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CASE #1809

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part I.

The People

vs.

JAMES F. KING

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vs. HON. CHARLES C. NOTT, Jr.

New York, January 6th, 1914.

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Frank S. Beard,
Official Stenographer.

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City and County of New York, Part I.

The People

vs.

JAMES F. KING

Before:

HON. CHARLES C. NOTT, JR., J.,
and a jury.

New York, January 6th, 1914.

Indicted for burglary in the third degree.

Indictment filed December 23th, 1913.

Appearances:

ASSISTANT DISTRICT ATTORNEY JAMES E. SMITH,

FOR THE PEOPLE.

FREDERICK A. WARD, ESQ., FOR THE DEFENSE.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank A. Beard,
Official Stenographer.

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THE PEOPLE'S TESTIMONY.

FREDERICK COOK, of 315 East 158th Street,
a witness called on behalf of the People, being duly sworn
testified as follows:

MR. WARE: If your Honor please, may all the
other witnesses be excluded?

THE COURT: Yes, on both sides.

DIRECT EXAMINATION BY MR. SMITH:

Q On the 20th day of December, 1913, what was your
business? A Storekeeper for the Pullman Company, at 158th
Street and Sheridan Avenue, in the yards of the New York
Central and New Haven Railroads.

Q And on that day was there one of the Pullman Com-
pany's cars in the New York Central Railroad's yards at
153rd Street, in the County of New York? A Yes, sir.

Q A car called "The Hartman"? A Yes, sir.

Q And at what time did the car arrive on that day?

A Some time after five in the morning, I should judge.

Q Did you see the car, that day, yourself? A No,
sir. It was seen by one of my employees.

Q What was his name? A A checker by the name of
Emma Edyk.

Q When was the first time you saw the defendant, on
that day? A I saw him when he was arrested, and held at
the office of the State Detective in the New York Central

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Yards.

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Q Now, the car Hartman, and the property in the car was in your care and custody as the storekeeper? A Yes, sir.

Q And you were the storekeeper for the New York Central and Hudson River Railroad? A No, sir; for the Pullman Company.

Q And did you have any conversation with the defendant at that time? A I did not; no, sir.

Q Did you go into the car Hartman at that time? A No, sir.

Q You didn't enter the car at any time? A No, sir.

MR. SMITH: That is all from this witness.

CROSS EXAMINATION BY MR. WARD:

Q What is your particular occupation up there, sir? A I am the storekeeper of the property of the Pullman Company in the cars, and in the yard. All the property of the Pullman Company in the cars and in the yard is in my care and custody.

Q And, of course, most of your property, if not all, is marked; is it not? A Yes, sir; most of it.

Q And you lose a great deal of that property, I presume, through your employees, and others, who take it away?

A Yes, we lose more or less of it. I wouldn't say a great deal of it. Some.

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Q Well, you have had numerous losses? A Yes, thefts.

Q Now, how long have you known the defendant? A About twelve years, probably more.

Q Are you sure it isn't over twenty years? A No, sir; it isn't.

Q He has worked in the service of your company; hasn't he? A Yes, sir.

Q As chef? A Yes, as chief cook.

Q On numerous private cars? A Yes, sir.

Q And also on your regular rolling stock, Pullman cars? A Dining cars, yes.

Q And is it not usual for chefs who have been in your employ, and who desire to get further employment, to go up there to 153rd Street, or in that neighborhood? Aren't your ~~gangs~~ crews recruited up there? A Not after that they have been discharged.

Q Well, was this defendant discharged? A Yes.

BY THE COURT:

Q When was he discharged? A Last March, your Honor, a year ago, nearly a year ago.

BY MR. WARE:

Q Well, had he ever been discharged before? A Not to my knowledge.

Q Well, when a man's term of service is up, or his occupation is gone, he is discharged, is that right? A Yes.

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sir; he was discharged by my successor in another branch of the business, last March.

Q Well, was he discharged for refusing to carry out certain orders? A Yes, sir; for refusing to carry out certain orders, and for unsatisfactory conduct.

