

START

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I n d e x

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	Direct	Cross	Redirect	Recro.
Harry Lieberman	1	6	19	19
Bernard P. Allen	19	23	36	—
Joseph F. McCormick	38	39	—	—
Max Gewirtz	39	40	—	—
Edward A. Fall	41	42	—	—
Joseph Levy	47	55	62	—

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COURT OF GENERAL SESSIONS OF THE PEACE
IN AND FOR THE COUNTY OF NEW YORK
PART THREE.

-----X
THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e:
-against- : HON. JOHN F. McINTYRE, J.,
J O S E P H L E V Y, indicted : And a Jury.
with Hyman Rosenbluth.
:
-----X

New York, Friday, December 12, 1919.

THE DEFENDANT IS INDICTED FOR BURGLARY IN THE THIRD
DEGREE, GRAND LARCENY IN THE FIRST DEGREE AND RECEIVING
IN THE FIRST DEGREE.

INDICTMENT FILED NOVEMBER 18, 1919.

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

THOMAS I. SHERIDAN, Esq., Assistant District Attorney,
For the People.

RUDOLPH STAND, Esq.,
For the Defendant.

(A jury is duly impaneled and sworn)

T H E P E O P L E ' S C A S E

(Mr. Sheridan opened the case to the jury on behalf of
the People.)

H A R R Y L I E B E R M A N, called as a witness on
behalf of the People, being first duly sworn, testified
as follows:

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DIRECT EXAMINATION BY MR. SHERIDAN:

Q Where do you live? A 57 Second Avenue.

Q Mr. Lieberman, on the 8th day of November, 1919, what was your occupation? A Night watchman.

Q And where were you employed? A Supreme Protective System Company, Inc.

Q And where was your patrol? A Houston to Seventh Street, on Avenue -

Q Did you see the defendant on the 8th day of November, 1919? A I did.

Q About what time? A About 4 a.m.

Q Kindly tell the Court and jury what you observed the defendant doing and what conversation you had with him, if any?

A About 4 a.m. I went in the hallway of 24 Avenue B to punch a clock in the rearyard. I went over the fence to No. 200 East Second Street to punch another clock.

MR. STAND: That is objected to, and I move to strike it out. It is not in anyway connected with this defendant.

THE COURT: I will allow it.

MR. STAND: Exception.

Q When you came out of 200 Second Street -- A When I came out of 200 East Second Street I noticed the defendant, Joe Levy, standing at premises 196 East Second Street.

Q Had you known this man before that day? A No, sir.

Q Did you know his name? A No, sir; I learned it at the

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police station.

Q You saw this man in front of 190. What did you see him doing? A I noticed him standing at 190 East Second Street, and I walked back into the hallway, looked down the street again for a few minutes, I walked out and walked over towards the defendant, Joe Levy, and asked him did he live in the house. He says, "No." I asked him what he was doing there at that hour of the morning. He said, "It is none of your God damned business." He said, "Who are you?" I told him I was a night watchman. "Well, he says, "I will tell you; "There is two cunts in the corner restaurant, at Avenue B and Second Street, waiting for with another friend of mine, waiting to come out and take them in this hallway so as to get a piece of hump."

Q That was the language used by the defendant? A By the defendant, Joe Levy. I says to him, "Listen," I says, "if you pull a job off on me I will break your skull." He says, "No, I won't do anything of the sort." With that I walked away. As I walked away I noticed another fellow come over to the defendant, Joe Levy, and hand him something, which I picked up later on and found it to be two bags.

Q What kind of bags were they? A Burlap.

Q Were they small, or big, bags? A They were large, regular sized bags.

Q Now, when you walked away from Levy, after you had this conversation, how far did you walk? A Oh, about ten feet.

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Q Ten feet. Did he remain there, or did he walk on?

A He remained until the other fellow come over and handed him the two bags.

Q Did you see the man who gave him the bags after that night? A No, sir, I did not.

Q And what did he do after he got the bags? A He threw them at the door of 190.

Q Threw them at what door? A Of a store.

Q And what is the number? A 190 East Second Street.

Q What did you see him do after that? A Walked towards Avenue B.

Q Walked away from the store? A Away from the store, with this other fellow.

Q This unknown man? A The unknown man, to Avenue B. I stayed in the hallway. After that I walked across the street to 189 East Second Street, stood in the hallway a while, and I seen a Fourteenth Street car going west -- coming from Avenue B, going west to Avenue A.

Q In other words, the Fourteenth Street car is the car that turns around Clinton Street? A Second Street. I noticed the defendant was along with the other fellow in the car. I stood there a while, about ten minutes or so, and he come back. I noticed him at the corner of Avenue B. and Second Street again. When I walked to premises 190 East Second Street, and seen the showcase empty.

Q You saw the showcase in that store empty? A In that

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store, empty. I seen this defendant, Joe Levy, I was just going over to grab him, when I seen Officer Allen just turning the corner; I hollered to the officer to grab him. As I turned to grab him, the defendant, Joe Levy, started running towards Houston Street. I fired a shot in the air to attract another policeman's attention. The defendant, Joe Levy, ran in the premises of 297 Houston Street. Officer Allen went in first, and I went in after him. Officer Allen told me to go to the front --

MR. STAND: That is objected to.

Q Well, you went into that house, and what did you do?

A I went up the stairway, Officer Allen went in the rear house.

Q There is a rear tenement house there? A A rear tenement house.

Q And you covered one? A And Officer Allen covered the other .

Q Which one did he cover - the outside one? A The outside one, and --

Q And Allen went inside to the rear house? A Yes, sir.

Q A few minutes later, what happened? A A few minutes later I heard Officer Allen holler, "I got him, Harry."

Q And did you see Officer Allen come out of the building with the defendant? A With the defendant, Joe Levy.

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

MR. SHERIDAN: You may examine.

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CROSS-EXAMINATION BY MR. STAND:

Q How long do you know Officer Allen? A A number of years.

Q You know him very intimately, don't you? A I do.

Q What is your present business? A Night watchman.

Q Still employed by the Supreme Protective System?

A I am.

Q Are you an employe there? A An employe.

Q Or do you conduct the business yourself? A An employe.

Q How many other employes are there? A Three more.

Q How long have you been a night watchman? A For the last three years.

Q Have you ever been a member of the Police Department of this city? A I was not.

Q Have you ever made application to become a member of the police force? A I did not.

Q Have you ever done detective work in your life? A I did not.

Q Have you testified in court before? A I did not.

Q This is your first appearance in court as a witness?

A Yes, sir.

Q Now, when you stopped the defendant, Joseph Levy, on Second Street, you told him that you were a night watchman, is that right? A I did.

Q And you told him that you were there to protect property?

A I did.

Q Did you take a gun out at that time while you were ques-

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tioning him? A I moved it towards the front.

Q What is that? A I didn't take it out, but I moved it towards the front of my belt; I had it in the rear of my belt.

Q You made a gesture as though you were reaching for your revolver, is that it, while you were questioning him? A I did.

Q And the defendant took a certain letter out of his pocket to show you who he was, didn't he? A He did not.

I asked him to show me who he was.

Q Did he at any time show you a letter addressed to himself? A He did.

Q And that was before he was placed under arrest? A That was before he was placed under arrest.

Q And you saw an envelope addressed to Joseph Levy bearing some address in this city, is that right? A I did.

Q And after you finished questioning this defendant you walked away, as I understood you to say, about ten feet? A I did.

Q In answer to Mr. Sheridan's questions, you said that you knew his name first going to the police station. Did you say that? A I did know when I looked at the letter.

Q Then, you knew his name before he was placed under arrest? A Well, I wasn't sure whether it was his right name. When we got down to the station house I found out his correct name that he gave at the police station; I was sure that it was Joseph Levy.

Q You told this defendant, Joseph Levy, that night, after you had seen his name and address on an envelope, if he attempt-

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ed to pull off any job that you would crack his skull; did you tell him that? A I did.

Q And all this time you had your hand on your hip pocket, feeling your revolver, didn't you? A I did not.

Q Did you ever pull that revolver out and put it up against the body of this defendant? A I did not.

