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CASE # 1416

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

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

vs.

MATTIE MICHAELS.  
----- X

# 1595

Before

HON. THOMAS C. CRANE, J.

and a jury.

New York, September 29, 1911.

Indictment filed August 30, 1911.

Indicted for arson in the first and second degrees.

APPEARANCES.

FOR THE PEOPLE: ASST. DISTRICT ATTORNEY ROBERT C. MCCORMICK.

FOR THE DEFENDANT: MESSRS. CARLIN and BUSCH; by MR. CARLIN.

Peter P. McLoughlin,  
Official Stenographer.

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( A jury was duly empanelled and sworn.)

(Mr. McCormick opened the case for the People.)

OFFICER JOHN J. KEEFE, 22nd Precinct, called and sworn as a witness for the People, testified as follows:

MR. McCORMICK: It is consented that a photograph of the front exterior of the building 207 West 33rd street be admitted in evidence.

THE COURT: If there is no objection it will be received.

( The photograph referred to is marked People's Exhibit 1.)

MR. McCORMICK: Also a photograph of the rear view of the building 207 West 33rd street.

THE COURT: If there is no objection it will be received and marked People's Exhibit 2.

(The photograph referred to is marked People's Exhibit 2.)

MR. McCORMICK: Also photograph of stairs leading from the first floor to the second floor in the premises 207 West 33rd street.

THE COURT: There being no objection it will be received and marked people's Exhibit 3.

(The photograph referred to is marked People's

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Exhibit 3.)

MR. McCORMICK: Also photograph of a bedroom on the second floor front in the house 208 West 33rd street.

THE COURT: There being no objection the photograph is received and marked People's Exhibit 4.

(The photograph referred to is marked People's Exhibit 4.)

MR. McCORMICK: Also rear bedroom on second floor of the house located at 207 West 33rd street.

THE COURT: If there is no objection the photograph will be marked People's Exhibit 5.

(The photograph referred to is marked People's Exhibit 5.)

MR. McCORMICK: Also a photograph of the foot of the stairs leading from the second to the third floor of the same building.

THE COURT: If there is no objection it will be received and marked People's Exhibit 6.

(The photograph referred to is marked People's Exhibit 6.)

MR. McCORMICK: Also photograph of the hallway of the third floor at the head of the stairs.

THE COURT: If there is no objection it will be received and marked People's Exhibit No. 7.

(The photograph referred to is marked people's

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People's Exhibit 7.)

MR. McCORMICK: Also a photograph of the front bedroom on the third floor.

THE COURT: If there be no objection it will be received and marked People's Exhibit 8.

(The photograph referred to is marked People's Exhibit 8.)

MR. McCORMICK: Is the photographer here, George Fist?

(No response.)

DIRECT EXAMINATION BY MR. McCORMICK:

Q Now, Officer, you are a member of the Municipal Police Force of this City, are you not? A Yes, sir.

Q And on the night--

THE COURT: Do you want to withdraw this witness?

MR. McCORMICK: Yes, sir, I would like to, your Honor.

THE COURT: This witness is withdrawn. You may step outside, Officer.

G E O R G E F I S T, called and sworn as a witness on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

The witness states that he resides at 311 Fulton street, Brooklyn.)

Q Now, Mr. Fist, I show you 8 photographs being People's

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Exhibits 1 to 8, and ask you the date and the hour on which they were taken? A They were taken the 10th of July in the morning-- around midday.

Q What hour of the day was it that you took them?

A Around midday.

Q Who was with you when you took them? A There was Fire Marshal Beers was there and two deputies were there at certain times; one deputy was there all the time.

BY THE COURT:

Q What did you do; did you take those photographs?

A Yes, sir.

Q And when did you say you took them? A Around midday.

Q Of what day? A The 10th of July.

Q Of what year? A 1911.

BY MR. McCORMICK:

Q And are they true pictures? A Exactly.

MR. CARLIN: No cross examination.

A D O L P H N I B L O T, called and sworn as a witness for the People, testified as follows:

(The witness states that he resides at 169 West 83d street.

DIRECT EXAMINATION BY MR. McCORMICK:

Q Mr. Niflot, I show you a diagram and ask you whether it was prepared by you?

THE COURT: No, interrogate him as to his business,

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what his occupation is.

Q What is your occupation? A I am an official of the Fire Marshal's office; I am draughtsman and also an interpreter.

THE COURT: A little louder; the jury don't hear you. Now, the gentlemen in the jury box will sit back. Now, witness, you talk up so those gentlemen can hear you.

THE WITNESS: I make diagrams for the Fire Marshal's Bureau; besides I am interpreter.

BY MR. McCORMICK:

Q How many years have you been engaged in making diagrams?

A Four and a half years in this department.

A And diagrams of houses, buildings? A Especially for this kind of work.

Q Where there have been fires? A Fires, yes, sir.

Q Did you make a drawing or diagram of the house at No. 207 West 33rd street? A Yes, sir.

Q When? A I don't remember the date, but it is on the drawing.

Q Can you refresh your recollection by looking at that diagram? A Yes; because I make many of them.

Q Well, look at it. A It is written there, drawn, July the 10th, Monday at 11 p. m.

Q Now, what is that? A 11 p. m. -- no, no, Monday the 11th, 2 p. m.

Q 2 o'clock in the afternoon? A Yes, sir.

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Q Did you make measurements in that house? A Yes, sir.

Q Now, just tell us what you did when you went in the house? A I went there; I took measurements first and after I was shown the places by a fireman, where the fire was, traces of fire, I marked it down on this diagram.

BY THE COURT:

Q Now, you got to the premises on 33rd street, and what was the first thing that you did? A I took measurements.

Q Yes; you entered the premises, you went inside?

A Yes, sir.

Q Did you go upstairs? A Yes, sir.

Q How far up? A Up until the top floor.

BY MR. McCORMICK:

Q What part of the premises did you measure? A Every flat.

Q Did you measure the lengths of the rooms? A The lengths.

Q The lengths? A Yes, sir.

Q The width? A Yes, sir.

Q The height of the ceiling from the floor? A The height.

Q And from those measurements did you make a diagram?

A Yes, sir.

Q And is that the diagram that you hold in your hand?

A This is the diagram, yes, sir.

Q Now, will you tell us exactly what those different figures represent? A One figure, the bottom, shows the vertic

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cal section, which means, the floors one above the other. And next, it is first floor; that means a plan of the first floor, a diagram showing the rooms and the doors and the windows; and after comes the second floor, and next comes the third floor.

BY THE COURT:

Q Now is it drawn according to a scale? A According to a scale, yes, sir.

Q And what scale did you use? A It is a scale -- this paper is divided into squares, each square represents a foot.

Q In other words, the paper that you hold in your hand had upon it before you began to make any lines on it certain lines? A Yes, sir.

Q In the form of squares? A Yes, sir.

Q And when you made your drawing you assumed that every square for the purposes of your drawing should represent one foot in every direction? A Yes, sir, that is right.

THE EIGHTH JUROR: Is that on a scale of one inch, or a half, or a quarter of an inch or half an inch or what?

THE WITNESS: These are squares, and each square represents a foot. For instance, if the line from this wall to this other wall is, say, 20 feet, I took 20 squares.

THE EIGHTH JUROR: I see.

BY MR. McCORMICK:

Q What is the actual measurement of the side of one of those squares?

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THE COURT: That is not important.

A I would say perhaps -- I don't know.

MR. McCORMICK: Well, it speaks for itself, anyhow.  
It is about a quarter of an inch.

THE WITNESS: About a quarter of an inch, yes.

BY MR. McCORMICK:

Q What do those stars mean that you have marked on there?

A The stairs is marked with the letter F; it means there were traces of fire in those places.

Q What do you mean by traces of fire? A Burning-- the floor was charred.

Q What are the round spots in red? A The round spots are provided with the letter K; it means kerosene. There was the smell of kerosene in this place, it was a bed, and I smelled kerosene there, and I put it in according to the directions of the Fire Marshal.

MR. McCORMICK: I offer in evidence the diagram.

THE COURT: You haven't found out from the witness whether his measurements were correct or not.

BY MR. McCORMICK:

Q Were those measurements correct? A Yes, sir, of course

THE COURT: Now, show it, if you will, to counsel.

THE WITNESS: On account of the building--

THE COURT: Will you <sup>be</sup> perfectly still until you are asked a question.

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MR. CARLIN: There is no objection.

THE COURT: Well, there being no objection it will be received and marked People's Exhibit 9.

(The diagram referred to is marked People's Exhibit 9.)

CROSS EXAMINATION BY MR. CARLIN:

Q Are you a City employee? A Yes, sir.

Q You are not connected with any insurance companies?

A No, sir.

Q Were you before you became attached to the Fire Marshal's office? A No, sir.

Q You were not? A No, sir; no, sir.

Q Now, the various marks that you referred to like K, mean kerosene. F. means fire. Those were made by you at the suggestion or under the direction of an attache' of the Fire Marshal's office, were they not? A No, I did that myself.

Q Didn't you say when Mr. McCormick examined you that the Fire marshal pointed out certain things to you, and that based on that you made certain parts of your diagram? A Yes; he showed me the spots, but I mean the letters I made myself.

Q You say F means fire -- the F and K you wrote down yourself? A Yes, sir.

Q But the spots that determine a bed, they were pointed out to you by the Fire marshal? A By the Fire marshal and by the fireman besides.

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Q And what Fire Marshal pointed that out to you? A Mr. Prial.

Q And do you know the name of the fireman that pointed it out to you? A Mr. Heegan, I think.

Q Did you notice on the floor pieces of plaster that had fallen down? A My attention was not called to this, and I didn't --

BY THE COURT:

Q Now, did you see them? A I couldn't say.

BY MR. CARLIN:

Q And you saw, of course, evidences that the place had been flooded and water had been used? A Yes.

Q And I suppose your attention was directed to the smell of kerosene? A Yes, sir.

MR. McCORMICK: I offer in evidence a deed of the LeRoy Real Estate Company to Fred. V. V. Shaw.

THE COURT: I will entertain the offer after I have examined this witness.

BY THE COURT:

Q What floor did you measure first? A The ground floor.

Q What floor did you measure next? A The second.

Q What floor did you measure last? A The third.

Q What room on the groundfloor did you measure first?

A I think the hall but I don't remember exactly.

Q From the hall on the ground floor into what room did you next go? A I think it was the back room.

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Q From that room into what room did you then go?

A Front room.

Q From that room into what room did you go? A Then I measured the stairs -- the stoop, but I couldn't say--

Q Now, while you were on the ground floor of the house and while you were engaged in making your measures, was there any person with you; yes or no? A No.

Q After you had finished making your measurements on the ground floor you went to the second floor; is that so?

A Second floor, yes, sir.

Q And what part of the second floor did you measure first?

A I couldn't tell just exactly; it is hard to remember.

Q And when you were making your measures on the second floor was there anybody with you? A No.

Q Yes or no. A No; no.

Q And then you went to the third floor? A Third floor, yes, sir.

Q What part of the third floor did you measure first?

A I think it was the first-- the front room, but still I couldn't swear to it.

Q And while you were making your measures on the third floor was there anybody with you? A No, sir.

Q I presume that you wrote down on a piece of paper the measures as you took them? A Yes, sir; I have it in the office?

Q And after you had written down the measures as you

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took them on a piece of paper you took those pieces of paper with you away when you left the building? A Yes, sir.

Q And after you had returned to your office, with the aid of those measurements appearing on those pieces of paper, you drew-- A Exactly.

Q --diagrams which appear now in evidence as people's Exhibit 9? A Yes, sir.

Q Do those diagrams purport to show all the articles of furniture that were in the premises at the time that you made your measurements? A No, sir.

Q In other words there was furniture in those premises at the time when you made your measurements other than the pieces shown upon this diagram? A Yes, sir.

Q And the pieces of ~~paper~~ furniture shown on this diagram are indicated on this diagram because your attention was directed to certain indications of fire either on or at the positions where those pieces of furniture were found? A Yes, sir.

Q In some instances you have made a red star and in other instances you have made a round circle, and in some instances you have put the letter F and in other instances the letter K. Now, do the circles purport to show the superficial area burned? A No; the circles mean kerosene-- that there was traces of kerosene, the smell of kerosene.

Q Now, do they purport to show the extent of the space in which the trace, as you say, of kerosene was found? A No; no,

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sir.

Q In other words those circles are not according to any scale? A No, just to indicate --

Q It is merely to indicate that at that particular point you smelled a smell which you believed to be a smell of kerosene? A Yes, sir.

Q And the stars, where they appear, they were made by you to indicate that at that point you saw something indicating that there had been fire at that place? A Yes, sir.

Q Was that indication in the charred wood always, blackened wood? A Blackened wood, yes.

Q Now, in some instances the star appears on a space within the enclosure of a piece of furniture, or, in other words, appears at the spot where the piece of furniture is indicated. Does the star mean that the building was burned at that point or that the piece of furniture indicated upon that point was burned? A The piece of furniture.

Q Have you made anywheres upon this diagram, and if so, where, any star indicating any burning of any part of the structure as distinguished from a burning of an article of furniture? A Yes, sir; for instance, the stairs here.

Q That is one place? A I think only the stairs.

Q In other words, you have indicated two points on two separate flights of stairs by a star and that is to indicate that you found charred wood there? A Yes, sir.

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Q About how long were you on the premises altogether from the time you went there to the time you left? A I was there twice.

Q How long were you there the first time? A The first time was about two hours.

Q And when was the first time? A It is the date here. (Indicating).

Q The date mentioned here on this diagram? A Some place there.

Q Namely on July the 10th? A July 10th was the fire, but it is some other place, I think. It was July the 11th, next day.

Q Well, you say that you were there on July 11th?

A Yes.

Q Is that so? A Yes; it is right on there.

Q Now, take a look at it? A (Witness indicates.)

Q I beg your pardon, yes. You say that you were there on July the 11th at 2 p. m.; that was the first time?

A That was the first time, yes.

Q When were you there the second time? A I couldn't remember exactly the date.

Q How long after the first time? A A few days, but it was in the very same day when the case came up in the Police Court.

Q Did you take any of your measures on the second occa-

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sion? A No, sir; because I didn't need it. I had them all.

Q What was it that you did on the second occasion as distinguished from the first occasion? A I put in these stars the red stars and the round circles.

Q Now, that you hadn't done first? A No.

Q And that you did afterwards? A Yes, sir.

BY MR. CARLIN:

Q Mr. Witness, the time when you made marks indicating among other things the smell of kerosene, was three days after the fire? A I couldn't tell you how many days; I couldn't tell you.

Q Well, you have just told his Honor that it was on the 13th that you came there the second time? A I didn't say that.

Q Well, you came there for the first time on the 11th at 2 o'clock? A Yes, sir, the first time.

Q Then how long after that before you went again? A A few days.

Q Maybe five days? A I couldn't tell you this because I am under oath.

BY THE COURT:

Q Have you any way of fixing the date when you were there on the second occasion? A It was the day when the case came up in the Police Court.

Q Did you notice any smell of kerosene anywhere about those premises when you were there the first time; yes or

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no? A yes, sir; yes.

BY MR. CARLIN:

Q Well, you recollect that there was an occasion of which you spoke to me on my first examination when the Fire Marshal or a fireman called your attention to the smell of kerosene? A Yes, sir.

Q That was the second time, wasn't it? A That was the second time.

Q Because the first time, as you took your measurements, as you told his Honor, that nobody went through the place with you? A No.

Q And you recollect, don't you, that the hearing in the Police Court was on the 14th day of July? A I don't remember that.

Q And anyhow on the 14th day of July was the time you smelled kerosene? A Yes, sir.

Q And you smelled it after some fire official called your attention to it? A No, after -- he at some time, he went around with me and called my attention -- yes, that is right.

Q Exactly, on the second occasion? A Yes, sir.

THE COURT: We will take a recess, now.

Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the

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same is submitted to you. The Court takes a recess until 2 o'clock.

AFTER RECESS.

A D O L P H N I F L O T, resumed.

BY THE COURT:

Q At the time that you made your first examination of the premises do you remember whether the windows were opened or closed? A (No answer.)

Q Now, just face around. Were the windows open there at the time that you made your first examination of the premises -- A I don't remember that; I didn't pay any attention to it.

Q Were the windows broken or were they intact at the time you made your first examination? A I couldn't say that.

Q Was it a clear day or a rainy day at the time you made your first examination? A Oh, it was a clear day.

Q Was it a clear day when you made your second examination? A Yes, sir.

Q Were the windows open or closed when you made your second examination? A I don't remember.

Q How far away were you from any one of the spots that you have indicated with the letter K when you first detected the odor that you call the odor of kerosene? A On the spot; I was there; just there (indicating).

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Q You have got to talk so that those gentlemen can hear you. Talk up now. How far away were you from the spots that you have indicated with the letter K when you first detected the odor of kerosene? A Oh, I detected kerosene in the building, the odor.

Q Do I understand that when you first went to those premises you smelled something that you thought was kerosene?

A Yes, sir.

Q And where were you in those premises, when you first smelled something you thought was kerosene? A It was in a room.

Q What room? A I think it was in the rear room, the back room.

Q On what floor? A On the ground floor.

Q Do you recollect in what part of that room? A Near the door.

Q Which door? A The entrance from the hall.

Q And at that point you first detected an odor that you thought was the odor of kerosene; is that so? A Yes, sir.

Q Now, as you advanced into the room did that odor increase or decrease? A I couldn't tell that; I didn't pay attention to it because I had to make my drawing.

Q Where were you when you first detected the odor that you thought was the odor of kerosene when you were there the second time? A I don't remember that. I know only that the fireman took me around and showed me places where fire was

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and where kerosene was found, or the odor of kerosene.

Q Well, did you smell any kerosene when you were there the second time? A Yes, sir.

Q How close did you put your face to the woodwork or articles on which you detected the odor of kerosene? A Very close.

Q Well, how close? A I just put my face to the subject, just touched it with my face.

Q Now, before you did that, did you smell any kerosene or anything that smelled like kerosene? A The second time I don't remember it, because it was not my business.

Q No; because you don't remember? A I don't remember it.

Q Did you look around to see whether there were any receptacles on the premises containing kerosene? A I didn't look and I didn't see.

Q And that is true of both occasions, that you neither looked for receptacles containing kerosene or saw any containing kerosene, is that so? A I didn't see any receptacle.

BY MR. CARLIN:

Q Mr. Witness, didn't I understand you to say that on the first occasion when you went through the premises alone you smelled nothing? A I didn't say so.

Q Before recess didn't you say that the first time you noticed the smell of kerosene was on the second occasion, at

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which time it had been called to your attention by some fire official? A I didn't say that it was the first time. I say I smelled it at that time, but I didn't say it was the first time.

THE COURT: No, you are in error, counsellor as to the testimony; he said he smelled it the first time and smelled it again.

BY MR. CARLIN:

Q The smell that you noticed at the first time, you didn't pay any particular attention to that, did you? A No.

Q You didn't pay enough attention even to notice where it came from, did you? A No, I did not.

BY THE COURT:

Q Now, the odor of kerosene, as you smelled it the second time, did you smell it on some article of furniture or on the structure itself? A On an article of furniture.

BY MR. McCORMICK:

Q Now, I understood you to say on one occasion that the first time you went there was on the tenth and another time I understood you to say the first time you went there was on the eleventh. Now, what day was it that you went there first; can you tell by referring to this diagram? A It was on the tenth, Monday.

Q On the 10th Monday? A Yes, Monday.

BY MR. CARLIN:

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Q Oh, look at your diagram, will you, and kindly tell me whether there are any indications that there was a fire in the rear room on the first floor? A It is indicated here; bedroom, there was no fire.

BY THE EIGHTH JUROR:

Q Are you a graduate from any school of architecture?

A I am graduated in Berlin, in the Royal Academy of Trades, where drawing is a main subject, in the Royal Academy of Trade in Berlin, and besides I took a course here in this country in the Trade School where I took a course in drawing too.

Q What class of drawing, architectural, mechanical or arts and crafts? A Mechanical.

Q Have you ever had any training in architectural drawing whatever? A Oh, yes; of course, when you draw a machine, you have to make--

Q When you draw a machine that is not architectural drawing? A For instance, if you draw a factory you must draw the building and the machinery inside, so that one is connected with the other.

Q I didn't catch that last? A One is connected with the other, both subjects.

Q The buildings are not connected with machinery at all?

A I know--

Q I simply want to get an idea of your knowledge of architectural drawing as to distinguished from your knowledge of any

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other drawings, as to whether or not you have knowledge enough to make a drawing of that kind? A I made them in school and I made them for myself; I built for myself a factory, so I am thoroughly conversant with this work, and besides I wish to call attention to the fact that this drawing is called a diagram. It is not called a plan, it has a big difference between plan and diagram. Diagram means only to show, to give an idea where the rooms were.

Q In your diagram there you have drawn this according to blocks? A Yes, sir, to save time.

Q Where it is a fraction of a foot have you made it a fraction of a block in your diagram? A Not always; not always, because I will tell you, because the length of a room-- if it is 25 feet or 25 feet and three inches, this makes no difference in the subject, so this is why I made a diagram, it doesn't require the exact measurements to an inch.

BY THE COURT:

Q In other words, the dimensions that you give there are approximately accurate but not absolutely so? A Not to the inch, but to the foot.

Q They are correct as to the foot but not as to the inch? A But not as to the inch.

JOHN J. KEEFE, resumed by the people, testified as follows.

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BY MR. McCORMICK:

Q You are a member of the Municipal Police Force of New York, are you? A Yes, sir.

Q On the 1<sup>st</sup> of July where was your post? A On 7th avenue from 33rd street to 36th street.

BY THE COURT:

Q Both sides of the avenue? A No, sir, on the west side and half a block west.

Q On each side? A Yes, sir.

BY MR. McCORMICK:

Q 33rd street, from 7th avenue half way down to 8th avenue was on your beat? A Yes, sir.

Q Had you been on post there any length of time, I mean covering many days or weeks? A Oh, yes, sir, I was there, I think two weeks previous to that during the day time.

Q Well, in the last year had you been on duty there many times? A Yes, sir.

Q Do you know the defendant? A Knew her by sight.

Q Did you know where she lived? A Only from what I saw here there sitting on the stoop.

THE COURT: Talk up, talk up so these gentlemen can hear you.

THE WITNESS: Only what I saw of her there sitting on the stoop there, that is all I know her from.

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BY MR. McCORMICK.

Q Well, on what stoop? A In front of that house there which was burned.

Q Is that the house referred to-- A Yes, sir, that is it right next door to the store here. (Indicating on the diagram.)

Q Well, the house in which the glass is broken, is that right? A Yes, sir.

Q Indicated on people's Exhibit 1. Now, do you know who else lived in that house? A No, sir.

Q Did you ever see any other people around there? A I saw a couple of girls sitting on the stoop with her.

Q Had you ever seen those girls before? A No, sir,-- I did, yes, sir, a couple of nights previous to that I saw them.

Q Do you know what kind of a place this was? A Well, I had my suspicions; I didn't know what it was.

MR. CARLIN: I object to that.

THE COURT: Strike that out; the jury will disregard it. He may testify whether it was a dwelling house or not.

BY MR. McCORMICK:

Q Answer that.

BY THE COURT:

Q Was it a dwelling house, a house that people lived in?

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A Yes, sir, I could see that.

BY MR. McCORMICK:

Q You say you had often seen the defendant sitting there? A Yes, sir.

Q On the morning of the 10th of July, very early in the morning at any time did you see the defendant? A Yes, sir.

Q What was the last time that morning that you saw her? A Well, I will get at the beginning; I was in the station house --

Q I don't want the beginning, I want you to answer that question?

THE COURT: Just pay attention to the question.

THE WITNESS: I was on a stationary post at 34th street and 7th avenue and I was --

BY THE COURT:

Q About what hour in the morning? A Well, I was --

Q (Continuing) On that day did you see the defendant last. Now, that is a plain question. You pay attention? A About five or eight minutes after three o'clock.

Q That is, from five to eight minutes after three o'clock in the morning you saw the defendant? A Yes, sir.

Q On the morning of July 10th? A Yes, sir.

BY MR. McCORMICK:

Q Now, what were you doing at the time you saw her?

A Well, I was patrolling my post.

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Q Which way were you walking? A I was walking south from 34th street to 33rd street; I was going to the toilet--

Q I don't care about that. You were walking on 7th avenue going south? A Yes, sir. and then I turned into 33d street and I had to pass her house.

Q You were walking west? A Yes.

Q And you were walking on which side of 33rd street?

A On the north side.

Q And how many doors from the corner of 7th avenue is this house 207? A I think it is about five or six doors from the corner.

BY THE COURT:

Q Where was the defendant when you saw her at that time?

A Sitting on the stoop.

Q The stoop of what house? A Of this house that was burned there.

BY MR. McCORMICK:

Q Will you take a pencil and put a mark across just exactly where she was?

MR. CARLIN: What exhibit is that, please?

MR. McCORMICK: people's Exhibit 1.

(The witness complies.)

THE COURT: The witness indicates by a cross mark.

MR. McCORMICK: On the stoop of the house 207 West 33rd street.

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BY MR. McCORMICK:

Q Was she alone? A Yes, sir.

Q Who else was there? A Two other girls sat with her; colored girls.

Q <sup>they</sup> And/were sitting how close to her? A Well, I think on a couple of steps below her.

Q A couple of steps below? A Yes, sir.

Q Did you notice anything further at that time in connection with them or the house? A No, sir; I just passed there hurriedly.

Q Do you remember what kind of a night it was? A Very warm night.

Q Do you know whether it was raining or clear? A No, sir; it was very clear.

Q What was the condition of the street as to light at that point? A Very good light there; Pennsylvania Tunnel.

Q Is there a lamppost there? A Yes, sir. The Pennsylvania depot is right in front of the house.

Q We don't know where the Pennsylvania depot is; but in its relation to that house was there a light around there near it? A Yes, sir.

Q How close? A Right across the street.

Q On the south side of 33rd street? A Yes, sir. and then there is a lamppost directly below the house on the same side.

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Q Well, you continued on down towards 8th avenue?

A Yes, sir.

Q When was the next time you saw that house? A I went up to 35th street where some man told me--

Q I don't want to know that.

THE COURT: Pay attention to the question; it was merely the hour.