Q But not for dishonesty? A No.

Q He was simply a little fractious? A I suppose so, yes.

Q Now, haven't you seen him since last March? A Yes, sir.

Q Hasn't he been up there looking for work? A Why, I have seen him around the yards. I don't know that he was looking for work particularly.

Q And you didn't make any objection, and no one else did, to his being around the yard, did you? A Well, I don't know about that.

Q And, in case of unpleasant weather, or for any other reason, men who have been previously in your employ, ~~are~~ are allowed to go on the cars; aren't they? A No, sir; there was an order issued last October that nobody but employees had any right of access to the yard. The railroad company's officers were ordered to keep them out of the yard and out of Pullman cars.

Q And was that notice posted anywhere where it could be seen? A Yes, sir; it was posted outside of the yard.

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Inspector's office, at the yard, and also in the room where the porters congregate, as a rule.

Q Was it printed or written? A It was typewritten, printed, in print.

Q Well, one would have to get inside of the yard to read it, wouldn't they? A Yes.

Q Did I understand you to say that a lady, who is one of the witnesses in this case, and who told you that she had sealed this car---A Yes. If you will permit me, I might illustrate how the linen is handled there. I think it would be better.

Q Well, go on. A When cars come in, in the morning, the linen that has not been used on the beds, is checked by the linen checker, in this case, it was this woman, by the name of Edyk.

This clean linen is counted and an entry made of same on a slip provided for the purpose, after which the door is locked and sealed, and no person can get into that locker without breaking the seal.

Q Well, what sort of a seal is it? A Lead seal, fastened ~~staples~~ with a string. It's near like a post office seal as string I can describe. And the ~~string~~ must be broken or cut to open the door.

Q Do you know whether the doors on this car were lock-

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ed or unlocked? A I couldn't say as to that.

Q And do you know whether other employees were working on the car all the time? A No, I don't. Other than this one woman, this linen checker.

Q You clean up and generally refurbish a car, after a trip? A Yes, sir; it is done immediately after its arrival.

Q And had this been done on that car on that day? A I think not, at that time.

Q Well, anybody could have access to the car, if the doors were unlocked or unfastened, couldn't they? A Yes, sir.

Q All that they would have to do would be to turn the knob, if the doors were not locked? A Yes, sir.

Q And you know nothing as to who rolled or wrapped up some linen? A No, sir; only that I was called upon to identify the linen that was wrapped up, and which had been taken from the locker, after it was counted.

BY THE COURT:

Q Did you have any conversation with the defendant, after his arrest? A No, sir.

MR. WARE: That's all.

E M M A L P-Y K, called as a witness on behalf of the People, residing at 20... Street, Greenpoint, Brooklyn, duly sworn, testified as follows:

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DIRECT EXAMINATION BY MR. SMITH:

Q Mrs. Edyk, what was your business on the 20th day of December, 1913? A Clean linen checker for the Pullman Company.

Q And where was your office? A At the Mott Haven Yards.

Q And is the 153rd Street yard in the Mott Haven Yards? A Yes, sir.

Q And do you remember the car Hartman, which was in the yard, on that day? A Yes, sir.

Q And did you do any checking in that car on that day? A Yes, sir.

Q What time of the day was it that you did your checking in that car? A About a quarter to twelve.

Q In the morning? A In the forenoon, yes.

Q Now, describe to the Court and jury just what you did at that time in regard to checking? How you placed the linen and where you placed it? A We had special cars--- that was before the holidays, and we usually have them, and this was train 68 and this was a special car, and I and other checkers were assigned to go through the cars, and I took the Hartman and went through and counted the remaining linen and the linen was a full suit, that is, one hundred and fifty sheets, one hundred and forty slips, one hundred and sixty towels, six coats and twenty-six head rests.

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Q Now, in what part of the car was it that you had these several articles? A In the linen locker.

Q Now, you counted them as they were in the locker?
A Yes, sir.