Q Are you sure about that? A Positively.

Q In any event, you saw an envelope bearing the name of this defendant, which you know now to be his correct name? A I did.

Q You walked away about ten feet? A I did.

Q On the same side of the street? A On the same side of the street.

Q Just indicating in this courtroom how far away you were from this defendant when you claim an another unknown man approached this defendant? A About ten feet.

Q Just indicate your estimate of ten feet by pointing out two different objects in this courtroom? A Well, from here to where that coat is on that railing, the last railing (indicating).

Q From where you are sitting to this last rail (indicating)? A Yes, sir.

Q That is your estimate of ten feet? A Yes, sir.

Q And you were on the same side of the street? A Yes, sir.

Q The street was fairly well lighted, was it not? A (No answer.)

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Q Is there an arc light nearby? A I don't remember.

Q You patrol that section everr night, do you not? A I do. There is nights that light is out.

Q It is a light maintained by the City, is it not? A It is.

Q Doesn't that light burn all night? A Sometimes.

Q Was it burning that night? A I don't remember.

Q Where did this unknown man come from whom you claim you saw approach this defendant? A From Avenue B, going west.

Q In other words, coming towards you? A Yes, sir.

Q You saw him with two bags in his hands, did you not?

A After I picked it up I found it was two bags.

Q Where did you pick it up? A At premises 190 East Second Street.

Q When you picked up those bags neither the defendant, Joseph Levy, nor this unknown man were present; is that right?

A I did.

Q Then, you don't know, as a matter of ^{actual} fact, whether the stuff that was handed by this defendant to this unknown man was the property that you found in this hallway, do you? A I do.

Q You assume that? A I seen him throw it.

Q Do you know what he threw? A I picked it up and found it was two bags.

Q Did you pick it up at the very moment that it was cast in the hallway? A As soon as they moved, I picked it up.

Q From where you were standing, were you able to make

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out the object that was being thrown into the hallway? A I did.

Q Did you know, at that time that they were bags? A I knew it looked like a rag, but I didn't know what it was until I picked it up, and when I picked it up I seen it was bags.

Q Now, when that act was - withdrawn. When these rags or bags were being cast in the hallway, you were within plain view of this defendant, were you not? A I was.

Q And this defendant was facing you, was he not? A He was.

Q And that was after you told him that you were a night watchman? A Yes, sir.

Q Now, what happened to this unknown man? A He disappeared.

Q Did he go into the building? A He did not.

Q Did you at anytime see this defendant in premises 190 Second Street? A I did.

Q Inside the premises? A At the door of 190 East Second Street.

Q Did you ever see him inside the door? A I am saying, at the door.

Q Did you ever see him have his hand on the knob of the door? A No, he had his shoulder up against the door.

Q You told what you know about this case in the Magistrates' Court at the time the complaint was being drawn; is that correct? A I did.

Q Did you hear the complaint read charging this defendant with the crime of burglary? A I did.

Q When this ~~case~~ complaint was read to you, did you notice

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whether or not it contained any reference to this defendant having handed two articles which you later found out to be bags to an unknown man? A I don't remember.

Q Do you know, as a matter of fact, that the only statement against this defendant in this complaint was that he was standing in front of the premises and started to run when he was being pursued by a police officer and yourself? A Well, I don't know whether he made that complaint, or not, but he started as I said before -

Q Did you state to the complaint clerk, at the time that the complaint was being drawn, that you saw two articles handed by this defendant to an unknown man? A I did tell the clerk. Whether he put it down, or not, I don't remember.

Q Do you recall this complaint having been read to you?
A I don't remember.

Q Do you recall swearing to the complaint? A I recall swearing to the complaint.

Q Do you recall whether or not you made any statement with reference to two bags in the presence of Officer Allen in that complaint room in the Magistrates' Court? A I did whisper to Officer Allen.

Q You whispered it to him? A I did.

Q Did you whisper your information to Allen who in turn whispered it to the clerk, or did you give your information directly to the clerk and in the hearing of Allen? A I don't remember.

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Q Now, this person that threw the bags into this hallway, as claimed by you, did you notice which way he ran? A Towards Avenue B, going east.

Q From the very spot where Officer Allen was on post, or along the street that he was walking on; is that right? A Which defendant do you mean? Joe Levy?

Q No, I mean the unknown man that threw the bags in the hallway, as you claim? A Well, he walked towards east; I don't know where he disappeared to.

Q Where were you standing at that time? A At that time I was standing, as I said before, about ten feet from 190 East Second Street.

Q After you saw this performance accomplished, did you remain on the same side of the premises that had been burglarized, or did you go to the opposite side of the street? A When they got to the corner I went to the opposite side of the street, No. 189 East Second Street.

Q That was directly opposite the premises that had been burglarized? A Directly opposite, yes, sir.

Q And about how many houses away from the corner is that house? A About six houses.

Q Now, you remained covering the premises 190 under observation; is that right? A I did.

Q Did you also cover the movements of the defendant Levy at that time? A I did.

Q Did you also cover the movements of the unknown man?

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A I didn't see the other unknown man after that.

Q You saw you saw him walking towards Avenue B?

A Yes, sir, I seen them walking towards Avenue B.

Q Wasn't your suspicions aroused as a night watchman to see a man throw two articles into a hallway at four o'clock in the morning? A Yes, but it is my business to see what they are up to. I can't do anything unless I get them with the goods.

Q So, the man that you saw cast the articles into the hallway, you didn't pay any attention to him then, did you?

A I did.

Q Where did he go to? A As I said before.

Q Avenue B and where? A I don't know where. He walked towards Second Avenue and Avenue B -- going towards Avenue B. on Second Street.

Q He walked that way? A Going east.

Q Was he walking together with the defendant? A He was.

Q Side by side? A Side by side.

Q Where did they separate? A I don't know. The next time I seen them coming on the street on a Fourteenth Street car going west towards Avenue A going to Avenue B.

Q On the car? A On the car.

Q Were they both together in the car? A They were together.

Q And did you board the car? A I did not.

Q Where did the car come to a stop? A The car was going very slow, which it always does, on account of Steckler's bakery wagons are backed up, loading up with rolls.

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Q How long did they remain on the car together? A Well, I couldn't say. They went towards Avenue A, and it was only a few minutes that I seen this defendant, Joe Levy, back on the corner, going towards the premises 190 again.

Q And do you know whether or not the other man remained on the car? A I do not.

Q You don't know what happened to him at all? A No, sir.

Q Did you talk to the defendant again when he approached 190 Second Street? A I did not. He didn't approach 190. He was going towards 190.

Q As he was going towards 190, did you at any time thereafter see the other unknown man? A I did not.

Q Didn't I understand you to say that the unknown man ran towards Avenue B and Second Street? A I didn't say he ran. He went towards Avenue B with this defendant, Joe Levy.

Q Did this defendant at any time run towards Avenue B?

A At first, when I see him, when I had the conversation with the defendant, Joe Levy, they walked; that was after I had the conversation and he walked; but the second time when I noticed them coming back, and I was going to grab him, and I seen Officer Allen just turning the corner, when I hollered, "grab him," he ran towards Houston Street.

Q I know that, but before that had occurred, I understood you to testify that the defendant walked towards Avenue B and boarded a car, or attempted to board a car. Did he walk or run, towards the car? A He walked.

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Q Now, when this defendant got off the car, at Avenue A, where were you standing? A At 190 -- 189 East Second Street.

Q The distance from 190 Second Street and Avenue A is quite a large number of feet, is it not? A It is.

Q And you didn't follow up the car at all, even though it was going very slowly along the street? A I noticed it going slowly, but I didn't follow it.

Q At that time you saw absolutely nothing to arouse your suspicion except the fact that this man had been found on the street at that hour of the morning? A At that hour of the morning, as I said before.

Q And the fact that certain articles which you say were bags didn't in any way arouse your suspicion, either, did it? A It did, after they left.

Q If that aroused your suspicion, and you saw this defendant and the unknown man go to Avenue B and toward the car, why didn't you pursue the defendant at that time and at that place? A Well, I didn't have him right first off.

Q Oh, you were waiting to have him right? A I did.

