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COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York, Part II.

-----X
THE PEOPLE OF THE STATE OF NEW YORK, : Before:

-against-

WILLIAM ROBINSON, EUGENE MACK and
STEPHEN MURPHY.

: HON. OTTO A. ROSALSKY, J.,

: and a jury.
-----X

New York, July 3rd, 1912.

Indicted for attempted robbery in the first degree.

Indictment filed June 10th, 1912.

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

For People: ROBERT C. McCORMICK, ESQ., Assistant
District Attorney.

For Defendant: CHARLES SULLIVAN, ESQ.

(A jury is duly empanelled and sworn.)

(The Court now duly admonishes the jury and declares
an adjournment to Monday, July 8th, 1912.)
-----X

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New York, July 8th, 1912.

TRIAL RESUMED.

(By consent of defendant's counsel Juror No. 5 is excused owing to illness, a new juror taking his place in the box.)

(Mr. Sullivan asks for the exclusion of witnesses from the court room.)

(All witnesses excluded.)

Mr. McCormick opens to the jury in behalf of the People.

J O H N K A N E; called as a witness in behalf of the People, being first duly sworn, testifies as follows:

(The witness states that he lives at the corner of Broome and Hudson streets.)

DIRECT EXAMINATION BY MR. McCORMICK:

Q What is your business? A A longshoreman, sir, when I am at it, but I ain't been at it now for nearly a year --- getting too old.

Q Do you remember seeing these three men on the night of June 3rd?

MR. SULLIVAN: Objected to --- that is a dangerous question.

MR. McCORMICK: Question withdrawn.

Q Well, at night, on the 2nd of June, were you on West

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10th street? A West 10th street, yes.

Q Which way were you walking? A I was walking towards Hudson.

Q And you were between what streets? A Between Hudson and Greenwich streets.

Q And you were walking on which side of the street?

A Well, I couldn't exactly say which side I was on, now.

Q Were you on the uptown side, or the downtown side? A I think I was on the uptown side. That was my way home to Broome street anyhow, every night.

Q Did anything happen to you? A One party caught hold of me, and put his arm around me like that (indicating).

Q Do you know who that was? A Well, I couldn't exactly say. It was night time. I couldn't say. And they got me from behind.

Q How many? A Three of them, I believe.

MR. SULLIVAN: I move to strike that out.

Motion granted.

Q What did the first man who touched you do to you? A I couldn't exactly tell you which of them it was. He got hold of me by the throat.

Q What did the others do? A Well, they went through my pockets.

Q What time of night was that? A Between twelve and one-- I suppose somewhere around there.

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Q Were you sober? A Sure I was sober? I might have a drink or two in me, but nothing out of the way.

Q What happened then? A Well, that is all I know about it. They got hold of me, I sung out, and the officer come along and I said they got hold of me and tried to throw me down, I suppose, or tried to get away from me.

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

THE COURT: Strike out the answer. Let him state which one made the statement.

Q Do you know who the man was who grabbed you by the throat? A I couldn't tell you. I cannot. It was dark, you know, and I could not see.

Q You told us you met three men? A Yes, sir.

Q Do you know who those three men were? A I could not.

Q Would you know them now, if you saw them? A Well, I have an idea. I seen one of them.

Q Is he in this court room? A I couldn't exactly tell you.

Q Well, look around. A There is one of them there, anyhow.

Q Where? A I think it is the middle party there (pointing towards the defendants).

BY THE COURT:

Q Mr. Witness, are you able to point out the person who made that statement concerning which you have testified? A I

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could not, because it was night time and it was dark. I could not, your Honor.

BY MR. McCORMICK:

Q Well, what happened then, after three men tried to go through your pockets --- or, did you have any money on you?

A I did, seventy-five cents.

Q Where was it? A I had it in that pocket, and they didn't get at that (indicating a pocket in shirt).

Q Show us where you had the money? A Right there in that shirt pocket.

Q What pockets did they put their hands in? A In my pants pockets, back and front and everywhere.

Q How long had they been doing that before the Officer came? A Well, the officer came along --- they didn't get much of a chance.

MR. SULLIVAN: I move to strike that out.

Motion granted.

Q How long had these men been going through your pockets before the Officers were there? A I couldn't tell you that.

Q Well, a very short time, was it?

Objected to. Question withdrawn.

Q Did they get your money? A They did not. That's all the money I had, seventy-five cents.

Q Well, that is all you know about it? A That is all I know about it.

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Q Where were you going? A I was on my way home to Broome street.

Q Where had you been? A I was working in a liquor store.

Q Working? A Yes, until twelve o'clock.

CROSS EXAMINATION BY MR. SULLIVAN:

Q What is your position in the liquor store? A Cleaning up there.

Q And this was after the saloon had closed? A Well, yes.

Q And your duty in the saloon is to clean it up after it closes? A Well, yes.

Q You do not clean it up while it is going on doing business? A Not that time, nothing going on there since eleven o'clock.

Q This was Saturday night, wasn't it? A Yes, it was.

Q What time did the saloon close? A Twelve o'clock.

Q Did you leave there at that time? A I did, sure.

Q Where is the saloon? A Weehawkin and 10th street.

Q Weehawkin street and Tenth? A Yes, sir.

Q How long had you been there as a cleaner up? A Oh, I was there a couple of months, I guess.

Q Where did you board? A In the restaurant, of course.

Q Is there a restaurant attached to the saloon? A Oh, no; I boarded in West street and I roomed in Broome street.

Q You did not board where you roomed? A No, no, certain-

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ly not.

Q And you stopped at a lodging house? A Yes.

Q And where did you take your meals? A In the restaurant.

Q Attached to the saloon? A In West street.

Q In a restaurant in West street? A Exactly.

Q But not attached to the saloon? A No.

Q How much did you get a day for cleaning up that saloon?

A 60 cents.

Q And out of that you paid your lodging and your meals?

A Yes.

Q How long since you have done any work alongshore? A

It is nearly a year.

Q Isn't it over a year? A No, it is not.

Q As a matter of fact --- A I worked on the Cunard line.

Q Well, you have done odd jobs before? A I did.

Q Before a year ago? A Yes.

Q But the last five or ten years you have got to be pretty old? A Oh, I was not alongshore for the last twelve months.

Q You have not worked steadily alongshore for the last ten years, have you? A Not in a year.

Q Well, you have not done anything at all in that year?

A I done a little, yes.

Q But I mean in the last ten years you have not done

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anything alongshore?

MR. McCORMICK: I object to what he was doing ten years ago.

THE COURT: Objection overruled.

A Oh, yes, yes, sure I did.

Q Except odd jobs? A No odd jobs. I worked regular. I worked down in Pier 47 for nearly fifteen years --- Bermuda Line.

Q When did you quit there? A Nearly three years ago now. I worked in the Cunard since.

Q How long have you lived in that neighborhood? A I have been living in that neighborhood over eighteen years.

Q You haven't any family? A No; I buried my wife about six years ago.

Q You haven't any children, have you? A No.

Q How long have you known the defendant Robinson? A Only by eyesight, not very long -- I couldn't call the man by name, neither one nor the other.

Q You don't know the other two at all? A No.

Q But you do know Robinson? A Well, by eyesight, that's all.

Q How long is it since you have known him? A Oh, a little over a year, I guess.

Q Is that right? A Yes, off and on; I only seen him passing by.

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Q Well, now you testified in the police court in this case, didn't you? A I don't know him any longer, to my knowledge, and I don't know him well --- only by sight -- I couldn't call the man by name.

Q Do you know that neighborhood of West 10th street pretty well, living there for the last eighteen years? A Yes, I know it quite a while, yes.

Q Can you locate to this jury with some degree of certainty the point that you were stopped on that street that night? A Well, between Hudson and Greenwich, I guess --- somewhere around there.

Q Somewhere between Hudson and Greenwich streets, is that right? A I think so.

Q Was it on the north or south side of the street? A Well, I couldn't exactly tell you that, even. I might be on the south side or on the north side.

Q As a matter of fact you do know one thing about it, and that is that at the point where you were it was dark? A It was dark? Well, it was night time.

Q Well, there was no light around there? A No; there might be a gas light.

Q You could not see any gas light or gas lamp there, can you? A Oh, I can. I can see you.

Q You consider with gas light and lamp light it is dark, is that it? A Yes.

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Q When you testified in the police court in this case were you at that time held on a charge of intoxication? A No.

Q Do you remember now whether or not you were arrested at night and held on a charge of intoxication made against you?

A No, I do not.

Q You do not have any recollection about that? A No. I know where I was. I was in the Charles street station all night long.

