Q And didn't the detective look it up and said you did not report? A He said he had no record of it there, but to go in the other departments. And the lieutenant didn't look up anything at all. I told him I reported it to a policeman, and he said he would report it to the station house, and he said that was sufficient. And he held the man for the court, the next morning.

And some lawyer, in court, asked me, "Did you go to the station house and report this?" When I had told him that I reported it to the officer and he said he would report it.

Q Now think over it. That night, at the station house didn't the defendant say that you had on his necktie that you had taken from his grip? Yes or no. Did he say that? A He

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called me every kind of name.

Q But didn't he say that you had on his necktie, had it around your neck? A Yes, but that didn't make it so. ^{If} You ask me if I had on his shoes, I couldn't wear them. They are too small.

Q (Question repeated). A Oh yes, he said, "You got on my necktie," and Mr. Battle told me to have no fuss with him at all. I said, "The man needs to go to Bellevue for observation, because he's crazy".

Q But, the next day, when you came to court, you had changed the necktie; hadn't you? A Well, I've got plenty of neckties, and clothes too. I get \$200 a month from the Pullman Company.

BY THE COURT:

Q How much do you earn a month? A Well, my salary was \$125 a month, and I earned over \$200.

Q In tips? A No, sir. I had a butcher on the train who sells candies and cigars to the soldiers, and I made about three hundred dollars a month. I paid my good money for the things that he sold, and divided with him.

Q Well, but he said the tie around your neck was his?

A Yes, and I said, "Are you crazy? You ought to go to Bellevue for observation. Why don't you say I've got your clothes on?" And Officer Battle said not to have any fuss with him. The man only weighs 120 pounds, and I weigh 180.

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Q But is it not a fact that you had on a different necktie from the one you had on, the day before? A Well, I don't remember. I put on a fresh collar another necktie every morning. My wife fixed them for me. My wife buys my neckties, and I've got a new necktie on right now, that my wife bought me (indicating).

Q He didn't say that your clothes and your shoes were his?

A He didn't say what.

Q He didn't say that your clothes and shoes belong to him, clothes and shoes you had on; did he? A No, sir; because he knows I can't wear nothing that belongs to him like that. I told the man he was crazy. I said, "What are you trying to do? Accuse me of"—

THE COURT: Stop, stop. You must not be impertinent to the lawyer. You must answer his questions respectfully.
REDIRECT EXAMINATION BY MR. TEKULSKY:

Q Later in the morning, did you see Officer Battle?

A Yes, sir.

Q And did you report to Officer Battle what happened at one o'clock that morning? A Yes, sir; at 12:45.

Q When did you see Officer Battle on the morning of the 15th of September? A Oh it was in the morning, because I was on my way to the doctor, and, when I got there, he was just going out, and he said he would be right back, and told me he would come around to the house, and I told him I was feeling very bad, though I have a good constitution. It was three days before I knew how bad I was. Then I was spitting black blood.

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Q And did you tell the officer what occurred, Officer Battle? A Yes, and I give him a description of the men.

Q And did you say that you had been robbed, and did you tell him what occurred between you and Wilson and the other man?

A Yes, sir, told him the whole story.

Q And was it exactly what you have said here today? A Yes.

Q And then you went home and from that time you were laid up? A Yes, sir.

CROSS EXAMINATION BY MR. KIER:

Q When did you tell officer Battle about this alleged robbery? A The next morning, or the same morning, rather, the morning of the 15th.

Q Did you know him before that? A Yes, sir.

Q Were you acquainted with him? A Yes, sir.

Q And you met him on the street, just by accident? You didn't look him up; did you? A Didn't look him up?

Q I mean you met him casually as you were passing him on the street? A I didn't tell only him, but every policeman I met. But I happened to know Officer Battle, and I told him.

Q You thought he was your friend, and he would help you out? A No, no. I just happened to know him. The colored policeman, they are easier to learn the name, than the white officers, because there is only three or four, and naturally because they are in uniform, everybody talks to them. And I also knew Mr. Rhodes, Officer Rhodes, by sight, a long time,

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before I spoke to him. He is a colored policeman.

Q Now, Cooper, when you told Officer Battle that story, the following day, did he take you to the station house to make a complaint, or a charge against this man? A He did not, because I had informed the other officer, and it was reported to the station house.

Q I don't care why he didn't. As I understand it, you gave him an account of somebody robbing or beating you, the next day? A Yes.

Q And he didn't take you to any Magistrate or station house to make a complaint against anyone; did he? A No, sir, he didn't. I told him before I had reported to an officer, and he told me that he would report it. And you've got to take an officer's word when he is in uniform.