Q And that was even though you saw these bags being cast into a hallway? A I did.

Q Did you at that time know that the premises were being burglarized? A After they --

Q At that time? A No, not at that time. After they boarded the car, I did.

Q After they boarded the car you remained ~~xxxxxx~~ opposite

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the premises in question, did you not? A I says I took a look into the premises 190, and I seen the showcase empty. Then I walked back to --

Q Didn't you remain standing in front of premises 189 Second Street? A I stood there after I took a look at this door.

Q Now, at what point was the street car, the surface car, at the time that you approached premises 190 Second Street? A Going towards Avenue A.

Q When you discovered that a showcase had been tampered with what did you do? Did you walk across the street? A I did.

Q In other words, there were suspicious facts there, if you are telling the truth, namely, the casting of two bags into the premises, your later seeing the showcase tampered with, your knowledge of the fact that there were two men on board a surface car, and, instead of pursuing the surface car, which you say went slowly, you walked opposite to premises 189 Second Street, waiting there; is that your testimony? A No, I says I was waiting at 189 East Second Street, in the hallway.

Q But you told us a minute ago that you walked to premises 190 Second Street, inspected the showcase, saw that it had been tampered with -- A I didn't say that. I looked at the showcase.

Q And you saw something wrong with the showcase?

A Yes, sir.

Q And at that time the car on which you claim the defendant was, was proceeding slowly up the street? A Towards Avenue A.

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Q After these circumstances had been called to your attention, instead of pursuing the car, you continued your watch opposite the building? A Yes, sir, the car was too far away for me to go after it.

Q What is that? A The car was too far for me to get him.

Q But at that time you had them right in your mind, did you not? A I did.

Q Did you take your gun out? A I did not.

Q These man came slowly walking back towards you? A I didn't say "these men." I said I seen the defendant, Joe Levy, coming back Avenue B, coming back to Second Street.

Q Did you approach him? A I was going to approach him when I seen Officer Allen turning the corner, and I hollered, "Grab him."

Q You were able to handle this man yourself, were you not? A I was.

Q You told him you would crack his skull if he pulled a job off on that street? A I said so.

Q You were not afraid of this little boy? A I was not.

Q And at that time, when you saw him walk back to the premises that in your mind had bee burglarized, by reason of your observations, you didn't personally grab hold of this fellow, did you? A I did not; I was too far away.

Q You were waiting for your friend Allen, whom you had known for seven years, to help you out? A I was not waiting for my friend Allen.

Q You knew he was on post? A I did.

Q You meet him there every night on pursuit of your duties? A I do.

Q When this defendant took out an envelope and showed you the name of Joseph Levy, did you make any note of it in your mind, or in writing? A I made a note of it in my mind.

Q You made a note of the address in your mind? A I did.

Q Did you search, attempt to search the defendant? A I did.

Q At the time that he showed you the -- A The letter.

Q And you let him go? A I did.

Q Do you know what address appeared upon the envelope? A I do.

Q What address? A Joe Levy, c/o of the Eagle Barber Shop, 10 or 18 Attorney Street.

Q Was there any other envelope in his pocket? A Not that I can remember.

Q Was there any envelope in his pocket that was postmarked from Washington, addressed to this defendant? A I don't remember.

Q Will you swear positively that this defendant did not show you a letter bearing his name and a New York address that had been sent postmarked Washington? A I don't remember.

Q You won't deny it? A No.

Q Will you deny that he showed you such a letter? A No, I won't deny it.

MR. SAND: That is all.

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REDIRECT EXAMINATION BY MR. SHERIDAN:

Q When Officer Allen brought back the defendant, Levy, did you remain with Levy and Officer Allen? A I did.

Q And then the three of you went to 190 Second Street, and after a short period of time you arrested Hyman Rosenbluth in that store? A I did.

Q And Hyman was arrested that day at that time? A Yes, sir.

MR. SHERIDAN: That is all.

RECROSS-EXAMINATION BY MR. STAND:

Q Did you question Hyman Rosenbluth in the presence of this defendant? A I did not.

Q Did you hear Officer Allen question him? A I don't remember.

Q Did this defendant say he did not know the other man? A I don't remember.

Q Did the other man say that he didn't know this defendant? A I don't know.

MR. STAND: That is all.

BERNARD P. ALLEN, Police Officer, Shield No. 4403, attached to the 17th precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Officer Allen, how long have you been a policeman? A 10

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years and 6 months.

Q And did you know the defendant, Joe Levy? A No, sir.

Q Before the 8th day of November, 1919? A No, sir.

Q You did know a watchman there by the name of Leiberman?

A Yes, sir.

Q And on the early morning of the 8th of November your attention was attracted to the neighborhood of - did you see the defendant on the 8th day of November? A Yes, sir.

Q Early in the morning? A Yes, sir.

Q What time was it? A About 4:45 a.m.

Q And what happened, kindly tell the jury? A When I reached the corner, the northwest corner of Second Street and Avenue B I heard Harry Leiberman holler, "Grab him, Barney." I seen the defendant, who was standing on the --

Q What is that?

MR. STAND: I move to strike that out. I move to strike out the statement by Leiberman to this officer.

THE COURT: You may say that you heard somebody exclaim. You need not say what it was.

Q Then what did you do? A I seen the defendant run on Avenue B. towards Houston Street, and I immediately chased after him.

Q And where did you chase him to? A Into the rear house of 291 East Houston Street, second floor, and when I got to the first floor the defendant says "You got me" and threw up his hands. I grabbed hold of him. I hollered to Leiberman, that

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had run in the front house, "Come on down Harry, I got him."

Q Did you have any conversation with the defendant when you arrested him? A When I brought him down to the second floor, he said, "Don't touch me; I work for Lahey."

Q What else did he say? A I says, "Where were you pulling off --"

Q You will have to speak so the jury hear you. Tell every word the witness said to you when you placed him under arrest, Officer? A When I placed him under arrest, he said, "Don't touch me; I am working for Lahey."

Q And who is Lahey? A I understood him to mean Deputy Police Commissioner Lahey.

MR. STAND: That is objected to.

Q Tell what he said. A He said, "I am working for Lahey; don't touch me." I said, "Where are you pulling off the trick?" He said, "Don't touch me;" and I took him around to Second Street; I walked him up Second Street, between Avenue A and B, and when I got in front of 196 he said, "Look around near all these stores." I sent him down to a wurst store in front of 190 Second Street. I told Mr. Leiberman to look in a gents furnishing store.

MR. STAND: That is objected to.

THE COURT: Was the defendant there?

THE WITNESS: The defendant was there all the time, your Honor.

THE COURT: I will allow it.

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THE WITNESS: I told Lieberman to look in a gents furnishing store. He said, "Barney, this showcase has been turned off." I said, "Try the fanlight." There was a big padlock on the door, and I said, "Try the fanlight." Lieberman jumped up on the window and shoved his hand in, and the fanlight was open. Patrolmen Falls and McCormick, of the 15th Precinct, come around then, and Patrolman Falls took the defendant to the 15th precinct station house. I told Patrolman McCormick to stay and watch the premises.

Q What did you do? A I brought the defendant to the 15th precinct.

Q Did you take the defendant? A With Patrolman Falls.

Q After a few minutes, did you return? A I returned after about fifteen minutes.

Q What did you do then? A Then I heard some noise inside the store of 190 Second Street, owned by Mr. Gewirtz, a gents furnishing store; I told Patrolman Falls --

MR. STAND: I object to that.

THE COURT: Was the defendant present at this time?

THE WITNESS: No.

MR. STAND: I object to it.

THE COURT: Strike it out.

Q Did you arrest a man in that store? A I did.

Q And what was his name? A Hyman Rosenbluth.

MR. STAND: I move to strike that out as not

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binding on this defendant.

THE COURT: I will allow it.

MR. STAND: I take an exception.

MR. SHERIDAN: You may examine.

CROSS-EXAMINATION BY MR. STAND:

Q Are you very friendly with Lieberman? A Yes, sir.

Q How long have you known him? A About a year and a half or two years.