THE WITNESS: Oh, about 3.50.

Q 3.50? A Yes, sir.

Q What did you observe then? A Well, I saw fire and smoke coming from the top floor window, and the engine--

Q Where were you standing at that time? A Right in front of the house.

Q And how did you get in front of the house, from where did you come? A From 35th street, down 7th avenue.

Q And you noticed the fire when you turned the 7th avenue corner? A Yes, sir.

Q Before that had you heard any fire engines? A No, sir-- well, a fellow told me there was trouble --

THE COURT: No, now you pay attention.

Q Do you know who turned in any alarm? A yes, sir; another officer turned in the alarm; he was stationed in front of the Pennsylvania Depot.

Q Did you see him turnit in? A No, sir.

Q You don't know whether he did or not? A No.

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THE COURT: We will strike out about the turning in on the alarm; the jury will disregard it.

Q When you reached, coming down 7th avenue at 35th street you say you reached 33rd street, and you saw smoke and flame?

A Yes, sir.

Q Where were the flames you saw? A The flames were coming out of this top floor window.

Q Which window? A Right here (indicating).

Q The easterly window? A Yes, sir.

Q of the top floor? A Yes, sir.

Q Where was the smoke coming from? A Well, from the whole four windows.

THE COURT: You are looking at Exhibit 1?

THE WITNESS: Yes, sir.

Q From the two windows on the top floor and from the two windows on the floor below the top? A Yes, sir; in fact it was coming from nearly all the windows.

Q Did you see the defendant around there then? A No, sir.

Q What did you do when you saw the smoke and flame coming out of the house? A I ran up the stoop there with the sargent and just stood there; Heegan, the fireman got in ahead of me and I stayed there to see if there was anybody in the house, to see if I could do any good, and finding I couldn't do any good I then went to the station house box and told them it was not a big fire and told them they didn't need the reserves.

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Q How long did you stand on the stoop? A I should judge about five or ten minutes.

Q During that time that you were there did you see any people go into the house? A No, sir.

Q Did any firemen go in? A Oh, yes, sir.

Q Now, then, some people did go in? A Yes, some firemen.

Q How many people went in? A About five of them.

Q Five firemen? A Yes, sir.

Q And that is all you know about it, isn't it? A Yes, sir, that is.

BY THE COURT:

Q When you got to the door of the house, having gone up the stoop, was the front door open or closed? A Open.

Q And at that time were the firemen already in the house? A Yes, sir.

Q Did you go into the house on that occasion? A No, sir I didn't go into it at all; the firemen were pretty near there.

CROSS EXAMINATION BY MR. CARLIN:

Q The fire that we are speaking about occurred on a Monday, is that right? A Right, yes, sir.

Q You testified in the Police Court on the following Friday, did you not? A I did.

Q And the testimony that you gave there was true, was it?  
A It was true.

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Q The house, on the stoop of which you say you saw three women sitting, it was five or six doors from Seventh avenue, wasn't it? A Yes, sir.

Q There can be no mistake about that? A Well, there can be a mistake, yes.

Q Well, haven't you sworn under oath, and you have said now that the house that you speak of was five or six doors--

A Well, so far as I know, it was five or six doors down.

Q You have sworn to that? A I have sworn to that.

Q And you swear to it now? A I swear to it now.

Q Don't you know that 235 West 33rd street is three doors from Seventh avenue, do you know it; yes or no? A Now, that building that is on the corner there of 33rd street and Seventh avenue is a very long building; it has a saloon in it and a restaurant also. Now, that might be two or three doors for all I know and it might be two or three or four dwelling houses between that and the place that was burned, and that would make about four or five doors, wouldn't it?

Q Well, we will come back to the proposition then that the women you say were sitting at a house five or six doors from Seventh avenue, isn't that so? A Yes.

Q Now, officer, I will ask you whether you didn't testify on the Friday following the fire in the police court that you had been on that post only since last Monday morning, the Monday of that week, did you so swear; yes or no? A The night post.

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Q Well, it is the first time then that you had been on the night post; that is right, isn't it? A On the stationary night post. I had been there several times during the day.

Q Well, that is correct, that the first time you had ever been on that post was on the Monday when this fire occurred?

A I believe it is, at that late hour I have been there during the night--

Q Now, officer --

THE COURT: Now, let the witness answer the question.

THE WITNESS: I had been on that night post from three o'clock in the afternoon until 11 o'clock at night which would leave me there at the night time; I had been there three or four weeks on that post but that was the first week I think I was there from 11 to 7 in the morning.

Q Let us come back to the question. Didn't you swear in the police court that-- may I have the minutes, Mr. McCormick?

(Mr. McCormick hands paper to Mr. Carlin.)

Q You can be so sure of the time when you saw this defendant that you will say it was between five minutes and eight minutes after three? A I guess I can.

Q It couldn't be a second before five nor a second after eight, could it? A I guess it could be.

Q It could be half an hour after that or a half an

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hour before? A No, it couldn't.

Q And you are so certain as to the events of that night, that you can even describe where the particular women sat on that stoop can you? A It was pretty vivid in my mind, yes.

Q Yes; you got a fleeting glance at three women there?

A Well, I seen them there out until a late hour in the morning; it was my business to note what they were doing there, and I had a right to chase them in.

Q Did you ask them why they were there? A No.

Q And you didn't chase them in? A No, I didn't.

Q And all you did get was a fleeting glance, wasn't it?

A It was, yes, a kind of a fleeting glance, but I took pretty good note what they were doing there.

Q How many minutes did you look at them? A From the time I got to the corner until I got down to the stoop.

Q Oh, you started to look at them from the corner? A I saw them sitting there.

Q Yes; how long did it take you to get from the corner to this house? A I imagine about a minute.

Q And all this time you kept looking at them? A I kept looking at them.

Q What was there particularly about these women that attracted your attention? A Because I was suspicious of the kind of a place they were running, that is the reason why.

Q Did you see anything to verify your suspicions? A No,

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I didn't see anything for the simple reason that they didn't give me much cause to.

THE COURT: Just answer the questions now.

Q Officer, let me direct your attention to one or two questions. Were you asked this question in the police court on the Friday following the fire, and did you give this answer: "Q How long have you been on that post there? A. Since last Monday, meaning the day of this fire. Did you so answer?"

A I guess I did.

Q Officer, could you tell us who those other two women were? A I couldn't tell you, no.

Q But you could tell, of course, you are certain about this defendant? A I am pretty certain, yes.

Q Will you kindly give us a better explanation of the words pretty certain? A Well, I am certain.

Q Yes. Why did you say you were pretty certain? A That is as good an answer as any, isn't it?

Q Is that the only explanation you can give me? A Yes.

Q What can't you be certain about the other two women?

A I am certain for the --

Q Why can't you be certain about the other two women?

A Because I didn't see them often enough to be certain about them.

Q You had seen this defendant often? A Yes, sir, I did.

Q For often? A About three or four times.

Q When? A At different hours of the night as I told

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you when I was on that post there.

BY THE COURT:

Q No, now, just answer. You simply pay attention. Now, you will be given an opportunity when you are examined again by Mr. McCormick to explain anything you want to explain but now just answer the questions and as briefly as you know how.

BY MR. CARLIN:

Q Officer, I want you to tell this jury of the three or four occasions other than the morning of July the 10th when you saw this defendant? A I saw her a couple of times that night before the fire occurred, and I saw her a couple of times the week previous, I believe, when I had that post before, from three o'clock in the afternoon to 11 o'clock at night.

Q What hour of the night previous to that had you met her? A Well, I can't exactly say the hour that I met her, but it was sometime after dark.

Q What time did you go on post that night? A The night of the fire you mean?

Q Yes. A 11 o'clock at night.

Q And at that time what she was sitting on the stoop? A I seen her, she was sitting on the stoop at 11 o'clock, it might have been after.

Q Where was she at 11 o'clock? A I don't know where she was.

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Q You saw her? A Not at 11 o'clock that night, no, I didn't see her.

Q After 11? A I saw her after 11, yes.

Q Where? A On the stoop.

Q What time? A I couldn't say what that it was.

Q How long after 11? A I don't know how long after 11.

Q Can't tell whether it was a minute or two hours after 11

A No, I can't tell.

Q There were two women with her at that time? A I won't swear to that either.

Q Wouldn't swear one way or the other about that? A No.

Q Is that right? A Right.

Q Well, that is one of the -- outside of after 11 o'clock this night had you ever seen her on any other occasions?

A I saw her a couple of times, yes, when I had that three to eleven shift.

Q When? A When? Be a little more explicit, please; I can't follow you.

Q When before that occasion had you ever seen her before?

A I said a couple of nights previous to the fire; I couldn't tell you what time or what day it was, but I know I saw her before.

Q After 11 o'clock or before? A No, before 11 o'clock.

Q What time? A Between-- it was after dark, sometime

after dark.

Q Never saw her in the daytime? A Never saw her in the daytime.

Q What was there about Mattie Michaels that impressed you so that you took note? A She had a young fellow hanging around there, a mail man, with a dog, and I saw this fellow go up to a couple of sailors a couple of times and I knew it was for no good cause; then seeing girls sitting around there late at night. Then a fellow told me there was a kind of shifty place around 33rd street, and it was my business to look for that place.

Q Well, you didn't do anything with all your observation?

A Well, I wasn't sure of the place, and I don't do anything until I am sure.

Q You didn't try to confirm your suspicions? A Didn't get that far.

Q Did you report in the station house that you heard about that shifty place? A No, I wasn't sure that it was shifty.

Q Did you report to the station house that you had heard that it was a shifty place? A Not until I was sure of it.

Q Did you report that you had heard it? A No.

Q Can you tell us how this defendant was dressed that night? A No, I couldn't tell you.

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Q Did you watch any other women in particular that night so that you could afterwards say that you saw them?

A No.

Q Only Mattie Michaels? A I didn't watch her very closely--Q Well, you watched her close enough so that you can be pretty certain that it was her sitting on the stoop? A I saw her sitting on that stoop a couple of times.

Q What step of the stoop did you say she was sitting on? A About the top step.

Q The others were sitting where? A About a couple of steps below her.

Q That all made a vivid impression on you that night?

A Yes.

Q And as you watched the progress of the fire you can even remember the way the flames came through one of the windows and everything else can you? A I can.

Q You can tell us some flames came through one window and describe that window, can't you? A Yes.

Q Well, how long were you in that precinct altogether? A Before the fire?

Q Yes. A Four months I believe.

Q No doubt about that, is there? A I think it is three months.

Q Which is it? A Three months.

Q Certain? A Three months, I believe.

Q Before the fire? A Yes.

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Q It was at least three months before the first that you got that post? A Oh, not on the post; in the precinct, in the station house.

Q Well, I asked you on that post.

THE COURT: No, you asked him the precinct.

Q How long had you been on that particular post? A I imagine about two weeks.

Q And the only time that you had been out after 11 o'clock at night was this particular night? A Yes.

Q How many blocks did your precinct cover, I didn't exactly get that? A You mean the post?

Q Yes; how many blocks did your post cover? A 33rd to 35th.

Q Both sides of 7th avenue? A No; the west side only.

Q And north on 33rd? A North, yes; the north side of 33rd street and a half a block west.

Q Did you notice any women in particular last night around there? A Last night?

Q Yes. A I wasn't on last night.

Q Well, the last night that you were on, did you notice any women in particular that you could afterwards identify? A Yes, there is lots of women.

Q That you could afterwards identify, after getting a fleeting glance, as you say, two or three times? A Why, certainly.

Q I suppose you took out your watch and timed it in order to say it was from five minutes to eight minutes after three.

Q You didn't? A No.

Q Did the woman that you say was Mattie Michaels have a hat on? A No, she did not.

Q How about the other two women? A Didn't have any hat either.

WILLIAM M. ARCHBOLD, 316 West 23rd street, called and sworn as a witness for the People, testified as follows:

DIRECT EXAMINATION BY MR. MCCORMICK:

Q What is your occupation? A Real estate business.

Q Where is your office? A 316 West 23rd street.

Q Were you during the years of 1910 and 1911 the agent for the owner of the building 207 West 33rd street? A Yes.

Q Who is the owner? A A Mr. Fred. V. V. Shaw.

Q Were you acquainted during that time with the defendant?

A Mrs. Michaels?

Q Yes.

THE FOREMAN: Since this name has been mentioned, I am acquainted with one of the witnesses in this case, but it wouldn't bias my opinion any way.

MR. CARLIN: What is that?

THE COURT: The juror states that he has discovered

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that he is acquainted with one of the witness's in the case.

THE FOREMAN: The initials recall it to my mind that I know him in a business way only.

MR. CARLIN: I don't like to interrogate the juror-- your name is what?

THE FOREMAN: Norris.

MR. CARLIN: Which witness are you acquainted with?

THE FOREMAN: This Mr. V. V. Shaw.

MR. CARLIN: And how long have you known Mr. Shaw?

The Foreman: I say I have known him in a business way eight years.

MR. CARLIN: Your relations with him, I suppose, in a business way have been quite intimate?

THE FOREMAN: No, not at all.

MR. CARLIN: Have you spoken with Mr. Shaw on various occasions?

THE FOREMAN: Why, yes, when he would come into my place of business as a customer only.

MR. CARLIN: Oh, what business are you in?

THE FOREMAN: Tailoring business.

MR. CARLIN: And that business relationship <sup>has</sup> extended for a period of years?

THE FOREMAN: He was one of my personal customers-- in fact, he is not a personal customer of mine now, he

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is a customer of a salesman of ours. Now, I have been in business for three years and previous to that I was working for another man, the same man that this same salesman was with.

MR. CARLIN: Would the fact that Mr. Shaw is the owner of the premises which it is charged this defendant set on fire influence you at all in passing on the case?

THE FOREMAN: Not in any way.

MR. CARLIN: You feel no embarrassment because you know Mr. Shaw?

THE FOREMAN: No.

MR. CARLIN: In other words your mind is just as free and open to the truth of the case as it was before you discovered the business acquaintance with Mr. Shaw?

THE FOREMAN: Exactly.

MR. CARLIN: In other words, you still want the People to prove the defendant's guilt beyond a reasonable doubt and give him the benefit of the presumption of innocence?

THE FOREMAN: Yes.

MR. CARLIN: The juror is satisfactory.

BY MR. McCORMICK:

Q Now, Mr. Archbald, do you know when the defendant got possession of the premises 207 West 33rd street? A I could not give you the exact date; I imagine --

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Q Approximately? A It was about four years; possibly more than that.

Q Four years ago? A Four years to my memory.

Q Do you know whether she continually kept those premises from the time she first took possession until the 10th of July?

A To the best of my knowledge.

Q Did you ever have any conversation with her about the rent? A Yes.

Q What were they? A Why, she gradually got behind in her rent and I pressed her for the rent several times.

Q When was the last time you pressed her for rent?

A About the first of July, around the first of July.

Q Now, will you kindly relate that conversation?

THE COURT: Where it took place and when it took place who was there and what was said.

THE WITNESS: It took place in my office and I sent Mrs. Michaels a notice, a three days notice, for the rent, she was owing several months rent, and she came down to the office to see me about it. I stated that we must either have the rent or have the premises, and she promised to get the rent and pay it, which she did not do.

BY THE COURT:

Q What was the amount of the rent due, do you recollect? A I have a memorandum of it. It was three hundred and some odd dollars, \$357.50. That was six months and a half rent.

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BY MR. McCORMICK:

Q That was a dwelling house? A A dwelling house; three story dwelling house.

CROSS EXAMINATION BY MR. CARLIN:

Q Mr. Archbald, there has been a previous occasion, about three years ago, hasn't there, when Mrs. Michaels was behind in rent for several months? A She has been behind and gradually got behind for sometime.

Q Yes; but I mean wasn't there an occasion about three years ago when she was behind in her rent some two or three months? A You mean when she paid up?

Q Did she afterwards pay up when she had been behind? A Afterwards, equalled by the entire balance due.

Q No, I mean about two years ago, she got behind in her rent, and was behind for some two or three months? A She has gradually been getting behind all the time.

Q For how long a period was that? A Why, I should say about four years, anyhow; probably longer.

Q Well, from the very time she started in she was running behind in her rent? A After the first few months I think she was getting behind all the time a little, a trifle.

Q But you made up your mind she was doing the best she could and paying you as well as she could and you kept her there? A We let her stay there, yes.

BY MR. McCORMICK:

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Q When was that conversation, July 1st? A I think it was slightly prior to that.

Q From that time until the day of the fire, which was the 1<sup>st</sup> of July, did she pay you any money? A No; no.

BY THE COURT:

Q When did you last visit the premises before the fire?

A I haven't been in the house personally before that for--

THE EIGHT JUROR: We cannot hear.

THE WITNESS: I haven't been in the house personally before the fire for many months; the collector in the office has been up there.

BY THE COURT:

Q Well, you haven't been there in many months? A Yes, I have been there since the fire, but not prior; I have been several months before the fire.

Q When did you first go to the premises after the fire?

A About five days as near as I can recollect.

BY MR. McCORMICK:

Q Is Mr. Shaw here? A I don't see him.

Q If he is you can tell him he needn't remain.

EDWARD L. COOK, 151 East 90th street, called and sworn as a witness, for the People, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Mr. Cook what is your business? A Foreman of Hook and

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Ladder 24, New York Fire Department.

Q Where is the Fire House? A 115 West 33rd street, north side between Sixth and Seventh avenues.

Q 115? A West 33rd.

Q Now, that is between-- A 6th and 7th.

Q 6th and 7th-- A North side of the street.

Q There is a big store right next to it, isn't there?

A No; the store is on the opposite side of the street.

Q Sachs store? A Sachs is on the east side; there is a theatre between Sachs and the fire house, the Savoy Theatre.

Q On the morning of the 10th of July did you go from over the fire house to 207 West 33rd street? A Yes, sir.

Q Was that in response to an alarm? A In response to a still alarm.

Q What do you mean by a still alarm? A A citizen came to quarters and told us there was a fire at 207 West 33rd.

Q Do you know what time? A 3.50 a. m.

Q Do you know what time that alarm came in? A Well, the box was pulled and it was just about a minute before the box was pulled; the box was pulled at 3.50.

Q What was done at 3.50? A When I arrived there I found five separate and distinct fires.

Q No, I am talking about the station, the fire house--

A We responded to the alarm.

Q I know that, but before that you say you sent an

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alarm? A Well, when we got the still alarm and that sounded the bell in quarters -- after that an alarm came in over the telegraph -- before that I had directed the members of the company to respond and hook up and proceed to the fire.

Q What time was it you got that still alarm? A 3.49.

BY THE COURT:

Q That is to say somebody came to the fire house, said something to you at 3.49 and a minute afterwards there came what you call an alarm over the telegraph apparatus? A Yes, sir.

Q And then you gave the signal for the men of your company to come downstairs and prepare to go out of the fire house?

A We left quarters before the telegraph alarm came in.

BY MR. McCORMICK:

Q I want to know the minute you left your fire house?

A 3.49; that is, about.

Q I want to know the minute-- what is it a hook and ladder? A Hook and ladder company yes.

Q The minute that you drove out of the fire house I want to know? A About 3.49 a. m.

Q And how long was that after you got the still alarm?

A About 10 seconds possibly.

Q Can you do that in 10 seconds? A Yes, sir.

Q And then you drove out-- how many men were on the hook and ladder? A There was eight men and one officer and

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myself.

Q Tell us exactly what you did? A Well, we proceeded west to the fire, it was one block away from quarters, and we arrived at the fire. It was a pretty good fire, and I told the police officer to pull the box, the alarm box is at 31st street and 7th avenue.

Q You are going a little too fast. You drove down 33rd street. Where did you stop? A We stopped about a hundred feet this side of the building.

Q This side of the building? A Yes, this side, the east side of the building there was a fire.

Q And where were you when you first saw that building? A Well, I was about 7th avenue; I could see the smoke and I jumped off the apparatus and ran down.

Q Describe the condition of that building as regards smoke and fire at that time? A The smoke was coming out of the windows, on the--

Q Which windows? A On the upper stories. Most of the smoke was coming out of the top windows, the third floor, front. You pass in the building through the door on the stoop.

BY THE COURT:

Q Were you the first man to pass through that door?

A Yes, sir.

Q Did you find the door open or closed? A It was a double door, and it was partly open; one side was open, the

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other side was closed; it was a vestibule door.

BY MR. McCORMICK:

Q Did you find any people in the building? A No, sir.

Q Were you the first man to go in? A Yes, sir.

Q Who followed you in? A Well, the rest of the members of the company.

Q Now, describe what you did after you went in the front door? A I ordered hand extinguishers brought into the building; there was no engine company there when we arrived, so we had to use chemical extinguishers, three gallon extinguishers, and we partly extinguished the fire on the stairway between the first and second floor, and while we were working at that, in the meantime, the engine company arrived and they stretched their hose into the building and started the water on the floor. While the fire worked through the stairway, that is, it burned through into the ceiling like-- there is a kind of lath and plaster wall under the stairway, and when the engine company arrived I had to get the hooks to pull down this plaster so they could get the water in to where the fire was. That was on the stairway between the first and second stories.

Q Who went up first? A The engine company went first; we went through the building.

Q Who was the first man up, did you notice? A The foreman of the engine; foreman Callagy.

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Q You saw him go up the front stairs? A yes, sir.

Q And did he have anything with him when he went up?

A He had the hose.

Q And he was being assisted by others? A Oh, yes; there were four or five men on the line.

Q Now, how long did it take to put the fire out?

A Well, I should judge -- they had water actually on the fire a couple of minutes. There was a dash here and there -- body of you know it was not one big fire in one particular spot; there was just a dash of water here and there.

Q Where was the fire, on the ground when you got in?

A Well, the first fire was on the stairway between the first and second floor against the ceiling, that is, on the west side of the building.

Q Where was there any other fire? A Well, the next fire was on the second floor rear in a bedroom.

Q Did you see that? A yes, sir.

Q How much of the bed was on fire? A Just the mattress; the mattress on the bed.

Q What else was on fire? A I guess there was a blanket or a comforter of some kind on the bed too that was partly burned; and then the next fire was in the front of the second floor in a bedroom on a bed too.

Q Any other fires? A The third fire was on the stairway mostly at the foot of the stairs between the second and third

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floors.

Q Was there any other fire?

THE COURT: Well, that is the fourth fire. You have mentioned two on the stairways and two in beds.

THE WITNESS: That is the fourth fire. The next was on the top floor in the front in a bed.

BY THE COURT:

Q So there were in all three fires in beds and two on stairways? A Yes, sir.

BY MR. McCORMICK:

Q Were there any other-- was there a fire between these different fires? A No, sir.

BY THE COURT:

Q How far apart were the two stairway fires? A Well, the first stairway, the fire was about ten feet up the stairway and it extended about four feet. And the next fire was at the head of the stairway in the bedroom which was about ten or twelve feet from the stairway fire; the next fire on the other stairway was fourteen or fifteen feet from that bedroom and then the bed in the front room was about seven feet away from the second stairway. Then on the top floor there was another fire.

BY MR. McCORMICK:

Q Well, was there any furniture in there partially consumed by fire? A Well, no; they might have been scorched

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but it wasn't burning.

Q How much furniture was there in that building that night? A Well, I didn't examine that closely; of course, we went right ahead extinguishing what fire there was. It was sparsely furnished, just a few pieces here and there, not a great many pieces.

Q Did you notice how much furniture was in the front room on the ground floor? A No; I didn't go in there at all. There was no fire on that floor. We looked in and we didn't see any fire and we just followed the fire up.

BY THE EIGHTH JUDGE:

Q How do you determine the first floor and the ground floor; what do you mean, officer, by the first floor?

A That is at the head or the top of the stoop, that is the first floor; the ground floor is considered the basement.

Q Well, the only fire that you say was on the ground floor, that is from the stoop where you go in, walk up the stoop, the steps here on the stairs going up to the second floor? A Yes, sir.

BY THE COURT:

Q You saw a fire, as I understand, on the stairs leading from the floor which is on a level with the top of the stoop; you saw a fire on the stairs leading to the floor above there?

A Yes, sir, the stairway between the first and second floor.

Q And then you saw a fire on the stairway leading from



the second floor to the third floor? A To the third floor.

Q And the other fires that you saw were in beds?

A Bedrooms, yes, sir.

Q Bedrooms? A On beds.

Q And on beds? A yes, sir.

BY MR. MCCORMICK:

Q Did you see any kerosene there? A No, sir, I didn't.

Q Did you smell any? A You could smell kerosene, a strong odor of kerosene all through the building.

Q Where were you when you first smelled that odor?

A Just as we entered the door you could smell the building.

Q You could smell it all over the building? A All the way through, yes, sir.

Q You say you saw no kerosene? A No, sir, didn't see any at all.

Q I show you People's Exhibit 3, and ask you whether that represents the condition of the front stairs going from the first floor to the second floor? A Yes, sir, that is the stairway from the first to the second story.

Q Was it in that condition when you got there? A That picture was taken after the fire, but that is where the fire was burning, right here. (Indicating); the fire was burning in that space, it took in about five or six steps.

THE EIGHTH JUROR: Suppose you draw a pencil mark around that so we can see it better.

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(The witness complies.)

BY MR. McCORMICK:

Q Well, where you draw that line-- A Yes, sir, I have.

Q The fire was not outside of that line? A No, sir; most of the fire was right inside of that.

Q Didn't it burn outside of the linewards? A No, sir; it burned through the stairway, through the steps themselves into the ceiling, acelling like a hanging ceiling under the stairway lath and plaster; we had to open that from underneath so they could get the water.

BY THE COURT:

Q Did you notice whether the windows were open or closed when you got to the building? A We opened some of them.

Q You opened some of them? A Yes; we opened some as we got in, when we got into the building. The duty of a truck company is to get in and ventilate the building so the engine company-- so that the smoke will escape, and the engine company get in and extinguish the fire without punishment, as we call it, from smoke.

BY MR. McCORMICK:

Q Did you go into the rear room on the ground, that is, the first floor? A No, sir.

CROSS EXAMINATION BY MR. CARLIN:

Q Officer, after the fire had been extinguished did you

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make an investigation of the conditions of the place?

A No, sir.

Q So that that about which you have testified here was gained while the fire was going on and while you were in the process of trying to extinguish it? A Yes, sir.

Q How long were you at the premises in all, captain?