Q Now, what did you do after you found these several articles were in the locker, in regard to fastening the opening of the locker? A I locked my door, and put on a seal.

Q In what way did you lock it? A With a key, and put a seal on it, and sealed it with a sealing iron.

Q And then what did you do? A Made sure that the seal was on the door, and went out.

Q Did you return to the car on that day? A No, sir. I did not.

CROSS EXAMINATION BY MR. WARE:

Q When you left the car, weren't the windows on the car? A No, sir.

Q What is that? A No, sir.

Q Was there not anybody on the car? A No, sir.

BY THE COURT:

Q In what condition did you leave the doors of the car? A Locked.

Q You left the doors on the car locked? A Yes, sir.

BY MR. WARE:

Q Well, did you have a key that locked the doors of the

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car? A Yes, sir.

Q And are you sure you locked both ends? A Positive. And I have the keys with me.

Q And isn't it usual for cleaners to go through a car, and put it in shape for the next trip? A Yes, but it happened that this car was already cleaned.

Q Were any of the cleaners there when you arrived there, the first thing in the morning? A No, sir.

Q Did you count this liner yourself? A Yes, sir.

Q And did you put it in the locker yourself? A After I had counted it, yes.

Q All of it? A Yes, sir.

Q You are sure of that? A Yes, sir; positive.

Q When did you first hear that any liner was missing out of that car? A Not until Monday morning.

Q What day was this that you locked the car, as you have described? A December 20th, Saturday morning.

Q And you didn't hear about it until Monday morning?

A No, sir; because we go home early on Saturday.

Q Well, never mind the reason. Now, do you know this defendant? A No, sir.

Q Have you ever seen him before? A No, sir; not until I seen him in the Court Room, the other day.

Q And you didn't know, of course, then, that he had

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been an employee of your company for a great many years? A

No, sir; I did not.

MR. WARE: That's all.

CHARLES STEIN, of 151 West 145th Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q On the 20th day of December, 1915, what was your business? A State Railway Detective.

Q And where were you employed? A At the New York Central Freight yards.

Q And what yard were you employed at on that day? A In and around the vicinity of 153rd Street and Sheridan Avenue.

Q And on that day did you see the Pullman car known by the name of "Hartman"? A Yes, sir.

Q And on that day did you see the defendant? A Yes, sir.

Q And what time of the day was it you first saw the defendant, and where was it you first saw him? A At 12:30 P. M., in the Pullman car Hartman.

Q What attracted your attention to that car? A I walked into the car, to---

Q What was the condition of the door of the car? A

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When I walked in it was open.

Q And where did you see the defendant? A In the smoking compartment.

Q And what did you see the defendant doing at that time, if anything? A He was wrapping up a bundle.

Q And describe what was in the bundle that you saw the defendant wrapping up at that time? A Twenty white sheets.

Q And was there anything on those white sheets that you saw the defendant wrapping up, any mark of identification? A Yes, sir, they were marked "Pullman".

Q Any other mark on them? A No, sir.

Q Now, you know where these sheets and pillow slips etc. are usually kept in a car, do you not? A Yes, sir.

Q And did you notice the condition of the door of the place where these sheets were kept? A After placing him under arrest, I locked the carover, and I found that the seal had been broken on the linen locker.

Q And what else did you see the defendant have besides sheets? Wrapping them up? A He had nothing else wrapping up at that time.

Q And what conversation, if any, did you have with the defendant at that time? A I asked him what he had in the bundle, and he said it was a lot of junk. I asked him what he was going to do with the junk and he said he intended to take it to Mr. Sullivan's office, and I said,

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"All right."

Q Who is Mr. Davidson? A He is the Superintendant of the Pullman Company. I then told him that I was going to place him under arrest. He started to resist me, and pushed me away, and didn't want to go out of the car with me. And, as he was pushing me away from him, he put his hand towards his hip pocket (illustrating).

He said to me, "I haven't got no gun, don't be afraid". I at last got my hand in his hip pocket and found a bunch of keys that he was attempting to throw out of the window of the car.