Q What time did you land at the Charles street station house? A It must be Sunday morning; it was after twelve o'clock Saturday night.

Q You don't remember how you got to the station? A No, I do not. I was brought there, I walked there.

Q Were you brought there or did you walk there? A I walked there.

Q Where did you go from? A From where I was arrested, 10th street.

Q What were you arrested for? A Those two parties, the two detectives arrested me and arrested them here (indicating defendants). They ketched them on the street.

Q So you were all taken to the station house together, is that right? A Yes, as near as I can get.

Q Well, I know, but so far as your recollection goes you have no memory about it? A No.

Q Isn't that so? A It is quite a while now, isn't it?

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Five weeks?

Q Have you forgotten about it? A Yes.

Q Isn't it true that the first you knew about this case was on Sunday morning when you woke up in the station house in Charles street --- that is the first you knew about this matter? A Of course I knew it was Sunday morning.

Q Well, that is the first time you knew or heard about it,--when you woke up in the Charles street police station Sunday morning, you heard about this robbery? A That is the first I heard about it?

Q Yes. A It is not the first time. Wasn't I looking at the people trying to rob me? It cannot be the first time I knew it.

Q Well, do you know who they were? A No, I knew one of them by eyesight, and that's all.

Q What did you say Robinson did to you? A I couldn't tell you what he done --- there were three of them there.

Q Well, now, you claim now to this jury that some man took you by the throat? A Exactly, and then I couldn't tell which of them did so.

Q Couldn't you see the face of the man who did that?

A Well, it was dark, I tell you.

Q Well, when did you first see Robinson after you came into the light? A Well, they tackled me where I was telling you first, in 10th street.

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Q I understand, but at that time it was so dark there that you could not see anybody? A No.

Q Is that right? A That's right.

Q Now, as to the man whom you claim took hold of your throat, you don't know who that was? A I couldn't tell you, no.

Q And if anybody went through your pockets, you don't know who they were? A Well they went through my pockets all right.

MR. McCORMICK. I object to that as a hypothetical question.

THE COURT. Objection sustained.

Q Now, I am reading from page 3 of the minutes of the testimony taken in the police court ---

MR. McCORMICK. I object to the reading of any minutes --- ask the question.

MR. SULLIVAN. Well, I will ask the question.

Q Was this question asked you in the Magistrate's Court? "They put their hands in the pockets of your clothes, didn't they? A Yes, I suppose so."? A I suppose so.

Q Did you make that answer? A Yes, I made an answer, yes.

Q Well, you say "I suppose so"? A Well, yes, I told you that before, that they went through my pockets and they got nothing.

Q At that time you said "I suppose so"? A Yes.

Q Didn't you? A Yes.

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Q "Did the other two hold you while he was doing it?"

A "I suppose so". Did you make that answer? A Yes.

Q Well, now, when the Officers came up did you see the three men arrested? A I couldn't tell you.

Q Well, didn't you suppose so? Did you see the three men arrested? A No.

Q Where did you first see the three men after this?

A Jefferson Market.

Q As a matter of fact, you have no recollection of seeing those three men that night, after the thing occurred at all?

A That was Sunday morning, wasn't it?

Q Well, I know, Sunday morning when you went to court you saw three men there, didn't you? A Yes.

Q Well, but that night you did not see Mack and Murphy until you saw them in Jefferson Market Court? A I don't know their names at all from other men.

Q But the first you saw of them was at the Jefferson Market court, isn't that right? A I saw them the night they were going in my pockets, didn't I? I didn't know who they were, though.

Q You didn't know who those men were, did you? A No.

Q Well, you were a witness before the Magistrate in this case? Do you remember the Magistrate asking you this question, "Were you drunk or sober at the time?" --- A I was sober enough.

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Q Just wait till I get through. "Were you drunk or sober at the time? A I was sober." A I did answer you. I said no.

Q You remember the Magistrate asking you this question. "You know there is a complaint of intoxication against you here, don't you? A Yes." Didn't you say that? A I am hard of hearing, I didn't hear that.

Q You know that there is a complaint of intoxication against you here, don't you? A Yes." A Perhaps I did. I couldn't say that, you know --- I might have said it.

Q As a matter of fact, do you know how you landed in the Charles street police station --- have you any recollection of it? A Well, I couldn't exactly say. I suppose I walked there didn't I?

Q You woke up there, you mean?

MR. McCORMICK. No, he didn't say that.

Q Well, you woke up there Sunday morning, isn't that right? A Yes.

Q Is that true? A I woke up there, yes, yes.

Q What time was that? A I woke up there, yes.

Q What time was that? A I couldn't tell you that. I didn't have no watch and no clock.

Q Did you go from there to the Jefferson Market Court?
A Yes, I was taken over there.

Q Do you know who accompanied you or who went with you

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to the Charles street police station -- of your own knowledge now? A Two officers took me around there?

Q Don't ask me. Did you tell the Magistrate in the police court when you testified before him that anybody took you by the throat? A Yes.

Q You did? A Yes.

Q Did you tell the Magistrate that anybody else took hold of you besides the man that took you by the throat? A I couldn't tell you what I said to the Magistrate? I was sober. You said I was drunk.

Q I am not saying anything of the kind. You misunderstand me. If you do not know what you said before the Magistrate, how can you remember what you said about the man holding you by the throat? A I knew that when it happened.

Q But I am asking you? A I must be very drunk if I could remember all about that. If I remembered that a man held me by the throat and the others going through my pockets-- I couldn't be very drunk then.

Q Did the hearing go on when you went in the Magistrate's Court on Sunday morning? Did you go on the stand and testify? A Yes.

Q As a matter of fact was not the case adjourned for you to get sober? A It was put back, wasn't it?

Q Then it didn't go on at that time? A No.

Q And it was put off on account of your condition? A I

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suppose so.

RE-DIRECT EXAMINATION BY MR. McCORMICK:

Q How old are you? A Sixty-eight.

J A M E S D A L T O N, called as a witness in behalf of the People, being first duly sworn, testified as follows:

(The witness states that he resides at 104 West 13th street.)

DIRECT EXAMINATION BY MR. McCORMICK:

Q You are a member of the police force of New York City?

A I am.

Q On the 2nd of June were you attached to the Detective Bureau? A I was.

Q Now, that night were you in the vicinity of West 10th street and Hudson? A I was.

Q What time of night was it that you were there? A About twelve fifteen or twelve twenty.

Q Who was with you? A Detective Boyle.

Q Where were you standing? A First standing on the northeast corner of Hudson and West 10th street.

Q Northeast or northwest? A On the northwest corner of Hudson and 10th street.

Q Did you see these defendants that night? A I did.

Q When you first saw them where were you standing and where were they? A When we first saw them we were standing on the northeast corner of Hudson and 10th street.

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Q And where were they? A Coming west on 10th street, on the north side of 10th street.

Q Coming towards you? A Yes, sir.

MR. SULLIVAN: I object to this.

THE COURT: Do not lead the witness, Mr. District Attorney.

Q What did you see them do? A They walked west on 10th street, south on the east side of Hudson street, about fifty feet south of 10th street on Hudson; they stopped in front of a restaurant and looked in, they held a conversation, and they walked across Hudson street and continued west on 10th street, to about the middle of the block.

Q Now, that was half way between Hudson and Greenwich?

A Yes, sir.

Q Greenwich street is west of Hudson? A Yes, sir, one block.

Q Go on and tell what you saw them do, if anything?

A The complaining witness, John Kane, was coming east on the south side of 10th street. Murphy was on the inside, Mack was on the outside, and Robinson ---

BY THE COURT:

Q Who is Murphy? A No. 3 (indicating defendant Murphy).

Q That is Murphy? A Yes, sir.

Q Which is Mack? A Next to him, the middle.

Q And the third man, what is his name? A Robinson. Robin-

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son was in the middle.

BY MR. McCORMICK:

Q Go ahead? A In front of 256 West 10th street, Mack was on the outside, and Robinson was in the middle, and Murphy was on the inside; they got hold of the complaining witness, and Robinson went through his pockets.

MR. SULLIVAN: Objected to. That is a characterization.

A (Witness continuing) Each one caught hold of his arm.

BY THE COURT:

Q State what each man did, if you can? A Murphy caught hold of the complaining witness on one side.

Q Holding him where? A By the arm.

BY MR. McCORMICK:

Q How far away were you at that time? A About fifty feet.

Q How much light was there? A There was a light from the barber shop, very bright.

Q Go ahead? A Mack was on the outside, he caught hold of Kane on that side, and Robinson went through him.

MR. SULLIVAN: I object and move to strike it out.