A Well, we werw working at the fire fifty minutes.

Q Fifty? A Yes, sir.

Q And from your knowledge of fires can you give us any idea about how long it had been burning when you got there at 3.50? A I couldn,t tell you.

Q You couldn,t tell one way or the other about that?

A No, sir.

Q Might have been burning a minute, two minutes-- you don,t know any how? A No, I don,t know.

Q Now, needless to say, captain, when you are at a fire the main thing you are interested in is putting it out and not seeing how many feet away from a certain place it has burned and things of that sort; that don,t interest you, does it? A No, sir.

Q Now, you didn,t look for any evidences of kerosene oil or saturation of kerosen oil, did you? A No, sir.

Q Isn,t it a fact officer-- captain -- that the use of a chemical extinguisher or the playing on a fire of h se with water would tend to eliminate the smell of kerosene oil?

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I don't know, but  
A Well, I/should imagine it would a little bit.

Q It would, wouldn't it? A I think so; water mixed with it.

Q And it would tend to eliminate it to the extent that soon after the fire it would scarcely be noticeable? A Well, you would notice it, I imagine, unless it was burned up pretty well.

Q Well, of course, you play considerable streams of water; you did play considerable streams of water on this fire, didn't you? A Well, I didn't.

Q I mean your associates? A Yes.

Q In fact, they were attending to the fire, as you have explained, for some fifty minutes? A No; that is the truck's duty; that is what they call general overhauling the building, trimming around here and there where there is any evidence of fire, but they didn't have water on the fire all that time, they just had water on the whole fire two minutes or a minute and a half altogether.

Q But then there would be a sufficient volume of water there to eliminate to a considerable extent the smell of any kerosene, wouldn't there? A Well, it might eliminate it a little bit, but you can smell the kerosene after that we leave.

Q Were you there at/ following the fire? A No, not after I left.

BY THE COURT:

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Q You didn't go there on any other day? A No, sir.

BY MR. CARLIN:

Q You paid nothing but a casual attention to the different places from where the fire came, did you? A That is all.

Q Just casual notice? A Yes.

Q Because, like every other fireman you were there to put the fire out? A Yes, sir.

Q And that which you have testified to was about five different places, and then you just noticed that in a casual way? A You pay particular attention in a case like that, don't you know, because the fire looked suspicious, when it is in different spots, there was no way of it communicating; if it communicated from one to another it would show a trail of travel.

Q Might not the progress of a blaze indicate that there were several different fires; might not that be the occasion of a blaze? A Not very well on different floors; if it was all on the one floor it might.

Q Might not the action of a blaze be such that various rooms would be set on fire at different places? A What do you mean, from one fire?

Q Yes. A Communicate?

Q Yes. A Well, it looked-- it didn't look that way, it looked like as if they were set separate, don't you know.

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there wasn't enough body of fire for it to spread like that.

Q Well, you had the windows open of course? A Not until after we got into the building, and there was water ready to put on it.

Q How long after was that? A Why we opened the windows as they had the water right there, putting it on the fire.

Q Didn't I understand you to say that when you got there you didn't have to break in, the door was open, you walked right in? A Yes, sir.

Q Have you been down to the Fire Marshal's office in connection with this case at any time? A No, sir.

Q You have made a statement about this case, didn't you? A Statement?

Q yes. A In the West Side Court, that is all.

Q Has a representative of any fire insurance company called on you to ask you what you knew about the case? A No, sir.

BY THE COURT:

Q Did you see the defendant at any time that morning?

A No, sir.

Q Did you see this woman who is on trial at any time that day? A No, sir.

BY THE EIGHTH JUROR:

Q You say you started to work on this fire with hand extinguishers? A Yes, sir.

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Q Do you mean hand grenades or metallic-- A Three gallon extinguishers.

Q That is, metallic tanks? A Yes.

Q You charge those tanks? A Yes, we had them on the apparatus.

Q What solution are they charged with, nitric acid and bi-carbonate of soda water? A Yes.

Q Nitric acid and bi-carbonate of soda water, with a breakable bottle for the nitric acid? A Yes, it is an upset.

BY MR. McCORMICK:

Q As you went through the house did you find any doors closed? A No, sir.

Q Were they all open? A All the doors were open, yes, sir.

BY MR. CARLIN:

Q Were there any flames shooting out of the windows on the top floor? A I didn't see any flames, no, sir.

Q If there were any flames shooting out of the windows on the top floor you would have seen them? A I imagine I would.

Q You got there at 3.50? A Yes.

BY THE COURT:

Q Did you see any smoke coming out of the windows? A Yes, lots of smoke, on the top floor coming out of the top.

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MARTIN F. CALLAGY 143 East 29th street, called  
and sworn as a witness for the people, testified as follows.

DIRECT EXAMINATION BY MR. McCORMICK:

Q. You are the captain of Engine No. 1? A. Yes, sir.

Q. Are you not? A. Yes, sir.

Q. Where is the house? A. 165 West 29th street.

Q. What time did you arrive at the scene of this fire,  
do you know what time? A. What time did I arrive?

THE COURT: He has not been interrogated as to any  
fire.

Q. Well, on the morning of the 1<sup>st</sup> of July were you  
at your fire house? A. Yes, sir.

Q. About around three o'clock in the morning? A. Yes, sir.

Q. Did you go out to a fire on 33rd street? A. Yes, sir.

Q. Do you know what time you left the house? A. According  
to the records 3.47 a. m.

Q. What sort of apparatus is your company in charge of?  
A. Engine and hose wagon; three horses on the engine and two  
horses on the hose wagon, steamer.

Q. And you went from your house where? A. To the fire,  
to 207 West 33rd street.

Q. When you got there what did you notice? A. I reported  
to the chief officer.

Q. Did you notice a building on fire? A. Yes, sir.

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Q Describe the condition of the building at the time you got there? A The fire was coming out, smoke out of windows, no fire, only smoke; I stretched my fire hose from the engine to the building up the stoop.

Q Where did the engine stop? A Northwest corner of 33rd street and 7th avenue.

Q Did you go into the building? A Yes, sir.

Q Did you see any one in there? A There was firemen previous to me.

Q How many firemen were there ahead of you? A A company; I couldn't tell you the number.

Q Whose company was it? A I couldn't tell you the number.

Q Do you know the name of the man in charge? A Yes, sir, Captain Cooke of Hook and Ladder 24.

Q Is that the man who was just on the stand? A That is the captain in charge of that company.

Q Just left the witness stand? A Yes, sir.

Q What did you do when you got there? A Stretched my line and we got in there and started the water, extinguished the fire.

Q Where was the first fire that you saw when you got in there? A On the first floor, a stair landing and in back of the stairs.

Q Will you indicate-- was it on those stairs, People's

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Exhibit 3? A Yes, sir; the fire was around here in the back here, underneath the stairs.

BY THE COURT:

Q In other words, the fire, so far as you observed it began at the point underneath those stairs and it burned up through the stairs? A That I couldn't say; I found the fire on the stairs and around under the stairs.

BY MR. McCORMICK:

Q Did you put that fire out? A Yes, sir.

Q How? A About two seconds or a second.

Q How? A With water from the hose.

Q Well, then, what did you do? A Up the stairs, found the fire up to the next floor.

Q Who had hold of the end of the nozzle at the end of the hose? A Some fireman attached to the company.

Q Did you go ahead of them? A Behind them, alongside of them you might as well say.

Q What did you do when you reached the top of the stairs after you put the fire out on the stairs? A At the head of the--

Q Did you see any fire at the top of the stairs? A At the head of the stairs I extinguished the fire, which was a room to the rear.

Q I want to know where that fire was? A At the head of the stairs, second floor.

Q How did you put that fire out? A Water from two hoses

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from the line of hose.

Q Then where did you go? A To the second floor, on the second floor, hall landing to the front room.

Q You mean by the second floor one flight higher than the floor you walked into by going up the front stoop and steps of the house? A Yes, sir, the second floor.

Q And on that floor did you find any fire? A Yes, sir.

Q How many fires? A I found a fire in the rear and also a fire in the front room and extinguished that fire.

Q How did you put those fires out? A Water through the line.

Q On the second floor you say there were fires in three different rooms? A No, sir, I did not.

Q We'll, in two different rooms and one in the hall?

A That is downstairs. We went in the hall downstairs, then upstairs, second floor rear room, second floor front room.

Q And then one at the head of the stairs, second floor?

A No, sir.

Q I understood you to say so? A No, sir, I did not; second floor, rear room, second floor front room.

Q Did you find any fire on the top floor? A Yes, sir.

Q What room? A Front room.

Q Did you smell -- did you detect any odor of kerosene?

A As soon as I struck the building, when I entered the building, I smelled kerosene.

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other

Q Did you smell it on any/floor than the first floor?

A No, sir.

Q You only smelled it on the first floor? A I suppose working around I didn't notice it.

Q Well, did you find anything containing kerosene in any part of the building? A No, sir.

BY THE COURT:

Q Did you see the defendant any time while you were on those premises, that is to say, did you see this woman who is on trial at any time that you were on the premises?

A No, your Honor.

Q Did you see any person on the premises except firemen? A No, your Honor.

BY MR. McCORMICK:

Q Will you take this diagram, People's Exhibit 9.

THE COURT: First look at it well.

BY MR. McCORMICK:

Q And look at it carefully and study it first.

THE COURT: So that you will understand it, this part of it is the basement, the second floor and so on.

THE WITNESS: Yes. This is the first flight of stairs going up. The fire was on part of this stairway, the first floor just above the stoop; the fire was found on the risers of the stairs and also at the back of the

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stairs, that is on the first floor, just above the basement.. On the second floor I met fire here at the head of the stairs in the rear room and also in the front room, the bedroom. Third floor, front room, fire was already in the front room and nearer the front door. I was not the first company to arrive, I happened to have other firemen there before me, therefore I didn't take much notice of those things.

BY MR. McCORMICK:

Q On the third floor, that is the top floor, how many feet apart -- I mean on the second floor where you say there were three fires? A On the second floor?

Q Yes, how many feet apart were those three fires?

A Well--

Q About? A There was only two fires on the second floor that is the rear room on the second floor and the front room . going in the front room.

Q What partitions were there, if any, between the front room and the rear room on the second floor? A That I couldn't say.

Q Were there any partitions? A I wasn't in there.

Q Didn't you go up on the second floor? A Second floor? Pushed my line through the door and put the fire out.

Q What was the distance between the two rooms, the front room and the back room, about? A About 18 or 20 feet in the hall.

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Q That is, from the north wall of the south room to the south wall of the north room? A Oh, I couldn't say. I would measure from the door of the rear room to the floor of the front room about 20 feet.

BY THE COURT:

Q What you mean is that those two rooms were not immediately adjoining each other but that there was a space between them? A (No answer.)

Q There was some space, is that so? A I couldn't say, your Honor; I didn't go in any of the rooms. I extinguished the fire at the head of the stairs, and then went to the front room and did the same.

Q You know when two rooms are right next to each other, and there is a door between, you can step from one to the other, a single step. Now, these rooms were some distance apart, were they not? A Yes, sir.

Q About how far apart were they? A About 18 or 20 feet from the front to the back.

BY MR. McCORMICK:

Q And what was there along that 18 to 20 feet that separated the rooms? A The hall wall.

Q Well, there was a hall. Was there any other rooms? A That I didn't notice.

Q Have you told us all you observed in that building that night? A All as far as I seen; that is, put out the fires,

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extinguished them.

Q You put out the fire-- the last of those fires and what did you do? A Stand fast. That means we didn't do no more ; and let the hook and ladder company do the balance of the work, and if it is necessary to wash down with a small stream I get an order to do so.

Q How long did you stay there? A About an hour altogether out of quarters.

Q And during that hour were there any people inside the building who were not connected with the Fire department?

A No, sir; I didn't notice, didn't see any.

CROSS EXAMINATION BY MR. CARLIN:

Q Captain, in how many different parts of the premises did you say there were fires? A I noticed fire underneath the stairs when I first stretched my hose in the building; I put that fire out, and then also on the stair risers from the first to the second floor.

Q That is two, yes. A Whether the fire burned through or not I don't know.

Q Well, that may have been happened so far as you can state. A Second floor, rear room at stair landing I extinguished that fire along the hall to the front room, I extinguished that fire upstairs to the top floor, front room, I extinguished that fire.

Q Well, how many in all, how many different places did you say you found fire? A Well at about five places.

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Q Well, there had been some fire company there before you that had worked on the premises? A Yes, sir.

Q And they had extinguished some of the fires, hadn't they? A That I don't know; I got the order when I first arrived there to stretch my hose and start water.

Q About how long, so far as you know, or after you once learned of it, did you get there after Captain Cooke did?

A They got there I believe on a still alarm; they responded on somebody's sending word to the engine house I suppose.

Q Well, do you know or have you learned since July the 10th how long after Captain Cooke got there that you got there? A No, sir, I do not.

Q Where is your fire house? A 165 West 29th street. The time I took to get from the engine house on the receipt of the alarm, why, I think it is two minutes.

Q What time did you get there as near as you can tell?

A The alarm came in at 3.47 and I should have gotten there at 3.49, 3.50 at the most.

Q When you got there Cooke was there? A He was there.

Q And his men were working on the fire? A Yes, sir.

Q And they were distributed in different parts of the premises? A First floor, yes, sir.  
else

Q Anywhere/ but the first floor? A I don't think they could get upstairs any further.

Q But they were on the first floor? A Yes, above the

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basement.

Q. Do you mean by that the stoop floor? A. Above the basement, yes, a stoop floor.

Q. Now, from your experience as a fireman, do you think you could give us any approximate idea about how long that fire had been burning? A. Well, it wasn't burning very long; it might be burning maybe a couple of minutes because it would travel very fast from floor to floor when it gets an opening especially through stairs or in the open air.

Q. So that your best judgment is that it was burning probably about two minutes, a couple of minutes? A. Yes.

Q. Is that right? A. That is what I am saying; I might be wrong.

Q. After the fire you made no extended examination, did you? A. No, sir.

Q. So that your knowledge was gleaned from what transpired as you went through the place putting the fire out?

A. That is all.

Q. Of course, needless to say, you were merely concerned in getting the fire out and didn't stop to notice in what particular spot there was a fire or how many feet away from any spot or what furniture was there or anything of that kind? A. No, sir, extinguished the fire and go right along from floor to floor.

Q. Would the effect of water being played on a fire and the use of a chemical extinguisher be to eliminate very

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soon the odor of kerosene? A That I couldn't say; I don't know.

Q There were lamps in the different rooms there, captain, weren't there? A I didn't see any.

Q You didn't see any lamps; did you look to see whether there were or not? A No, did not look.

Q You only smelled kerosene, I believe, on the first floor, captain, that is where I first smelled it, where I first entered the building I smelled kerosene oil; whether it was from the first floor or upstairs I couldn't say.

Q Now, am I correct in saying that you were unable to get to the fire above the first floor because there was a big blaze? A It would be a big blaze for a man who didn't have any water; it wouldn't be for me because, as I went upstairs, I could extinguish it from the water coming from the hose.

Q I understand that the firemen from Cooke's company could not get upstairs because there was a big blaze, and they had to wait until <sup>you</sup> got there; there was a huge blaze, wasn't there? A There was not a huge blaze; the fire was on the stairs, you could walk up. At the same time, you would not get hurt very much or burned very much but you would come down again in a hurry.

Q There was no indications of smoldering fires upstairs?  
A All live fire.

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Q Big blaze? A Live fire; not big blaze, but live.

Q And this flame might have communicated the fire from one floor to another, might it not? A That I couldn't say, I don't know; some parts of the building looked like to me as if it was separate fires, like the second floor rear to the second floor front. Top floor, no fire seemed to be in the rear and all the fire seemed to be in the front.

Q You didn't notice any flames shooting out from windows on the top floor, did you? A No; smoke.

EDWARD W. HEEGAN, called and sworn as a witness for the people, testified as follows:

(The witness states that he resides at 462 West 33rd street.)

DIRECT EXAMINATION BY MR. McCORMICK:

Q What is your business? A Fireman.

Q On the 10th of July what company were you a member of? A Hook and Ladder, Company 24.

Q Where is their house? A 113-115 West 33rd street.

Q And that is the company of which Cooke, Edward L. Cooke, who testified here a little while ago is the captain? A Yes, sir.

BY THE COURT:

Q I think you didn't get the house correctly? A 113-115 West 33rd street.

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Q West 33rd. A Yes, sir, between 6th and 7th avenue.

BY MR. McCORMICK:

Q Did you go out of there to a fire about 7 o'clock on Monday, the 10th of July? A Yes, sir.

Q At three o'clock in the morning? A Yes, sir.

Q Where did you go to? A 207 West 33rd street.

Q To what? A 207 West 33rd street.

Q Now, just tell us what you saw there and what you did? A Well, there was a fire leading from the first floor to the second floor.

BY THE COURT:

Q Out loud. The jury want to hear you? A There was a fire leading from the first floor to the second floor. That is where you go up the stoop, like a parlor floor, that is the stairway leading from there to the second floor, that was the fire.

BY MR. McCORMICK:

Q Who was with you when you went into that hall? A The captain and the rest of the men of the company.

Q What did you do there? A Well, the captain sent us out for some extinguishers, and he ordered the box pulled, ordered the policeman to pull the box, and while we were putting the extinguishers on the fire the engine came -- came up with the water, and we then took our places in there and put the water on the fire, we followed the engine company up.

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Q Now, inside of the building tell us everything that you did? A Well, inside the building on the --

Q These gentlemen here can't hear you; this gentleman on the end can't hear you. A The stairway from the first to the second floor was afire, and the captain sent us out for extinguishers.

Q When you came back what did you do and what did you see? A What do you mean, came back?

Q He sent you out? A Yes; we put the extinguishers to work.

Q I want to know how you did it and where you put them? A On the stairway leading from the first to the second floor.

Q Now, how did you do it? A Turned the extinguishers upside down and let the fluid run out.

Q Did anybody go up that first stair floor or stairs to the second floor? A No, sir, you couldn't go up very well; you go up as far as you could with the extinguishers; you couldn't go very far because the stair was afire.

Q About that time did any fire company appear there with hose? A Yes, sir, engine company 1; they went right up the stairs.

Q Who was in charge of that company? A Captain Callagy.

Q He just left the stand, didn't he? A Yes, sir.

Q Did you see him do anything? A He was directing his men with the stream of water.

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Q And they were taking the hose up the stairs? A Yes, sir.

Q Did you follow them up? A Yes, sir.

Q What did they do? A Extinguished the fire leading from the first to the second floor; a fire on the second floor in the rear in a bed on the second floor; went up the stairway, then from the second floor to the third floor, that was afire; and in the front room at the top floor, that was afire.

Q Did you see those fires? A Yes, sir.

Q Now, tell us -- take each one of them beginning from the bottom, go right up and tell us what kind of a room it was in and just what sort of a fire it was, and what part of the room or furniture was on fire; take each floor after you leave the basement? A Well, there was a fire then in the rear room, the second floor in a bed.

Q Now, just wait; how many feet about was that from the top of the stairs? A Just about where you are standing.

Q What? A Well, about just where you are standing to here.

Q About 10 feet. That was the rear room was it?

A Yes; the bed was afire there.

Q Did you notice whether the door was closed between the hall and the backroom? A No, sir, I didn't take notice.

Q Now, tell us if that was the fire -- tell us how that bed took fire? A (No answer.)

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BY THE COURT:

Q What part of the bed was on fire? A The mattress.

Q Was the wooden part of the bed afire? A No, sir; it was an iron bed.

Q And the mattress in the iron bed was on fire? A Yes, sir; we extinguished that, and we threw the mattress out of the window.

BY MR. McCORMICK:

Q That was on the rear of the second floor? A Second floor, yes, sir.

Q Now, did you go any other place on the second floor?

A Went to the front; there was another bed afire in the front.

BY THE COURT:

Q What kind of a bed was that, iron or wooden bed? A Iron bed, and mattress and comforters and pillows.

Q And it was the bedding, including the mattress that was on fire? A Yes, sir.

BY MR. McCORMICK:

Q Any other part of the room on fire? A Well, a little; from the heat of the fire it blistered all around the room.

Q Was there anything on fire in the hall between the front and back rooms? A Well, the stairway was burning.

Q Down below or above? A Level with the floor; there was a couple of side rooms as you went up from the rear to the front, but there was no fire in them rooms.

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Q Now, that is two fires on the second floor, wasn't it? A Yes, sir.

Q One in front and the other in the rear? A Yes, sir.

Q Did you go to the other floor, the third floor?

A The third was on fire then.

Q How many steps up from the bottom of the stairs?

A About four or five.

Q Now, at any time while you were in that building did you smell kerosene? A Yes, sir.

Q Did you find any kerosene in any receptacle of any kind? A Yes, sir.

Q What did you find it in? A Well, after the fire was extinguished I was left in charge there by the captain.

Q I want you to talk loud so we can all hear you.

THE COURT: Just talk so that you can be heard. Where did you find the kerosene, if you found any?

THE WITNESS: On the first floor in the rear room on a mattress, in a little dresser and in two slippers.

BY MR. McCORMICK:

Q Where were those slippers? A Laying outside the dresser; like the dresser was here (indicating), the bed was here, (indicating) and right here on the floor was the two slippers saturated with kerosene.

Q When you say saturated, were they full of it? They were full at one time but they had soaked all through the leather.

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MR. CARLIN: I object to the statement that they were full of it as a conclusion.

THE COURT: Yes, strike that out.

BY MR. McCORMICK:

Q Where are those slippers at this time? A What?

Q What was done with those slippers, if you know?

A They were left there.

Q Did you find any of the kerosene in the building?

A Yes, sir; on the top floor in a mattress in one of them side rooms.

Q How did that kerosene appear? A On the mattress.

Q Soaked in the mattress? A Yes; on the landing of the third floor.

BY THE COURT:

Q What was done with the mattress on which you saw the kerosene? A It was left there.

Q Did you take away or did you see any articles taken away from that building on which you claim to have seen kerosene? A Did I take any article away?

Q Did you take away from that building or did you see taken away from that building by anybody any article upon which you say you saw kerosene? A No, sir.

BY MR. McCORMICK:

Q Now, I show you People's Exhibit 7, which is a photograph of the hallway on the third floor. A Yes, sir.

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Q (Continuing) Of the building that you are testifying about? A Yes, sir.

Q And I ask you whether that is a correct picture of the appearance of that hallway at that time, the floor? A Yes, sir.

Q Did you place anything on the floor just before that photograph was taken which appears in the photograph? A No, sir. I didn't place that there.

Q Well, you see the part that is colored dark, a sort of a spot? A Yes, sir.

Q Do you know what that is or was at that time? A Well, as you come up the stairs, up by the head of the stairs, right there where you see that badge placed there was kerosene over the run of that carpet; there was a badge.

BY THE COURT:

Q What is that that is on the floor? A Kerosene.

Q What did you say about a badge? A There was a badge placed there where the kerosene is.

Q What do you mean by a badge? A Badge, an ordinary badge, a coat badge.

Q Something for example, such as you wear in connection with your duties as an officer? A Yes, sir.

Q Did you put that down on the floor? A No, sir.

Q But it is shown in that photograph, isn't it? A Yes, sir.

Q Referring to Exhibit 7.

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BY MR. McCORMICK:

Q Now, I show you People's Exhibit 8, which is a photograph of the front bedroom on the third floor? A Yes, sir.

Q Top floor? A Yes, sir.

Q You see the condition of the wall? A Yes, sir.

Q Was there any fire on the other side of that wall?

A You mean to say outside in the hall? Q On the other side of the wall that you are looking at, did you look at it?

A This side here of the wall (indicating).

Q You are looking at a wall there? A Yes, sir.

Q Did you look at the other side of the wall the night of the fire? A The fire was over on this side of the wall.

Q Did you look on the other side of that wall? A I don't think I did.

Q Do you recognize the picture? A Yes, sir.

Q What is it, a picture of what? A It is a picture of the top floor, the front room.

BY THE COURT:

Q Can you see on that picture a wall, do you, one side of the wall? A Yes, sir.

Q Did you at any time look at the other side of the wall that is shown in that picture? A I don't know whether I did or not, sir.

BY MR. McCORMICK:

Q Did you see any fire in any other room on that top floor? A No, sir.

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BY THE EIGHTH JUROR:

Q Officer, did you find any evidence of kerosene oil in either one of those slippers? A No, sir.

Q You just detected the odor? A Well, the slipper was saturated -- both slippers were saturated with the kerosene.

Q But there was no actual liquid? A No, sir.

BY THE COURT:

Q When you felt the slippers, were they wet or dry?

A They were damp.

Q In other words you felt them at a time when they were moist? A Yes, sir.

Q Not thoroughly dry? A No, sir.

BY MR. McCORMICK:

Q I now show you People's Exhibit No. 4, which is a photograph of the bedroom on the second floor; do you remember that room? A Yes, sir.

Q Did you see that bed in there? A Yes, sir.

Q Did it look like that? A Yes, sir.

Q Was there any kerosene on that bed? A Well, whatever kerosene was on it was burned off because that bed was afire.

Q Did you see it afire? A Well, we put it out.

Q There was no connection between that fire and other fire in the house, was there? A No, sir; this was a separate fire by itself.

Q I show you People's Exhibit 6, which is a photograph

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of the foot of the stairs leading from the second to the third floor. Now, you know where that is, don't you? A Yes, sir.

Q Is that a correct picture of the condition at that point? A Yes, sir.

Q Was that fire separate from the other fires? A Yes, sir.

Q In that house? A Yes, sir.

BY THE COURT:

Q When you say separate, you mean that there was no fire extending from that fire to another place that was on fire? A Yes, sir; it was distinct by itself.

BY MR. McCORMICK:

Q Now, I show you People's Exhibit 5 which is a photograph of the rear bedroom on the second floor, and I ask you if that is a correct picture of that room as it appeared that morning when you were there? A Yes, sir; this is the room where the mattress was on fire; we threw the mattress out of the window.

Q How many mattresses were on fire? A Only one.

Q What was done with the mattress in that room that was on fire? A Thrown out of the window.

Q Who threw it out? A I helped throw it out, I and the rest of the members of the company.

MR. McCORMICK: I call attention to the fact that there is a description of these pictures on the back of

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each photograph.