Q And are these the keys that you found in the possession of the defendant at the time?

MR. WARE: I object to the statement as to what he was attempting to do.

THE COURT: Yes, I sustain the objection. Strike it out.

Q THE COURT:

Just tell, Officer, what you saw him do with those keys. He had his hand in his pocket like that (illustrating) trying to remove something---I didn't know what it was, and I at last got my hand around his waist, and felt the keys in his back pocket and got them."

MR. SMITH: I offer the keys in evidence.

MR. WARE: No objection.

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(They are admitted in evidence and marked People's Exhibit 1).

BY MR. SMITH:

Q Now, after you got the keys from the defendant, what did you do with them? Did you ascertain whether or not they would open the door that led into that car? A Yes, sir.

Q And what was the result of your investigation? A One of these keys would open the car door, and another will open a linen locker.

Q Which one of these keys would open the door? A That ~~key~~ there. (indicating) That would open a car door.

Q Now, which one would open a linen locker? A This one (indicating).

Q Now, did you ask the defendant where he had obtained these keys? A Yes, sir.

Q And what did the defendant say? A He said he was employed by the company.

Q Did he tell you when he had been employed by the company? A No, sir.

Q And after you had placed the defendant under arrest where did you take him? A To our office.

Q And on the way over did you have any conversation with the defendant? A No, sir.

Q And did you not return to the office, sir?

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office.

Q And who was there when you got there with the defendant? A The stenographer. He isn't here just now.

Q And did you have any conversation with him there, with the defendant? A No.

Q Did you have any further conversation with the defendant from that time on? A Yes, sir; in the Magistrates' Court I had a little conversation with him.

Q Did the defendant tell you where he was living at that time? A He did, but we found it to be a wrong address.

Q Well, did you subsequently find out his correct address? A Yes, sir. By finding a letter in his pocket, we found an address at 71 West 134th Street.

Q And what did you do when you found out the defendant's correct address, by observing an envelope in his pocket? A I in company with Detective Digillio and Detective McGrath, of the 33rd Precinct, called at 71 West 134th Street, on the afternoon of December 20th, and obtained---

Q What did you do when you arrived at that address, if anything? A We questioned Mr. Moyer there, in reference to the defendant here, and found out that he had been rooming there.

Q Did the floor man there also furnish you with any information?

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Q. And what did you do then, if anything? A. We found a couple of---

Q. Did you go to the top floor? A. Yes, sir.

Q. And to the room which the defendant had occupied? A. Yes, sir.

Q. And what did you find there? A. We found three hand towels, marked "Pullman" in that room; and we went downstairs with Mrs. Meyer, and she give me about thirty-two or thirty-five more towels, upon which the name "Pullman" was.

MR. WARR: I object to this evidence, if your Honor please; I don't see any connection between the towels and the defendant.

JUDGE COURT: Well, if you had objected to it before, I would have excluded it, because the property found at that time could not have any connection with this transaction.

MR. WARR: Yes, sir; and I object to the testimony on the ground that the finding of the towels in the room, which would have been occupied by the defendant is not any evidence that they had been put there by the defendant.

JUDGE COURT: And do you move to strike out the testimony?

MR. WARR: Yes, sir.

JUDGE COURT: Motion granted. Strike it out.

THE COURT:

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Q Did you have any conversation with the defendant about the 20th of December? A No, sir.

Q You had no further conversation? A No, sir.

MR. SMITH: He is your witness.

CROSS EXAMINATION BY MR. WARE:

Q Do you know, Officer, whether anything had been taken away from this car, the Hartman, at the time you arrested this man? A No, sir; not at that time.

Q Did you count the linen in the locker? A You mean before placing him under arrest or afterwards?

Q I don't care when. At any time? A No, sir.

Q You didn't count them? A No, sir.

Q Do you know whether this lady counted them, in your presence? A Not in my presence, no, sir.

Q Then, of course, you don't know? A No, sir; only I have the receipts of the checker here.