THE COURT: Strike out "Robinson went through him."

State what Robinson did.

A (Witness continuing) Put his hands in his two pockets and felt him all over like that (indicating).

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THE COURT: You must not state a conclusion of fact. State things you observed and permit the jury to draw the conclusion of the fact from the circumstances as narrated by you.

THE WITNESS: All right, sir.

BY MR. McCORMICK:

Q What were you and your partner doing at that time?

MR. SULLIVAN: Objected to --- that don't show what they were doing.

THE COURT: I overrule the objection.

A We were standing right across, right over, to where they were.

Q When did you begin to cross over? A Immediately after Kane hollered out that "I have nothing; let me go."

Q Then what did you officers do? Did you run or walk?

A Murphy and Mack left Kane.

MR. SULLIVAN: Objected to, that is not an answer.

THE COURT: Objection sustained.

Q Go on and tell what happened? A We went over and I followed Mack and Murphy towards Greenwich street. Officer Boyle caught hold of Robinson.

Q Where did you get Mack and Murphy? A Right near Greenwich street.

Q Were they running or walking? A Walking quick.

Q Where was the complainant? A The complainant was going

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east on 10th street.

Q Walking along? A Yes, sir.

Q After you arrested Mack and Murphy, what did you do?

A I brought them back to where the complainant was.

Q Where was the complainant? A About Hudson and 10th street.

Q What did you see happen to Robinson? A Officer Boyle took Robinson in custody.

Q Where did he get him? A Right there at the corner.

Q Right at the corner of what? A 10th and Hudson streets, right about near the corner, just where the thing occurred, at 256.

Q Near where the robbery took place? A Yes, sir.

Q Did you notice the condition of the complaining witness? A Yes.

Q Was he drunk or sober? A He had some drink taken.

Q He was not drunk? A No, sir.

Q This was in the county of New York, wasn't it? A Yes.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Did I understand you to say that the defendants, when they went west on 10th street went about the middle of the block and half way towards Greenwich street? A About in front of 256.

Q That is about the middle of the block, is it? A Well, I should judge it is about a little nearer Hudson street.

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Q Well, it is practically the middle of the block? A Yes, practically.

Q And you and Boyle were together at that time? A Officer Boyle, yes, sir.

Q Were they on the north side or south side? A They were on the south side of 10th street.

Q There is a barber shop doing business at that hour, I suppose? A I couldn't say.

Q Didn't you notice whether the barber shop was open or not? A There was light in it --- that's all I noticed.

Q The curtains were not drawn? A No, sir.

Q The business was going on after twelve o'clock at night, Saturday night? A I couldn't say there was any business there.

Q But of course the barber shop was open? A Yes, sir.

Q It was not closed? A No, sir.

Q The saloon was still doing business? A Yes.

Q And that was open? A That was not open.

Q Everything closed inside of the barber shop? A The saloon was closed.

Q Well, as a matter of fact wasn't it open where you were --- what was the number of the barber shop, do you know?

A I think it is 254.

Q This was on --- A There is a vacant lot there.

Q It is in front of the vacant lot? A Well, there is a vacant lot and a barber shop there.

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Q But the barber shop don't occupy the vacant lot? A No.

Q You claim that 256 is a vacant lot? A I think it is.

Q Well, you ought to know; we don't want any conjectures in this case, or "I suppose so" --- don't you know? A Yes, I am sure this 256 is a vacant lot.

Q Will you swear it is a vacant lot? A Well, I will swear there is a vacant lot next to the barber shop, yes, sir.

Q Whether it is on one side or the other, you don't know?

A I will swear this, on the south side of 10th street, two doors from Hudson, there is a barber shop and a vacant lot.

Q Between Hudson and Greenwich? A Between Hudson and Greenwich? A Yes, sir.

Q Somewhere? A Yes, sir.

Q Did I understand you to place these men there, the three of them walked toward Greenwich street? A Yes, sir, on the south side of 10th street.

Q And you were standing on the northeast corner of Hudson and 10th street? A Not at the time they were walking between Hudson and Greenwich.

Q Well, you have testified in this case before --- A Yes, when I first observed them, Mr. McCormick asked me.

Q I am not asking about your testimony here. And Officer Boyle has testified in this case before? A Yes.

Q Now, have you ever sworn in any hearing in this case that you were standing on the northwest corner of 10th and Hudson streets? A Yes, sir.

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Q You have sworn to it? A Yes, sir.

Q Where? A Jefferson Market Court.

Q Would you recognize your testimony, if you saw it? A I would.

Q Will you state to this jury that you ever stated before in any hearing in this case that you were standing on the corner, the northwest corner of Hudson and 10th street?

A Yes, I will.

Q Will you swear that you ever testified in this case that you left the northeast corner before this robbery occurred and went over to the northwest corner? A I don't know that I swore to that. I don't know that I was asked that.

Q Well, will you now tell this jury, that what you said in this proceeding --- you left the northeast corner of Hudson and 10th street --- at the time that they crossed Hudson street, that they left in front of the restaurant and crossed Hudson street and went west on 10th street, towards Greenwich.

Q Didn't you just swear in answer to Mr. McCormick's question that the moment you started after them was when you heard this old man yell out? A That was when he crossed the street. We were on the north side of 10th street, diagonally opposite.

Q The north side of 10th street, and on the east side of Hudson street? A On the north side of 10th street and west side of Hudson street.

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Q That is the time he cried out, is that right? A Yes, sir.

Q Hudson street is rather a broad street, isn't it? A Pretty broad, yes, sir.

Q And when you were on that corner, the northeast corner of Hudson and 10th street, you didn't see these men lay any hands on Kane? A No. They had not ---

Q Well, answer the question? A No, no.

Q Now, Kane was coming in one direction on 10th street and they were going in the other? A Yes.

Q They met, is that right? A Yes, sir.

Q And the last you saw of these defendants as they proceeded west on 10th street was about the middle of the block between Hudson and Greenwich, is that right? A Yes, sir.

Q And about that point they met again, is that right? A That's right.

Q Now, before they met again had you left the northeast corner? A Yes.

Q You had? A Yes.

Q Now, if I submit this examination, or a copy of the examination of the your evidence in the Magistrate's Court--- you are Officer James Dalton, are you not? A Yes, sir.

Q Will you examine it and put your finger on the statement there in, in which you say that you were standing on the northwest corner of 10th street and Hudson street?

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Objected to. Objection sustained.

THE COURT: You may ask the substance of what you stated in your question by putting it in another form.

Q Well, as I recall your evidence in this case it is that you distinctly remember stating ---

MR. McCORMICK: I object to what the statement of the evidence in another case is.

THE COURT: What do you want to show?

MR. SULLIVAN: It is merely in the nature of an impeachment proceeding, and it is difficult for me under the state of the evidence as I have it to bring it out, excepting through the statement as I have it here, and have him examine it to see whether it is or is not his and have him point out where it is. I have laid the basis of this examination ---

THE COURT: You have a right to refer to the record for the purpose of contradicting the officer's testimony. Now, if the record is silent on that subject you may ask the officer, is this the only occasion? Or did you on any other occasion ever state thus and thus?

MR. SULLIVAN: I will, but I am not going to offer a lot of incompetent evidence in this case.

THE COURT: (Continuing) And then if he cannot do that, you offer the record.

MR. SULLIVAN: While I would not ordinarily have any

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objection, I do not think it is my duty or my work to inject into this case a lot of incompetent evidence.

THE COURT: Well, you are not doing it in that fashion. You have a right to impeach him by calling his attention to the record.

MR. SULLIVAN: I will call his attention to it.

BY MR. SULLIVAN:

Q I ask you to look at this paper which purports upon its face to be a copy or a transcript of your evidence, and I would like to have you point out in that evidence any statement of yourself, where you say you were standing on the northwest corner of 10th street and Hudson.

Objected to. Objection sustained.

THE COURT: The witness may not have been asked that question.

MR. SULLIVAN: But he says he did say so.

THE WITNESS: No. I said I might not have been asked that question.

MR. SULLIVAN: He said he did make that statement.

THE COURT: Let me have that paper.

BY THE COURT:

Q Officer Dalton, were you a witness in the Magistrate's Court? A Yes.

Q Do you remember this question being put to you ---
"You are a police officer, Central Office? A Yes, sir." A
Yes, sir.

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Q "Q Were you present with the last witness when the arrest was made? A Yes, sir."? A Yes, sir. We were standing on the northeast corner of Hudson and west 10th street.

BY MR. SULLIVAN:

Q I misunderstood you then when I understood you to say in the police court that you stated to the Magistrate that at the time that this affair occurred you were standing on the northwest corner of Hudson and 10th street? A I didn't state that in the Magistrate's Court.