BY MR. McCORMICK:

Q Was there any connection between that fire in the rear room on the second floor with any other of the fires? A No, sir.

Q Now, how long did you stay there? A I stayed there until I was relieved by the fire marshal.

Q Do you know what hour that was? A Well, it was after six o'clock when I got back to the fire house.

Q So you must have left there about six o'clock? A Well, about that; walked over to the fire house.

Q And did you at that time or <sup>did</sup> anybody come in there except the firemen? A There was a fire patrolman left there with me.

Q What is his name? A I don't know his name.

Q Would you know it if you heard it? A It starts with Rogan or Reegan or something like that.

Q Rogan, is that it; R-o-g-a-n? A I guess that is the man yes, sir.

Q What time did he get there? A He was left there; you know the insurance patrol goes to all these fires.

Q When you left was he in the building? A The insurance patrolman.

Q Anybody else? A No, sir.

Q Wasn't the fire marshal? A The fire marshal left when I left; walked over as far as the fire house.

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Q What time did the fire Marshal get there? A It was daylight; I couldn't exactly tell you the time.

BY THE COURT:

Q Did you see the defendant there at any time while you were in the building? A No, sir.

BY MR MC CORMICK:

Q Did you notice how much furniture there was in this house? A Very little.

Q Well, now, try to tell us how much. A Well, in that room there on the second floor where the fire -- where we threw the mattress out of the window, I think that is all there was in that room, just that bed and the mattress.

Q How many chairs did you see in the entire building? A I don't think I seen any.

Q How many bureaus did you see? A I seen there was one; the only one I saw was on the first floor, in the rear room where that kerosene was on the mattress and the dresser.

Q How many beds? A About six beds.

Q Was there any carpets on any of the floors? A Yes, sir

Q How many of them? A Well, this room, on the rear room on the first floor where the kerosene was on the mattress, there was carpet on that floor and there was carpet on the floor where we threw the bed out of the window.

Q Was there carpet on any other floor? A I think there was carpet on the top floor in the front.

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Q Well, have you now mentioned all the furniture that was in the house? A Well, no, I didn't go around looking at it all; I couldn't tell you distinctly all the furniture that is in the house because I didn't take note of it.

Q Was anything taken out of that house while you were there except the mattress which you threw out of the window?

A We threw some wood out of the front window.

Q Was any furniture of any kind taken out? A No, sir.  
BY THE EIGHTH JUROR:

Q In this picture marked Exhibit 5 there is an article alongside of the doorway leading into the hall which I am unable to distinguish whether it is a radiator, a gas stove or an oil stove. Can you give me any information on that? A That is hard telling what it is; looks like an oil stove or it looks like a gas stove, I don't know what it is.

Q Do you remember it at all? A Well, no sir, I do not.

CROSS EXAMINATION BY MR. CARLIN:

Q By the time that Callagy got to the scene of the fire you had put out the fire on the steep floor, hadn't you?

A No, sir.

Q Had none of the fires been put out at the time Captain Callagy's company got there? A We only helped to extinguish the fire on the stairs leading from the first to the second floor, but there was fire underneath that stairs; we had to

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to pull down the lathe and plaster to get at it. If you had left the fire as it was it would have gone up the floors; we had to pull the plaster down.

Q Had all that been done before Captain Callaghy's company got to the scene of the fire? A No, sir.

Q The flames that you noticed above the first floor, was it a blaze or was it a smouldering fire? A In what way do you mean? Do you mean on the outside of the building?

Q Was it a live blaze inside the building? A Well, we couldn't get up that far until the engine Company came.

Q Well, you couldn't get up because there was one huge blaze, isn't that the reason? A Oh, no, sir.

Q Why? A The fire was in the bed room, and in the rear room there was a fire by itself.

Q Didn't it spread to the adjoining room? A No, sir.

Q What part of that room was on fire? A The second floor--was a bed.

Q Yes, what part? A The mattress.

Q You couldn't tell us, of course, how much of the mattress was on fire, could you? A Well, you can see very well -- you can see the flames but when there is smoke around you can't see very well.

Q So, of course, you couldn't see well enough to describe the kind of bed it was as you have attempted to, didn't you? A I don't know what kind of a mattress it was; we

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just turned around and went in there and helped extinguish it and threw it out of the window.

Q The fact is when you are at the scene of a fire you are there to put out the fire and not study just what is on fire or how many floors there are or anything of that sort, isn't that so? A That all depends upon the nature of the fire.

Q You didn't want to make any deliberate study of just what particular piece of furniture was on fire or how far away the other fire was and all that kind of thing, did you? A No, not at the time being.

Q How long did you stay there after the fire? A Stayed there until I was relieved by the Fire Marshal.

Q What time was that? A When I got back to the house a little after six in the morning.

Q You said something about a fire insurance patrolman having arrived there; what time was he there? A He arrived there when the box was pulled.

Q I don't know what time that was. A Well, that was around 3.50 I guess the box was pulled.

Q And when you were ordered to stay at the scene of the fire did you stay at any particular place or did you go through the house or what? A I went through the house.

Q How long did you occupy that period, going through the house? A Probably half or three quarters of an hour.

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

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Q And do you know what happened to the slippers that you say were saturated with kerosene? A No, sir, I couldn't tell you; they were there when I left there.

Q Did you give them to the Fire Marshal? A No, sir.

Q Who was there with you at the time you observed the kerosene saturated slippers? A The insurance man.

Q Did he take them? A I couldn't tell you.

Q Well, your business was to see that nothing was taken from the premises, isn't that it? A Exactly.

Q Did you leave him alone at any time? A No sir.

Q The insurance man? A No, sir.

Q When you went through the premises; did the insurance patrol man go along with you? A Yes, sir.

Q He was with you all the half hour? A Yes, sir; he was with me there until I left the building, until the fire Marshal came.

Q I mean he was under your observation, accompanied you all through the place, is that it? A Yes, sir.

Q So far as you know he did not take the slippers.

A Well, I couldn't say whether he did or not.

Q What floor did you say these slippers were found?

A On the first floor, in the rear room.

Q You mean on the stoop floor? A Yes, sir; first floor

Q How far away from that point is the stairway that was afire? A About fifteen feet.

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6 Q Ten or fifteen feet? A About fifteen feet.

Q And was there a door between the place where the saturated slippers were and the stairway that was on fire? A Well the stairway was towards the front of the building was on fire and where the slippers were found was in the rear of the building.

Q Was that room on fire where the slippers were found?

A No, sir.

Q It was not on fire? A No, sir.

Q Now the door leading to that room, that wasn't afire there? A No sir.

Q Were there any kerosene lamps about the place? A I didn't take notice.

Q You made a half hour inspection of that house, didn't you? A Yes.

Q And in that half hour inspection you didn't observe so that you can now testify whether there were not any kerosene lamps in the place or not? A I didn't see any; there was a smell of kerosene all through the building but I didn't see any lamps.

Q I ask you the question whether you know whether there was any kerosene lamps in the house? A No, I didn't see any.

Q You will say that there were none? A I couldn't swear to that; they could be in the closets. I didn't look in the closets.

Q You say you saw none? A I saw none.

Q Didn't look for any? A No, sir.

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Q Officer, in the progress of a fire, if there were kerosene lamps around a place that may cause new fires to occur in the general progress of the fire, might it not? A Yes, if the fire gets near enough to hit them at all.

Q Assume this, that there is a fire in a certain part of the room, that somewhere in the room there is a kerosene lamp that may cause another blaze. A That is provided the fire gets near enough to it; it will cause an explosion, though.

Q Assume that before that, in a certain room there is a fire, that in the same room or in the next room there is a kerosene lamp. Now, contact with the fire, that fact would be apt to cause a separate and distinct fire, isn't that so, Officer? A That is provided, I tell you, if the flame hits the lamp.

Q That is what I say, and that would be a separate and distinct fire. A ( No answer.)

Q Now, assume this, that there is a fire in that corner of the room. A Yes, sir.

Q That in the other corner of the room there is a lamp containing kerosene; in the progress of the fire from that corner of the room to the other corner of the room where the kerosene is, there would be a separate and distinct fire? A No, it would be all the one.

Q Why, wouldn't there be a separate and distinct fire? A If the fire is in that floor and it travels down to that corner it is all one fire, isn't it?

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Q But at that point there would be another fire crossed in its contact with the kerosene, wouldn't there? A No; if the kerosene exploded it would be all the one fire.

Q Well, may not the place get so overheated that even if the fire didn't spread all across the room where the kerosene is especially if it is only a few feet, it would practically be another fire. A I couldn't answer that.

Q These were four rooms, weren't they? A Yes sir.

Q Now, a blaze -- you know it is an elementary proposition -- generates heat, isn't that so? A Yes, sir.

Q Well, that contact of heat on kerosene in a small room would be apt to cause a separate and distinct fire, wouldn't it? A It might but it would not the way the fires were here.

Q But it might have that effect, we are not talking about this place? A. It is leading on to the same thing.

Q Well, Officer, let us assume that we are now in a small room -- these were small rooms in 33rd street, weren't they? A Yes, but there was a distance between those fires, though.

Q Those were small room, weren't they, Officer? A Not exactly small rooms, no.

Q How big would you say they were? A Twelve by twelve, fifteen by twelve, something like that.

Q Well, assuming a room twelve by twelve or fifteen by twelve, assume that in one part of the room there is a fire, that in another part of the room there is a kerosene lamp;

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might not the heat generated from that blaze cause a separate and distinct fire where the kerosene lamp is? A Well, I won't argue on that point at all.

Q you can't say one way or the other about that? A Now, look here, this fire here --

THE COURT: Now, you haven't understood his answer.

MR. CARLIN: You have answered the question.

THE COURT: I think not.

MR. CARLIN: I submit he has answered the question.

THE COURT: I think he has not. Now, you answer the question.

THE WITNESS: I couldn't answer that question on that.

BY MR MC GORMICK:

Q You started to say something.

THE COURT: He says now that he can't answer the question; that ends that.

BY MR. CARLIN:

Q Assume that a substance that contained kerosene oil gets on fire; that the oil, is apt to drip and soak that which is in the room, isn't it? A It might.

Q Sir? A I say it might.

Q Yes. Now, how long, if you can answer from your experience as a fire man, would you say that the odor of kerosene on a substance be susceptible, assuming that the windows were open and the place ventilated? A You can smell it.

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Q How long would you say you could smell it? A I couldn't exactly answer that; I know you can smell it; you can smell it.

Q It dries up, of course, the smell diminishes, doesn't it? A There is a little of it there but the stain of the kerosene don't leave the article though.

Q What? A I say the stain of the kerosene don't leave the article.

Q Well, of course, the tendency of any thing that is saturated with kerosene is, when it dries up, the smell diminishes, isn't that so? A It leaves a sort of a sticky kerosene.

Q What? A ~~It~~ <sup>It</sup> percent sticks there, the smell.

THE COURT: I don't think this officer is the proper person to interrogate on this subject; it is not proper cross-examination.

BY MR. CARLIN:

Q You never went back again after that six o'clock in the morning? A Six o'clock in the morning?

Q Yes; after you left that time? A I only went back there with the draughtsman.

Q When? A Probably a day or two after; I am not sure which.

Q And you pointed out to him kerosene spots? A Yes sir.

Q That is right, isn't it? A Yes sir.

BY THE COURT: JUDGE:

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A Gas pipes ? I didn't take notice, to tell you the truth.

Q What is that? A I did not take notice.

Q You did not notice any gas pipes in that house? A No, I didn't take notice.

BY THE COURT:

Q Did you see any gas fixtures in the house? A I didn't take notice, your Honor.

BY THE HONORABLE JUDGE:

Q Did you ever know of a case where kerosene oil exploded either in a tank or in a receptacle or in a can that came in contact with the flames? A I couldn't answer that question, I ain't conversant on it.

Q I say, in your experience, have you ever known of a case of that kind? A No, sir.

WILLIAM ROGAN, 240 West 30th, street, called and sworn as a witness for the People, testified as follows:

THE COURT: Gentlemen of the Jury: you are admonished not to converse on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you, and you are excused until Tuesday morning, at half past ten, and this case will be continued adjourned by Part IV of the Court, not in this room, but in Part IV room, at half past ten o'clock on Tuesday morning.

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New York, October 3, 1911.

TRIAL RESUMED.

THE COURT: The witness who was on the stand at the time of the adjournment and who had been sworn was William Rogan. William Rogan will take the stand now.

WILLIAM ROGAN, a witness called on behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q You are a member of the Municipal Police Force?

A Fire Patrol.

Q A member of the Fire Department? A Yes, sir; Fire Patrol.

Q What was your position in the Department on the 10th of July? A Why, that morning I got left to watch the fire, after the fire was out in 33rd street.

Q Did you go to the house at 212 West 33rd street on the morning of July 10th?

THE COURT: I do not think the number is 212. Get the number right.

Q At what time?

THE COURT: Give the witness the correct number of

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the house.

THE WITNESS: 227, I think it is.

THE COURT: Remain silent. Get the number right and ask your question after you have the number correct.

BY MR. McCORMICK:

Q 207 West 33rd street. Were you there on the morning of the 10th of July? A Yes, sir.

Q What time did you reach there? A Well it must have been about, the station came in at--

BY THE COURT:

Q What time did you get there. It is a simple question.

A It must have been around four o'clock.

Q In the morning? A Yes, sir.

BY MR. McCORMICK:

Q How long did you stay there? A Well I stopped there from the time when I got there, I stopped there until 7.45 in the morning.

Q Who else was there during that time? A Me and another fireman.

Q What is his name? A Cregan from Twenty-four Truck.

Q During that time was anything taken out of the house?

A Nothing whatever; nothing removed.

CROSS EXAMINATION BY MR. EARLIN:

Q Did you go through the house with the fireman whose name you have just mentioned? A+ Yes, sir.

Q Through all the rooms? A Yes, sir, through all the rooms, yes, sir, with the exception of the cellar.

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Q What is that? A With the exception of the cellar.

Q And nothing was taken out? A No, sir; nothing taken out whatever.

Q Just a question. Did you observe whether lamps filled with kerosene were in various rooms in the house?

A I did not notice lamps whatever.

Q Did you look to see whether there were or not? A No, sir; I did not look at the lamps at all.

Q Did you look? A No, sir.

THE COURT: I understand you make a motion, Mr. District Attorney, for a change of date in the indictment.

MR. McCORMICK: Yes, sir.

THE COURT: From what date to what date?

MR. McCORMICK: The indictment alleges that the crime of arson was committed on the 13th of July. I now move to amend the indictment by substituting the 10th day of July instead of the 13th.

THE COURT: I presume there is no objection to that.

MR. KARLIN: No objection.

THE COURT: Then Mr. Gallagher, will you kindly note the amendment.

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

DIRECT EXAMINATION BY MR. McCORMICK:

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Q Mr. Prila, on the 10th day of July of this year what was your occupation? A Assistant Fire Marshal of the Fire Department of the City of New York.

Q How long have you held that position? A Well, 11 years and ten months.

Q On that morning did you visit a fire? A I did.

Q On 33rd street? A I did.

Q What number? A 207 West 33rd street.

Q What time did you reach that building? A About 5.10 a.m.

Q Describe the outside appearance of the building? A The building was a three story brown stone building, about 15 or 18 feet wide.

Q What was its condition I mean? A Well--

Q Were there any windows broken? A There were windows broken in the front of the building ; there was debris on the street.

Q Did you go into the building? A I did.

Q What did you find on the ground floor? A The moment I entered the door I found a strong odor of kerosene oil. On going to the rear, towards the rear, I found a fire on the stairway leading from the first to the second floor.

Q Was it burning? A I found the mark of a burning made by a fire on the stairway. On going up the stairs I found still another separate and distinct mark of burning in the bedroom in the rear on the second floor. I found still another

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at the foot of the stairway leading from the second to the third floor. I found still another mark of burning in the bedroom in the front on the second floor. I found still another mark of burning in the front bedroom on the top floor. I also found, while examining the premises, that in the rear bedroom on the first floor there was a shoe on which there was kerosene oil; also a bureau drawer in which there was kerosene oil. There was kerosene oil on the bed. On the top floor at the head of the stairs, leading from the second to the top floor the carpet was wet with kerosene oil. There was a bed or mattress in the bedroom at the head of the stairs and kerosene oil was on the mattress. Those were the conditions I found on entering the building.

Q Did you find anything else in the back room on the ground floor? A I found a lamp that was in good condition on the mantelpiece.

Q How many lamps did you find in the building? A I found three lamps in the building.

Q Any oil in them? A Yes, sir, they all contained oil.

Q They all contained some oil? A Yes, sir.

Q Do you remember where those lamps were, where you saw them? A Well, there was one in the basement, in the front basement, a small one; there was one in the rear bedroom on the first floor, that was the one on the mantelpiece; and there

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was one on the second floor in the front bedroom. Those were all the lamps I saw in the building.

Q Did you see any furniture in the building besides that which you have mentioned? A There was furniture in the building, yes, sir.

Q How long did you stay in the premises? A Until about 6.45 a. m., at that time.

Q After that did you see the defendant? A I did.

Q At what time? A Between 10 and 11 o'clock on that morning.

Q Where? A On the street opposite the building.

Q Did you have any conversation with her? A I did.

Q What was it? A In answer to my questions she stated to me that she was the occupant of the building and the owner of the furniture contained therein, and that she had left the premises about three o'clock on the morning of the fire; that she did not know how the fire occurred; that she knew of no enemy who would make the fire; that she was insured for two thousand dollars in the Hartford Insurance Company; that her policy was in the hands of a man from whom she had borrowed one hundred dollars and she did not know his name but his office was at 45 West 34th street. I subpoenaed her to Fire Headquarters.

Q What is that? A I then subpoenaed her to Fire Headquarters.

Q Did you have any further conversation with her outside

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of that examination? A Not that I recollect just now.  
BY THE COURT:

Q Where was she when you talked with her? A In the front room, on the first floor in the premises 207 West 33rd street.

Q Was any one present excepting herself and yourself at the time of the talk? A Yes, sir; Fire Marshal Beers, Assistant Fire Marshal DeMalignon and Masterson.

Q And one else? A No, sir.

CROSS EXAMINATION BY MR. KARLIN:

Q Prial, you say that you found kerosene in a shoe?

A I did.

Q Well was it soaked or what? A There was -- it was soaked you may use that expression.

Q In what room was the shoe in which you found the kerosene? A The rear bedroom on the first floor.

Q One shoe? A There was one shoe, yes, sir.

Q Sure it was a shoe? A It may have been a slipper.

Q You know the difference, I suppose, between them?

A Yes, sir.

Q What was it? A A slipper.

Q One? A Yes, sir.

Q You found kerosene in a bureau drawer? A Yes, sir; I found kerosene in a bureau drawer.

Q Where was the bureau drawer? A The bureau was in the same room.

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Q What is that? A In the same room.

Q I suppose you could even tell us what particular drawer the kerosene was in? A Yes, sir; the bottom drawer of the bureau.

Q Your memory as to the events was fresher in the Police Court, was it or wasn't it? A Naturally so.

Q In your testimony in the Police Court answering to my question yes or no -- did you say you found kerosene in a shoe and in a bureau drawer, both or either, yes or no? A I don't remember.

Q Weren't you say that you remember that you didn't say that?

A No, sir.

Q You weren't say that you did say that, will you? A No, sir.

Q You would considered it of importance, when you testified in the Police Court, didn't you? A Yes, sir.

Q Now, have you been in communication with the Hartford Fire Insurance Company regarding the fire we have been considering here, yes or no? A Personally, no, sir.

Q Impersonally then? A Well, I don't understand the meaning of that.

Q Well, have you been in communication, personally or in any other way? A Well, the office has been in communication; I have not.

Q How often has the office been in communication with the Hartford Fire Insurance Company? A I don't know.

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BY THE COURT:

Q When you say "office" what do you mean? A The office of the Fire Marshal.

BY MR. KARLIN:

Q Has a representative of the Hartford Company been to your office? A Yes, sir.

Q How often? A I don't know.

MR. MCCORMICK: I object to this as immaterial and irrelevant.

THE WITNESS: They are there every day, from all the companies.

MR. KARLIN: I move to strike out that answer, "they are there every day".

Motion denied; exception.

BY MR. KARLIN:

Q As a representative of the Fire Insurance Company been at the office, if so, how many times with regard to the fire 207 West 33rd street? A I can't answer that question.

THE COURT: You have answered it. When you say you cannot answer, that answers the question.

BY MR. KARLIN:

Q Did you call at the office of the Hartford Fire Insurance Company? A Never in my life.

Q Do you know where their office is? A No, sir.

Q Did you see the policy in this matter? A The insurance policy? No, sir.

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Q Is the insurance policy at the office? A No, sir.

Q Was the shoe in which the kerosene was found produced at the Police Court hearing? A It was not.

Q From your eleven years experience as a Fire Marshal you consider that important evidence, don't you? A I do.

Q Was there anything else containing kerosene produced at the Police Court hearing? A There was not.

Q Is the shoe in existence? A I don't know.

Q You saw the shoe? A I did.

Q You have been engaged eleven years in investigating suspicious fires? A I have.

Q You gave no order with reference to the shoe? A No, sir.

Q No order with regard to anything else saturated with kerosene? A Except that they would not be touched until they were photographed and a diagram drawn.

Q But there was no order given with regard to taking the shoe to the Police Court was there? A No, sir.

Q What conversation other than that in the front room of 207 West 33rd street did you have with this defendant? A None.

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

Q There was present there who? A Fire Marshal Neers, Assistant Fire Marshal DeMalignon and Assistant Fire Marshal Masterson.

Q You did all the questioning? A I did the questioning

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that I have testified to.

Q Was there any other questioning done? A The Marshal asked her a few questions.

Q Mrs. Michaels answered the questions freely? A No, sir. unwillingly.

Q She answered them though? A Yes, sir.

Q This conversation was had the same day of the fire?

A Yes, sir.

Q At that time she was under arrest, was she? A No, sir.

Q She did answer the questions any how?

THE COURT: He has answered that. He says yes.

MR. KARLIN: Yes.

BY MR. KARLIN:

Q Now, didn't she say that she had left the house between two and three o'clock? A She did not.

Q Swear to that? A I do.

Q At no time did she say she was there between two and three o'clock? A I don't know what she said at other times but to me at that time she stated she left the premises about three o'clock.

Q Well at any time did she say -- at that time or any other time, to your knowledge did she say she left between two and three o'clock? A She testified under oath at the office of the Fire Marshal; I am not allowed to state that tes-

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timony; the provision states that the testimony should not be used in a criminal proceeding.

Q Did you never use that testimony in a criminal proceeding? A I have never used that testimony in a criminal proceeding.

Q Didn't you in this proceeding use that testimony in the Police Court? A I was ordered to answer that question by Magistrate Corrigan.

Q Answering it what did you saw with regard to this defendant having declared that she had left between two and three o'clock? A She did state so, under oath, in the office of the Fire Marshal.

Q That she left between two and three o'clock?  
A Yes, sir.

BY THE COURT:

Q When you say you found kerosene in a bureau drawer, what do you mean by that, in the receptacle? A No, sir; poured over the drawer.

Q In other words the wood was somewhat saturated with kerosene? A Yes, sir; very much so and the paper in the drawer.

Q Was the surface wet or dry? A It was wet.

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J A M E S W. B U R T, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Now, Mr. Burt, what is your occupation? A Fire Patrol man.

Q Were you at the premises 307 West 33rd street on the morning of the 10th of July? A No, sir; 207.

Q What time did you reach there? A 7.45 in the morning.

Q How long did you remain there that day? A Until 5.45 p. m.

Q At that time who relieved you? A Patrolman Rogan.

Q When did you return? A 7.45 the following morning.

Q How long did you remain there on that day? A About 5.45 that night.

Q Who relieved you then? A Well, Rogan Patrolman Rogan.

Q How long did you stay there then? that night? A Until 5.45 p.m., that night.

Q Who relieved you that evening? A Why Rogan relieved me.

Q That is the 12th. A On the 12th Volz relieved me, on the 12th.

Q Did you return again after that? A I returned on the morning of the 13th at 7.45.

Q Did you remain there all that day? A Yes, sir.

Q On the 13th do you remember a furniture man coming to

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the house? A Yes, sir.

Q What did he do? A Why he took -- like a company adjuster would do-- he took an inventory of all the furniture in the house.

Q Do you know what his name was? A No, sir; I do not; he gave me his card, but I have forgotten it.

Q Do you know what time it was? A He came there twice, one time I refused to let him in and he went around to our commanding officer.

BY THE COURT:

Q He came there twice -- the first time when? A Well I could not say what time it was.

BY MR. McCORMICK:

Q It was on the 13th? A Yes, sir; the 3rd day.

Q When did he come the second time about? A About 20 minutes after -- after he came the first time.

Q Did you let him in on the second occasion? A Yes, sir

BY THE COURT:

Q Would you recognize him if you saw him? A I think I would.

Q Would you recall his name if you heard it mentioned?

A I think I would.

MR. McCORMICK: Call in Isaac Hahn.

Q Did you ever see that man before. (Pointing to Mr. Hahn) I can't place him.

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Q But you know a man did come? A Yes, sir; I know a short stout man came; that is not the man; I am sure this is not the man.

Q Now, Officer, did you have a conversation with the defendant that day, on the tenth? A On the tenth?

THE COURT: Yes or no now.

THE WITNESS: Yes, sir.

Q What time of day was it? A When I arrived in the morning.

Q What time in the day? A 7.45 a. m.

Q Where was she at that time? A Sitting on the stoop.

Q What was the conversation? A Why, I just wanted to know if she was the occupant of the house and who else lived in the house; that was about all.

Q What did she say? (No answer.)

BY THE COURT:

Q What did you say to her and what did she say to you. Just tell us. A I asked her if she was the occupant of the house.

Q In answer what did she say? A She said yes.

Q What did you say then? A I asked if there was any body else in the house and she said no. She asked me if she could go in the house and I said no, I had orders not to allow anybody in.

Q What did she say to you? A She said "All right" as long as she couldn't get in she couldn't get in.

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Q Is that all? A yes, sir.

(NO CROSS EXAMINATION.)

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

DIRECT EXAMINATION BY MR. MCCORMICK:

Q What is your occupation? A I am working for the Textile Brokerage Company.

Q Was that your business on the 10th of July? (No answer.)