Q Do you meet him very often in the night time while he is engaged in the performance of his duties as watchman? A When I am working late tours yes, sir.

Q Did you see any other person that night other than the defendant Levy and Rosenbluth, who was found on the inside of the premises? A Did I see anybody?

Q Yes; I mean in connection with this case, of course?
A No.

Q Did you see anybody else run from the direction of these premises? A No, sir.

Q Did you know that somebody else had made his escape from the premises? A I found that out after, yes, sir.

Q Were you standing on post on Avenue B and Second Street?
A My post is on Avenue B, yes, sir, from Houston Street to Avenue B; I come walking down Avenue B.

Q You were walking down Avenue B? A I come walking down south on the west side of Avenue B.

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Q At the time that you saw Lieberman that night? A I didn't see Lieberman then. At the time I heard Lieberman holler to me.

Q When Lieberman hollered to you, where was he? A Who? Lieberman?

Q Yes. A He was in Second Street between A and B; I don't know where he was.

Q Didn't you see him at all? A No, I didn't see him.

Q Wasn't he out in the open roadway? A No, sir.

Q You heard a voice exclaiming "Get him!" A "Grab him, Barney!"

Q "Grab him, Barney!" A Yes, sir.

Q You didn't know where the voice came from? A No.

Q You didn't see any human being that gave utterance to those words, did you? A No.

Q But you knew and recognized that voice as being that of your friend Lieberman? A Yes, sir.

Q Were there any other people on the street at that hour of the night? A There was people standing on the southeast corner of Avenue B and Second Street, in front of a restaurant.

Q When you heard this voice and did not see any human being "Grab him, Harry!" and you saw other people, how did you know who to go after? A As soon as Lieberman hollered, "Grab him, Barney!", the defendant started running.

Q How close to the defendant were you at that time?

A Across the street. He was on the southwest corner of Avenue

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B and Second Street, and I was on the northwest corner of Avenue B and Second Street.

Q But you continued walking at the time that you heard that exclamation to "Grab him, Harry?" or had you been standing still at the corner of Avenue B and Second Street? A I was walking, and as soon as I got to the corner of Avenue B and Second Street I heard this expression, "Grab him, Barney!"

Q When you saw Lieberman for the first time, from where did he come, what part of Second Street? A When I was on Avenue B between Houston and Second Street, Lieberman was running back of me.

Q He was running in back of you? A Yes, sir, he was in back of me then.

Q Where was he when you first saw him? A When I got in front of 291 Houston Street.

Q Didn't you see Lieberman at all on Second Street? A No, I didn't see Lieberman on Second Street. I heard the voice holler from Second Street.

Q Do you know whether or not Lieberman fired any shot? A Yes, sir.

Q When a shot was fired, did you turn around to see where the shot came from? A No.

Q As a Police Officer, hearing a shot at four o'clock in the morning, you were not concerned with finding out who fired the shot? A I knew who fired it. It was right behind me.

Q But you did not see Lieberman on Second Street? A No, be-

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cause he hollered, "Run, Barney, quick, run!" hollering right behind me while I was running.

Q And this voice in the darkness that you recognized as a friend of yours, "Grab him, Harry!" you heard a pistol shot, you didn't see the man, but all that time you knew what it is all about? A I heard the voice when Lieberman was in Second Street and said, "Grab him, Barney!"

Q You didn't see him on Second Street, did you? A No, sir; and the pistol shot was fired in Avenue B between Houston and Second Street. When I started running, Lieberman was in back of me.

Q About how many other people did you see around the vicinity that night? A After I had made the arrest?

Q No, immediately previous to the time that you made the arrest. A Well, there aint many people. About five or six people around at that time, around 4:30 or 4:45 in the morning.

Q Was there a general chase started after the shot had been fired in the air? A Only about two or three people ran.

Q They also ran? A After I made the arrest and brought him to the corner of Houston and Avenue B, then three or four people came running over.

Q Were you standing on the northwest corner of Avenue B and Second Street when you heard this voice shout, "Grab him, Harry!"? A I was walking; I wasn't standing; I was walking.

Q At what point did you start in to run? A I think from the southwest corner of Avenue B and Second Street - the north-

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west corner of Avenue B and Second Street.

Q At that time, where was Levy standing? A On the south-west corner.

Q Directly opposite? A Yes, sir, about five feet off the corner of Second Street.

Q And about how many feet away from you? A Well, about the width of the street, about 25 feet or - or about 25 feet.

Q Did you search the defendant, Levy? A I did, yes, sir.

Q Did you find any letters in his pocket? A Letters? I found letters, yes, sir.

Q Did you find more than one letter? A I found a couple of postal cards.

Q Do you know whether or not there were any letters or postal cards postmarked Washington addressed to this defendant?

A No, I don't know that.

Q Do you know any addresses that appeared on the envelopes?

A He had a book in his pocket with addresses.

Q No, I mean on the envelopes, the letters that you found in his possession. A Well, Levy's name was on the envelopes, yes, sir.

Q You don't recall what addresses appeared, though, do you?

A No, I don't recall that.

Q Did Lieberman tell you that he knew this man's name before you had placed him under arrest? A No, he didn't tell me that, no, sir.

Q Then Lieberman first found out his name, the name of

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this defendant after you had searched the defendant? A Mr. Lieberman walked to the stationhouse with me. I don't know whether that is the first time he found it out. He heard him give his name to the desk lieutenant in the 15th Precinct station house.

Q Do you know whether he was asked at that time whether that was the first time he knew the name of this defendant?

A No, I don't know whether he was asked that.

Q You were present all the time? A All the time, yes, sir.

Q Were you present in the complaint room when the complaint charging this defendant was drawn up in the Magistrates' Court? A Yes, sir.

Q The clerk in the Magistrates' Court questioned the various witnesses, including yourself, as to the facts concerning the case; is that right? A Surrounding the arrest, yes, sir.

Q And the complaint that was drawn against this defendant charged him with the commission of this crime because he was found near the premises at about 4:45 in the morning and started to run while you were pursuing him? That was the charge as it was read to you in the Magistrate's Court, nothing else; is that right? A Well, I don't remember now, counselor. I will have to refresh my memory.

Q Well, I will read it to you. A Yes, sir.

Q "The defendant, Joseph Levy, is charged with the commission of burglary, together with Lyman Rosenbluth, acting together and in concert with each other and with two other men

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unknown and not arrested, for the reasons follows: That at the hour of 4 a.m.," then the description of the premises, having been closed by the owner, "that deponent is now informed by the police officer, Bernard P. Allen, of the 15th precinct, that at the hour of 4.45 a.m. he arrested Joseph Levy, whom he saw standing near the store and who started to run away, and he, the said officer, caught the said Joseph Levy in the rear house of premises 291 East Houston Street." Now, in this affidavit we find a statement made by you that you saw this defendant stading near the store. Did you see him near the store, or did you see him on the southwest corner of Second Street and Avenue B? A Yes, the southwest corner of Avenue B and Second Street, near the store. The store was across the street.

Q Directly across the street? A No, about 30 or 35 feet up on the north side of Second Street.

Q About how many houses, Officer, will you say on your oath is premises 190 Second Street from Avenue B? Now, be careful in your answer? A Well, I don't work in that precinct, and I couldn't very well count the houses.

Q Well, you went back to the scene after -- A Yes, but I didn't count the houses when I went back.

Q Well, is it the corner house? A No.

Q Is it five or six houses removed from the corner? A It might be about four or five houses.

Q Will you deny that it is about eight or nine houses from

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the corner? A Well, that I couldn't say.

Q About how many feet on your oath will you say premises 190 Second Street is from Avenue B, the corner? A That I don't know.

Q Give us your best estimate? A 50 feet.

Q What is that? A 50 feet.

Q Fifty feet? A 40 to 50 feet.

Q Well, if it is 40 to 50 feet, it would be only two houses from the corner, because the ordinary city house, as you probably know, is about 25 feet front? A But there is some old-fashioned houses about 17 or 18 feet front.

Q About how many of those? A There is one on the northwest corner of Second Street and Avenue B is one of them little old-fashioned houses, I believe next door, the newsstand, is another one of those houses; then the music store.