Q Well, do you know whether any of the linen in that car, or in the locker, was removed at the time you arrested this defendant? A Not at the time I arrested him; not until after.

Q Well, there was surely none of it taken away after that? A No, not after.

Q In other words, nothing was molested, except that when you saw the money, twenty dollars? A Yes, sir.

Q That's all.

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MR. SMITH: That's all, if your Honor please, the People rest.

THE COURT: One minute.

BY THE COURT:

Q Do you know where those twenty sheets came from? A Yes, sir.

Q Where did they come from? A From the linen locker.

Q How do you know that? A I went back, and looked the car over, after taking him to the office.

Q Describe to the jury the condition of the linen locker when you went back and looked through it. A Well, these sheets are all stacked on a shelf, and you could see a space where they had been two packages of sheets taken out.

BY MR. SMITH:

Q How many sheets were in a package? A Ten.

MR. SMITH: The People rest, if your Honor please.

MR. WARD: Can I recall Mrs. Day for a moment?

THE COURT: Yes.

MR. WARD: E. D. Y. K., being recalled by counsel for the defendant, for further cross examination, testified as follows:

CROSS EXAMINATION (continued) BY MR. WARD:

Q Now, how did you get to this car on Monday morning, and how did you get to the car?

A I don't know where I went, and I don't know where I got to, but I know I was in the car on Monday morning.

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or whether any of it had been taken away or not? A No, sir; I don't.

Q But, as far as you know, none of it was taken; was it? A As far as I know.

Q Well, when you went back on Monday, when you heard that there had been some sort of a larceny, or entry of some kind into that car, why didn't you count the linen to see if it was all there? A Why didn't I count the linen?

Q Yes? A Because it had been re-stacked and the car sent out.

Q And the car wasn't there? A No, sir; not on Monday morning.

Q And that was the first you heard of it? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. SMITH:

Q When did you quit work on Saturday? A About three o'clock.

MR. SMITH: That is all. That is the People's case.

MR. WALKER: Now, in your Honor please, I won't make any motion at this time, but, in opening, I will state my position, in your Honor please.

(Mr. Walker then opened the case for the defense).

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JAMES V. F. KING, of 225 West 40th Street, the
defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. WARE:

Q Now, King, what is your occupation? A Chef cook,
private car.

Q Chef cook in a private car? A Yes, sir.

Q And about how long have you been engaged in taking
care of the kitchens in these cars? A I went to work for
the Pullman Company in 1889, the 9th day of January, and was
in their employ until last March.

Q And did you cook private cars, as well as the regular
Pullman cars? A Yes, sir.

Q And who were some of the people for whom you have
acted as chef in their private cars? A Well, for some of
the best people in the world.

Q Well, tell us a few of them? A Well, I have acted
for both presidents, President McKinley and President Roose-
velt. I have handled all of the Vanderbilts, and Lords
and Dukes in Canada, and has even handled our present King
of England, to-day, when he was Prince of Wales; and various
other people. I have handled the best people in the country.

Q The Pullman Palace Car Company assigned me to go
up to Canada, and, when I left the company last March, the
company sent me to take Mrs. G. A. Vanderbilt, Jr., to
Paris, and I have been heading up the Pullman Palace Car

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and I bring Mr. Luscher up to New York, and I dead headed back to Jacksonville, to bring up a party by the name of King, and we laid over there. We got there on Saturday, and on Sunday we laid over, and, of course, I went on uptown, and came down on Monday morning to stock my car. The two porters had put the majority of the stock on the car, and, on returning, after I got back to the car---

MR. SMITH: Now, I must object, if your Honor please. I don't think it is necessary to go into all this matter.

THE COURT: Well, Mr. Smith, the first witness testified that he had discharged this person for certain reasons, and I think he is entitled to state why he was discharged.

BY MR. WARE:

Q Well, why were you discharged? A Well, I was discharged for refusing to put fifty quarts of Poland water on the car by myself. The two other men had put the rest of the stock on, and for me to carry this big box to the car, about five hundred feet, I absolutely refused to do it, and they told me I was discharged, and to return to New York.