Q How long have you been in that business? A Well I have been for six months.

Q Did you have a conversation with the defendant at the bar Mattie Michael? A Yes, sir.

Q In the month of June, 1911? A Yes, sir.

Q About furniture? A About a loan.

Q What did she say to you? A She will give me her furniture as security.

Q She said she wanted a loan? A \$150.

Q What did you say? A I was willing.

BY THE COURT:

Q Just talk loudly now, the twelfth gentleman wants to hear you. A I told her she could have it, she will give us security.

Q What did she say? A She is willing to give her furniture as security.

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Q What did you say. Tell us the whole conversation now? A So we sent one of our men to take an inventory of the furniture and they found it satisfactory and we gave her a hundred and fifty dollars.

BY MR. McCORMICK:

Q You sent a man to take an inventory of her furniture?

A Yes, sir.

Q Her furniture situated where? A On 33rd street.

BY THE COURT:

Q What number? A It was 312 I think, 312 West.

BY MR. McCORMICK:

Q Can you refresh your recollection by looking at that document? A Yes, sir.

Q Where was it? A 207 West 33rd street.

Q Did you go there and look at that furniture yourself?

A I had occasion to look at it.

Q Yesorno? A I did not go in the first place.

Q Did you go at all to look at that furniture? A Yes, sir.

Q Did you see any furniture there? A Yes, sir.

Q What was it? Are you able to tell by looking at that document? A Yes, sir.

Q What was the furniture that you saw in 207 West 33rd street? A There was one piano; five pieces of parlor furniture; two chiffoniers; one leather couch; one large carpet; a large rug; one brass bed; one china closet; one dresser;

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another rug; there were three leather chairs; there was one Morris chair; one wardrobe; one pair portierres; there were some beds and mattresses, and there were some carpets in the hall, and there was one oak extension table and sideboard. I have not seen the rest of it. I have seen the greatest part of it but I have not seen all of it.

Q Does that list contain all the property that was in the house on that day? A Almost all, with the exception of a few small items.

Q With the exception of what? A A few small items.

Q Did she sign this? (No answer.)

Q Did you see her sign that slip yourself? A That is her signature.

Q You were the Commissioner of Deeds? A Yes, sir.

Q Before whom she acknowledged that she signed it?

A Yes, sir.

Q Did she deliver that to you? A Yes, sir.

MR. McCORMICK: I offer the mortgage in evidence.

MR. KARLIN: No objection to that.

THE COURT: It is received and now becomes people's Exhibit 10.

(The paper referred to is marked People's Exhibit 10 in evidence.)

BY THE COURT:

Q At the time of the execution and delivery of that paper did you loan to the defendant any money? A Yes, sir.

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Q How much? A \$150.

Q Has any part of that been paid back? A Nothing.

BY MR. McCORMICK:

Q Did she talk about insurance? A Well, she furnished a policy of \$2,000 -- that the house was insured for \$2,000, the furniture was.

Q Not the house but the furniture? A The furniture.

Q Was that policy delivered to you? A Yes, sir.

Q Where is it now? A It is in the Fire Insurance adjuster's hands.

Q What company was it issued by? A Well, I don't remember that.

BY THE COURT:

Q Let me see if I understand. At the same time that you loaned a sum of money and received this paper which has been received in evidence, as People's Exhibit 10, there was handed to you by the defendant a policy of insurance covering loss by fire on certain furniture in the premises 207 West 33rd street, is that so? A Correct.

Q And that policy has since passed from your hands into the hands of the fire adjuster? A With the permission of Mrs. Michaels.

Q Yes or no. A Yes, sir.

Q The fire insurance adjuster? A Yes, sir.

BY MR. McCORMICK:

Q That was insurance on the furniture <sup>in</sup> 207? A Yes, sir.

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Q 207 West 33rd street? A Yes, sir.

Q Now, after that several months, or shortly after the 10th of July did you see any other of this furniture any place? A Yes; we found it out at--

Q Kindly talk loud. A Yes, sir; we found it, that she removed it --

BY THE COURT:

Q Where did you find it? A I forget the address now.

Q Then say so that you don't know. A It is 59th street, I think it was.

BY MR. McCORMICK:

Q You saw some of this same furniture that you had seen at No. 207 West 33rd street at some place on 59th street in the Borough of Manhattan, is that so? A That is correct.

Q When did you see it there in 59th street? A The middle of July; I don't remember the date.

BY MR. McCORMICK:

Q Do you know when the fire took place? A Yes, sir.

Q How long after the fire? A About eight or ten days after the fire took place.

Q Over on 59th street, between what avenues was the house in which you saw it? A Well yes I could describe that, near 5th avenue, I think, or 7th avenue.

Q Do you know where Columbus Circle is? A Yes, sir.

Q Which side of Columbus Circle was it? A Between Columbus Circle and West --

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Q Between Columbus Circle and 9th avenue? A Yes, sir.

Q Was it on the north or the south side of the street?

A Well, from Columbus Circle it was on the left side of the street.

Q That would be the south? A Yes, sir.

Q How far was it from the Circle? A Why, I should say about six or seven houses.

Q What floor was it on -- what kind of a building was it? A Ground floor.

Q What kind of a building -- it was a private house?

A No, sir; it was a tenement house.

Q On what floor? A The first floor.

Q One flight up from the street? A Yes, sir.

Q You walked in on the ground floor, and had to go up a couple of steps? A Yes, sir.

Q That is the first floor, it was one floor above that?

A Yes, sir.

Q Was it on the east side or the west side of the house or flat? A Well, coming up on the stairway to the right.

Q Well we don't know how the stairway went up; don't you know which is the east and which is the west? A I try to recollect all these details to my best recollection.

THE COURT: If you don't remember say so.

THE WITNESS: Just a second.

BY MR. MCCORMICK:

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Q Who was in charge at the house; who let you in?

A A friend of Mrs. Michaels.

Q Do you know his name? A I don't know her name.

Q Have you seen him since? A No, sir.

Q But you found how much of this furniture up there?

A Oh, the greater part of it.

BY THE COURT:

Q Take that paper, Exhibit 10, and check off the articles of furniture that you found in 59th street. Take a pencil and make a mark plainly opposite each piece of furniture that you saw there. (Witness does so.)

Q What do you mean by the pencil mark that you have now made on people's Exhibit 10? A Those are the articles we found in her house that she lived at in 59th street.

Q In other words the articles of furniture opposite which you have made certain ticks are articles of furniture that you saw in the house on 59th street? A Yes, sir; there is one item that is stored with the piano people.

BY MR. McCORMICK:

Q How long have you been in this business, 11 years?

A Six months.

Q Six months? A I have been with that company.

Q But you have been in the business of loaning on furniture for 11 years? A No, sir; I did not say that.

Q How long? A For six months.

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Q Did you very often appraise furniture? (No answer.)

Q Are you familiar with the values of furniture? A Yes, sir.

Q Have you often appraised furniture? A Yes, sir.

Q For loans? A Yes, sir.

Q Do you know what the value of the furniture was that you saw in 59th street, what in your opinion about was the value? A I should say about \$200.

Q What was the value of the furniture that you saw at 33rd street?

THE COURT: In No. 207 West 33rd street.

THE WITNESS: I did not see it all at 33rd street;

I saw part of it.

BY MR. MCCORMICK:

Q What is that worth? A Well it was worth in the neighborhood of about \$400.

BY THE COURT:

Q When you went to the 33rd street house at the time that you say that you appraised or looked at certain furniture into what rooms did you go. Now we will take the basement floor first. Did you go down into the cellar. Yes or no? A No, sir.

Q On the basement floor did you go into the hall, yes or no? A No, sir.

Q Did you go into the front basement room, yes or no?

A I did not go to the basement.

Q Yes or no? A No, sir.

Q Did you go into the kitchen? A No, sir.

Q On the floor which is on the same level as the top of the stoop did you go into the hall? A Yes, sir.

Q Did you look at the furniture which was then in the hall, if any? A Yes, sir.

Q Did you go into the front room on that floor?

A Yes, sir.

Q Did you look at the furniture that was in that room, if any? A Yes, sir.

Q Did you go into the back room on that floor, yes or no? A I got as far as the door part of it; I saw the greatest part of the room.

Q Did you see the furniture that was in that room? A Yes sir.

Q Did you go upstairs to the next floor? A No, sir.

Q Did you go into any other part of the building excepting the part that you have already mentioned? A No, sir; I did not go up.

Q Yes or no, that is all? A No, sir, I did not.

Q The only furniture that you saw at the time you went to the 33rd street house was the furniture situated in the hall on a level with the top of the stoop, in the front room on that same floor, and in the back room on that same floor? A Yes, sir.

Q And that furniture you say, in your opinion was reasonably worth the sum of four hundred dollars, yes or no?

A Yes, sir.

CROSS EXAMINATION BY MR. KARLIN:

Q As a matter of fact, while the mortgage, People's Exhibit 10, reads \$150, there was only loaned to the defendant \$100, is that right? A No such a thing; \$150; we have the receipt for these things.

Q You have the receipt but did you pay her yourself \$150 in cash? A Yes, sir.

Q Yes. A Yes, sir.

Q In your appraisal of \$400, did you take into consideration the Wilbur piano mentioned in People's Exhibit 10?

A I do not understand the question.

BY THE COURT:

Q Did you include when you appraised the value of \$400 on the articles of furniture that you say that you saw in certain parts of 207 West 33rd street, the piano? A Yes, sir.

BY MR. KARLIN:

Q How much did you say that was worth, the Wilbur piano?

A Well in that condition the piano was -- it was worth about \$100.

Q Out of the loan that you made the defendant didn't you pay \$48 to the Peace Piano Company representing payments due thereon? A Yes, sir.

Q Such view as you had of the furniture mentioned in

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people's Exhibit 10 was a very cursory view, wasn't it, that is you did not look at the furniture very carefully, didn't examine it closely? A No, sir; the part of it I called your attention to --

Q Will you just answer that question? A I wasn't examining the furniture; I was examining that --

Q (Repeated). A No, sir.

Q So that you cannot be very accurate, can you, in saying that the furniture, some of the furniture you found in 59th street is that furniture which you originally saw in 33rd street, can you? A Yes, sir; I saw it, most of it at 33rd street.

Q How long did you spend at the the 33rd street premises? A I had been there several times, not to examine the goods; I was there for other purposes, to examine the goods with another man.

Q You did not examine the goods? A I did not.

Q Yet you are willing to swear that some of the furniture that you found in 59th street -- A I have not seen the goods in the house--

THE COURT: Just wait until the question is asked and pay attention to it.

BY MR. KARLIN:

Q Though you never examined the furniture in 33rd street you are willing to swear that these items of furniture indicated by marks on People's Exhibit 10 as having been found

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by you in 59th street is the identical furniture which you previously to that time saw in 33rd street? A Yes, sir.

MARGARET BOYLAN, a witness called on behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Where do you live? A 205 West 33rd street.

Q West 33rd street? A Yes, sir.

Q Where did you live on the 19th of July, 1911?

A 205 West 33rd street.

Q West 33rd street? A Yes, sir.

Q Do you remember a fire that night? A Yes, sir; I do.

Q Where were you sleeping that night? A I was up on the second floor, one flight up.

Q In what building? A In 205 33rd street.

BY THE COURT:

Q Were you in the front or back room? A Front room.

BY MR. McCORMICK:

Q Did you hear anything when you woke up? A I heard a policeman sound his club.

Q What did you do? A I looked out of the window, some one says "Fire".

Q What did you do then? A I had to rush downstairs and do the best way I could, go down in the dark, smothered with smoke.

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Q What did you do then? A I opened a window and I says, "Oh, please, mister, get me the engines as quick as you can."

Q How did you get out of the building? A I did not go out; I stayed in the house; the firemen broke my door in to get up on the roof.

Q How long have you lived there? A Two years.

Q Did you know Mattie Michaels? A Yes, sir; I did.

Q You used to see her around there? A Yes, sir.

Q Do you know whether anything was taken out of 207 before the fire? A Yes, sir; furniture moved away.

Q How did it get away, carried away in their hands?

A In a wagon.

Q In a wagon? A Yes, sir.

THE COURT:

Q When did it go away in the wagon. Keep your voice up?

A It went a couple of weeks before the fire.

Q That is to say about two weeks before the fire you saw some furniture taken out of No. 205? A 207.

Q Out of what building did you see the furniture taken? A 207.

Q That was the building that Mattie Michaels occupied?

A Yes, sir.

Q You saw it taken out of that building about two weeks before the fire? A Yes, sir.

Q Is that so? A Yes, sir.

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BY MR. McCORMICK:

Q This fire was a Monday morning, wasn't it? A It was in the middle of the morning, around two o'clock.

Q What morning, Monday or Sunday? A Monday morning.

Q Did you see Mattie Michaels Sunday? A Yes, sir.

Q What did you see her doing? A I seen her eating around 12 o'clock.

BY THE COURT:

Q That is to say about noon on Sunday you saw Mattie Michaels eating? A yes, sir.

Q Where? A In the yard.

Q When was the last time you saw her on Sunday?

A Around six o'clock.

BY MR. McCORMICK:

Q Where was she then? A In the house.

Q What house? A 207.

Q She was in the house? A Yes, sir.

Q Were you in the house? A Yes, sir.

Q In her house? A Never was in her house; in my house.

Q How could you see her? A My house is a private house; I could see from one yard to the other.

Q Where were you when you saw her at six o'clock Sunday evening? A I was in the dining room.

Q Of what house? A 207, a private house.

Q Where was she when you saw her at that time? A In

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the yard eating.

Q What is that? A Eating in the yard; she had a table, I suppose, the place was warm inside, she had a table outside eating.

Q You saw her about six o'clock Sunday evening in the yard of premises 207 West 33rd street? A Yes, sir.

Q Is that so? A Yes, sir.

Q Was anybody with her? A Yes, sir. her sister Fannie, and another young man named Dancey and her son.

Q Two young men? A Yes, sir, and the baby Gracie.

Q Did you after the fire-- did you go into 207? A No, sir; I could not get in, the firemen were there.

Q Just answer yes or no? A No, sir.

Q Did you smell anything unusual after the fire?

A I smelled kerosene; the firemen threw some kind of a tin on the street.

Q Where were you when you smelled the kerosene? A In my own house.

Q At what time was it you smelled the kerosene? A Oh, about when everything was all over; around five o'clock in the morning.

Q Did you smell it later than five o'clock? A No, sir, I did not.

Q What part of your house were you in when you smelled the kerosene? A Down on the first floor as you go in, one

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flight up.

Q Could you smell it in any other place? (No answer.)

Q Now, I want you to tell me every place you were where you could smell kerosene? A I was out on the stoop when the firemen threw a can out on the street; that is the only time I smelled it.

Q Where did the smell come from? A From a can, some kind of an old can that was around.

CROSS EXAMINATION BY MR. KARLIN:

Q The foreman told you that what he was throwing out of the can was kerosene? A He did not tell me anything; I smelled it myself.

Q When the fireman threw it out? A Yes, sir.

Q That is the only time? (No answer.)

Q Were you up and awake any length of time before the fire? A I went to bed at 11 o'clock.

Q Then you did not awake until -- A (I got a good nights sleep that night until half past one; I heard the engines going out down to another fire which woke me up. Around two or half past two a policeman sounded his club and we heard the fire engines, somebody said in the street there was a fire; I thought it was the factory next door; I did not know it was the next house until I looked out.

Q It was a very hot night? A Yes, sir; a very warm night.

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Q During that hot spell we had in July? A Yes, sir.

Q Did you see any men running a way immediately before the cry of fire was sounded? A No, sir; but there was a man--

Q What about some man? A Some man in the tunnel said that he seen three colored men coming down the stoop.

THE COURT: Strike that out. The jury will disregard it.

Q You yourself did not see the three men running away?

A No, sir;

Q Do you know who they were? A No, sir; I do not.

Q Have you spoken to anybody on that subject about three men running away after before the fire? A No, sir; they told me--

THE COURT: Simply answer questions. Do you understand me madam?

THE WITNESS: Well I have never been on a case; I don't know.

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

DIRECT EXAMINATION BY MR. McCORMICK:

Q Mr. Fahn, what is your business? A Furniture repairer.

Q A little louder. The twelve men want to hear you. Talk out please. A Upholstered and furniture repairer.

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Q Are you familiar with the values of furniture? A Yes, sir.

Q New as well as second<sup>hand</sup>? A Yes, sir.

Q Did you visit the premises 207 West 33rd street in July? A Yes, sir.

Q Do you know what date? A It was on the 13th.

Q Did you find any furniture in the house? A Yes, sir.

Q Will you tell the jury what furniture you found there?

A I found a lot of old beds, springs and mattresses and some old chairs.

THE COURT: You are talking in such a low tone that you cannot be heard. Will you talk so that you can be heard?

THE WITNESS: A lot of old beds, springs, mattresses and chairs, glasses and dishes and old carpets and different little things you might find around a house.

BY THE COURT:

Q Well start with the top floor, front room, and tell me exactly what you found in that room? A I found a dresser, a bed, only two or three items on the second floor front or top floor front as you call it.

Q On the top floor front did you find a carpet on the floor? A No, sir.

Q What articles of furniture did you find in that room?

A A dresser, a bedstead, a spring and a mattress; I think it was a chair in there.

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Q Anything else? A Probably a few old pictures I think there was a clock on the mantelpiece if I remember.

Q About how many pictures? A I think there was four as near as I can remember.

Q Now, in the back room on that same floor, being the top floor, what furniture, if any, did you find? A I found two washstands, a dresser, and a bed, and a lot of clothing lying around.

Q Now, in the front room second floor, that is one floor immediately below, what did you find, if anything?

A A bed, a dresser, a rocking chair, a few pictures, and a carpet on the floor.

Q What did find in the back room on that same floor?

A Another bed and a dresser and some pictures there; I don't know whether a chair or not; there was some clothing lying on the floor.

Q What did you find in the front room on the stoop floor?

A I found a sofa two chairs, and one of those couch beds, a piano or a piano player in the room, some pictures around, and a little glass over the mantelpiece.

Q What did you find in the back room on that same floor?

A Also so a bed and a dresser, and other furniture, a parlor suit some pictures in there also.

Q What did you find in the front basement room? A I am trying to think.

Q Take your time. A Well a lot of old chairs down

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there.

Q How many? A I think there was six.

Q Anything else? A There was-- in the corner of the room was a little passage way connecting with that other room and there was a lot of beds standing together, two or three beds all put in a bunch.

Q What did you find in the kitchen? A Nothing but one table; very few things in the kitchen.

Q When was it you found this furniture in the premises. Do you remember the day? A Well, July 13th about two o'clock in the afternoon.

Q July 13th about two o'clock in the afternoon? A Yes, sir.

Q Of what year? A 1911.

Q Will you take People's Exhibit No. 10 as the list of furniture, look at that and put your initials opposite every item of furniture that you found there which is mentioned in that paper. (Witness does so.)

Q You have now put your initials opposite each item of furniture that you found in the house 207 West 33rd street when you went there at two o'clock on the afternoon of July 13th 1911? A Yes, sir.

Q Is that so? A Yes, sir.

BY MR. McCORMICK:

Q Had you visited that house before that time? A No, sir.

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Q That was the first time you had been there? A Yes, sir  
CROSS EXAMINATION BY MR. KARTLIN:

Q By whom were you employed to make the inventory of  
the goods in the premises 207 West 33rd street? A By Mr.  
Wade, the insurance investigator.

Q He is connected with the Hartford Fire Insurance  
Company, isn't he? A He was, yes, sir.

Q You testified at the Police Court, didn't you? A Yes,  
sir.

Q You appeared there about three times I believe?  
A I wasn't called three times; I was only called once.

Q But you were present in the Police Court three times?  
A Yes, sir.

Q I suppose you were paid by the insurance company?  
A Yes, sir.

Q For the time you spent in court? A By Mr. Wade,  
Q As well as for the time spent in your appraising?  
A Yes, sir.

Q You have already been paid? A Yes, sir.

Q May I ask what amount you have been paid? A \$15.

Q For your appearance in court and for the appraising?  
A Yes, sir.

Q And of course, you expect to be paid for the time  
you are spending here? A Yes, sir.

Q Do I understand that at the point indicated on Peo-  
ple's Exhibit 10, where your initials are that you mean to

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represent the furniture that you found in 207 West 33rd street at the time of your appraisal? A Yes, sir.

Q There can be no mistake that that furniture was in those premises? A No, sir.

Q The time you made your appraisal, as you have indicated in answer to the questions by his Honor pretty nearly every room was furnished? A Yes, sir; some furniture in every room.

BY MR. MCCORMICK:

Q Do you mean completely furnished? A No, sir; I wouldn't call it completely furnished, no, sir.

Q What is that? A I wouldn't call it completely furnished.

Q There was very little furniture in the house? A Yes, sir. very little.

Q What is the value of the furniture that you found there? A About a hundred dollars.

Q About a hundred dollars? A Yes, sir.

BY MR. MARTIN:

Q Every single room was furnished? A Some furniture.

Q What was worth one hundred dollars? A All the stuff I saw was only second hand furniture.

Q I did not ask you that. I will ask you now what do you say was worth a hundred dollars? A The items I saw there.

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Q Everything you saw there? A Yes, sir.

Q Is that the way you testified in the Police Court?

A Yes, sir.

Q Your estimate of a hundred dollars include that furniture that was burned, and that furniture which was not?

(No answer.)

Q Were you asked this question in the Police Court.

I will have to read two or three to make it clear: "Q How much was it worth? A. Probably not worth a hundred dollars.

"Q. The whole thing? A. The whole thing, that is there now." Q. You mean the furniture you found there not burned?

A. Yes." That is what you testified to in the Police Court, isn't it? A yes, sir.

Q And that furniture not burned was worth about a hundred dollars, isn't that what you testified to? A Yes, sir.

Q Of course, being employed by Mr. Montgomery Wade of the Hartford Fire Insurance Company, you did not go there to give the highest possible appraisal, did you? A The prices I thought they were worth as they stood there.

Q Being employed by Mr. Montgomery Wade of the Hartford Insurance Company and being paid by that company to make an appraisal as a basis for possible payment of damages you did not go there to give the highest possible appraisal?

Objected to; objection sustained;

Q You have made other appraisals for Montgomery Wade,

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have you not? A Yes, sir.

Q How many years since you have been employed by him?

A About two and a half years.

Q In your appraisal of one hundred dollars I suppose you included the Wilbur Piano? A No, sir.

Q Why didn't you? A Because I was told not to put it in.

Q Who told you that, who said it? A Mr. Wade.

Q Who told you that? A Mr. Wade.

Q What else did Mr. Wade tell you not to put in?

THE COURT: I will not allow that.

THE WITNESS: That is all.

Q Nothing else? A No, sir.

Q You call that a proper appraisal, do you? A Yes, sir.

BY MR. McCORMICK:

Q What was the value of the piano? A I could not say because I did not look at it.

Q You do not know? A No, sir; I did not examine it.

BY THE COURT:

Q In other words/you gave ~~an~~ <sup>when</sup> your estimate of the fair and reasonable value of what you saw in the house on the occasion of your visit to the premises on July 13th you did not include the piano? A No, sir.

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

DIRECT EXAMINATION BY MR. McCORMICK:

Q What is your business? A Sir?

Q Speak out loud? A All right.

Q What is your business? A (No answer.)

BY THE COURT:

Q What kind of work do you do? A Express.

Q Expressman? A Yes, sir.

BY MR. McCORMICK:

Q Where is your place of business? A 210 and 212 West  
28th street.

Q About the 7th of July, in the early part of July, did  
you have a talk with this defendant, yes or no? A Yes, sir,  
I moved a load--

Q Did you talk with her? A No, sir.

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

Q Did she say anything to you or did you say anything  
to her in the beginning of July? A Yes, sir.

Q Do you know where she lived at that time? A Yes, sir.

Q Where? A 207 West 33rd street.

Q Did you go there? A Yes, sir.

Q On what day? A I took me up for a load of furni-  
ture.

(The balance of the examination is taken through  
Official interpreter Deville.)

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BY MR. McCORMICK:

Q On the 7th of July, did you go to the house of the defendant? A Yes, sir.

Q Where was that house? A 207 West 33rd street.

Q What did you do when you went there? A I told her the price for a load of furniture.

Q What did she tell you ? A We came to an arrangement about the price, and she told me to take the load away, and I began loading it.

THE COURT: The price for what?

THE WITNESS: For a load of furniture, for carting a load of furniture.

BY MR. McCORMICK:

Q How much did you charge her? A Six dollars.

Q And for that what did you do? A We loaded a van and after we loaded it I took it to 59th street.

Q In what way? A I drove the van to 59th street.

Q I want to know what you loaded on the van? A Desks and drawers, chests of drawers, tables, chairs, two beds; that is about all.

Q Was it a full load? A Yes, sir.

Q How big a van did you have? A 14 feet in length and 6 feet in width.

Q It filled it up, didn't it? A Yes, sir.

Q Where did you take that furniture? A 312 West 59th street.

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Q. What are their names? A. One's first name is Robert, I hardly can think of the other man's name; and the other man's name is Emil.

Q. Do they both work for you now? A. Yes, sir.

BY MR. McCORMICK:

Q. Was there any of this furniture packed up ready to be put on ~~the~~ truck? A. Yes, sir.

BY THE COURT:

Q. How many tables did you put on your truck if you remember? A. I can't remember now; it was a full load of furniture.

MR. McCORMICK: I offer in evidence the claim for to furniture damages/as the result of a fire at 207 West 33rd street on the 10th of July made by Mattie Michaels.

MR. KARLIN: Will you concede that the conditions of the fire insurance policy required the presentation of a proof of claim within sixty days?

MR. McCORMICK: No, but I have a copy of the policy here and I will consent that it go in evidence.

THE COURT: Is there any objection to its going to this going in?

MR. KARLIN: No, sir.

THE COURT: I will receive it.

The proof of claim is marked People's Exhibit 11.

MR. McCORMICK: I offer in evidence this claim for damages filed by the defendant.

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THE COURT: You may read it to the jury.

MR. KARLIN: Do I understand the letter is offered as well?

MR. McCORMICK: Well, I also offer a letter written by Emanuel A. Busch to the Hartford Fire Insurance Company dated August 19, 1911.

(The letter referred to is marked People's Exhibit 12.)