Q That is about twenty? A Yes, sir.

Q Then we have it 60 or 70 feet removed from the corner. Go ahead. A Then this Gewirtz is near there.

Q About how many houses removed from this music store?

A The next house, I believe.

Q Now, the premises are located on Second Street, on the north side? A North side, yes, sir.

Q On your own testimony, the house in question is several houses removed from the corner, about four, five or six?

A About four houses.

Q It can't be eight? A No, not in my estimation.

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Q This defendant is on the southeast corner? A South west.

Q Southwest corner of Second Street and Avenue B? A Yes, sir

Q You meant by that in your affidavit, when you said that the defendant -

MR. SHERIDAN: That is not his affidavit. That is the affidavit of the owner of the store, Gewirtz.

Q Well, we have your signature corroborating the affidavit of Gewirtz. Did you sign a short affidavit here, stating that you heard read the affidavit of Max Gewirtz, and the facts are true of your own knowledge? A Is that my signature there?

Q That is a copy. A Then it is right.

Q You swore to an affidavit? A Yes, sir.

Q That the facts related by the complainant, Gewirtz, was right? A Yes, sir.

Q So that when Gewirtz swore that you saw this defendant near the store, you told the complaint clerk at that time that he was on the southwest corner of Avenue B and Second Street? A Yes, sir.

Q And that the house in question was several houses away from the corner? A I told him the house was on the north side, yes, and I said I seen him near the store, yes, sir.

Q Was anything told the complaint clerk about bags being thrown in a hallway? A I believe Lieberman told the complaint clerk about the bags.

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Q You have had considerable experience in felony cases, have you not? A Well, yes, I have made quite a number of arrests.

Q And did you realize at that time, when Lieberman gave you that information, that it was quite an important bit of information connecting this defendant with the other man in the premises? A Yes, sir.

Q And you knew those facts at that time you heard this complaint read to you? A Yes, sir.

MR. STAND: May I have the original complaint.

Q Officer, will you look at the original complaint in this case and point out whether or not there is any statement contained therein that this defendant handed bags to an unknown man who cast them into the premises where a burglary had been committed? Is there any statement in this affidavit about that? A Let us see it?

Q (Mr. Stand hands affidavit to witness).

THE COURT: Gentlemen, we will take a recess until two o'clock. Do not speak about this case, permit no one to speak to you of it, and do not make up your minds concerning the guilt or the innocence of the defendant until I have sent this case to you. Two o'clock, gentlemen.

(The Court then accordingly took a recess until 2 o'clock p. m.).

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AFTER RECESS

BERNARD P. ALLEN, resumes the stand.

CROSS-EXAMINATION (continued) BY MR. STAND:

Q Do you want to continue your search for any reference as to the bags, or are you ready to answer the question now?

A I have read the affidavit, and I don't see anything about the bags.

Q Did you tell the complaint clerk that at the time you caught this defendant in premises on Houston Street that the defendant said to you, "You got me?" A I think I did, counselor.

Q After having read the complaint, do you see any reference to any admission that the defendant made to you on that occasion? A No, I don't see that in there.

Q Do you see anything in the complaint relative to the defendant having told you that if you went through that store you would find another man in there? A No, I don't see that in there.

Q So that you know that the charge against this defendant was that he was acting with concert with Rosenbluth by reason of the fact that he was standing near the premises and by further reason of the fact that he ran after he was pursued by yourself and the night watchman? By reason of those facts mentioned in the complaint, you charged this defendant with having acted in concert with Rosenbluth? A Yes, sir.

Q After you had read the complaint and sworn to it, did

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you tell the complaint clerk, or the magistrate, or anybody else about the other facts that had been omitted? A No. When the two defendant were brought before the magistrate they waived examination, and the magistrate then asked me if they had any records.

Q Never mind that.

THE COURT: No, it is important. Let him state it. We are inquiring about what was done before the Magistrate.

MR. STAND: I confined my question with reference to information contained in the complaint. Any other answer given by this witness would be immaterial, I respectfully submit.

THE COURT: This witness was not called upon to put everything in the complaint. He was required to state who he arrested and under what circumstances he arrested him. He is not bound to disclose every bit of evidence that he may have had.

Q Did you ever see this defendant in front of the premises in question? A In front? No, sir.

Q The entire information upon which you acted was information given to you by your friend, Lieberman? A (No answer.)

Q When you had the defendant Levy in custody and you were walking with Lieberman towards Second Street, did Lieberman tell you that he had inspected premises 190 Second Street

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and saw that a showcase had been tampered with? A Yes, he - yes, sir: You mean when I was walking from 291 Houston Street up to Second Street?

Q Exactly. Was that the first store you went to, or did you first go to a butcher shop? A No, the first store I went to.

Q Did you at any time previous to entering the premises in question, 190 Second Street, attempt to inspect a butcher shop or any other place of business in that vicinity? A No, sir.

Q Did you at any time inspect any butcher shop on Second Street? A I investigated what they call a wurst store.

Q Where they sell herrings and so forth; they call it wurst on the East Side.

Q You mean a delicatessen shop? A Yes, sir.

Q Did you inspect this delicatessen shop before you inspected premises 190 Second Street? A I went to look in there, but there was curtains on the window., right next to Mr. Gewirtz's place, in the same building.

Q Did you go there first?m A It is two stores, one alongside of the other.

Q Did you inspect those premises first? A I couldn't, because there was curtains on the windows and on the doors.

Q Did you first inspect the premises? A No, sir, I walked first to Mr. Gewirtz's, right next door.

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Q When this defendant was searched, you found nothing on him excepting these letters? A I found nothing on him, only letters, yes, sir.

Q Did you fire any shots? A No, sir.

Q Do you know how many shots were fired by your friend Lieberman? A One.

Q Did Lieberman tell you that another man had made a get-away from him? A Yes, sir.

Q And that he saw another man throw bags into a hallway? A Lieberman told me he seen another man give the defendant Levy bags.

Q Did he tell you he knew they were bags at the time he handed them to him? A No, not at that time. When I brought the defendant Levy back, Lieberman went in the hall and pulled them out, two bags.

Q But he didn't tell you he saw this defendant actually deliver bags to this unknown man who cast them into a hallway? A No, he said he seen an unknown man give them to Levy.

Q Did he tell you he saw him hand him bags? A Hand him bags, yes, sir.

Q That he knew they were bags at that time? A That I don't know, whether he knew they were bags at that time.

MR. STAND: That is all.

REDIRECT EXAMINATION BY MR. SHERIDAN:

Q Is that the man you arrested in the store of 190 (indicating co-defendant, Hyman Rosenbluth?) A Yes, sir.

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Q Now, when you arrested this man in the hallway in premises in Houston Street, No. 240 -- A 291.

Q (Continued) 291. Have you told the jury the exact language that he used when you placed him under arrest? A He told me he was a stool for Mr. Lahey.

MR. SHERIDAN: That is all.

BY THE COURT:

Q He was what? A A stool.

Q For whom? A For Com'r. Lahey.

Q You mean Police Commissioner Lahey? A Yes, sir.

BY THE FOREMAN OF THE JURY:

Q Who is Com'r. Lahey? Deputy Police Commissioner? A deputy police commissioner.

BY MR. STAND:

Q Is that the language he used? Or did he say he was sent by Police Commissioner Lahey? A No, he said, "I am a stool for Lahey."

Q Why didn't you say that this morning? A I said that he said he was working for Lahey.

BY THE COURT:

Q Do you know whether he was, as a matter of fact? A No, I don't know, your Honor; I couldn't swear to it.

BY MR. SHERIDAN:

Q But you do know that is the language he used to you that night? A Yes, sir.

BY MR. STAND:

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Q Did you question Rosenbluth as to whether or not he knew this defendant? A I did, yes, sir.

Q Did Rosenbluth say he knows him? A Rosenbluth says he didn't know him.

Q What did the defendant say with reference to Rosenbluth? Did he say he knew him? A Going in the police patrol wagon to the line-up in the morning I asked him did he know him. He said, "No."

BY THE COURT:

Q Asked who? A I asked the defendant Levy, if he knew the defendant Rosenbluth, and he said, "No."