Q You didn't make that statement? A No. When we observed the defendants, I say we were on the northeast corner of Hudson and 10th street, and they were coming west on the north side of 10th street.

Q The question that I put to you was if at any hearing in the case before this hearing now, you had made the statement you have made here on the stand already, that you were on the northwest corner of 10th and Hudson streets? A That I couldn't say. I might not have been asked the question.

Q Well, you stated it both ways. You stated it to me once that you did before the magistrate and now you say you did not.

Objected to. Question withdrawn.

BY THE COURT:

Q Did you state that you stood at the northwest corner? Did you state it to-day? A Yes, your Honor --- on the northwest corner.

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BY MR. SULLIVAN:

Q Well, my question was, did you ever make that statement before you made it here? A That I couldn't say other than what the record there says.

Q You are going by the record --- you have no independent recollection? A No, I have not.

Q Well, now, did you take the complainant to the station house? A No.

Q Did you go to the station house yourself? A I did.

Q Did you see him there? A I did.

Q What time? A About twelve twenty.

Q Did you see him there Sunday morning? A I did.

Q Were you in court? A I was.

Q Sunday morning? A Yes.

Q Do you know as a matter of your knowledge and your connection with this case that he was arrested for intoxication? A Yes.

Q And do you know when he was arraigned there on Sunday morning in this case, and this came on for hearing, that the case was adjourned? A Yes, sir.

Q That was adjourned on account of his sobriety? A No, sir, it was adjourned to give those (indicating) a chance to procure counsel.

Q Do you know who made the affidavit in the charge against this man? A I think it was Officer Boyle.

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Q Your associate? A Yes, sir.

Q You claim you arrested Murphy and Mack? A Yes, sir.

Q Was there any other officer with you at the time? A
There was.

Q Who? A He was an officer on a fixed post.

Q What was his name? A I think it was Shevlin.

Q Well, no, you don't forget names of police officers
as easily as this, do you? A Yes. It is Shevlin.

Q Where is his fixed post? A Right on the corner of
10th and Hudson streets --- I think there is a fixed post there;
I am not sure, I don't know.

Q You know where the fixed posts are there where you
are detailed? A I do not.

Q The fixed post is at Greenwich and 10th streets? A I
think there is one there.

Q Who is the officer there? A Shevlin.

Q You know it was not Hudson and 10th street, don't you?
A I know it was Greenwich and 10th street.

Q Well, you just said it was Hudson and 10th streets?
A Well, that was a mistake. I will correct that. That is
Greenwich.

Q Where did you arrest these men? A Right near Greenwich.

Q Between Greenwich and Washington, or Hudson and Green-
wich? A No, it was on the east side of Greenwich.

Q Between Greenwich and Washington, isn't that it? A It

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was on the east side of Greenwich, that is between Greenwich and Hudson.

Q Was this officer Shevlin on post there at that time?

A I suppose he was.

Q Didn't he come up there with you at the time? A Yes, he come up to see what the trouble was.

Q Then you know he was there? A I placed the two of them --- the two of them were walking away and I caught one by each arm.

Q He came up and assisted you? A Yes, sir.

Q He was in uniform? A Yes, sir.

Q Weren't these two men arrested in front of the school on 10th street between Greenwich and Washington? A No, sir.

Q Is that officer here to-day? A No, sir.

Q Don't you consider him an important officer in this case? A No, sir.

BY THE COURT:

Q Where is he? A He is no witness to the case.

Q Does his name appear upon the case? A No, sir.

BY MR. SULLIVAN:

Q There is no way to find out who he is from you?

A Well, you can go to the station house and find the record on the blotter of what officer it was.

Q Why didn't you get the name of that officer? A I will get him here.

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Q Will you promise not to see him in the meantime?

A I will promise not to see him.

RE-DIRECT EXAMINATION BY MR. McCORMICK:

Q Why was the case adjourned? A For those men (indicating defendants) to secure counsel at the suggestion of Robinson. He asked to be adjourned so he could get his counsel and notify his people.

EDWARD S. BOYLE, called as a witness in behalf
of the People, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

(The witness states that he resides at 109 Bank street.)

Q You are a member of the Police Force of New York? A
I am.

Q On the 2nd of June where were you about 12:15? A
About 12:15 I was on the northwest corner of 10th and Hudson
streets, at that time.

Q Did you see these defendants? A I did.

Q Where were they when you first saw them? A On the
north side of 10th street, between Hudson and Bleecker, walking
west.

Q They were walking towards you then? A They were, yes.

Q Go on and tell what you saw them do? A They crossed
over to the southeast corner of 10th and Hudson street and
walked south on Hudson street about 35 to 40 feet, walked up

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and down there, looking into a restaurant.

Q How many were there? A Three. After leaving there they went catercorner to the southwest corner of 10th and Hudson streets, and walked west on West 10th street, on the south side towards Greenwich.

Q Where was the complaining witness when you first saw him? A He was about fifteen to twenty feet east of Greenwich street on the southside of 10th street.

Q What was he doing? A Walking east on 10th street.

Q What were you doing at that time? A Watching these three defendants.

Q And these three defendants and the complainant were walking towards each other on the south side of 10th street?
A They were.

Q Tell us what happened when they came together -- where did they come together? A In front of 256 West 10th street.

Q This was in the middle of the block? A About that, yes.

Q What happened there? A The defendant was walking east-- the complainant was walking east on 10th street, and on the south side, and these three defendants were walking west on West 10th street on the south side. Robinson started to go through the pockets ---

MR. SULLIVAN: I object to this.

Objection overruled. Exception.

A (Witness continuing) Murphy had hold of his right arm, and

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Mack had hold of his left arm. While Robinson is going through him he says, "I have nothing."

MR. SULLIVAN: I move to strike that out."

THE COURT: Strike out "While Robinson was going through him."

Q What was Robinson doing? A Had his hands in his pockets.

Q What did the complainant shout? A He calls out, "I have nothing, let me alone." With that Murphy and Mack starts to walk away, and Robinson remained there with his hands going through his pockets.

MR. SULLIVAN: I move to strike out "going through his pockets."

THE COURT: Motion granted.

Q What happened then? A I stepped over to the complainant and asked him if he had lost any money.

MR. SULLIVAN: I object to this conversation with the complainant.

THE COURT: Objection sustained. Strike it out.

Q Never mind what you asked him, tell us what happened?

A Then I went down and caught hold of Robinson.

Q What was Robinson doing when you laid your hands on him?

A Walking west.

Q How far was he then from the complainant? A About forty or fifty feet away.

Q What was the complainant doing? A He was walking east through 10th street.

Q What did you say to Robinson when you grabbed him?

A I asked him what did he stick that feller up for. He said, "I didn't stick him up, I know him."

Q What did you see the other officer do, - Dalton? A Dalton went after Mack and Murphy while I walked back with Robinson to get the complainant, and on my way back an officer jumped off a west bound trolley car there and held Robinson while I went and got the complainant on Hudson street and brought him back.

Q Was there any conversation between the complainant and the three defendants? A In the station house Mack and Murphy stated that they were a block away, and they were nowhere near this man.

BY THE COURT:

Q Mack and Murphy said that? A Yes, sir.

BY MR. McCORMICK:

Q Were any of these three men out of your sight from the time you first saw them until you put them under arrest? A They were not.

Q Were there any other people on 10th street besides those four people and you two officers? A Not on that side of the street.

CROSS EXAMINATION BY MR. SULLIVAN:

Q Well, I understand that you claim that you arrested

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Robinson? A Yes, sir.

Q You arrested him about 40 feet west of 256 West 10th street? A Yes, sir.

Q How far is 256 West 10th street west of the corner of Hudson? A About 55 feet.

Q If that is the centre of the block then you must have arrested him down near Greenwich street? A I did.

Q Did you see Mack and Murphy arrested? A I seen Officer Dalton go after those two and get them.

Q Did you see him arrest them? A Yes, sir.

Q Where? A On the corner of Greenwich and 10th street.

Q That is where you arrested Robinson? A I had him on the west side about 30 feet from the corner, east from the corner of Greenwich, on the south side of 10th street, and he had them on the west side of Greenwich street.

Q Then as a matter of fact, Mack and Murphy were arrested between Greenwich and Washington? A No, right on that corner.

Q Well, on the west side of Greenwich street and 10th street? A Yes.

Q Well, they were between Greenwich and Washington?

A Well, it might have been two feet, if you would have to call it.

Q You did not arrest them between Hudson and Greenwich where you arrested Robinson? A No, they were not together.