(Mr. McCormick reads People's Exhibits 11 and 12 to the jury.)

I ask your Honor to permit me to recall Officer as Rogan for questions to the time spent in the house. I neglected to ask him. He is not here now. In the meantime shall I call another witness?

THE COURT: Yes.

MR. McCORMICK: I will call fireman Vollz.

J A C O B F. V O L L Z , a witness called on behalf of the People, being duly sworn testified as follows.

DIRECT EXAMINATION BY MR. McCORMICK:

Q On the 12th of July, did you go to the house No. 207 West 3rd street? A Yes, sir.

Q That is the house that has been burned? A Yes, sir.

Q What did you do when you got there -- what time of day was it first? A Well, I relieved my man at 5.45.

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Q That is on the evening of the 12th? A Yes, sir.

Q How long did you stay there? (No answer.)

BY THE COURT:

Q When you say you relieved your man who do you mean that you relieved? A My assistant.

Q What is his name? A Rogan, Patrolman Rogan.

Q What is his first name? (No answer.)

BY MR. MCCORMICK:

Q Wasn't it Burt? A Patrolman James Burt.

Q You found him there? A Yes, sir.

Q Then you stayed there until when? A The following morning.

Q What did you do while you were there? A I just stayed there and watched the place.

Q Did anybody come into the place that night? A No, sir.

Q When you left it in the morning was it in the same condition as it was when you went there the night before? A Yes, sir.

Q Who relieved you the next morning? A James Burt, Patrolman.

Q What time did he relieve you the next morning?

A About five minutes after eight.

(No cross examination.)

WILLIAM F. BROWN, a witness called on behalf of the People, resumed the stand.

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BY MR. McCORMICK:

Q You testified that you arrived at the premises 207 W 33rd street at 3.53 on the morning of the tenth, and you stayed there until 8 o'clock? A Yes, sir.

Q Now, when did you leave there, at 8 o'clock?

A 7.45.

Q You left there at 11.45? A 7.45.

Q 7.45? A Yes, sir.

Q That was on the morning of the 10th? A Yes, sir.

Q When did you come back again? A 5.45, the same day.

Q In the evening? A Yes, sir.

Q When you got there at 5.45 whom did you find in charge of the building? A Why, the man that relieved me in the morning.

Q You stayed there all night? A Yes, sir.

Q What did you do while you were there? A Well, I read the paper and sat around, looked around.

Q What is that? A Read the paper and took a walk around occasionally.

Q You were on guard there? A Yes, sir.

Q Did anybody come into that house during that night?

A No, sir, no one, while I was there.

Q Was the place in the same condition the next morning that it was the night before? A Yes, sir.

Q And the next morning, the 11th, you were relieved by Burt? A In the 11th I was relieved by Burt, yes, sir.

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Q Did you come back on the evening of the 11th? A Well, the 11th I was off; I did not come back on the 11th.

Q It was the 12th that Vollz came there? A I know I was off some of those days, I can't remember whether it was the 11th or 12th.

Q It was the 12th, Vollz just testified to it. You relieved Burt on the evening of the 11th, and stayed all night again, didn't you? (No answer.)

BY THE COURT:

Q You were there on the night of the fire? A Yes, sir.

Q Now, were you there the next night? A Yes, sir.

Q Well now, the last time you were there was on the 13th-- were you there on the 13th? A The 13th I don't think I was.

Q You were there on the 11th? A Yes, sir.

Q Was the place in the same condition when you left there the last time on the 11th that it was when you went there the first time on the 10th? A In the same condition, yes, sir.

Q Nobody had taken anything out? A No, sir.

CROSS EXAMINATION BY MR. KARLIN:

Q Do you remember when the defendant got there about 7.45 or so on the morning of the fire some woman remarked to you that she saw three men running away immediately before the fire?

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Objected to; objection sustained.

MR. KARLIN: I am not trying to prove a hearsay narration.

THE COURT: I will not allow it.

BY MR. KARLIN:

Q Did you have any conversation at all with that woman, yes or no.

Objected to; objection sustained; exception.

THE COURT: Pardon me a moment. You want any conversation with the defendant?

MR. KARLIN: In the presence of the defendant, when this person was present, yes, sir, not what the woman heard somebody else say but what she said to the officer in the presence of the defendant.

THE COURT: I will not allow it.

Q The question then is whether you heard any woman say to the defendant or to you in the presence of the defendant?

THE COURT: I have not allowed that.

MR. KARLIN: Exception to the refusal to permit an answer to that question.

THE COURT: Yes.

MR. MCCORMICK: The People rest.

MR. KARLIN: If the Court please the defendant moves to dismiss the indictment, and to direct a verdict of

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acquittal on the ground that the People have failed to sustain the allegations of the indictment or prove the commission of any crime particularly the commission of a crime by the defendant.

THE COURT: I deny the motion and give you an exception.

Exception.

(Mr. Karlin then opened the case on behalf of the defendant.)

THE COURT: I suppose by consent of both sides the policy although not actually produced, is considered in evidence?

MR. MCCORMICK: I understand you wanted it put in evidence.

MR. KARLIN: Yes, merely as to the requirement as to sixty days.

GEORGE W. STOVALL, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q What is your business? A I am caretaker of a hall.

Q What hall? A Longacre.

Q The Oddfellows Hall? A Yes, sir; in Longacre.

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

Q Do you know other people that know her? A Yes, sir.

Q How long have you known her? A Well, about ten years I guess.

Q Do you know what her reputation is for veracity and uprightness? A Well I know her to be an upright woman, as far as I know.

CROSS EXAMINATION BY MR. MCCORMICK:

Q Now you say you have known her ten years? A Yes, sir.

Q How long did she live at 207 West 33rd street?

A That I could not tell.

Q What is that? A That I could not tell.

Q Well did she live there a year or ten years? A She lived there a year, I am positive.

Q Do you know whether she lived there two? A I don't know.

Q Do you know what sort of a place she ran there?

A I don't know.

Q What is that? A I don't know.

Q Did you used to go there? A She kept a lodging house as far as I know.

Q Did you used to see women bringing men in there?

A No, sir; never seen any women bring any men in.

Q You don't know what kind of a place she ran then, you say? A She ran a lodging house as far as I know.

Q Did you ever talk her reputation over with anybody?

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A No, sir.

Q Well then how do you know when you come down here to swear what her reputation is? A I didn't have any occasion to talk it over with anybody.

Q Then you don't know any people that know what her reputation is? A Yes, I do; I have never knowed anything bad of the woman.

Q How many times have you been in that house in 33rd street? A How many times? I couldn't tell; I never kept count.

Q Don't you know that that is an immoral place?

A No, sir; I don't know.

Q Don't you know that it is a house of assignation or prostitution? A No, sir, I don't know.

BY MR. BUSCH:

Q You are a married man, are you not? A Yes, sir.

Q Have a family? A Yes, sir.

Q Do you know at one time that the Red Cap Porters boarded at her house? A Yes, sir.

Q That house at 207 West 33rd street? A Yes, sir; I have taken dinner in there myself.

Q She had a restaurant in connection with her house?

A Yes, sir.

LOUIS SIMON, a witness called on behalf of the defendant, being duly sworn, testified as follows:

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## DIRECT EXAMINATION BY MR. BUSCH:

Q Mr. Simon, what is your business? A Tailor.

Q Where is your business? A 204 West 24th street.

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

Q How long have you known her? A Four and a half years.

Q Do you know other people that know her? A Yes, sir.

Q Do you know what her reputation is for veracity and uprightness? A Yes, sir.

Q And honesty? A Well I know so much that I dealt with her for four and a half years and she always paid her bills promptly, never heard anything wrong of her.

Q Never heard anything against the woman? A No, sir.

## CROSS EXAMINATION BY MR. MCCORMICK:

Q What is your business A. Tailor.

Q Where? A204 West 34th street.

Q West 34th street? A Yes, sir.

Q Do you know where she lives? A Yes, sir.

Q Ever been around there? A Yes, sir; I was there several times.

Q What is that? A I was a hundred times there.

Q How many times have you been in that house in the last year? A I was there about twenty five or thirty times.

Q What did you go there for? A For work.

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Q What is that? A Work.

Q She would deliver you work and you would take it and bring it back? A Yes, sir.

Q Did you go there in the night time? A Yes, sir, I was going in the night time there.

Q What time of night? A Till 8 o'clock.

Q Did you see a lot of colored women walking up and down the street there? A No, sir; I did not see them on the street; I never notice these things.

Q Ever see any women taking men into that house?

A No, sir.

Q Didn't you know it was a house into which women took men? A No, sir.

Q For immoral purposes? A No, sir.

Q You never made any inquiries? A No, sir.

Q How many people do you know that know her?

A Oh, I know lots of people that know her in the neighborhood.

Q What is that? A I know lots of people in the neighborhood.

Q But you don't know how well they know her? A I know that I know.

Q You were not on terms of social intimacy with her, were you? A No, sir.

Q You did not know any people that she associated

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with, who lived there in the house? A No, sir; I used to know she had boarders there -- a furnished room house.

Q Your relations were purely business relations?

A Yes, sir.

Q You did not know her socially at all? A No, sir.

THE COURT: Gentlemen of the jury you are admonished not to converse among yourselves on any subject connected with this trial or to form or express any opinion thereon until the same is submitted to you. The Court takes a recess until 2 o'clock.

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AFTER RECESS.

BEVERLY H. WILLIAMS, called and sworn as a witness, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q What is your business, Mr. Williams? A Cook on the New York Central.

Q Are you employed as such now? A Yes, sir.

Q You are employed now as a cook on the New York Central.

A Yes, sir.

Q Did you ever stop at the house of Mrs. Nichols? A I did.

Q For how long a period?

MR. MC CORMICK: I object to that as irrelevant and immaterial.

THE COURT: Well, you intend to show by this witness that he was there on the 10th of July?

MR. BUSCH: I intend to show that it was customary for this defendant to have in that house these lamps.

THE COURT: Yes, I will allow it.

BY MR. BUSCH:

Q You did stop there for how long a period, Mr. Williams?

A Well, I boarded there for about four months.

Q You had your meals there? A Yes, sir.

Q Did you go through the house also; did you ever go through the house? A Quite frequently.

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THE COURT: I think it should be brought out when he was there.

Q When did you last leave the house? May.

Q May of this year? A 1911.

Q And during that month did you go through the house?

A Yes, sir.

Q Do you remember whether she had any lamps in the rooms of her house? A Yes, I do.

Q Kerosene lamps? A Kerosene lamps, yes.

Q Can you tell how many she had in the house? A I remember of seeing three.

Q You don't know whether she had them in all the rooms, do you? A No, I do not.

CROSS EXAMINATION BY MR. MC CORMICK:

Q How long had you been working for the New York Central?

A About two weeks.

Q What? A About two weeks.

Q About two weeks? A Yes, sir.

Q What were you doing when you lived at her house? A I never lived there; I boarded there. I worked for the Pennsylvania Railroad Company.

Q When you boarded there you lived there, didn't you -- did you sleep there? A No, sir.

Q You had your meals there you mean? A Yes, sir.

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Q - Do you know anything about the character of the house?

A No more than I know that it is a boarding house.

Q What? A No more than a boarding house.

Q Did you spend any nights around there? A Why, I was in and out of the house anywhere from one o'clock to ten at night.

Q What business were you in then? A Coming to supper and dinner.

Q No, no,, but what was your business in May, 1911?

A Parcel porter in the Pennsylvania Railroad station, Seventh avenue and 33rd street.

GEORGE J. AMIEL, called and sworn as a witness for the defendant, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q Were you a porter in the house of the defendant, Matty Michaels? A Yes, sir.

Q For how long a period? A About two years.

Q Yes. A About two years.

Q And during that time did you sleep at that house? A Yes sir, every night.

BY THE COURT:

Q Beginning when and ending when? A Beginning when?

Q Yes; when did you go there as a porter? A 1909, the 6th day of September, and I stayed there until about the last

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of April of this year.

BY MR. BUSCH:

Q You lived there in the month of April of this year?

A Month of April.

Q Did you visit other rooms in this house besides your own? A I was in fact all over the house, I have been in every room in the house.

Q Will you tell the gentlemen of the jury the custom as to gas lights in that house? A Well, the gaslight was supposed to be put out at ten o'clock at night and then we had lamp lights.

Q Talk louder. A I say the gas light was supposed to be put out at ten o'clock at night and after that we used the lamp light.

Q Did you have lamplight in all the rooms? A In all the rooms.

Q About how many boarders were there at this time? A Each room was filled and they had -- I mean there was twelve rooms in the house; some carried two people, married people you see and some singles.

Q And during that time what business were you in? A I run a grocery store at 53rd street.

Q 53rd street and where? A 340 West 53rd street.

MR Mc CORMICK: No cross examination.

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MATTIE MICHAELS, the defendant, called and sworn  
as a witness in her own behalf, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q Mattie Michaels, how old are you? A 33.

Q Talk loud. A 33.

Q Where were you born? A Madrid, Spain.

Q And at what age did you come over to the United States?

A Four years.

Q How long ago? A Four years of age.

Q And you were four years of age? A Yes, sir.

Q At that time where did you go? A I was in New York  
for a few years.

Q Who did you come here with? A My parents.

Q Your father and your mother? A Yes.

Q And how long did you stay in this city? A Well, I  
don't remember.

Q Well, then, where did you go from here? A I went  
south.

Q Whereabouts South? A Savannah, Georgia.

Q And how long did you remain there? A I think some-  
thing like about five years.

Q And you were married when you were down south? A I  
got married in Jacksonville Florida to my first husband.

Q Who did you marry there? A Charles Smith.

Q And how long were you married to Mr. Smith? A Two  
years and a half.

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Q Did your husband subsequently die? A He died.

Q Have you got any children? A Two.

Q How old are your children? A My son will be nineteen on the 13th day of this month.

Q And you were married the second time, were you not?

A Yes, sir.

Q You have a child by your second marriage? A Yes, sir.

Q And what was your husband's name? A Horace Michaels.

Q How old is the second child? A Will be five the 20th of January.

Q Four going on five? A Yes, sir.

Q Now, Mrs. Michaels, do you remember the 10th day of July of this year? A I do.

Q Where were you on that day? A At the house, 207 West 33rd street.

Q And that was the house which you occupied? A Yes.

Q And do you remember what time you left that house that night? A I left the house between two and three.

THE FIFTH JUROR: A little louder please.

THE WITNESS: I left the house between two and three o'clock.

BY THE COURT:

Q That means between two and three o'clock in the morning, is that so? A Yes, your Honor.

BY MR. BUSCH:

Q Now, before getting to that: did you have any other

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houses besides the house on 33rd street?

THE COURT: On July the 10th.

A I had given up the other house by that time.

BY MR. BUSCH:

Q Well, did you have a house prior to July the 10th? A Yes, on Sixth avenue.

Q What number? A 505.

Q What kind of a place was that? A Furnished rooms with a Chinese restaurant.

Q Was that place furnished by yourself? A Yes.

Q And how many rooms did you have there? A Twelve rooms

Q And you also had boarders there? A Yes.

Q Now, when did you give up that house on 6th avenue?

A Around the 15th of May.

Q 15th of May this year? A This year.

Q And what did you do with the furniture from the house on 6th avenue? A That was moved and stored away in the basement and cellar of 207 West 33rd street.

Q You moved the furniture from that place to 207 West 33rd street? A Yes, sir, I did.

Q Was the 33rd street house furnished at that time?

A Oh, yes.

Q And you simply took that furniture from 6th avenue and stored it in the 33rd street house. A Yes.

Q And did you have any place, besides this, Mrs Michels?

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A I had a house at 202 West 37th street.

Q And that was also furnished? A Also furnished.

Q Now, coming down to the 10th day of July of this year -- how long have you had this place in 33rd street, Mrs. Michaels? A Four years the first day of last July.

Q And what was the nature of the business that you conducted in this house? A Furnished rooms with a restaurant.

Q Now, subsequent -- before the 10th day of July, I understand that you moved to 59th street, is that right? A My family.

Q When do you mean by your family? A Myself, my son and my baby and my two sisters.

Q And prior to that where did you folks live? A 207 West 33rd street.

Q You had your rooms at 207 West 33rd street? A Yes, sir.

Q Did you remove any furniture from 207 West 33rd street to the fifty-ninth street house? A I did.

Q Well, tell the jury just what furniture you removed there and when. A I moved furniture enough to furnish the six rooms with the furniture that I brought from 6th avenue. touch.

Q You didn't -- did you take any furniture you had in the upstairs part of the house at 207? A No, sir.

Q But the furniture which you removed to 59th street was only the furniture which you had removed from the 6th avenue house, is that right? A Yes, sir.

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BY THE COURT:

Q What was the number of the 59th street house? A 312 West 59th street.

Q And what floor did you occupy there? A The first floor.

Q You mean one flight up? A One flight, yes.

BY MR. BUSCH:

Q Now, what was your occasion, Mrs. Michels, for removing from 33rd street to 59th street, tell the jury. A I moved from the 33rd street house so as to have a home private for my children, I had -- I was going to make a transient business with the restaurant in 33rd street and had begun only three days before the night of the fire.

Q Well, what was the occasion of your changing your mode of business? A Well, just as I said, I was going to make a transient business there and I didn't want my children where I was going to have my transient business.

Q Tell the jury what you mean by transient business.

A Just to rent the rooms out to anybody who came in, by the night or the day or the week.

Q Now, on the 10th day of July, 1911, what time did you leave your premises on 33rd street? A Between two and three o'clock in the morning.

Q Between two and three? A Yes, sir.

Q And who did you leave there with? A I left there with Mr. Bell and Mr. Dantz y.

BY THE COURT:

Q What is the last name? A Dancy.

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Q Dantzig? A Yes, your Honor.

BY MR. BUSCH:

Q Was it nearer two o'clock or nearer three o'clock, Mrs. Michaels? A No.

Q Which was it, near two or near three? A Well, when I was getting my hat on the clock struck two.

Q Well, how long after that did you leave? A About fifteen minutes.

Q Well, during the time that you put on your hat and the time that you actually went away, what did you do? A I might have been there half past two.

Q Were you talking to anybody? A I was speaking with Mr. Bell and Mr. Dantzig before I left there.

Q And where was Mr. Bell and Mr. Dantzig? A Standing in the front of the door.

Q On the stoop? A On the stoop.

Q Did you have your hat and coat on? A Yes.

Q And you intended at that time to go where? A To my home in 59th street.

Q And then you left the house with whom? A Mr. Bell and Mr. Dantzig.

Q And where did you go? A To 34th street and Seventh avenue.

Q You walked around the corner? A Yes, sir.

Q To 34th street and Seventh avenue? A Yes, sir.

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Q And what did you do at 34th street and Seventh avenue?

A Waited a few minutes and the car didn't come right away, then I walked through to Eighth avenue.

Q Eighth avenue and 34th street? A Eighth avenue and 34th street.

Q And how long did you remain there? A Well, I didn't have to stay there more than about two minutes because the car was crossing the street just as I got there.

Q Then what did you do? A I got on the car and went up to 59th street.

Q Did anybody go with you to 59th street? A No, sir.

Q You went on the car yourself? A I went on the car myself.

Q You left Mr. Bell and Mr. Dantzy at 34th street and Eighth avenue? A At 34th street and Eighth avenue.

Q About time did you get up to 59th street? A Between half past two and maybe quarter of three.

Q And do you remember on this particular morning who opened the door for you? A My son opened the door for me.

Q And who else was in the apartment at that time? A My two sisters.

Q What is your sisters' name? A Fannnie King and Annie Brown.

Q And they were both in the apartment at the time? A Yes sir.

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Q About what time was it when you actually went to bed that night? A Oh, around three o'clock; mought have been a few minutes after three.

Q What was the next thing that you learned in reference to this fire, Mrs. Michaels? A Between six and seven o'clock Oscar Bruce came up and told me that I should get dressed, that there was a fire in the house in 33rd street.

BY THE COURT:

Q A little louder now, the jury want to hear you.

A Between six and seven o'clock Oscar Bruce came up and, you know, called me and said I should get dressed and come down to the house in 33rd street, there was a fire. Then I got up and woke my son and he got dressed and he went down with me; and the other boy that worked for me, Eddie Davis, he came in and told me the fire was there just the same and we all went down together.

Q What time did you get back to 33rd street, at 207 west 33rd street? A It must have been seven o'clock as I can remember, your Honor.

Q Seven in the morning? A Yes, sir.

BY MR. BUSCH:

Q But as soon as you were notified you went down to the premises on 33rd street with your son and with your sister?

A My sister didn't go down.

Q Your son and who else? A The two boys, Oscar and Eddie.

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Q Who did you see there when you got there? A The fireman was on the stoop.

Q And did you have any -- was there anybody talking to the fireman when you got there? A There was one of the caretakers lived next door was talking to him.

Q Is that the time that this caretaker told the fireman about three men running away from the house? A Yes, sir.

Q What did she say in reference to this?

MR MC CONNICK: I object to that.

THE COURT: I won't allow that.

MR. BUSCH: Exception.

BY MR. BUSCH:

Q Then what did you do, how long did you remain there, Mrs. Michaels? A Why, I stayed there until the relieving fireman came, then he told me, he said, "Mrs. Michaels, I wouldn't stay around because you can't go in the house, and if you go someplace near by and tell me where you are I will send for you when the insurance man and the Fire Marshal come," so I told him I would go to 444 seventh avenue and stay there until he came for me, which I did.

Q Now, do you remember the 10th or 11th day of July when you saw the officer, O'Keefe, who testified here -- what day was that, do you remember, whether it was the day of the fire or the following day? A I seen them the day of the fire, the Fire Marshal.

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Q That was after the fire? A After the fire.

Q About what time was that? A As near as I can remember it was between eleven and twelve.

Q In the morning? A In the morning.

Q And where were you at that time? A I came back, he sent for me and I came back to the house.

Q Who sent for you? A The fireman sent for me.

Q And you came back? A I did.

Q And where were you when you saw this policeman O'Keefe?  
A Oh, the policeman;; he didn't come until in the afternoon about six o'clock.

Q Tell us under what circumstances you met the officer that day? A He came to the house and walked up on the stoop and he asked me for Mrs. Michaels and I said "I am Mrs. Michaels" and then I asked him if he wanted anything. "No," he said, "I just wanted to see if Mrs. Michels was here."

Q That was the police officer that testified that he saw you on that morning at three o'clock? A Yes, sir.

Q Is that right? A Yes, sir.

Q And he asked you whether you were Mrs. Michaels? A Yes sir.

Q And you said you were? A Yes, sir.

Q Now, did you have a conversation with the Fire Marshal, the assistant Fire Marshal, Mr. Prial? A I did.

Q When did you have that conversation with him? A On

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the day of the fire, on Monday.

Q He asked you to go somewhere, did he? A He asked me to go to his office.

Q And you went to his office? A I did.

Q And tell us just what occurred at his office. A When I went to his office I met him; he met me at the door and he said I should take a seat and asked me if I had the policy and I said No and I opened my bag to get the number of the policy to give him because I didn't have the policy, and he grabbed for my bag, he says, "You have the policy -- what have you in the bag?" I said, "No, that is not the policy." It was the policy that I had for the furniture in the house in Sixth avenue.

Q That policy had lapsed because you had given up that house on Sixth avenue, is that right? A Yes, sir.

Q You had discontinued that policy on Sixth avenue?

A Yes, sir.

Q And then that was all that occurred that day at the Fire Marshal's office? A He asked me from the day that I was born, where I was born at up until the present day of the fire and I explained every question the best I could.

Q You didn't hesitate about giving any answers, did you?

A No, sir, I did not.

Q Now, the police officer, O'Keefe, testified that he saw you at your house number 207 West 33rd street, at three o'clock in the morning on the 10th day of July; were you there at that

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time, yes or no. A No, sir.

MR. MC CORMICK: It was after three; I think it was 3.09.

BY MR. BUSCH:

Q Well, between five and ten minutes after three? A No, sir.

Q Were you there sitting with two women that morning?

A No, sir.

Q Are you positive of that? A Positive; I never sat on the stoop with anybody at that time.

THE COURT: Now, you have answered, madame.

Q Well what furniture, Mrs. Michaels, did you have in your 33rd street place; describe it to the gentlemen of the jury. A You mean how the rooms was furnished?

Q Yes. A Bed, dresser --

Q Describe the rooms as you start in with the ground floor and go upstairs. A The ground floor?

Q The front ground floor, that is, the floor on a level with the street. What was that used for? A That was the front parlor and the back parlor; when I lived in the house my son slept in the front parlor but you know it was furnished, that parlor, with a divan and my son slept on the divan in the parlor and there was a five piece parlor suit of furniture and then the piano --

BY THE COURT:

Q You are talking now of the front room on the level

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with the top of the stoop, is that so? A Yes, your Honor.

BY MR. BUSCH:

Q I want you to describe the basement floor; what did you use that for? A That was the dining room, the front basement was a dining room.

Q How many did you accomodate there, Mrs. Michaels?

A Well, I could accomodate 35 people.

Q You had at least nine chairs there, is that so? A Yes

Q And how many tables did you have in there? A Well, in the front dining room -- there was two dining rooms, the front and the middle room was a dining room and then there was the kitchen. I had a big centre table and then there was four tables, you know short tables, and there was six tables in the middle dining room.

Q Now, was there a kitchen also on that floor? A Next was the kitchen, yes.

Q And you had in the kitchen all your kitchen utensils?

A Yes sir.

Q And what else? A Everything that belongs to a kitchen, all the cooking utensils, tables, chairs, ice box, side board, china closet.

Q Then there was on the first floor, on a level with the stoop, what was that used for? A The front was a parlor with the five piece parlor suit, and a divan, a piano, a Morris chair, a leather rocker and a side leather chair, and the

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back parlor, a bed, brass bed, dresser and a chiffonier, washstand and two arm chairs and I guess two straight chairs, you know.

Q What was on the floor above that, Mrs. Michels?

A The front --

Q How many rooms did you have on the floor above that?

A Three bed rooms.

Q Any other rooms? A The bath room between.

Q What was in those bed rooms? A A bed, dresser, washstand, centre table, sofa and arm chair, and probably two other chairs, I don't just remember how many chairs was in each room.

Q And what was on the floor above, Mrs. Michaels? A There were four bed rooms on the top floor.