J O S E P H F. M c C O R M I C K, Police Officer, shield No. 6047, attached to the 15th precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Mr. McCormick, you are a member of the Police Department of the City of New York? A I am.

Q How long have you been such a member? A Thirteen years.

Q And on the 8th of November you were working in the 15th Precinct? A I was.

Q That is in East 5th Street? A Yes, sir.

Q Do you recall the morning at about the hour of 4 or 4:30 on November 8th? A I do.

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Q Did you go to premises 190 Second Street? A I did.

Q Did you see the defendant there at that time? A I did.

Q Did you see Hyman Rosenbluth? A I did.

Q Were you wpresent at the store when Hyman Rosenbluth was brought out of that store? A I was.

Q Did you take this defendant to the station house?

A Yes, sir.

Q Or did Officer Falls? A Yes, sir.

Q Did you have any conversation with this defendant?

A No, sir.

MR. SHERIDAN: You may examine.

CROSS-EXAMINATION BY MR. STAND:

Q Did you have any conversation with Rosenbluth? A Yes, sir.

Q Did Rosenbluth say he knows this defendant? A No, sir.

Q He said he did not know him? A I didn't ask him if he knew the defendant.

Q Did this defendant say that he knows Rosenbluth?

A I didn't ask him.

MR. STAND: That is all.

M A X G E W I R T Z, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SHERIDAN:

Q Where do you live? A 190 East Second Street.

Q You kept a place of business at 190 Second Street on

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the 8th of November? A Yes, sir.

Q What kind of business? A Gents furnishing store.

MR. STAND: Perhaps I can save time by making a concession that the premises were burglariously entered. I will make a concession on the record as to those facts.

Q Did you get your property back? A Have I got my goods back? Certainly.

Q What did you find among that goods? A What was in the bags, it was shirt and ties and collars.

Q What kind of bags? A It was a sugar bag, I believe.

MR. SHERIDAN: You may examine.

CROSS-EXAMINATION BY MR. STAND:

Q You don't know this defendant, do you? A No, sir.

Q You never saw him before? A No, sir.

Q He never came into your store, so far as you know?

A I don't know. Perhaps maybe he came in.

Q You don't know him, do you? A No, sir.

MR. STAND: That is all.

BY THE COURT:

Q Who gave you that property? A It was in the store; they couldn't get it from the store; one fellow was inside.

Q Were you there at the time? A No; the cop wake me up in the morning.

Q You went to your store? A That is my store, yes, sir.

Q Did you go to your store? A Yes, Saturday morning.

Q What did you find there? A I find a few bags packed up

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with goods, and the rest of the stuff was laying on the floor.

Q When you left, what time did you leave your store?

A Friday, half past four.

Q In the afternoon? A In the afternoon.

Q Did you lock it up? A Certainly.

Q It was closed up? A It was closed up.

Q When you got back there and the policeman called you, ^{and} you came around there, what was the condition of your store?

A Well, the store was locked up, but the fanlight was open.

Q Yes? A And one fellow was sitting inside with Harry Lieberman, the watchman.

Q Who was the man that was sitting inside? A Rosenbluth, I believe.

Q Rosenbluth? A Yes, sir.

MR. SHERIDAN: IT IS CONCEDED that the premises were burglarized.

BY MR. STAND:

Q About how many houses is 190 Second Street away from Avenue B? A About five or six houses.

Q Five or six houses? A Yes, sir.

MR. STAND: That is, all.

EDWARD A. FALLS, police officer, shield No. 4133, attached to the 15th precinct, called as a witness on behalf of the People, being first duly sworn, testified as follows:

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DIRECT EXAMINATION BY MR. SHERIDAN:

Q Officer, you are a member of the Police Department how long? A Six months.

Q You were a member of the Police Department on November 8, 1919? A Yes, sir.

Q Did you know this defendant before that day? A No, sir.

Q Were you in front of 190 Second Street at about the hour of 4:30 a. m.? A Yes, sir.

Q Were you present when this man was arrested? A Yes, sir.

Q You accompanied Officer Allen with this man to the station house? A Yes, sir.

Q You didn't know Rosenbluth before that day? A No, sir.

MR. SHERIDAN: That is all.

CROSS-EXAMINATION BY MR. STAND:

Q Did you question either Rosenbluth or this defendant? A No, sir.

Q And the only thing you know about this case is that you saw this defendant in the custody of Officer Allen on the day in question; is that it? A Yes, sir.

MR. STAND: That is all.

THE PEOPLE REST

MR. STAND: If your Honor please, I respectfully move for a dismissal of the indictment, upon the ground the people have failed to sustain the allegations

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thereof. They have failed to submit evidence that is sufficient to rebut the presumption of innocence.

They have failed to show that this defendant acted in concert with Hyman Rosenbluth.

THE COURT: The night watchman testifies that he saw the defendant standing at 190 East Second Street; that was at about four o'clock in the morning. He asked him what he was doing there, and he made the reply which I will not repeat. Then he said, "When I walked away I saw another fellow come over and hand him two bags, and he threw them in the door of 190 East Second Street." Is there any evidence here at all showing that this defendant was with the man who pled guilty in this case, whose name I have forgotten just now?

MR. SHERIDAN: Rosenbluth. The evidence in this case, if I may be permitted to refresh your Honor's recollection, is to the effect that a watchman saw him standing in front of the premises; that he became suspicious he engaged him in conversation; he asked him what he was doing. The man told him he was waiting for some friends, and that thereafter he watched him. He saw this man given two bags by a third man, that he watched him, and then he noticed the condition of the store window, and he called out to Officer Allen, "Barney, get that man!"; that they chased him; that he ran a considerable dis-

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tance, and he was caught in a rear tenement in Houston Street, on the second floor, and when the officer caught him he said, "You got me," according to the officer's testimony, and he said, "I want you to tell me where this job is being pulled," and he took him to premises 190 Second Street, where the store had been burglarized.

MR. STAND: If your Honor please, the learned Assistant-District Attorney has not responded to the question put to him by your Honor, namely, whether there is any evidence in this case that this defendant was seen in company with the man that was found inside the premises, whether there is any evidence in this case as to whether or not he knows this man or was acting in concert with him. I submit there is not a scintilla of evidence on that vital point in this case.

MR. SHERIDAN: I think the circumstances indicate most clearly a job of that character is not done by one man alone, that he uses a look-out, and at the hour of 4:45 in the morning, when the testimony is given that a man presents him with bags, that he throws in the doorway where the place has been burglarized, I think it is sufficient for the case to go to the jury.

THE COURT: That is the only question in my mind, was this man a look-out on that occasion? If he were, he would be just as guilty as the man who was inside.

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MR. STAND: I appreciate that. I submit the People's case is involved in contradictions, so that my motion presents purely a question of law for your Honor's decision. The nightwatchman's testimony, compared with the arresting officer's testimony, conflicts in various material respects, and the testimony of the nightwatchman, upon which this case rests, upon which it either stands or falls, is highly improbable, especially so in view of his own admission that this defendant showed him his name and address on an envelope, that this nightwatchman revealed his identity to him, told him that he is a nightwatchman, that he is there to guard property, and yet the nightwatchman states and swears under oath that while ten feet away from this defendant another man deliberately came over to this defendant, and this defendant, in full view of the nightwatchman, cast certain articles which he did not then identify but which later he found in the hallway, and claimed they were bags.

THE COURT: But when he was asked a question concerning where this job was being pulled off, he took the party to the place where the job was being done, or had been done. That would be consciousness of an act amounting to criminality.

MR. STAND: The officer took this defendant, in company with the nightwatchman, back to the premises,

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the most reasonable and probable act that the officer could have done.

THE COURT: No, he told the officer where to take him.

MR. STAND: The nightwatchman, your Honor, testified that he inspected the particular store in question and noticed that the showcase had been tampered with.

THE COURT: I will deny your application. I think there is a question here for the jury to decide.

MR. STAND: I respectfully except.

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J O S E P H L E V Y, the defendant herein, called as a witness in his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STAND.