Q Returned to New York, and the matter ran along for some time, and of course Mr. Butler was to suit himself. Q And then he came back again, and, last month, November, I was sent by the Pullman Company to go south with Mr.

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Russell Hopkins.

Q And did you go there? A No, sir; I was too late. They couldn't reach me there. They didn't find me. They didn't have my telephone address. And I reported the next day in the yard, in the Mott Haven yard, but it was too late.

Q And did you go up there after that looking for work?

A Yes, sir.

BY THE COURT:

Q Well, were you reinstated in November? A Well, I must have been, though I didn't make that trip. Now my job is a private car cook, and, as soon as the trip is over, they haven't any job at all until they are sent for again. They are not on regular salary, but you get paid by the job. Now I made a trip to the football game, on the Southern Pacific---

BY MR. WALK:

Q Have you made any trips since last March for the Pullman Company? A Yes, the company sent for me to go out with the Board of Directors of the New York Central and the Delaware & Hudson.

Q And did you go? A Yes, sir.

Q And what did you do on that trip? A Well, I made a trip on the Pullman car.

Q When was that? A In June.

Q And was that a Pullman car? A Yes, sir. The Walton, a dining car.

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Q And did you act as chef on that car? A Yes, sir; and the trip was fifteen or sixteen days.

Q And did you work after that for the company? A No, sir; I made a trip on Mr. Green's car.

Q No, have you made any trip since the one he has just described? A Yes, sir; for the Southern Pacific people.

Q Was that a Pullman car? A No, sir; that was a Southern Pacific car.

Q Now, let's get down to the day you were arrested. What time of the day were you arrested? A I was arrested at twenty minutes or twelve.

Q What days belong to you? (Introducing People's Exhibit 1). A Yes, sir.

Q And where were you at the time you were arrested? A I was on the steps at 153rd Street, and Train 68 was backing down to back into the "Y" and I was waiting for a car on that train. I was waiting for Mr. Webb's car. I wanted to see a friend of mine on that car in regard to a job.

Q And the car stayed away so long, and it was so cold that I stepped into this car, in which the cleaners was working. There was three in there, to my knowledge.

Q Were the doors locked or open? A Standing wide open, from one end to the other in the yard.

Q And what happened then? A And in going in this car,

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and I goes in to wait for the train, to see when she backed out of the "Y", and I gets on this car and sits in the smoking room, to see the car when she backed in.

And I had been in the car about two minutes, I was in the gentle smoking room and didn't go in the body of the car at all, but, standing in the aisle, I could see three of the car cleaners at work, which one of them carried this bundle of sheets over to the detectives' office afterwards, and I was in the car about two minutes---

Q -- Yes, wait a minute. The detective says he saw you in the car wrapping up the sheets. How about that? A No, sir.

Q Did you open the linen locker? A No, sir.

Q Do you know that they have a seal on the lockers? A Yes, sir.

Q Did you notice whether or not that seal was broken, or the lock was open? A Didn't get to the locker at all; didn't go into the body of the car at all.

Q Where were you? A In the smoking room of the car.

Q And where is the linen locker located? A It's in behind the smoking room. The locker is in the body of the car.

Q And in the smoking compartment were there any sheets or linen, in the same place that you were? A There was that

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bundle in there, I saw the bundle in there, on the settee.

I saw this bundle in there myself, on the settee, but how it got there, I don't know.

Q And you say you didn't wrap it up? A No, sir; and the officer comes on the car and says at once, "What have you got there?" And I said, "What?" And he said, "What's that?" And I said, "I don't know." And ~~he~~ I said, "I guess it's a bundle of junk."

And he says, "You are the very fellow I have been looking for. Come on and get ahold of that. I'm going to take you to see Mr. Davidson." And I said, "For what?" And he said, "Come on up to see Mr. Davidson."

And I tried to back out of the car, and there is a step there, and I fell off, and he fell off with me, and, of course, he grabbed me and we went over to the office.