Q And were they all furnished as bed rooms? A All perfectly furnished.

Q All had beds in them? A Yes, sir.

Q And tell us what your custom was with reference to the gas light in that house at the night time. A Well, the gas was shut off around ten or half past and then --

Q Did that happen every night? A Every night.

Q Who did that? A Except Saturday night they might burn a little later, Saturday nights, you know.

Q What was the latest they would burn? A I don't

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understand you.

Q Who would turn out the light, Mrs. Michaels? A Well, it would be either one of the boys, who worked in the house, Dancy or Faddy.

Q Where was that done? A Shut off, the whole entire house, from the cellar.

Q And what was the kind of light after the light was turned out? A Lamps.

Q And how many lamps in that house? A There was a lamp in every room in the house.

Q Did you have any lamp in the hall? A One lamp in the hall.

Q And where was that? A One flight up, just outside of the bath room door.

Q Where was it, standing there on the table? A No, hanging from the wall, right over the stairs.

Q Now, Mrs. Michaels, I am going to ask you to look at People's Exhibit 10 and ask you whether you had in your house at 59th street, the articles which are marked with an X by the witness Dornbusch.

THE COURT: You had better incorporate in your question, the date, whether she had it in the house at a certain date.

BY MR. BUSCH:

Q I ask you whether you moved those articles from the 33rd street house to the house in 59th street on July 7th,

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those that are marked with a cross. A Those with a cross?

Q Look at it carefully. Now, take your time.

A (Witness complies.)

Q Now, will you tell the jury whether you moved those articles from the 33rd street house to the 59th street house?

A There are some things here that I did.

Q And those things, where were they with reference to the 33rd street house, were those the articles down in the basement? A Those are the articles that I moved from Sixth avenue.

Q Were all of those articles on there moved? A No, sir, not all of them.

Q Not all? A No, sir.

Q You know that you are charged with here, don't you, Mrs. Michels? A Yes, sir.

Q Now, did you set fire to the house at 207 West 33rd street? A No, sir, I did not.

Q Did you have anybody set fire to that house? A No, sir, I did not.

Q You have never been convicted of any crime, have you, Mrs. Michels? A No, sir.

CROSS EXAMINATION BY MR. MC CORMICK:

Q Now, what furniture did you say was in the front bed room on the second floor? A Front bed room on the second floor?

Q Yes. Now, speak out loud.

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THE COURT: Now, fix the date.

A One dresser, one washstand, one sofa, one large arm chair, centre table and some other chairs, I don't know how many were in the room.

BE THE COURT:

Q Now, when was that furniture there? A (No answer.)

Q Was that furniture there when you left the house on the morning of July 10th? A Yes, your honor.

Q 1911? A Yes, your honor.

BY MR. MC CORMICK:

Q Is that a picture of the front bed room on the second floor? A The bed looks like it.

Q What? A The bed looks like it.

Q Is that a picture of that front room; you lived there three years, no or yes. A The bed is exactly like it, you know.

Q Well, is it the room? A Yes, it looks like it.

THE COURT: Now, you showed her Exhibit what?

MR. MC CORMICK: People's Exhibit 4.

BY MR. MC CORMICK:

Q What furniture was there in the rear bed room on the second floor? A There was a bed, washstand, dresser, and, I can't remember how many chairs were in there.

Q Did you take any furniture when you moved from the 33rd street house up to the 59th street house, did you take

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any furniture out of the rear bed room on the second floor?

A I didn't take nothing out of any rooms.

Q And these rooms you say were all completely furnished?

A Yes, sir.

Q Is that a picture of the rear bed room on the second floor, showing you People's Exhibit 5? A I can't say anything except the bed here, your Honor.

Q Well, is that a picture of the room? A Well, I can't tell that; it don't look like it.

BY THE COURT:

Q Are you able by looking at that picture, to tell the jury what room that is a picture of? A I can't, your Honor.

BY MR. MC CORMICK:

Q When you got the loan -- was it \$150 or 100? A I got \$51 from him.

BY THE COURT:

Q Cry and talk so the jury can hear you. Now, talk up, raise your voice. A \$51 dollars I received from the Textile Brokerage Company.

BY MR. MC CORMICK:

Q Well, at that time you gave a chattel mortgage, didn't you? A Yes, sir.

Q And that chattel mortgage contained a list of all the property at 207 West 33rd street, did it? A No, sir.

Q Well, it contained a portion of the furniture that was

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there? A He only went in one room.

Q What? A He only went in one room of the house.

Q No, I mean the man who loaned the money to you. A That is who I mean.

Q He loaned it on the furniture in only one room? A That is the only room he looked in.

Q Which room is that? A On the ground floor as you from, the stoop, in the back parlor.

Q In the front? A Back.

BY THE COURT:

Q You say that all the articles of furniture mentioned in the schedule annexed to that mortgage, being People's Exhibit you 10, was at the time that the loan was made to in the back room on the ground floor of the house 207 West 33rd street? A Your Honor --

Q Now, yes. or no to that if you understand the question.

A I don't understand the question.

Q You don't understand the question? A No, your Honor.

Q A paper has been received in evidence and this paper, to be which is People's Exhibit 10, purports, executed by you with the Textile Brokerage Company. You recognize it, do you? A Yes, sir.

Q Attached to that is a schedule purporting to be a list of certain articles of furniture. In what room of the house, at 207 west 33rd street, was that furniture at the time that the mortgage was signed? A The furniture that --

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Q Will you look at that list and tell me in what room of that house that furniture was in at the time that the mortgage was signed. A Your Honor, can I ask a question?

Q Now, you can either, madame, look at that list -- can you read it? A Yes, I can.

Q Are you able to say in what room of the house that furniture was in at the time that that paper which you hold in your hand was signed? A This furniture that I moved from Sixth avenue was stored in the cellar and in the basement.

Q Will you kindly look at that paper and tell me, if you can, in what room of the house the furniture mentioned on that paper was at the time that that paper was signed. Now, if you don't remember, you can say so. A Your Honor, I don't know if this is what he has got here, whatever was in each room at the time I made the loan was still there, I didn't take anything from the house that was there at the time of the loan that he says I made.

Q The loan was made to you. Now, at the time that the loan was made, whereabouts was the furniture which is mentioned in that paper, being the mortgage which you hold in your hand. A Some were in the parlor and some were in the basement just as I have said.

Q In other words, you say that all the furniture mentioned in that paper were either in the parlor of 207 West 33rd street or in the basement at that house at the time that the paper was signed, is that what you intend to say? A Yes,

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your Honor.

Q You understand the question? A I understand it this way, your Honor; I don't want to misunderstand you --

Q I want to make it plain to you; if you don't understand it, say so. There is a list of furniture mentioned in that paper which you hold in your hand; you understand that?

A Yes.

Q That is the furniture which you mortgaged when you obtained a loan, you understand that? A Yes.

Q Now, when you got that loan, in what part of the house, of 207 West 33rd street was the furniture? A There was some, your Honor, in each room and he has some here that wasn't mortgaged; there is some he has on here that was in the basement that I brought from Sixth avenue, it was stored in the basement in 33rd street.

Q Well, perhaps you don't understand the question.

A Your Honor, let me --

Q No, never mind, you apparently do not understand the question.

MR. BUSH: May I interrupt the court at this time and call Father Bischoff who is here?

THE COURT: Yes; cross examination suspended.

REV. FATHER BISHOP C. BISCHOFF, called and sworn as a witness for the defendant, testified as follows:

## DIRECT EXAMINATION BY MR. BUSCH:

Q Mr. Bischoff, will you tell the jury what your profession is? A I am a clergy man.

Q Attached to what church? A St. Philip's church.

Q Where is that located at? A 133rd street -- 134th street between seventh and Eighth avenue.

Q Do you know the defendant, Mr. Bischoff? A Yes.

Q How long have you known the defendant? A I should say from ten to twelve years.

Q And do you know other people who know the defendant?

A Yes.

Q Can you tell the jury what her reputation is for veracity and uprightness and honesty? A So far as I know it has been reliable.

## CROSS EXAMINATION BY MR. MC CORMICK:

Q Well, you don't know a great deal about her, do you?

A Well, I have seen more or less of her for the ten years, just about as much as a pastor would see of his people; I have seen her in sickness and under very trying circumstances.

## BY THE COURT:

Q Did you ever see her inside of your church? A Oh, yes sir, a great many times.

## BY MR. BUSCH:

Q Is she a member of your church? A She is a member of my church.

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Q For how long can you say, doctor? A I should say from ten to twelve years; I haven't looked up the record.

MATTIE MICHAELS, the defendant, resumed, testified as follows:

CROSS EXAMINATION CONTINUED BY MR MC CORMICK:

Q Before you signed that mortgage, People's Exhibit 4, a man came from the mortgage company and looked over the property, didn't he? A Yes, sir.

Q And you were there when he did this, were you not? A Yes, sir.

Q And when he looked over the property he wrote down what was there, didn't he? A In the back parlor I say yes, that is all the rooms he went into.

Q He didn't go in any other room except the back parlor? A No sir.

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Q He didn't go in any other room except the back parlor?

A No, sir.

Q In the back parlor was all of this property? A No, sir.

Q What? A No, sir, it couldn't be all in one room.

Q What is there --

THE COURT: Now, she has answered you, Mr. McCormick.

Q Well, I understood you to say that all of this property was --

THE COURT: No, she says that all that he wrote he wrote in the back parlor, but she doesn't say that is all the property mentioned in that room.

THE WITNESS: No, sir.

BY MR. MCCORMICK:

Q Well, then, this mortgage was issued? A Yes, sir.

Q Do you remember seeing the witness who testified for the company today at that time? A Yes, sir. Can I ask a question--

THE COURT: Please answer the question if you know.

Q Mr. Bernbusch? A I remember meeting him in his office.

Q You signed this in front of him? A In his office.

Q At 45 West 34th street? A 34th street, yes, sir.

Q Now, was any of this property moved -- any of the property mentioned in this mortgage, People's Exhibit 10 moved from the 33rd street house to the 59th street house? A Some of the articles that he has there.

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Q Well, did you move any articles from the 33rd street house that were covered by the mortgage? A No, sir.

Q Well, they were all covered by the insurance, though weren't they? A No, sir.

Q Where did you move this property that you say you moved from 6th avenue to 33rd street? A Around the 15th of last May of this year.

Q And was that property that had been moved furnish the entire house there? A In 6th avenue?

Q Yes. A Yes, sir; oh, no.

Q Well, you say you had a house with a twelve rooms in it, didn't you? A Yes, sir.

Q And what became of that furniture when you-- the furniture in that house -- when you closed the house? A When I closed the house in 6th avenue I moved it into 33rd street and stored it away in the cellar and in the basement.

Q All of it? A Yes, sir.

Q And was it packed up and stored there in the basement? A Yes, sir.

Q Well, the mortgage didn't cover any of that property did it? A No, sir.

Q Well, did Mr. Dornbusch examine the property that you had in that back room of the ground floor while you were there? A Mr. Dornbusch was never in the house until the day after the fire, which was on Monday.

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THE COURT: The jury can't hear you.

THE WITNESS: Mr. Dornbusch was never in the house until the day after the fire, which was on Monday, the 10th day of July.

BY MR. McCORMICK:

Q Are you used to sitting up until about two or three o'clock at night? A Yes, sir, some nights all night when I was in the house in 6th avenue where I had the Chinese restaurant, all night.

Q Did you have a restaurant in the 33rd street house?

A Yes, sir.

Q You ran that yourself, did you? A No, sir, I didn't run the restaurant in my house in the 33rd street house because I was in the house in 6th avenue at the time.

THE COURT: Just answer the questions in as few words as you can.

Q I ask you whether you ran a restaurant in the 33rd street house? A Yes, sir.

Q In what rooms? A The restaurant was in the basement.

Q And you were running a restaurant in the basement at the same time this furniture was stored down there? A The restaurant was closed then, when there was one I ran the restaurant.

Q When did you close the restaurant? A On the first of May.

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Q How much rent did you owe at the time of the fire?

A I think about three hundred and some odd dollars I think.

Q Well, they were pressing you for the rent, were they not, the owners? A No more than usual.

Q Didn't they begin a dispossess proceeding against you?

A No, sir.

Q Didn't they threaten to put you out if you didn't pay? A No, sir, they didn't threaten to put me out.

Q Now, how many chairs were there in that house at the time of the fire? A I couldn't say, your Honor how many chairs were in the house.

Q Take the front bedroom on the top floor, how many did you see in there? A Why, there is a sofa --

Q How many chairs? A Well, I will tell you in a minute. One corner chair and I think two oak chairs.

Q That is three. How many chairs were in the backroom on the top floor? A I don't remember, your Honor.

Q Were there any? A I have a list of those things but I don't remember just how many chairs were in each room.

Q Where were all your boarders that night? A Why, I couldn't say where they were; I didn't say they were in the house.

Q How many people lived in that house the day of the fire -- the day before the fire? A There was one gentlemen

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had the top floor rent.

Q What was his name? A Mr. Redding.

Q Redding? A Yes, sir.

Q To floor front? A Yes, sir.

Q Go ahead? A And Mr. Barry had the hall room on the second floor.

Q Take the top floor first, get rid of that. How many people lived on the top floor? A There wasn't but one gentleman on the top floor.

Q And he had the front room? A Yes, sir.

Q Well, he lived there the day of the fire, did he?

A He did have the room, but he was gone away, he ran on the boats; you see, he kept the room; you know by the week all the time.

Q Were his things in that room at that time; was he in possession of the room? A Yes, sir.

BY THE COURT:

Q Will you give us the names of the people that you left in that house at the time you left the house on the morning of July 10th? Now, you give me the names of the people whom you left in that house at the time you walked out of it? A Your Honor, I can't say who was in the house that night because I don't know.

Q Well, you give me the names of any person -- the names of any persons whom you say that you left in the house

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at the time that you walked out of it on the morning of July 10th? A Your Honor I can't; I didn't look to see if anybody was in the house when I left.

Q In what room of that house were you last on the morning of July 10th? A The last room I went in?

Q The last room that you were in before you passed out of the door? A The back parlor, your Honor.

Q And that is the room on the level with the top of the stoop, is that so? A Yes, sir.

Q And how long were you in that room before you left it on that occasion? A I don't remember your Honor, just how long.

Q About how long were you in that room before you left it on that occasion? A I don't remember, your Honor, just how long I were in that room.

Q About how long were you in that room before you left it on that occasion? A I can't say, your Honor.

Q Who, if any one, was with you in that room on that occasion? A There wasn't any one in the room with me.

Q When you left that room into what room or part of the house did you next go? A I walked straight out of the hall and out on the stoop to go away.

Q And you passed out of the front door of the house, is that so? A Yes, sir.

Q And that is, door A Leading to the stoop.

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Q Leading to the stoop? A Yes, sir.

Q Now, as you passed out of that door did anybody go out with you; yes or no A Yes.

Q As you passed through the hall were there persons who walked through the hall with you; yes or no? A Yes.

Q Who were they? A Mr. Danty?

Q And who else? A No one else.

Q Now, did you meet Mr. Danty in the hall? A Yes, your Honor.

Q You had come from the back parlor? A Yes, sir, your Honor.

Q Now, from what room had you gone at the time that you went into the back parlor? A What room had I gone from?

Q Yes, what room had you gone from when you went into the back parlor? A I didn't open any one room, your Honor, I came from the basement when I did go into the back parlor.

Q You had been into the basement? A Yes.

Q That is the front room downstairs, a little below the street level, is that so? A I were in the kitchen, I weren't in the front; the kitchen is in the back.

Q About what time did you leave the kitchen on the morning of July 10th? A Oh, it mought have been around ten or 11 o'clock, that night, your Honor.

Q That is about ten or eleven o'clock <sup>on</sup> the evening

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of July 9th, is that so? A Yes, your Honor.

Q Now, who was in the kitchen with you? A Why, Oscar Bruce was in the kitchen.

Q And who else? A I don't remember of any one else around there.

Q And when you left the kitchen did you leave any person in the kitchen? A I don't remember your Honor.

Q And when you left the kitchen where did you first go, into what part of the house? A Into the back parlor.

Q That is to say you walked through the hall and up the stairs leading from the basement floor to the parlor floor and into the back parlor, is that so? A Yes, sir, your Honor.

Q At about what time was it that you got to the back parlor? A Well, as I said, around 11 o'clock.

Q About 11 o'clock on the evening of July 9th?

A Yes, your Honor.

Q Now, how long did you stay in that back parlor?

A I stayed there until I got ready to go home.

Q And during that time who, if any one was with you in the back parlor? A No one.

Q And when you left the back parlor you met Mr. Danoy in the hall, is that so? A Yes, sir.

Q And went out with him. Where did you meet Mr. Bell?

A Mr. Bell was on the stoop.

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Q When had you last seen any persons besides Belland Dancy and the other young men whom you have mentioned in the house on the evening of July 9th? A In the early part of the evening before I went up to the back parlor.

Q And who were those persons? A Why, Mr. Berry, the gentleman that has the hall room.

Q On what floor? A He were on the parlor floor.

Q On the parlor floor? A Yes, sir.

Q And at about what time did you see him? A I think about eight o'clock, your Honor,

Q And who else did you see in the house that evening besides those that you have now mentioned, if anybody?

A No one else, your Honor.

Q What servants, if any, did you keep in the house on 33rd street on July 9th and the morning of July 10th, 1911?

A Mr. Dancy and Eddie Davis.

Q They were persons in your employ? A Yes, sir.

Q They worked for you, is that so? A Yes, your Honor.

Q Who were the roomers in the house on the night of July 9th, and the morning of July 10th, 1911? A Mr. Berry Mr. Redding --

Q And who else? A And there was a young woman one flight up in the front by the name of Florence Williams so far as I know.

Q Yes, and who else? A There was no one else your Honor.

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Q In other words, there was one young woman and two men who were roomers in the house on the night of July 9th and on the morning of July 10th, is that so? A Yes, your Honor.

Q When did you last see that young woman? A I didn't see Miss Williams since, I think around the 4th of July; she kept her room just the same and she said to me that she was going to Atlantic City. I didn't see her.

Q So that you saw her last about July 4th; that was before the fire? A Yes, your Honor.

Q And when did you last see Mr. Berry? A Around 8 o'clock.

Q On the night of July 9th? A Yes, your Honor.

Q You didn't see him at any time on July 10th? A I did.

Q When did you see him on July 10th? A Well, it was, I think between nine and ten o'clock.

Q In the morning? A Yes, your Honor.

Q And where did you see him at that time? A On 7th avenue.

Q What is his first name? A I don't know your Honor.

Q Where does he live now? A I don't know, your Honor, where he lives now.

Q Where does he work now? A I don't know your Honor.

Q Where did he work at that time? A Running on the boat.

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Q What boat? A I don't know your Honor.

Q And how long had he roomed at your house at that time?

A I don't remember how long he was there your Honor.

BY MR. McCORMICK:

Q You say that the only people living in the house on the day before the fire were Berry and Redding? A Yes.

Q And that the girl Florence had left there a week or two before? A Yes, sir.

Q Now, what room did Berry live in? A The hall room one flight up from the ground floor.

Q That is the middle room between the front room and the back room, second floor? A Between the bath and the front bedroom.

Q Now, where did Berry live, what room did he have?

A That is where Mr. Berry lived.

Q Redding where did he live? A Top floor front.

Q Top floor front? A Yes.

Q Was anybody living in the back room on the top floor did they? A Not at that time.

Q And nobody lived in the middle room on the top floor next to the bathroom, did they, top floor? A I don't understand you.

Q On the top floor there are three rooms? A Yes.

Q Berry lived in the front room? A Mr. Redding lived on the top floor.

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Q In the middle room nobody lived? A <sup>187</sup>No, sir.

Q And in the back room nobody lived? A They had lived there until Saturday a man and his wife had been stopping there, but they went back to Brooklyn.

Q Now, how about the rooms on the second floor, the three bedrooms. Who lived in those three rooms at that time? A Mr. Berry lived in the hall room.

Q In the middle room? A Yes, sir.

Q And nobody in the front or back rooms? A Florence Williams had the front room.

Q Well, you say she went away? A Well, she paid.

Q Had she left her clothes there? A I don't know, as she had any more than she had with her.

Q Now, the room that you call the back parlor had a bed in it, didn't it? A Yes.

Q Who occupied that room? A No one at the time, only Saturday night.

Q Who occupied that room at that time, that is what I want to know? A No one.

Q Then there was another bedroom on that floor, wasn't there? A Yes.

BY THE COURT:-

Q And so far as you know, was there any one sleeping in the front basement when you passed out of the house on the morning of July 10th, 1911; now, yes or no to that? A No, your Honor.

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Q And so far as you know was there anybody sleeping in the kitchen in that house when you passed out of it on the morning of July 10th, 1911? A No one slept in the kitchen, your Honor.

Q Was anybody sleeping in the parlor so far as you know when you left the house on the morning of July 11th -- 10th? A No, your Honor.

Q And was there anybody sleeping in the back room on the parlor floor when you left the house on that morning?

A No, your Honor.

Q Now, one flight of stairs up, was there anybody sleeping on that floor when you left? A Your Honor I didn't look to see.

Q Do you know who locked the basement door that night, referring to the night of July 9th? A Your Honor the basement door is always locked with an iron gate leading to the street.

Q In other words it is a gate that has a lock that locks the moment the gate is closed? A Yes, your Honor,.

Q And you passed out of the front door? A Yes, your Honor.

Q Was there any lights burning in the lower-hall when you passed out of the house, referring to the hall on the parlor floor? A No, your Honor.

Q Was there any light burning in the hall above, that is

to say, the second floor hall when you left? A One flight from the front door was a light.

Q There was a light one flight up, is that so? A Yes, your Honor.

BY MR. McCORMICK:

Q Did you buy two cans of kerosene the Friday night before the fire? A Friday night before the fire?

Q No or yes? A I don't remember your Honor.

Q Do you give this testimony in the Magistrate's Court --  
A I don't remember your Honor.

Q What was the practice, were you asked this question: "What was the practice of these lodgers, did they have keys in the house?" And did you give this answer, "Everybody has their own keys." A Yes, your Honor.

Q Were you asked this question: "Yes; then you said--" the District Attorney--"On the day in question, how many people lived in that house," and did you give this answer, "There was two women there." Did you give that testimony in the Magistrate's Court? A I don't remember your Honor.

Q What? A I don't remember.

Q Well, can you swear that you didn't? A I don't remember.

Q Well, if you did you mean that you were mistaken?  
A If I had remembered that I did I would say, your Honor.

Q And then you were asked this question, "Well, they are colored women that are out more at night than they are

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during the day, is that right," and you gave this answer, "yes". A I think I did.

Q You think you gave that answer? A Yes, sir.

Q Now, do you wish to contradict yourself? A No, sir.

Q Well, were two colored women with you that night or not? A Two with me?

Q You said so. A No, sir, I didn't say there was two colored women with me; there was no woman with me at all.

BY THE COURT:

Q What is Bell's first name? A Frank.

Q And what is Dancy's name? A Lawrence.

BY MR. MCCORMICK:

Q How many lamps did you keep in that house? A A lamp in each room.

Q How many? A One lamp in each room.

Q Well, then there were nine lamps, is that right; there were nine rooms in the house, weren't there? A There were twelve rooms in that house.

Q What? A There were twelve rooms in the house.

Q I mean outside of the basement? A Well, there was a room, there is a lamp in every room in the house and one in the hall.

Q Did you turn off the gas when you left there that night? A No, sir, I did not.

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Q You left there four nights, didn't you? A Yes, sir.

Q What furniture did you send up to 59th street from 33rd street? A What furniture? The furniture enough to furnish six rooms.

Q Well, what furniture was it? A Three beds, two dressers, two oak chiffoniers.

Q You will have to talk louder. A Two dressers, two chiffoniers, two washstands, china closet, one sideboard, one ice box, and --

Q Well, now, I don't mean that so much as where did that furniture come from? A From the basement.

Q Before that? A From 6th avenue, from the house in 6th avenue.

Q And when did you move it from 6th avenue to 33rd street? A Around the 15th of May, your Honor.

Q When did you take a lease of the house, the flat at 59th street? A I think around the 15th of June.

Q And what furniture did you have in your house in 59th street before you sent the furniture up from 33rd street?

A I didn't have any furniture in the house.

Q What? A I didn't have any furniture in the house in 59th street before I sent it up.

Q How long had you been living in the 59th street house with your family before the fire? A I moved there around the 7th of July.

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Q Well, you moved all of the furniture in the 6th avenue house over to the basement of the 33rd street house, is that so? A Yes, your Honor.

Q Now which room in the basement did you put that furniture? A In the back dining room ~~xxx~~ in the basement.

Q In the back dining room?

BY THE COURT:

Q How many dining rooms are there? A Two, the front and back.

BY MR. McCORMICK:

Q You put the furniture of a twelve room house in one room, is that right? A No, sir.

Q What did you do with it? A Packed it in the kitchen, in the middle dining room and in the cellar and some part of it, some few things I had taken to the house in 37th street.

Q And then you say that the furniture that you sent to 59th street is the furniture that was taken from the 6th avenue house, is that right? A Yes, sir.

Q Were Bell and Dancy in your employ? A Not Mr. Bell.

Q What? A Not Mr. Bell.

Q What was Bell's business? A Mr. Bell is an electrician.

Q And what is Mr. Dancy do? A He just works around the house, and helped wait, and if the cook went home, to do

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anything around the kitchen.

Q What work did you do around the house? A Oh, anything at all,, your Honor, make beds and cook, sweep.

Q Did you have any one to help you besides Dancy?

A Eddie Davis.

Q Well, how long, when was the last time you saw her before the fire? A Eddie?

Q When was the last time you saw her before the fire?

A What fire? Your Honor -, I don't understand it.

THE COURT: This Eddie Davis is a man.

THE WITNESS: He is a boy. Eddie was there one

Sunday.

BY MR. McCORMICK:

Q What do you do every night when you are sitting up until twelve and two or three o'clock in the morning?

A Why, if any one comes and wants to rent a room.

Q Those transients? A Yes, sir.

Q And some of the girls that live there bring men into the house? A Not while I was there, your Honor; only three days I rented those rooms like that and I went there all the time, I don't think.

Q Well, you had kept a lamp in the hall, didn't you?