Q Then he didn't take you anywhere to make a complaint against anybody, after you told him the story of being robbed? A He did not.

Q That's all, that's all I want. A Well, the officer didn't tell me he'd do anything, but he told me what to do.

BY MR. TEKULSKY:

Q Had Watkins and Wilson left the saloon before you did, that night? A Yes, sir.

Q And, when you got outside, you saw them in front of the saloon, you say? A Yes, sir; and Wilson said, "Get him."

BY MR. KIER:

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Q Didn't you and Wilson step out on the sidewalk to fight it out? A No, sir, they went out about three minutes ahead of me.

Q How long were you there together in this saloon, before you stepped out, talking to Wilson? A I was in the saloon not over four or five minutes. And the moment I walked in this Wilson began to humiliate me by using bad language, "That son-of-a-bitch," and so on, and I ordered a little glass of near beer, and I went out, and I said to him, "I don't want no trouble with you."

Q Did you know he was in there when you went in there? A No, sir, I didn't. It was Sunday night, and I said, "I heard a pretty good service, tonight, give me a little glass of beer. I'm going home and get to bed," and I looked around and Wilson and Watkins were sitting there.

BY THE COURT:

Q How much was Wilson earning as a porter? A He earned \$65 a month.

Q And how about tips? A Well, there is no tips on troop trains. Soldiers don't give no tips, you got to sell candy and cigars and cigarettes and such things to the soldiers.

Q Then he did not get as much as you did? A No, sir. I had \$125 a month, and I had a butcher on the train, and I gave him 50 per cent of what he made.

BY MR. KIER:

Q You went fifty-fifty with him? A Yes, sir.

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SAMUEL J. BATTLE, of the 38th Precinct, a witness called in behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. TEKULSKY:

Q -- (BY THE COURT) Officer, be very brief. What rank have you? A detective? A No, sir, I am a uniform man in the precinct.

BY MR. TEKULSKY:

Q Officer, did you arrest the defendant Wilson? A Yes, sir.

Q When? A I think it was about the 12th or 14th of October.

Q Now, prior to the time you arrested him did you see the complaining witness? A I did.

Q You remember when you saw him? A I do.

Q What date was that? A About the 13th of September. I think it was in the afternoon or morning. I'm not sure which.

Q And the next time you saw him was about the 14th of October? A Yes, sir. I saw him again then.

Q And did you go with him to any place? A Yes, sir. I went with him to a saloon on the southwest corner of Lenox Avenue and 137th Street.

Q And did you see the defendant Wilson there? A Yes, sir.

Q And it was then that you placed him under arrest? A It was.

Q And did you have any conversation with Wilson? A I did.

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Q What did Wilson say? A Wilson denied --

BY THE COURT:

Q Don't say he denied. State what he said officer? A Wilson said that he never robbed the complainant. He said he had an altercation with him on the sidewalk.

BY MR. TEKULSKY:

Q Did he say anything else? A He said that he should have popped him off at that time.

BY THE COURT:

Q Did you search Wilson in the station house? A yes, sir.

Q Did you find anything on him? A No, sir.

Q Did you ask him what he meant by saying he should have popped him off? A He said he didn't mean anything, but that they had a fight, and he denied taking any money from him.

Q Do you know the defendant? A I do not.

THE COURT: Now that is what I call clean-cut testimony.

CROSS EXAMINATION: None.

THE COURT: Well, what do you think of your case, Mr. District Attorney?

MR. TEKULSKY: Well, I could call the doctor, sir.

THE COURT: Well, there is no doubt that there was bad blood between them.

MR. TEKULSKY: As far as the most important feature of the case is concerned, if your Honor please, the complaining witness makes a statement which he sets forth

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fairly and accurately what occurred that night, I think.

THE COURT: The defendant has not denied that he had a fight, according to the testimony of the officer. But, under this indictment, the charge of assault in the second degree is not for assaulting a man with a view to inflict grievous bodily harm upon him, but for the purpose of committing a crime, that is, to steal.

MR. TEKULSKY: All I can say, if your Honor please, is that the complainant has testified here that he was robbed, that Wilson put his hand in his pockets, and took \$50 from his pockets, and it was brought out that he reported the same thing to a police officer, at that time, and that he also reported it, that very morning, to the officer who has just left the stand.

THE COURT: Well, you can bring the doctor here on Monday.

MR. TEKULSKY: Yes, sir.

MR. KIER: - Or I will bring the doctor, sir, because I want him here.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Monday morning, December 29th, 1919, at 10:30 o'clock A.M.)

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