- Q Where do you live ? A 126 East Tenth Street.
- Q How old are you ? A Nineteen.
- Q Are you married, or single ? A Married.
- Q Have you any children ? A Yes, sir.
- Q How many ? A One.
- Q One child ? A Yes, sir.
- Q How old is your child ? A A year and a half.
- Q Speak up louder, please ? A About nineteen months old.
- Q You have a child nineteen months old ? A Yes, sir.
- Q Where are you living now ? A 126 East Tenth Street.
- Q Where were you living on the night of your arrest ?
- A 126 East Tenth Street.
- Q That is in the City of New York ? A Yes, sir.
- Q In the early part of the evening of November 7th, 1919, where were you ? A I was over to an entertainment and dance given by the Norwood Club, at Grand and Clinton Street.
- Q And about what time did you leave the Norwood Club ?
- A After the entertainment, well, it must have been about

four o'clock.

Q And after you left the Norwood Club, at four o'clock, where did you intend to go? A Home.

Q Just tell us through which streets you walked?

A I walked straight down Clinton Street, figuring on getting a car at Clinton and Delancey, getting the Eighth Street crosstown car which passed through Ninth Street and stops at Ninth Street and Second Avenue.

Q A distance of how many blocks from your home?

A One block.

Q One block? A Yes, sir.

Q As you proceeded down Clinton Street up to Delancey Street, did you see a car approach? A No, sir.

Q What did you do then? A I kept on walking, figuring that the first car I see I will jump on it.

Q And did you proceed along Clinton Street?

A Yes, sir, straight through Avenue B.

Q Does Clinton Street run directly into Avenue B?

A Yes, sir, Clinton Street runs right through Avenue B.

Q At what street does Clinton Street end and Avenue B begin? A On East Houston.

Q And East Houston is how far away from Second Street?

A One block.

Q And what direction does the car take from Clinton Street? A Through Avenue B.

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Q Through what other streets ? A Through Second Street.

Q There is a curved track upon which the car operates ?
A Yes, sir.

Q Now, did you stop at Second Street and Avenue B at any time for the purpose of waiting for a car ? A Yes, sir.

Q What did you do at that point and place ? A I seen there was no car coming, and I kept on walking up to Second Street. That is a long block, and it must have been about seven or eight houses from the corner, and there is about forty or fifty houses in that block, a very long block, and I stopped there to look to see if a car was coming. Then this man come over to me; he had a flannel shirt on -

Q Who is that ? A This man, the watchman.

Q You mean Lieberman ? A Lieberman.

Q Where did he stop you ? A I was standing right in front of that house, looking for a car, I was standing right in front of the stoop, not on the stoop.

Q What did he say to you ? A He says "What are you doing here?", he says to me, and I seen him with a flannel shirt, and I had a diamond pin on me and a watch and chain, and I couldn't make that out; I just come from a party, from this entertainment and dance, and I looked at him, and I said "Why ? What authority have you got to

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question me?"; and he says "None of your business; I got authority to question you", and he pulled a gun out and he put it against my stomach and says to me "Now you will talk, wont you?"; and when I seen that I put my hands up; I couldn't do nothing more. I think more of my life than I think of money. And I says "I am willing to answer any questions. What is it you wish ? If that is all you want, I will gladly answer it". He says "What are you doing here ? What is coming off here ?" I says "What do you mean, what is coming off here?" He says to me, "listen, if anything comes off I will lock you up. Have you got any identification to show who you are?" I said "Certainly, I have letters in my pocket." My sister was working in Washington, for the Internal Revenue Collector.

Q In Washington ? A Yes, sir.

Q Did you have any letters in your pocket that were sent to you from your sister ? A Yes, sir, quite a number.

Q Did you show those letters to Lieberman ? A Yes, sir, I showed him my name and address on it, and I said "If that is all you want, I will gladly give it to you."

Q Did you at any time make any statement that you intended to take certain girls into those premises ? A No, sir.

Q Did you ever tell him you were waiting for any

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friends there ? A No, sir.

Q After Lieberman finished putting those questions to you and after you had given him your name and address, what did you do ? A I walked back to that corner; that is only five houses from the corner, while towards Avenue A it is about thirty houses.

Q What was your purpose in going back to the corner of Avenue B and Second Street ? A Because I figured if the car - if I would walk up to Avenue A the car might miss me during that time, because a couple of Fourteenth Street crosstown cars passed me, and I don't take them cars, so I went five houses back to Avenue B, and stood at the corner looking up in the direction of the car.

Q As you stood on the corner of Avenue B and Second Street, could you look up Second Street and up Avenue B to see whether a car was approaching, or not ? A I did look up Avenue B.

Q About how long did you remain standing on the corner of Avenue B and Second Street ? A About a couple of minutes, about two minutes.

Q What happened then ? A While standing there, I seen a couple of fellows running, and I turned around to see who was running, and I seen this Lieberman running after another fellow, understand, he was hollering something, what I don't know, and then I heard him fire a shot; I

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thought he must be crazy.

Q In what direction did he run ? A He ran straight down Second Street.

Q Did he run towards you ? A Towards my direction, confronting me with a gun, and I couldn't make it out, so I ran.

Q Why did you run ? A I figured he has gone crazy, he acted so queer, he asked me what I was doing there, and my name, and then I walked up - then I seen him starting shooting after another man.

Q Did he point the revolver at you, too, as he ran towards you ? A He was shooting after the other fellow; I couldn't exactly say where he was pointing the revolver.

Q Before you started to run, did you have any fear in your mind as to whether or not this watchman was after you and was about to fire his revolver at you ? A I thought he was off his mind; I didn't know what he was doing.

Q The testimony is you ran into Houston Street ?
A Yes, sir.

Q That is about a block away from Avenue A and Second Street ? A Yes, sir.

Q Did you at any time know you were being pursued by a police officer ? A I did not.

Q Was it your belief that you were being chased by this man who had a loaded revolver in his hand, Lieberman,

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who testified here ? A Yes, sir.

Q When you were placed in custody by the arresting officer, did you say to the officer "You got me" ? A No, sir.

Q What did the officer do ? A I says - I was up on the first floor, and I looked down and seen it was a policeman; I says "There is a man down stairs chasing me"; and he says "All right, come on down", and he took me back to that place. He says "Now, listen, there is something being done around here", and he expressed it this way, "There is something being pulled off here", and he says "You know about it". I says "I don't know if there is anything being pulled off; go and look in the stores; I don't know nothing about it."

Q Did you at any time receive any bags from any other person ? A I did not.

Q Did you stop and talk to any other person on that street other than Lieberman ? A I did not.

Q Do you know Rosenbluth ? A Never seen in all my life before this case.

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

Q Did you meet him that night ? A No, sir.

Q Did you know that a burglary had been committed that night ? A No, sir.

Q Did you tell the officer where this burglary had

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been committed, or were you led to the premises by Lieberman
and the arresting officer? A I was led to the premises
by Lieberman, and he took me over to that store and showed me;
he says "That place has been rifled", he says.

Q Did you say that you knew anything about it?

A No, sir.

Q Did you ever tell the officer that you were one of
Lahey's men? A No, sir. He asked me that, and I told
him I never said nothing like that; I don't know what he is
talking about; and he even says to me "I might have mis-
took what you said; I don't remember exactly what you said;
but I think that is what you said to me". I said "No, I
didn't say anything like that".

Q Did the officer tell you he didn't get the right
man in arresting you, that he had to make the arrest from
what Lieberman told him?

MR. SHERIDAN: I have given counsel great latitude,
but I object to his testifying for the witness.

THE COURT: Excluded.

Q What did the officer say to you as to his reason
for arresting you? A He knew Lieberman, understand, he
seen Lieberman chasing me, understand, and he ran with
Lieberman; that is what he says.

MR. STAND: That is all.

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BY THE COURT.

Q Now, where did you say you had been to a party ?

A Yes, sir.

Q Where ? A On Grand and Clinton.

Q What ? A Grand and Clinton.

Q What time did you go there ? A The party started about half past eight; not a party, but a dance.

Q In a house, was it ? A No, sir.

Q Where ? A Club rooms.

CROSS EXAMINATION BY MR. SHERIDAN.