A Yes, your Honor.

Q Whereabouts in the hall? A One flight up from the front door, right by the bathroom door.

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BY THE COURT:

Q That was a hanging lamp? A Yes, sir, your Honor.

Q That is to say, suspended from the ceiling?

A Yes, sir, your Honor.

BY MR. McCORMICK:

Q Well, was there a lamp in the hall on the ground floor?

A At one time, but not at this time.

Q At night was there? A No, your Honor; we always kept a lamp there when, you know, I had the dining room running.

BY THE COURT:

Q Did you have any oil stove in the house on July 10th? A There was one oil stove.

Q What room was that in? A It was in the closet, one flight up from the front door.

BY MR. McCORMICK:

Q Was there a lamp on the second floor, in the hall?

A No, your Honor.

Q I now show you People's Exhibit 6 and ask you if that is not a picture of the stairs leading -- at the foot of the stairs leading from the second to the third floor? A It might be, your Honor but the picture don't look like the house looked.

Q Well, is there a lamp near the foot of the stairs leading from the second to the third floor? A Near the stairs?

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Your Honor, the lamp hangs just within the bathroom, it hangs over the door like that, right over the staircase as you come in from the front door.

Q As you come upstairs? A Yes, sir.

Q To the second floor? A Yes, sir.

Q But I mean going up at the bottom of the stairs leading from the second to the third floor? A Only the one lamp.

Q And that is near the top of the stairs, isn't it?

A It is very near the middle of the stairway.

Q You mean to say that you had never conducted a transient house before? A In 6th avenue but not in this house.

Q What? A In 6th avenue where I had the Chinese restaurant.

Q That was a transient house? A Yes, sir.

Q What do you mean by transient house? A Why, by the day, night or week. I would rent the rooms and I had a very nice restaurant there, and we were open night and day.

Q And you rented rooms to any man or woman that came in? A Yes, your Honor, and single men or single women or a man and his wife, I didn't ask.

Q Did you ever run what is known as a badger game in the 6th avenue house? A No, sir, your Honor. Badger game? I don't know what you mean by badger game.

RE DIRECT EXAMINATION BY MR. BUSCH:

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Q I show you people's Exhibit 5 and ask you whether you identify the stove here as being an oil stove?

THE NINTH JUROR: I want to know whether it is a gas stove or oil stove or steam radiator.

Q What kind of a stove is that? A Your Honor, there was one oil stove setting, one flight up from the front, there in a closet where the bed linen was kept.

BY THE COURT:

Q In other words you mean a stove not in use? A Not in use, your Honor because it was summer time.

BY MR. BUSCH:

Q Is that the stove? A Yes, sir.

Q How long were you in the Tombs, how long have you been in the Tombs, Mrs. Michaels? A 36 days.

Q You asked this court to give you a preference in your case so you could get a speedy trial, is that right? A Yes, sir.

Q And every time your case has been called for trial you were ready, is that right? A What is that?

Q You have always been ready to try the case? A Yes, sir.

THE COURT: Now, that is not proper.

BY MR. BUSCH:

Q You say that your lodgers had gas for their rooms, is that right? A Yes, sir.

Q For the front door also? A Yes, sir.

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Q To the house? A Yes, sir.

Q And some of your lodgers, as I understand it, were working on the railroad and some on boats, is that right?

A Yes, sir.

Q And when <sup>they</sup> did--

MR. McCORMICK: I object to the leading questions.

THE COURT: You have been all over that; she has stated now who she has had in the house at the time.

Q When this man came around for your mortgage, <sup>when</sup> you gave him a mortgage on your furniture, did you give him a list of articles? A No, sir.

Q Did you give him a list of the furniture which was included in this chattel mortgage? A He only looked at the --

BY THE COURT:

Q Now, did you give him a list; that is a plain question. Did you hand to him a list? A No, sir.

BY THE FOURTH JUROR:

Q Was any of your furniture that is enumerated on that list taken to 59th street? A There was some things.

Q On that mortgage list was any of those things removed to 59th street on that list? A Nothing that was mortgaged was taken from the house.

BY MR. McCORMICK:

Q You read this list, didn't you? A Yes, I read the list

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BY THE COURT:

Q Now, it is a plain question, madam. There is a list attached to the mortgage? A Yes.

Q As representing the property that was mortgaged. Was any of the property mentioned in that list taken to the 59th street house? A No, your Honor.

Q Now, yes or no to that? A No, your Honor.

Q Then you say that all the property appearing on that list was left in the 53rd street house? A Yes, your Honor.

BY THE NINTH JUROR:

Q How often did you have occasion to fill these kerosene lamps? A Why, it was a rule that I filled them once a week.

Q What day was that? A Why, there was no particular day; when they would-- you know when they would bring the lamp down and leave it it would be filled and taken back to their rooms.

Q What room would you use in filling those lamps?

A Down in the kitchen, in the basement.

BY THE COURT:

Q Did you fill any lamps, did you put any kerosene oil in any lamp at any time on the 9th day of July, 1911?

A No, sir.

Q Did you put any kerosene oil in any lamp on the morning of July 10th, 1911? A No, your Honor.

Q When did you last put any kerosene oil in any lamp



in the house, 207 West 33rd street? A Your Honor--

Q When, if you remember? A I didn't fill the lamps myself; the boy filled the lamps. Eddie always took care of the lamps.

Q When did you last see any lamp filled? A I don't remember, your Honor.

Q How long before the morning of July 10th was it that you were present at the time that any oil was put into any lamp in that house? A I don't remember, your Honor.

Q You hadn't personally filled the lamps? A I didn't take care of the lamps at all; the boy does that, Eddie.

Q Did you carry a watch on your person on the morning of July 10th before you left the 33rd street house? A No, your Honor.

Q Was there a clock that was going in the kitchen of that house on the evening of July 9th; yes or no now? A No, your Honor.

Q Was there a clock in the back room on the parlor floor of that house on the morning of July 10th before you left the house? A No, your Honor.

Q You walked, you say, from that house to the corner of 7th avenue and 34th street, is that so? A Yes, your Honor.

Q How long did you remain on that corner? A Well, maybe two minutes your Honor.

Q And where did you walk then? A Through 34th street to 8th avenue.

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Q And how long did you remain on the corner of 8th avenue and 34th street? A Maybe not more than a minute, your Honor, because the car was just crossing the street just as I got there.

Q And you took a car going where? A Going to 59th up 8th avenue.

Q And where did you get off of that car? A 8th avenue and Columbus Circle.

Q Who went with you on the car, anybody? A No one, your Honor.

Q And when you got off the car where did you first go? A Went to my home 312 West 59th street.

Q Anybody let you in there or did you open the door yourself? A My son opened the door for me.

Q You mean the door of your flat or the door of your house? A The door of my flat.

BY MR. McCORMICK:

Q Where did Dancy live? A He stayed in the house; he lived in the house in 33rd street.

Q Did he live there at night? A When he was working he slept in the day most of the time.

Q What time would his aunts have taken him back in the house that night after he went out with you to the 7th avenue car? A Why, he wouldn't have to go back if he didn't want to go back to the house.

Q Do you know where he did go? A No, your Honor I

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couldn't say that.

Q And you didn't see him until when? A The next morning between 6 and 7 o'clock, I think between 7 and 8 o'clock.

Q Then he came up to see you at 59th street? A He came down to the house with us.

Q Where does Bell live? A Mr. Bell did live at 222 West 27th street.

Q Where did Bell go do you know after he left you?

A No, sir, I do not.

Q Did Bell and Dancy leave you together? A Yes, sir.

Q What? A Yes, sir.

Q Where did they leave you, at what point? A 8th avenue and 34th street.

Q And when you got on a car? A Yes, sir.

Q Did you see what direction they went in? A No, sir, I didn't look;

BY MR. BUSCH:

Q Is there a clock in the hall at your house, Mrs. Michaels? A No, sir, in the front basement, in the diningroom

Q And I think you testified on direct examination that the clock struck two as you were putting on your hat, is that correct? A Yes, sir.

Q Where was that clock? A In the front basement, in the dining room.

Q There can be no doubt about it being two o'clock?

A No, sir.

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MR. BUSCH: That is all. Mr. TenEyck.

THE NINTH JUROR: Your Honor may I recall the last witness?

THE COURT: Yes; step back.

N A T T I E M I C H A E L S, the defendant, recalled, testified as follows.

BY THE NINTH JUROR:

Q At different times, these beds, I suppose that you had in the house had to be cleaned, had they not? A Yes, sir.

Q What solution did you use? A For the beds?

Q For the beds. A Why, spirits of turpentine and gasoline is what we used for cleaning the beds.

Q How often did you clean the beds? A Well, about once a month.

Q What was the last time that you cleaned these beds? A Well, that was around the first of the month.

BY THE COURT:

Q When you say the first of the month you mean about the first of July? A Yes, sir.

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BY THE NINTH JUROR:

Q None ~~ix~~ of these beds had been cleaned with this solution since the first of July up to the time of the fire? A I didn't say the very first day; up to the first week.

Q There was no kerosene used in the cleaning of these beds at all? A No, sir.

THOMAS TEN EYCKE, called and sworn as a witness for the defendant, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q What is your business, Mr. Ten Eycke? A Express business.

Q Were you in the express business during the month of May this year? A Yes, sir.

Q Do you know the defendant, Mattie Michaels? A I have seen the lady, not personally.

Q Did you do any work for Mrs. Michaels? A I did, yes, sir.

Q Describe the work that you did for Mrs. Michaels? A I moved two loads of furniture-- I got the address here.

Q You have a book there and you made the entry at the time, did you? A Yes, sir. From 505 Sixth avenue to 207 West 33rd street on that day.

BY THE COURT:

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Q On what day was that? A May 3rd.

Q What year? A 1911.

BY MR. BUSCH:

Q Do you remember where you put the furniture? A We put some in the basement and some in the cellar.

Q And this was in the month of May, 1911? A Yes, sir.

Q Two wagon loads, is that correct? A Yes, sir.

Q Do you recollect what kind of furniture that was?

A It was all pretty good stuff.

Q Good furniture? A Yes, sir.

Q Well, describe it? A Chairs, tables, beds, sideboards and china closets, and so forth.

Q All kinds of furniture? A Yes, sir.

CROSS EXAMINATION BY MR. McCORMICK:

Q May I see that book? A Yes, sir. (Witness hands book to Mr. McCormick.)

Q Where is your place of business? A 209 West 27th street.

BY THE NINTH JUROR:

Q Did you carry any of that furniture at all to the upstairs rooms, rooms above the basement floor? A Well, I was on the truck handing the stuff out and most of the things went in the basement and some down the cellar; I don't recall whether any went upstairs or not, I don't think so.

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BY MR. McCORMICK:

Q How many loads did you say you took? A Took two.  
One was quite a large load, the other was not quite so large.

Q Where did you get it? A 505 Sixth avenue.

Q What street is that at? A That is between 30th and  
31st.

F R A N K B E L L , called and sworn as a witness for the  
defendant, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q What is your business, Mr. Bell? A Electrician.

Q Do you remember the early morning of the 10th day of  
July, this year? A (No answer.)

Q Do you remember that morning? A Yes, sir.

Q Do you remember seeing the defendant on that morning?

A Yes, sir.

Q What time did you see the defendant? A Oh, about ten  
or quarter after 2.

Q And where was it that you saw this defendant that  
morning? A Why, upstairs at the stoop of the house.

Q What house? A In 33rd street.

Q Did you know this defendant? A Yes, sir.

Q You knew her before this, did you? A Yes, sir.

Q And how did you happen to come to her place on 33rd

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street? A I was coming home from Rockaway and I got off at 34th street and I rode up Seventh avenue to go and have some breakfast at 34th street and Seventh avenue and while I was walking down I met one of the men that works for her on the stoop and he called me and told me she wanted to see me.

Q And then you spoke to the defendant? A What did you say?

Q Did you speak to the defendant then? A Yes, sir.

Q What conversation did you have with the defendant?

A She wanted me to put an electric light down in her cellar there where she had a restaurant in the kitchen for a restaurant.

Q You are speaking about some repairs to be done down there? A Yes, sir; and a sign outside.

Q And then what did you do after you had that conversation?

A I walked with them as far as Seventh avenue and 34th street; she was to go on the car and no car came up and she went west to Eighth avenue and got on the car there.

Q You have a subpoena to come here, haven't you? A Yes, sir.

Q Did you ride uptown with her? A No, sir.

Q And who else was with you when you walked with this defendant? A The man that works for her.

Q And the three of you walked with her over to Eighth avenue and 34th street? A Yes, sir.

Q And she got on the car and both of you folks left?

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A Yes, I left them and went downtown to work.

Q How do you know it was 2 o'clock? A Because I had an appointment with a policeman who had to give me some money.

Q What was his name? A Bernstein; and he owed me some money and I was there that morning to collect it from him.

Q Did you get it? A Well, no, not yet.

CROSS EXAMINATION BY MR. MCCORMICK:

Q You say you are an electrician? A Yes, sir.

Q Where do you work? A For anybody who wants me.

Q What? A I work for anybody.

Q Haven't you any regular employment? A Well, I am a boss myself.

Q Who is your boss? A I am the contractor.

Q Where is your office? A 143 West 30th street.

Q And how much space does your office occupy there?

A Oh, well, I have three rooms there.

Q From whom do you lease them? A From whom do I lease them?

Q Yes, who is the man that rents those rooms to you?

A Why, the housekeeper.

Q Well, what is his or her name? A I don't know the name.

Q How long have you had those three rooms? A Those three rooms? I have them now since the 25th of last month.

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Q 25th of August? A Yes, sir.

Q Or September I mean. A Whatever it is, last month.

Q September? A Yes, September.

Q You have had them about, just about a week? A Yes, just about a week.

Q Well, before that where were you? A I was at 222 West 27th street.

Q 222-- A West 27th street.

Q What did you have there? A I had the same thing there.

Q Three rooms? A Two rooms.

Q How long were you there? A I was there eleven months.

Q Did you ever do any work for this defendant? A Yes, sir.

Q How long have you known her? A Oh, I have known her-- the first time she sent for me was about thirteen months ago.

Q Give me that second address? A 222--

Q West 27th? A Yes. But when she first sent for me I was at 484 Sixth avenue before it was torn down.

Q When did you leave 484 Sixth avenue? A Well, about thirteen or fourteen months ago while it was torn down we had to get out.

Q And at the time of this fire where was your place?  
A 222 West 27th street.

Q From whom do you lease those premises? A From the housekeeper of the building.

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Q Well, is it a man or woman? A A woman.

Q What is her name? A I don't know her name.

Q Well, did you have an office there in these three rooms?

A Why, yes, sir.

Q You live there too? A I live there too, sure.

Q Have you got any family? A Yes; my wife.

Q And any children? A No, sir.

Q Did you spend much time at the house of the defendant on 33rd street? A Well, I did not spend much time there, I spent about twenty minutes' time there that morning.

Q Well, how many times had you been there in the preceding month? A I haven't been there; I have been there only once before that sometime, I don't remember when, might have been two months before or three months before.

Q How long have you been conducting this business at 222 West 27th street? A Eleven months.

Q Have you got a sign there in front of the window?

A Not now; I have taken it away. We had a sign there, yes.

Q You have a sign now at 143 West 30th street? A No, not yet, because I am in doubt whether I will have an electric sign outside or light up.

Q Well, what time did you reach the house of Mrs. Michaels on the morning of the 10th of July? A About ten minutes after 2 or fifteen minutes after 2.

Q And you say you saw some one on the front stoop?

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A Yes, sir.

Q Who was it? A Her man that works for her.

Q The fellow named Dancy? A Yes, sir.

Q Did you talk to Dancy? A Yes, sir; he told me that Mrs. Michaels wanted to speak to me.

Q How did you happen to go to the house? A Well, I was coming from 34th street and Seventh avenue going to 27th street through Seventh avenue, I was walking down.

Q You were going through 34th street to Seventh avenue?

A No, downtown towards 27th street and Seventh avenue.

Q You were going down Seventh avenue? A Yes, sir.

Q How did you happen to turn off Seventh avenue and go to this house? A As I crossed the street this Dancy hailed me.

Q What did he say? A He said, "Say, Frank, Mrs. Michaels wants to see you in regard to that work."

Q You know Dancer pretty well, don't you, how long have you known him? A I know him since I ~~was~~ know her, about thirteen months.

Q And have you been doing work for her during the thirteen months? A Yes, on and off.

Q Then you walked up on the stoop to Dancy? A I walked up to the stoop to Dancy and spoke to him for awhile and she called him up.

Q She called him up? A Yes.

Q Where did she call him from? A Up from downstairs,

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the sidewalk, up to the top of the stoop.

Q She was at the top of the stoop? A Yes, sir.

Q And she called him up from the sidewalk? A Yes, sir.

Q And then what did she say? A Dancey told me that she wanted this place fixed up with electric lights downstairs.

Q What did you say? A I said I would providing the estimate was all right which I have given her.

Q Did you give her an estimate? A Yes, sir.

Q How much? A \$40.

Q When did you make out the estimate? A This was that two months before I went there, the first time, and I told her, it was the old estimate, if it was all right I would do the work for her.

Q Well, then, what happened? A Then she quit talking and we couldn't come to an agreement.

Q That is, all three of you were standing out on the stoop, is that right? A Yes, right there in the doorway.

Q How long did you stand there? A Oh, about ten minutes or so and she closed the door and she said I am going home, and I says--

Q Wait a minute; when you began to talk to her did she have her hat on? A No, sir, she had her hat in her hand.

Q Well, then what? A Well, then she put her hat on and locked the door and went to the car and I says, "All right, I will go with you."

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BY THE COURT:

Q Now, where was she when she put her hat on? A Right in the doorway right at the mirror.

BY MR. McCORMICK:

Q Well, didn't she go back into the house to lock anything up before she left? A No, sir, she pulled both doors there, one that is outside and the one in the vestibule there.

Q But you say she was inside where the mirror was?

A Well, the mirror was right there at the door.

Q Did she turn off the gas or did she leave it ~~the~~ burning?

A I don't remember, recall, whether there was any gas burning or not.

Q Wasn't there a light in there or was it dark at 2 o'clock in the morning? A There is an electric light right outside in front of the house.

Q You were standing right in the hallway, were you not?

A Yes; there was light enough there.

Q Well, you say she looked in the mirror? A Yes.

Q Well, there must have been a light burning in the hall if she did that? A Well, there is a light coming from the street in the doorway.

Q Why did you go with her from-- why did you go with her over to Eighth avenue and 34th street? A Still discussing about the price of putting in this work.

Q What wiring were you to do in the basement? A From

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the back, the kitchen, coming all the way out to the front and there is a dining room and put the light there and bring a light outside to a sign, an electric sign reading on it restaurant.

BY THE NINTH JUROR:

Q How close were you to her when she put her hat on?

A Oh, I was right from here and she was about there, the edge of that table. (Indicating the District Attorney's table.)

Q Did you hear any clock strike? A What is that, sir?

Q Did you hear any clock strike? A No, sir.

Q While she was putting her hat on? A No, sir.

BY MR. McCORMICK:

Q When were you to put this wiring in? A Well, as soon as she was to let me know that she was ready.

Q When did you first hear that there was a fire? A This fire? I heard of it I think two or three or four days afterwards.

Q When you left her at Eighth avenue and 34th street?

A Yes, sir.

Q (Continuing) Where did you go? A I walked right down Eighth avenue to 27th street and turned 27th street to my home.

Q Where did you leave Dancey? A Right by the corner there.

Q What corner? A 34th street and Eighth avenue.

Q Did you see what direction he walked in? A Yes; he walked across the street going straight uptown.

Q On Eighth avenue? A Yes, sir.

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BY THE NINTH JUROR:

Q Were there two women with this defendant? A No, not while I was there.

Q At any time that you were there? A No, sir, just her and another man that works for her.

Q Did you see two women there come in or come out of the house while you were there? A No, sir.

Q Did you see any women in front of the house while you were there? A No, sir.

Q Did you see any women in the house while you were there? A No, I didn't go in the house.

BY THE SIXTH JUROR:

Q Did you see her lock the front door? A Yes, sir, I seen her pull the front door and pull the other door.

G E O R G E S M I T H , called and sworn as a witness for the defendant, testified as follows:

DIRECT EXAMINATION BY MR. BUSCH:

Q How old are you, Mr. Smith? A I will be 19 this October the 13th.

Q Are you the son of the defendant? A Yes, sir.

Q Are you employed, Mr. Smith? A Yes, sir.

Q What are you employed at? A W. G. Hockridge & Company.

Q What kind of a concern is that, A Agents for a whole-

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sale rug house.

Q And how long have you been employed there? A This will be my third year.

Q What kind of work do you do there? A Well, I am practically an all around man, practically do everything that comes in, sometimes shipping clerk and practically do everything.

Q Been there for three years? A Yes, sir.

Q Do you remember the early morning of the 10th day of July? A I guess I can remember it now if I try a little.

Q Where were you at about around 3 o'clock? A 3 o'clock I was home.

Q And do you remember anything happening at about half past 2 or 3 o'clock that morning? A I do.

Q What do you mean? A I remember letting my mother in the house.

Q About what time would you say that was? A About half past 2 the time was.

BY THE COURT:

Q What house was that? A That was at 212 West 59th street.

BY MR. BUSCH:

Q 212 West 59th street? A Yes, sir.

Q And did your mother ring the bell? A Yes, sir.

Q And in response to that ring you opened the door?

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A Yes, sir.

Q And you let your mother in? A Yes, sir.

Q And who else was in the apartment at that time if you recall? A There was the sister, this Fannie Jamison and there was Lulu Jones and the baby and there was a gentleman by the name of Dave Mason.

Q And was your aunt there, Mrs. King? A Yes, sir.

Q Do you remember how long before the 10th day of July you moved from the house on 33rd street? A Couldn't say exactly but I think it was about a week or so before.

Q A few days before? A Yes, sir.

BY THE COURT:

Q Have you said how long before you moved? A It was about a week, something like that.

Q About a week or so before you moved? A 212 West 59th.

Q You moved to 212 West 59th street you say about a week or so before July 10th, is that so? A Yes, sir.

CROSS EXAMINATION BY MR. McCORMICK:

Q Now, the furniture that was in the 59th street flat was not all put in there the same day, was it? A Well, that I do not know.

Q Did any furniture arrive there after you went up there to live? A Well, the furniture that was there, I don't know anything practically about it because I work in the day and the

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stuff as I understand it was moved in the day.

Q It was all put in that day? A I don't know exactly what day it was put in.

THE COURT: No, not during the day but in the daytime.

BY MR. McCORMICK:

Q Well, did you see any of the furniture arrive there?

A No, sir.

Q And you don't know whether it was put in at different times on different days or not, do you? A No, sir.

Q Before you lived at 59th street where had you lived?

A 207 West 33rd.

Q How long did you live there? A About four years.

Q Did you ever live at the place on Sixth avenue run by your mother? A Well, I never lived there but I used to go over to see my mother.

Q Did she have a place on 37th street also? A Yes, sir, she did.

Q What kind of a place was that? A She had a restaurant there.

Q Did she have a whole house? A Well, two floors, practically the whole house, the first floor was a tailoring establishment.

Q Well, did she have the base of the whole house? A Well, that I do not know, sir.

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Q Do you know whether it was before the 7th of July or after the 7th that you moved from the 33rd street house to the 59th street house? A I couldn't say positively it is so long ago, I think it is hard to remember when she did move.

Q What room did you occupy in the 33rd street house?

A The parlor.

Q The parlor? A Yes, sir, the front bay window.

Q Now, I would like to have you tell me what furniture there was in the parlor when you lived there? A There was my pianola and then there is a little couch and curtains, two or three curtains, and lots of pictures and then there is two or three chairs; of course, I don't know exactly what was there after I left Sunday afternoon, but I know it was pretty well fitted up after I left there.

Q My question relates to the time you left; have you stated all the furniture that was in there at that time? A Well, I had quite a lot in there but I can't say exactly all that was in there.

Q Was there anything in that room that you afterwards saw in 59th street? A Yes, I do remember of seeing one or two chairs of mine down there.

Q Well, is that all? A Now, let me see. That is practically all that I remember that was in there.

Q You have talked this case over with your mother, haven't you? A Well, no.

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Q With her lawyers? A Only told them about the case, of her coming home, that is all I know.

Q You went from room to room in the 33rd street house, you had been in the different rooms there? A Yes, sir, I have.

Q Well, they were all pretty completely furnished?  
A Yes, sir.

Q Chairs and beds and bureaus and wash stands in every room, weren't there? A Well, there was chairs and practically everything required.

Q Carpets and rugs? A Yes, sir, all that was required for a furnished room.

Q On the morning of the 10th of July you say your mother came home at what time? A At half past 2.

Q How do you know it was half past 2? A Well, I have, up in 59th street, I had the parlor there and I have a big clock all to myself and I had it timed up so I would know exactly what time she would come in because I had a few words with my mother the day before about her coming in late.

Q You objected? A Yes, sir, I did.

Q Did you know what she was doing when she stayed out late?  
A Well, I knew she was down in 33rd street but I didn't know what she was doing there.

Q You knew what business she had there? A Yes.

Q And you objected? A I didn't object to the business but I objected to her staying out late at night.

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Q Well, you knew that she was doing a transient business there, didn't you? A Well, there was a boarding house, that is practically all I knew about it.

Q Now, in the police court you were asked this question: "What makes you fix the time," and you gave this following answer: "I have a big clock over on the mantel and look at it every time my mother comes into the house," is that right?

A That is what I say; I had a clock on the mantel piece and I looked at the clock and it was half past 2 then.

Q Well, was it necessary for her to wake you for her to get into the house? A Yes, sir.

Q Didn't she have a key? A No, sir.

Q Who paid the rent of the 59th street place? A Well, I think my mother did practically, I don't know who paid the rent there at all.

Q Didn't you pay any part of it? A Well, I don't know; I didn't give her any part, but I gave my mother a certain lump of money every week.

THE COURT: Gentlemen of the jury, you are admonished not to converse among yourselves on any subject connected with this trial or form or express any opinion thereon until the same is submitted to you.

The court stands adjourned to tomorrow morning at half past 10.

(The court then adjourned the further trial of the

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case until tomorrow, October 4th, 1911, at 10:00 o'clock  
a. m.)

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