And he takes the same bundle out of the car himself, and wanted one of the car cleaners to take it over there.

Q Did you know what was in the bundle when you saw it? A No, sir; I didn't, until it was opened.

Q Well, why did you say it was a bundle of junk? A Of course I didn't know what it was, and that's a ordinary saying of ours here, that it was junk.

Q These are your words, aren't they, that you're saying people call it junk, sir.

Q And you had them in your mind at that time?

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of keys for about eleven years. I use them for the end door and the locker door.

Q Well, you didn't have any business in any linen locker, did you? A No, sir; not at that time.

Q Well, when you are working as a chef, do you have business to take linen out of the locker? A Yes, sir.

Q And use it? A Yes, sir.

Q And that is why you have the key to the locker? A Well, I was given the keys for the private store exactly, but I was given the keys when I ran on the Florida Special, the Superintendent at that time gave them to me.

Q And where is he now? A Well, he's now in Vancouver. He was Superintendent of the Pullman Car Company, at that time, in Jersey City.

Q Now, King, did you go into that car, and either finding or taking any linen, wrap it up in a bundle for the purpose of taking it away? A No, sir.

MR. WARE: You may examine.

CROSS EXAMINATION BY MR. SMITH:

Q Where were you living on the 24th of December? A I was living at 225 West 40th Street.

Q And how long had you been living there? A Well, I had been living there, off and on, about a year and a half.

Q With whom were you living there? A With a Mrs. Patterson.

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Q And where had you been working? A Well, only rail-
roading.

Q What was your last trip in railroading? A The last
trip was in November, to the football game.

Q And from then until your arrest, you didn't work any-
where? A No, sir.

Q Do you know where the Pullman Company's office is in
New York? A Yes, sir.

Q What is it located? A The office is located
in the Grand Central Depot.

Q And in that place that they employ all the cooks
and porters for the trains? A No, sir.

Q Where is it that they employ cooks? A In the Mott
baked goods.

Q Who employed cooks there? A Mr. Butler.

Q And where was his office? A Well, down on the plat-
form, in the yard.

Q How far away from the Hartman car was it? A Oh, I
should say about three blocks.

Q And do you know what days are he taking Mr. Butler
for applications for employment? A Any day.

Q Up to what time? A Up until about midnight at night,
and sometimes later than that.

Q And on this day, did he go to his office? A No,
he didn't go to his office.

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Q Now, how did you go uptown? A I took a Morris Avenue car and came there, and got off, and came down over the bridge at 153rd Street, down the steps, and through the lower end of the yard.

Q And couldn't you have gone the other way, and come out at Mr. Butler's Office? A Yes, by going up to 161st street.

Q You were not looking for a job on this day, were you? A Yes, I was looking for a friend in regard to a job.

Q And what was his name? A Noble.

Q What is his first name? A Harry.

Q Where does he live? A He lived at 112 Street. He is on Mr. Noble's car, the Maraquita.

Q Did you tell the officer who arrested you that you were there to see that man? A No, sir.

Q Did you tell Mr. Davidson, when you were taken before him? A No, sir; because I was not questioned about it.

Q This is the first time that you have ever told anybody that you went there to see Mr. Noble. Is that so, sir, the first time you have made any statement about it?

Q Now, when you go into the office, or wait in the hall, did you go into a car? A No, because it was dark.

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Q And had the train come in at that time? A Yes, sir, and gone down to the "Y".

Q Where did she come from, that train? A From up the State.

Q What train was it? A 68. It came all the way down from Buffalo.

Q Had it seen to the Grand Central Depot? A Yes, and come back up into Long Yard.

Q And Mr. Noble, you say, was on the Maraquita? A Yes, sir.

Q And where was that car? A In the Y yet. She hadn't backed around yet.

Q What is the name of the cleaners who you saw in this car? A I couldn't tell you.

Q Had you ever seen them before? A Oh, yes.

Q And you speak to them? A Yes, just "hello".

Q And did you speak to them when you saw them on the car? A Yes, just holliered at the cleaners.