Q This was a dance you went to that night ? A Yes, sir.

Q Did you go with your wife ? A No, sir.

Q Did you go alone ? A Yes, sir.

Q Where were you working at that time ? A I was working for my father.

Q For your father ? A Yes, sir.

Q How long did you work for your father ? A I worked for my father - well, even when I went to school, and I worked for him ever since.

Q And your father is in what business ? A Drygoods business.

Q Dry goods business ? A Yes, sir.

Q You didn't know Rosenbluth before this ? A I never seen him in all my life.

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Q Rosenbluth and you were utter strangers ? A Yes, sir.

Q You didn't know him ? A No, sir.

Q Didn't even know him by reputation ? A I never seen him, never heard of him.

Q Did you have any conversation with him since then ?

A No, sir.

Q You didn't speak to him about it ? A Well, I met him in the case here, but otherwise I never seen him or spoke to him. The only thing he asked me, he says "I don't know you and they have got you wrong", that is the only thing he said.

Q Now, when this Court took a recess, at one o'clock, did you walk with Rosenbluth from here over to the corner, on the other side of this floor ? A Yes, sir.

Q Did you talk to him ? A Yes, sir.

Q That is the first time you spoke to him since you have been arrested ? A No, sir, during the arrest I spoke to him quite a number of times.

Q It was merely a re-assurance of faith in one another today - he merely assured you today that they had the wrong man ? Now, you said that when the officer, shortly after the arrest, said that he might have mistook your language - A Yes, sir.

Q As to what you said when he placed you under arrest ?

A Yes, sir.

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Q And then he said something about you saying you were a stool pigeon, shortly after your arrest? A Yes, sir.

Q When was that? About the 9th of November?

A Well, in the Court there.

Q In the Magistrate's Court? A Yes, sir.

Q He mentioned also what he has testified today?

A Yes, sir.

Q Have you ever been convicted of a crime? A I was -

Q Were you ever convicted?

THE COURT: "Yes", or "no".

A Yes, sir.

Q What crime? A Possessor of narcotics, not a user, or seller.

Q Not a user, or a seller, but a possessor of narcotics; and were you found guilty? A Ten days.

Q Thirty days, wasn't it, in the City prison?

A Ten days.

Q Were you sentenced to thirty days in the City prison; "yes", or "no"? A No, sir.

Q On the 21st of December, 1917, you were arrested for narcotics? A I do not remember the date.

Q Was it in 1917? A Yes, sir.

Q Was it in the month of December? A I do not remember.

Q Was it near Christmas time? A I don't recollect.

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Q And you got ten days ? A Yes, sir.

Q Were you ever convicted of any other crime ?

A No, sir.

Q You have worked continuously ? A Yes, sir.

Q For the last five years ? A Yes, sir.

Q Now, what did you say to Rosenbluth today ? A Well, he was asking me how I am coming out, and what they spoke on the stand, and that was all he asked me.

Q Rosenbluth was standing alongside of the rail outside of this Court room, and then you and Rosenbluth walked completely around - A There were some more people outside.

THE COURT: Answer the question directly.

THE WITNESS: Yes, sir.

Q You and Rosenbluth walked from in front of this rail all around to a corner ? A Yes, sir.

Q You had lunch with Rosenbluth, too, today, didn't you ? A Yes, sir.

Q Over in the corner restaurant ? A Yes, sir.

Q You didn't know Lieberman before this 8th of November, did you ? A No, sir.

Q Did you know Allen ? A No, sir.

Q Did they know you ? A No, sir.

Q Now, you saw them chasing some other men ? A I only seen Lieberman.

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Q You saw Lieberman and the shots ? A And the shots. I heard the shots, rather.

Q Was it a shot, or shots ? How many shots ?
A One shot.

Q One shot ? A Yes, sir.

Q And what was the position of Officer Allen ? Was he first, or was Lieberman first ? A Lieberman was first.

Q Lieberman was first, running in a certain direction ?
A I didn't even see Mr. Allen.

Q You didn't see Mr. Allen ? A No, sir.

Q So, when Officer Allen testifies that somebody said to him "Barney, get that man", and he ran, and Lieberman after him, firing a shot, that is not correct ? A No, sir.

Q Who caught you first ? A Mr. Allen.

Q And you started to run ? A Yes, sir.

Q How far did you run ? A One block.

Q One block ? A Yes, sir.

Q And you ran into a rear tenement ? A Yes, sir.

Q And you ran up how many flights ? A One flight.

Q And the officer didn't come up ? A He was down stairs.

Q He was down stairs; and when you looked down -
A And he looked up and I looked down.

Q And when you saw it was an officer you said "All right, I will be right down" ? A No, sir.

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Q He didn't get you in a corner and say "Come out" ?

A No, sir.

Q And you didn't say "You got me" ? A He hollered something, "Come on down", or something like that, and I looked down and seen it was him.

Q And when Allen testified that he caught you there and you said "You got me", you didn't say that ? A No, sir, I did not.

Q You looked down and saw it was a policeman ?

A Yes, sir.

Q And you said "All right, I will be down" ? A I didn't express -

Q You thought Lieberman was out of his mind ? A It seemed very strange.

Q It was so strange ? A It seemed very strange to me, yes, sir.

THE COURT: Where is that man Rosenbluth ?

MR. SHERIDAN: He is outside.

THE COURT: Rosenbluth pleaded guilty, didn't he ?

MR. SHERIDAN: Yes, sir,

THE COURT: He is awaiting sentence ?

MR. SHERIDAN: He is awaiting sentence.

THE COURT: Bring him in.

Q You saw Rosenbluth brought in this morning, when I asked Officer Allen was that the man ? He was placed under

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arrest ? A What is that ?

Q You saw Rosenbluth in this Court room this morning while you were sitting at that table (indicating) ? A Yes, sir.

Q And is that the man you saw that night ? A I didn't see him until the following morning, when he was brought in.

Q Brought in ? A Yes, sir.

Q That is the man that appeared here ? A Yes, sir.

Q Known as Red ? A I never seen him before.

I don't know what they call him.

Q You don't know what they call him ? A No, sir, except by his name.

Q They were giving a dance that night, you say ?
A Yes, sir.

Q Who was giving the dance ? A The Norwood Club, a chartered club.

Q And you haven't worked for anybody other than your father ? A No, sir.

Q What kind of work do you do for your father ? A Dry goods, everything in general, I shipp pack, clerical work, salesman.

Q You are a salesman ? A Yes, sir.

Q And you work, I suppose, eight hours a day for your father ? A I work more than that some times.

Q Where does your father keep his place of business ?

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A In Suffolk Street.

Q In Suffolk Street ? A Yes, sir.

Q And you haven't worked for anybody else ? A Well, I worked a month or so in this place.

Q Did you ever take a rest and not work at all for your father for a period of a few months ? A No, sir.

BY THE COURT.

Q Where is your father now ? A My father is home.

Q Has he been here in this Court at all ? A No, sir.

MR. SHERIDAN: That is all.

RE-DIRECT EXAMINATION BY MR. STAND.

Q You support your wife and child, do you ? A Yes, sir.

Q Did you meet the Officer and the other witness, Lieberman, in the restaurant this afternoon when you went out to lunch ? A Yes, sir.

Q And all of you were together, is that it ? A Yes, sir.

MR. STAND: That is all.

THE DEFENDANT RESTS

MR. STAND: I wish to place on record my motion for a direction, based upon the grounds urged at the close of The People's case.

THE COURT: No, Mr. Stand, if the evidence is believed by the jury in this case, they can find this

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defendant guilty of burglary in its third degree; that is to say, aiding and abetting in the commission of the crime by the co-defendant, Rosenbluth, who plead guilty in this case.

MR. STAND: I respectfully except. Will your Honor say, at this time, that your Honor's denial of my motion does not import any -

THE COURT: Yes, I think the jurors know pretty well, because they have heard me say that whatever disposition I may make of the questions of law must not influence them.

(Mr. Stand then summed up the case to the jury on behalf of the defendant.)

(Mr. Sheridan then summed up the case to the jury on behalf of The People.)

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