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Q On the other block? A Yes.

Q Did Dalton bring these two men back to you? A He did.

Q And before you went back with Robinson, did he come back with you? A He followed me up.

Q How far behind you was he? A About twenty-five feet--- twenty feet.

Q You waited until he came over with these men?

A Yes, sir.

Q And then you went back to get them? A No. I started to walk back with Robinson and get this complainant.

Q You claim, you tell the jury now that Dalton came back and was following you up about twenty-five feet behind you with these two men? A Right.

Q Was there any other officer there? A Officer Campbell got off a trolley car there.

Q Was he in uniform? A He was not.

Q He was in citizen's clothes? A There was an officer there in uniform also.

Q What is his name? A Shevlin.

Q Where was he standing when you first saw him? A At Greenwich and 10th street.

Q Was that before or after you arrested Robinson? A He was there before and after.

Q Where was he after you arrested him? A He was with Dalton, coming up with those two.

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Q Is he here to-day? A No, sir.

Q Do you know whether he arrested him or whether Dalton arrested him? A Officer Dalton did.

Q You were there? A Right present, yes, sir.

Q You saw Dalton arrest them? A Yes, sir.

Q And you saw the other officer there too? A Yes, sir.

Q Is he attached to the Charles street station? A Yes, sir, he is.

Q Was he standing at the corner of 10th and Greenwich street? A He was.

Q A fixed post? A Yes, sir.

Q Was he standing there at his post there when you arrested Robinson? A He was.

Q And at that time Murphy and Mack had crossed Greenwich street? A Yes, sir.

Q There were no shots fired? A Didn't see them.

Q There was nobody running away? A They didn't know any body was after them.

Q Do you mean to say to this jury now that they ran away?
A No, sir.

Q Why do you make that answer? A On account of your saying no shots were fired.

Q Then you want to charge these men with running away just because I asked you that question, when you know it is false --- is that it? A No, sir.

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Q What corner of Hudson and Greenwich street were you standing? A When I first saw these defendants I was standing---

Q Can't you understand it? A Yes, sir.

Q Answer it. A I was on two different corners at different times.

Q Well, when you saw these men going west on 10th street toward Greenwich, on the south side, as you claim, and had reached the front of 256 West 10th street, where were you? A On the northwest corner.

Q Have you in any hearing in this case ever stated to any court before that you were standing on the northeast corner of Hudson and 10th street when this thing occurred? A In the 2nd District Court.

Q Did you say that there? A I think so.

Q Well, do you know? A I told them I was standing at the corner of Hudson and 10th street, I won't say which corner.

Q Well, now, you say that Mack and Murphy walked down 10th street, west? A Yes, sir.

Q And left Robinson and the complainant together? A Yes, sir.

Q He stayed behind talking to the complainant, whatever you were doing? A Yes, sir.

MR. McCORMICK: Objected to.

Q Well, they were together?

MR. McCORMICK: Going through his pockets, yes.

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MR: SULLIVAN: No, that was stricken out.

THE COURT: Yes.

Q Robinson and the complainant were there together after Mack and Murphy had started west on 10th street? A Yes.

Q And that was after you had left the northeast corner?

A Right.

Q And that was after the complainant said "I have nothing, let me alone"; is that right? A Right. They walked west.

Q Did you start to leave the northeast corner of Hudson and 10th street before the complainant ever said a word? A I did.

Q And Dalton left with you? A Yes, sir.

Q And you left that corner just as soon as these people had turned the corner of 10th street and Hudson? A Yes, sir.

Q At that time had you seen Kane? A We did.

Q You saw Kane before you left the northeast corner?

A Just as we left the northeast corner, walking over.

Q You could see down west 10th street on the south side easily two hundred feet, couldn't you? A Yes.

Q And you could see a man's hands two hundred feet away?

A I wasn't that far away.

Q Well, let us see. How far do you think it is from Hudson to Greenwich street on 10th street, that block? A I judge it is about 175 feet --- 160 feet --- a short block.

Q Well, if it is 160 feet, the centre of it would be

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about eighty feet, wouldn't it? A About that.

Q How wide is Hudson street at 10th street? A About forty or forty-five feet.

Q That is a very wide street? A It is.

Q What is the ordinary width of the streets of this City, do you know?

MR. McCORMICK: I object to that.

THE COURT: We will all take judicial notice that Hudson street is a very wide thoroughfare.

Q Do you know what the ordinary width of the streets running across town is?

Objected to. Objection sustained.

Q Do you know the width of the avenues running up and down town?

Objected to. Objection sustained.

Q Did you get the complainant in this case? A I did.

Q Where did you find him? A Right near Christopher street on Hudson --- between Christopher and West 10th street.

Q What time was that? A About ten seconds after I turned Robinson over to Officer Campbell, to hold him.

Q He was on his way towards you? A I don't know where he was on his way to --- he was walking south on Hudson to ---

Q When you went from Hudson street west on 10th street you passed him, and he passed you? A Passed who?

Q Why, this man that you claim you saw coming from the

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west? A I spoke to him after they had left him, and asked him if he lost any money? He said, "No, they didn't get my money."

Q Well, I didn't ask you for the conversation. Well, then he went away and went down Hudson street? A He went east on 10th street and south on Hudson street then.

Q Then you went west and caught him after that? A I did.

Q And you took him to the police station? A I did.

Q Did you make a charge of intoxication against him?

A I did.

Q Was that true or false? A It was true.

Q Did you search him? A I did.

Q Did you find any money on him? A I did.

Q Where? A In his pocket here of his shirt.

Q What? A Seventy cents.

Q Didn't he tell you he had seventy-five cents? A No, I found seventy cents there.

Q Well, now, I will read this: I will ask you this question, - were you asked in the Magistrate's Court this question: "State the facts leading up to the arrest?" Was that question put to you in the Magistrate's Court? A It was, yes, sir.

Q "We were standing on the northeast corner of Hudson and West 10th street. We observed the three coming west on West 10th street, north side of West 10th street. I went down

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Hudson and stood watching in front of the restaurant for about ten minutes. After leaving the restaurant they walked west through 10th street on the south side, and the complainant, Mr. Kane, he came east on the south side of West 10th street. They were going west. In front of 256 the defendant Murphy took hold of one side of him, Mack had hold of the other side, and robinson went through his pockets. The old man hollered out, 'I have nothing, let me alone -- I ain't got nothing.'; is that your answer that you made up there? A Yes, sir.

Q Now you say here that they crossed diagonally across the street? A From the restaurant?

Q Yes. A Which I had stated in the Magistrate's Court.

Q Well, they went south on Hudson street, didn't they?

A No, sir; they did after that. At first I seen them they came west on 10th street, on the north side, and went down Hudson street, south about thirty or forty feet. After leaving there they catercornered and went over to the southwest corner of 10th and Hudson street and went west on 10th street.

Q After they went douth on Hudson street do you mean to say that then they went to the west side of Hudson? A After leaving the east side of Hudson street they went right across to the west side.

Q And they came west in the first place? A They did.

Q They came from the Bleecker street direction? A In that direction.

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Q "Q Was this in your presence?" Do you remember that question being put to you? A Yes.

Q "Q Was this in your presence?" A Yes.

Q Is that right? A Yes.

Q "You were sixty feet away on the other side of the street in the park, watching. Murphy and Mack walks away."?
A Right.

Q What do you mean by the other side of the street? A Why, at the time the complainant and these other three first met we were that distance away, on the northwest corner of 10th and Hudson streets.

Q That would take you about eighty feet then, if you were on the northwest corner, it would take you about eighty feet from where this thing occurred? A About seventy or eighty feet.

Q And you were on the other side of the street? A We were.

Q And you were standing in the park, were you? A Yes, sir.

Q Now, did you notice whether or not the barber shop there was open? A Full light in the window.

Q Was it closed? A It appeared to me to be open. The door being closed, but lights in the place.

Q That barber shop was between you and these men? A The barber shop was here and the defendant here, and we were over here (indicating and pointing), and the light shown right out

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from that window.

Q 254 is the barber shop, isn't it? A 256.

Q Is there a vacant lot there? A Yes, about ten or twelve feet away, where they store trucks.

Q Is that on the east or west side of the barber shop?

A That is on the west side of the barber shop.

Q Were you on the east side of the barbershop? A Yes, sir.

Q So the barber shop was between you and this vacant lot?

A Yes, sir.

Q And was it in front of this vacant lot that you claim that this thing occurred? A Yes, sir.

Q So that the lot was between you and them? A Yes, sir.

Q They were on the other side of this barber shop? A They were.

Q And back of them it was all dark? A On the west side of them?

Q Yes. A Why, an electric light shows up that far from the corner.

Q It is not the barber shop that enables you to make the identification, it is the electric light, is that it? A Both.

Q This electric light shines up from where? A From the southeast corner of Greenwich and 10th street.

Q Southeast corner? A Yes, sir.

Q Well, you claim here that you were in the park, and you were on the northwest corner? A Well, we were, yes ---we

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were at Hudson street, that light is at Greenwich.

Q Well, there is a light on Hudson? A Yes, sir.

Q Yet that did not reach you on the corner? A No, sir, because that is on the east side of the street.

Q That is across the street, is it? A Yes, sir.

Q About forty or sixty feet? A Both.

Q And it is eighty feet from Greenwich to where they were, and that light reached them? A No, I don't say it reached them. I said that light shines up at that side of the street.

Q It didnot shine up on the other side of the street at all?

A Yes, sir.

Q Well, now, of course, where you stood on the northwest corner, placing yourself there at the time these men were together, you could see Robinson's hands go into this man's pockets? A I could.

Q Was the man standing in the middle of the sidewalk or up against the building? A No, he was about three feet away from the building line, from the fence.

Q Was he facing 10th street or facing the lot? A He was facing Hudson street.

Q And you were facing Greenwich street? A Well, I was catercorner.

Q You were looking towards Greenwich street? A I was looking towards this occurrence.

Q Well, you were looking down towards Greenwich street, is

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that right? A I was looking right opposite where they were.

Q One man was on one side and another man on another, and another man in the centre, is that right? A Right.

Q And these three men had their backs to you? A They did.

Q And they were surrounding him, right around him, close up? A Yes.

Q And you could see from where you stood the man Robinson put his hand in the man's pocket? A I could.

Q Put it in his vest pocket? A I see him go into his trousers pocket.

Q You saw him go into his trousers pocket, did you? A Yes.

Q Go into the pocket? A yes.

Q Did these other men on the side of him step aside to give you a good look at his body? A They didn't need to.

Q You could see one anyhow? A I could see Robinson, with a full view of him.

Q Well, as I understand you now, this man, where he was standing was thoroughly lighted --- the place was thoroughly lighted and these men were standing in the light? A In the light shining from the barber shop.

MR. McCORMICK: People rest.

MR. SULLIVAN: I move to take the first count in this indictment away from the jury, on the ground that the

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evidence is wholly insufficient to justify a verdict on that ground.

Motion denied. Exception.

EUGENE MACK, one of the defendants herein, called in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

(The witness states that he resides at 88 Christopher street.)

(The Court now declares a recess for lunch, first duly admonishing the jury as usual.)

After Recess, Trial Resumed.

EUGENE MACK, resumes the stand, and testifies as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

Q What is your name?? A Eugene Mack.

Q Where do you live? A 88 Christopher street.

Q How long have you lived in this City? A All my life.

Q How old are you? A Twenty-seven.

Q What do you do for a living? A Drive a truck.

Q Now, you have heard the witnesses in this case testify to-day? A Yes, sir.

Q Do you remember the time of your arrest? A Yes, sir.

Q Will you state to the jury the circumstances immediately

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preceding and at the time of your arrest that night? A Well, I left the corner of Bleecker and 10th street at twelve o'clock, the place was just closing up, and I happened to meet Murphy and Robinson, because they were in there, and we got outside, and I asked them to go down and have something to eat, and we walked down through 10th street to Hudson, and we were to go into the restaurant there. We looked in and so we decided to go down further to West street, at 400 West street, to a restaurant. So we were going down through 10th street and Robinson happened to see a friend of his come up, so he started talking, and we kept on walking, and I walked down as far as the school on the next block between Greenwich and Washington streets, right in the centre of the block, and the officer come running down and Murphy and me stopped and turned around and he said we were under arrest.

Q Had you at that time taken hold of anybody? A No, sir.

Q Did you see anybody hold this old man? A No, sir.

Q Did you see anybody put their hands in his pockets?

A No, sir.

Q Did you see this defendant (indicating Robinson) put his hands in his pockets? A No, sir.

Q Did you see the defendant Murphy put his hands in his pockets? A No, sir --- he was with me.

Q He walked down the street with you, did he? A Yes, sir.

Q Well, now, who arrested you? A Officer Boyle.

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Q Is that the last officer on the stand? A Yes, sir.

Q You heard Officer Dalton swear that he arrested you?

A Yes, sir.

Q Is that true? A Yes, sir.

Q Now, when you were arrested who was with you? A Steve Murphy.

Q The defendant here? A Yes, sir.

Q And where were you at that time? A We were between Greenwich and Washington streets, on 10th street, in front of the public school.

Q Were you about the middle of the block? A Right about the middle.

Q Is there a school there? A Yes, sir. I was in front of the main gate.

Q When Officer Boyle arrested you what happened? A He walked us back to Greenwich street and then through Greenwich street, on the east side of Greenwich street to Charles street.

Q Didn't you go up to Hudson street with him? A No, sir.

Q Let us see, was there an officer in uniform at the intersection of Greenwich and 10th street? A There was one there afterwards, only walked alongside of us --- he didn't place his hand on us.

Q When you crossed Greenwich street, going west on 10th street toward West street, did you see that officer on the post there? A No, I didn't take notice.

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Q But when this other officer came running up to you on 10th street between Greenwich and Washington, did you see the officer then? A Yes, he was walking down.

Q Did he go to the police station with you? A No, I can't say he did.

Q Well, as a matter of fact was Murphy taken with you to Charles street? A Yes, sir.

Q Did you come back to Charles street and then go up Greenwich street to Charles? A We were back to Greenwich, and we walked on the east side of Greenwich street and walked up to Charles street.

Q Was the defendant Robinson there? A He was behind us.

Q Did he go up Greenwich street? A Yes, sir.

Q Did you go back to Hudson street after your arrest?
A No, sir.

Q When you came back to Greenwich and 10th street was Robinson under arrest at that time? A Yes, sir.

Q Who had him in custody? A Officer Dalton.

Q Well, you heard Officer Dalton swear here that he arrested you and Murphy? A Yes, sir.

Q Is that true? A No, sir.

Q You heard Officer Boyle swear that he arrested Robinson? A Yes, sir.

Q Is that true? A No, sir.

Q After you got to the police station that night, the

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three of you, did you see this complainant there that night at all? A No, sir, I didn't see him until the next morning in Court, in Jefferson Market.

Q Is there anything now that you can recall yourself that I have not asked you about that you want to state to the jury?

A No.

Q You left the saloon at Bleecker street and 10th street?

A Yes, sir.

Q And you went west? A Yes, sir.

Q To Hudson street? A Yes, sir.

Q You went to a restaurant and didn't go in? A Yes, sir.

Q Then you started for another place on West street? A Yes, sir.

Q Is there a restaurant around on West street that is well known among the drivers? A Yes, sir, 400 West street.

Q Is that a place where drivers and teamsters particularly go? A Yes, sir, every day.

Q Open all night? A Yes, sir.

Q Were you bound for that place? A Yes, sir.

CROSS EXAMINATION BY MR. McCORMICK:

Q By whom were you employed on the day that you were arrested? A I was not working that day.

Q When was the last day that you did work before the day that you were arrested? A Thursday.

Q For whom did you work that day? A A man by the name

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of Shannon, on the Norwich Line, I was working for him three days that week extra.

Q How do you spell his name? A William Shannon, Pier 40, North River.

Q You say you worked for him three days? A Yes, sir.

Q Before that for whom did you work? A Crawford Transfer.

Q How long did you work for that concern? A About five or six months.

Q How much were you paid a week? A Fourteen dollars.

Q When was it that you left there? A I left there right after when the cold weather started in, when things began to get slack, and then I was working extra right along for different people.

Q When was that, last fall, do you mean? A No, it was around March. I was only working an extra day on and a day off then.

Q Since March had you had any regular job? A No, only extra jobs --- there was no steady employment around.

Q How many different men have you worked for since March?

A I was generally working for Crawford three or four days a week.

Q You worked for different people, did you? A Yes, sir.

Q During that time? A Yes, sir.

Q How long have you known Robinson? A It must be about a year.

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Q How long have you known Murphy? A Not so very long--- three or four months.

Q Well, now, the night that you were arrested, you three men walked west on 10th street, didn't you, -- a little after twelve o'clock? A Yes, sir.

Q When you got down to Hudson street, you looked into a restaurant? A Yes, sir.

Q Then you walked over to the southwest corner of Hudson and 10th street, didn't you? A Yes, sir.

Q And you walked west on 10th street towards Greenwich, and when you got about half way down the street towards Greenwich you were arrested? A No, sir, I was arrested between Greenwich and Washington, right in the centre of the block.

Q And as you walked down 10th street towards the North River, did you pass the complaining witness? A I don't know whether he was the complaining witness, but I seen Robinson stop and talk to a man there, and we kept on walking right along.

BY THE COURT:

Q You saw Robinson talking to him? A He said "Here is a friend of mine."

Q Did you notice the appearance of the man? A No, I did not, I couldn't tell you.

BY MR. McCORMICK:

Q What were you doing in front of the restaurant on

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Hudson street? A Just talking over whether we would go in there or not. We said we would go down to 400 West street and get a better meal down there.

Q Did you intend in the beginning to go to that restaurant on Hudson street? A No, we just thought we would see what he had there to eat.

Q What were you people going to buy your food with? A With the money --- I had money.

Q Isn't it true that when you three men were searched not a cent was found on one of you? A Why; I showed my money myself to Officer Boyle in Greenwich street, and he says to me "If you don't shut up, I will punch you in the jaw."

Q Didn't they search you at the station house? A No, they did not, they didn't search me.

Q Do you mean to say that you three prisoners were not searched at all? A I was not searched.

Q Never? A No, sir.

Q Don't you know that it is a custom of the police department to search a prisoner? A So I hear.

Q Don't they always search a defendant in the station house? A So I hear.

Q Didn't they search you? A They did not. If they did they would have found forty cents in my pocket.

Q Did they search Robinson? A I don't know.

Q You were there? A I know I was there.

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Q Did you see them search Murphy? A No, sir, I didn't see anything. I know they didn't search me.

Q You say you had forty cents? A Yes.

Q How much money did Robinson have? A I don't know.

Q How much did Murphy have? A He had some change; I don't know what it was.

Q What were you going to do at this restaurant? A You can get a regular dinner down there for fifteen cents.

Q In the Hudson street restaurant? A No, in West street.

Q You said you stopped in front of the Hudson street restaurant to see if there was anything to eat? A Yes.

Q How could you tell unless you went in? A They have signs there.

Q How many people were inside of that restaurant at the time? A Nobody in there eating, only the proprietor.

Q Do you know what business Robinson is in? A He is a teamster.

Q How long has he been in that business? A I couldn't tell you. I only know him for about a year.

Q Did you never know him under the name of James Wilson?

Objected to. Objection sustained.

THE COURT: Do not pursue that line of inquiry; it is clearly in violation of the law.

Q Do you know what business Murphy is in? A The last time I seen Murphy he was helping on a truck. I seen him

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going along I believe on a barrel wagon.

Q Have you ever been convicted of a crime? A No, sir.

Q Do you see these men every night? A No, sir.

Q When was the last night before the night that you were arrested that you were with them? A Well, I didn't see Murphy for about a month, and Robinson I didn't see for over two weeks.

Q Where was this saloon you were in with these two men the night you were arrested? A At Bleecker and 10th streets.

Q How long were you in there? A An hour or so, or an hour and a half.

Q Had you been with them before you went in there? A No, we met on the way out.

Q Were you with them all the time you were in there?
A No, I wasn't with them at all inside. We came outside.

Q You met them after you got outside of the saloon? Did you meet them on the corner outside of the saloon? A Outside of the saloon as they closed up.

Q What conversation took place between you three men there? A Well, the first thing, one said they were hungry. I said, "I have got a few cents, we will go down and have something to eat."

Q And you were not searched in the police station?

A No, sir.

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P A T R I C K D O Y L E, called as a witness in behalf of the defendant Mack, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

(The Witness states that he resides at 62 Horatio Street.)

Q What is your business? A Ship rigger.

Q How long have you lived in this City? A About twenty three years.

Q Have you been pursuing the vocation of a ship rigger during that time? A All that time.

Q Where have you been employed? A White Star Company.

Q For how long? A Around ten years.

Q And before that where? A Atlantic Transport.

Q How long were you there? A Seven or eight years, and on the National, the head of that.

Q Is the defendant Mack your nephew? A My nephew.

Q Have you been living in this City continuously for the last twenty or twenty-five years? A Yes, sir.

Q Have you seen him all that time? A All that time.

Q Have you known other people in this community who know him? A Yes, sir.

Q Up until his mother died five or six years ago? A Two years ago.

Q Was he living at home? A He was living at home.

Q And his sister? A And his sister and me.

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Q And yourself -- this was your home? A My home, and his home.

Q And since that time where has he been living? A He has been withme for about eighteen months after that.

Q And since?

MR. McCORMICK: I object to this.

MR. SULLIVAN: I only want to show that he knows him.

THE COURT: I will admit that.

Q Do you know what his reputation is among those people who know him, for honesty --- do you know it? A I do.

Q Is his reputation good or bad? A Good.

(No cross examination.)

W I L L I A M R O B I N S O N, one of the defendants herein, called in his own behalf, being first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

(The Witness states that he resides at 84 Horatio street.)

Q How old are you? A Thirty seven.

Q What is your vocation? A Truck driver.

Q How long have you been pursuing that? A In all about fourteen years.

Q And were you employed at the time of your arrest?

A Yes, that day, the first, the fore part of the day I was.

Q For whom were you working then? A Well, I was working

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for H. L. Converse, doing some loading. I had left the other job I was at, driving for a man named Donovan.

Q During the last eight years, have you been employed?

A Yes, for Simon Donovan, H. L. Converse, and the Hudson River Railroad.

Q Are you a married man? A Yes, sir.

Q How many children have you? A Five.

Objected to. Objection overruled.

Q Where do you live? A 84 Horatio street.

Q Were you living there at the time of your arrest? A Yes, sir.

Q Is that up near the neighborhood where you were arrested? A Four blocks away.

Q Will you state to this jury the circumstances that surrounded your arrest, just before and at the time you were arrested? In your own way state it? A We were in a saloon on the corner of 10th street and Bleecker --- a place they call Moriarty's --- and when they closed up we all walked outside on the corner and stood there talking, and one of the fellers --- I don't know which one --- suggested we have something to eat, and we went over to 10th street, to Hudson, and we were going in a place there and changed our minds --- we wanted to go where I was always eating when I was working, over at 400 West street --- Beefsteak John's, an eating restaurant. We went over here to go to this restaurant over in 10th

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street and we crossed over from the restaurant we were standing in front of, and I go down --- well, there is a corner saloon where the meeting room of the truck drivers used to keep, and next door is a barber's, and right next door to this barber's Mr. Dalton run over and said, "What are you going to do? Stick that man up?" I said, "No, I would rather give to him than take from him. I know him, I know him well."

Q What occurred? A This old gentleman, I know where he worked and everything. Well, he hit me a slap in the face and he said, "Oh, that will do", and he turned to the other two, and he says, "Come on down and get them other fellers". I took this old feller and said "Hello, John", and put one arm on his shoulder, and the other one I had --- I took it in my hand and shook hands with him which we done in the saloon where he worked at regular, because he was a comical old feller. That is all there was to it.

Q He says that he is a cleaner in a saloon in Weehawkin and 10th streets? A Yes, sir.

Q Is that near West street? A Well, it is --- I don't know whether you would call it a block or not --- it is a little bit of a block --- I will say it is thirty feet --- that block. It runs from West street to Weehawkin.

Q Well, there is a saloon on the corner of Weehawkin and 10th street? A Yes, sir.

Q This man is a cleaner there? A Yes, sir.

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Q And you go often to 400 West street, to the restaurant?

A Yes, sir. That is right around the corner. Nothing frequented, only longshoremen and drivers.

Q They make a special dinner for them? A Yes, sir.

Q And it is open day and night? A Yes, sir.

Q And when you are there you frequently come around to this Weehawkin street saloon? A Yes, sir.

Q And you know this old man, do you? A Yes, sir.

BY THE COURT:

Q How long have you known the complainant? A Why, about four months.

Q Did you put your hands into his pockets? A So help my God, no.

Q Did any of the defendants do so? A No, sir, - they didn't stand there. It was me that was standing there fooling with him. I had him by the hand, asked him how he was getting along, and that's all there was to it, and this man didn't give me any more time, but ran over.

Q Speak louder? A I took this fellow by the hand, you know, fooling, and put my hand on his shoulder, and said, "Hello, John, how is things?" He said, "Oh, let go." He said, "Stop that, now, get out of there.", and he was really drunk, and that is what made me fool with him more than anything else, because we used to do it down in the gin mill that he worked in.

BY MR. SULLIVAN:

Q Did you put your hands in any of his pockets? A No, sir.

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BY THE COURT:

Q Did you touch his pockets? A No, sir, your Honor, I did not.

BY MR. SULLIVAN:

Q Did you see anyboby put their hands up to his throat?

A Oh, no, no, sir.

Q Did you leave him before you were arrested, do you know? A No, he was just starting, just going to start after my two friends, when Officer Dalton ran over and asked me what was I going to do, was I going to stick the man up. And the old fellow was going right about his business then, walked right away, when they went around and got him.

Q Was Officer Boyle speaking to the old man there when you were there? Did you see him speak to this old man -- Officer Boyle, at that time? A I don't remember.

Q You say that you were arrested by Officer Dalton?

A Dalton is the gentleman that arrested me.

Q That is the first police officer that was a witness in this case? A He is the gentleman.

Q Well, he swore that he arrested Murphy and Mack -- did you hear him say that? A Yes, I heard him.

Q And he swore that Boyle arrested you. Now, do you know who arrested you? A I am positively sure who arrested me--- that was Mr. Dalton.

Q Well, what did Dalton do with you when he arrested you?

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A Struck me in the mouth and asked me was I going to stick that man up.

Q Then you were there at the place where you had spoken to the old man? A I was right in front of the barber shop.

Q After he arrested you what did he do with you then?

A He held me there and told the other fellow to go down and get the other two.

Q Did you see the old man that night again, the complainant? A I didn't see him that night, no, sir.

Q Did you see the officer go around the corner after him?

A No, sir.

Q Did you see him in the station house? A No, sir.

MR. McCORMICK: I object to all these leading questions.

THE COURT: He has answered them.

Q When you were arraigned before the Sergeant in the police station that night, did you see the complainant in this case? A No, sir, I did not.

Q When was it you first saw him after he left you there on the street? A Sitting on a bench in the back of Jefferson Market where the prisoners wait to be brought out before the Judge.

CROSS EXAMINATION BY MR. McCORMICK:

Q On November 25th, 1895, were you convicted of burglary?

A Yes, sir.

Q And you were sent to Sing Sing for two years and four

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months? A Yes, sir.

Q Was that under the name of James Wilson? A Yes, sir.

Q On June 9th, 1899, were you convicted of grand larceny?

A I don't know the dates, but I was.

Q And were you sent to Sing Sing for a term of two years and four months? A Yes, sir.

Q By Judge McMahon? A Yes, sir.

Q And was that all under the name of William Ply? A Yes.

Q Did you give the name of John Sullivan on August the 2nd, 1908, in court? A Yes, but that was an innocent affair.

Q What is your right name? A William Robinson.

Q Have you been convicted any other times? A No, sir.

Q Are you sure of that? A I am sure. I have been trying to live this all down, District Attorney. I have been working pretty hard for eight years now, and I have got responsible men who can go security for me and who will vouch for my good behavior.

Q When you three men were taken to the station house right after you were arrested, were you searched or not? A Well, all they done was feel the clothes on the outside, just felt down like that, down the clothes.

Q How much did you have in your pocket at the time you were arrested, if anything? A I had one twenty-five cent piece in my back pocket here. I spent it in Jefferson Market.

Q You had spent other evenings with these two men here,

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hadn't you? A I never been in this other feller's company; only in the saloon I used to meet them occasionally.

Q You used to be in that saloon almost every night? A On the way from work I used to stop there quite regular.

Q And you used to meet these two men there? A Well, I seen them there, yes, sir.

Q Didn't you leave that saloon to go down and look that restaurant over, to see if you could hold it up? A No, sir.

MR. SULLIVAN: I object to that as unfair.

Q You went down there to get something to eat? A Yes, sir.

Q Did these other men say anything about how much money they had? A I really didn't know -- it was only talking about something to eat.

Q Who was going to buy it -- who invited the crowd? A We really depended upon this Mack, I think it was him that suggested it --- we really depended on him to pay for it. It is only a cheap restaurant -- I could have bought it.

Q When you met the complainant on 10th street, or shortly after you met him, didn't he cry out to the effect that he had no money, and to let him alone? A There was nothing about money but he did say "Let me alone", and he was staggering.

Q What were you doing to him when he said that? A I had his hand, squeezing his hand; I had my other hand on the shoulder, asking him how he was.

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M A R Y R O B I N S O N, called as a witness in behalf
of Defendant Robinson, being first duly sworn, tes-
tifies as follows:

DIRECT EXAMINATION BY MR. SULLIVAN:

(The witness states that she resides at 84 Horatio Street.)

Q Are you the wife of the defendant Robinson? A Yes, sir.

Q How long have you been married? A Seventeen years.

Q How many children have you? A Five.

Q Is one of them in court with you now? A Yes, sir.

Q During the last eight or nine years, since his last
conviction, he has been living at home with you? A Yes, sir.

Q And has been working? A Yes, sir.

BY THE COURT:

Q Were you married to this defendant when he was first
convicted, or after? A Before.

BY MR. SULLIVAN:

Q Were you married to him before he was first convicted?

A No, after.

BY THE COURT:

Q What year did you marry the defendant? A I think it
was 1895.

Q Do you remember the month? A June 17th.

Q What was the date of the defendant's conviction?

A Well, that I really couldn't tell you.

Q Are you sure you married him in June? A Yes, sir.

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BY MR. SULLIVAN:

Q Well, during the last eight or nine years, since his last trouble, have you and he been living together? A Yes, sir.

Q And do you know during that time other people who know him --- have you known other people during that time who know him? A No.

Q Have you lived in the same neighborhood? A No, sir.

Q How long have you been living down where you are residing now? A I will be living there going on a year, about nine months; before that I lived in 14 Horatio street.

Q That is on the west side too? A Yes, sir.

Q Don't you know people who know him, who have known him for the last eight or nine years, in the neighborhood? A Yes, sir.

Q People he worked with and saw him around? A Yes.

Q Do you know what his general reputation has been for the last eight or nine years among those who knew him for honesty? A Yes, sir.

Q Is that reputation good or bad? A Good.

CROSS EXAMINATION BY MR. McCORMICK:

Q You spoke a few minutes ago of the last time he was in trouble; by that do you mean August 2nd, 1908? A I don't understand you.

Q You spoke of the last time he was in trouble. I want to know whether you meant 1893 -- about four years ago? A I

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didn't speak about anything, about being in trouble.

Q Or 1908, I mean.

MR. SULLIVAN: Objected to, unless it is a conviction.

MR. McCORMICK: She spoke of his last trouble. I want to know what time she means his last trouble was.

THE COURT: Objection sustained.

MR. McCORMICK: Question withdrawn.

THE COURT: I will allow you to prove a conviction, if any, during that period.

MR. SULLIVAN: Defendants rest.

J A M E S D A L T O N, recalled by the People in rebuttal, testifies as follows:

DIRECT EXAMINATION BY MR. McCORMICK:

Q Were any of these defendants searched after they were arrested? A

Objected to as immaterial. Objection overruled.

A The three defendants were searched in front of the desk at the police station, yes, sir.

Q Did you search any of them? A I searched two of them, yes, sir.

Q Which two? A Mack and Murphy.

Q Tell how you searched them? A I went into each of their pockets.

Q And did you feel in every pocket of each man? A No, sir,

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I didn't feel at all --- I put my hand in each pocket.

Q Did you find any money on either of them? A No, sir; Mack had a penknife, and white handled penknife, and Murphy had a harmonica.

EDWARD S. BOYLE, recalled by the People, in rebuttal, testifies as follows:

DIRECT EXAMINATION BY MR. MCCORMICK:

Q After these defendants were arrested and you took them to the station house were they searched? A They were.

Q Who searched them? A Officer Dalton searched Murphy and Mack, and I searched Robinson.

Q You say you searched Robinson? A I did.

Q Tell us what you mean by searching him? A I put my hands in every one of his pockets and found nothing on him. No money of any kind.

Q Did you find anything? A No, sir.

Q The pockets all empty? A yes, sir --- a handkerchief, or something like that.

CROSS EXAMINATION BY MR. SULLIVAN:

Q What kind of trousers did he have on? A A dark colored trousers.

Q Where were the pockets? A Two pockets on the side here, two back pockets and a small pocket.

Q He had pockets in the trousers, did he? A He did.

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Q And they were perfectly sound? A The pockets were
sound?

Q Yes. A Yes.

MR. McCORMICK: People rest.

MR. SULLIVAN: Defense rests.

THE COURT: Go to the jury.

Counsel now close to the jury.

The Court now charges the jury.

The jury now retires to deliberate upon a verdict,
and upon its return renders a verdict of guilty of
attempted grand larceny in the first degree.

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