Q Where were you at the time? A In the car.

Q And were you in the smoking room at that time? A No, sir; standing in the aisle.

Q And then you left, you say. A I got out of the aisle. I went into the smoking room. I look out of the window, and the car would come in, and I would stop before it came in.

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Q At the time you shouted, as you say, to the cleaners, did you see this bundle of what you called junk? A I didn't say that to the cleaners, no, sir.

Q No. Did you see the bundle then? A No, not just then.

Q This car Hartman was the car nearest the bottom of the stairway at 153rd Street, was it not? A Yes, it was the end car.

Q And were there other cars adjoining it? A Yes, sir.

Q And you entered the car at the point nearest to the bottom of the stairway? A Yes, sir.

Q And that was the south side of the car, the south end of the car? A Yes, sir.

Q And it was that end which---it was that door in the car which this key fitted? A That key will fit any door that the Pullman car company has, any end door.

Q But it wouldn't fit any door in any of the kitchen cars used by the Southern Pacific? A No, sir.

Q And you had that key in your possession while you were in the employ of the Southern Pacific Railroad Company, didn't you? A Yes, sir.

Q Now, this other key would fit the linen closet door? A Yes, sir.

Q In that car? A Yes, sir.

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Q And you were right near that linen closet, were you not? A Yes, I was in the smoking room, and the linen closet is next to it.

Q Now, at the time that the officer came into the car, was there anybody else in the car but yourself? A Yes, sir.

Q Who was in there besides yourself? A There was three cleaners.

Q At the time you were placed under arrest? A Yes, sir.

Q And in what part of the car were you when you were placed under arrest? A On the same end where I was before.

Q Well, were you in the smoking compartment? A Yes, sir; all the time.

Q And was this bundle, containing twenty cigarettes, in the smoking compartment? A Yes, sir.

Q Now far away from the smoking compartment was the linen closet? A You have to go out of the smoking room, in the aisle, and around to the body of the car.

Q And there was no one else but yourself in the smoking compartment when the officer came in? A Yes, that's all.

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

Q And you are a married man? A Yes, sir.

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Q How long have you lived in New York? A I have lived in New York thirty years.

Q You heard Mr. Stein testify on the stand? A Yes, sir.

Q He said that you were there alone? A Yes.

Q And that, when he approached you, you put your hand in your back pocket. What did you do that for? A I didn't put my hand in my back pocket.

Q Did you give these keys to Mr. Stein? A No, sir; Mr. Stein took these keys out of this same overcoat pocket that I have on now. (Indicating).

Q And what were you doing with those keys in your overcoat pocket at that time? A Well, I generally carry them there.

Q Is that where you carry keys that you have no occasion to use, in your overcoat pocket? A I generally carry my keys all the time in my overcoat pocket.

Q And you carried these keys, for which you had no use whatever on that day, in your overcoat pocket? A Well, my house keys were on there, too.

Q Which one of these keys is your house key? A Those two. (Indicating).

Q And you would carry that in your overcoat pocket all the time, sir.

Q And you would carry that in your overcoat pocket all the time, sir.

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sir.

Q Now, don't you know, as a matter of fact, that you opened this car with them, on this day, and put them in your overcoat pocket, when you entered the car? A No, sir; the car was open. The cars stand there, all day long, open.

Q Now, you know when a car is ready for service? A Yes, sir.

Q And wasn't this car ready for service? A No, sir.

Q In what respect wasn't it ready? A No respect.

Q Had it been cleaned? A No, sir; neither inside or out.

Q And why didn't you go into some other car? A Well, when I was waiting for that other car to back in, so I could step right in from that car into the other car---

Q Now, had you any business in that car? A No, sir.

Q Absolutely none? A No, sir; and I went in there only to get out of the cold. We generally do that, daily.

Q When had you done that before? A Oh, I guess two or three days previous to that.

Q Did anybody see you there then? A Oh, I don't know; they all see us there.

Q Did the detective see you there? A I don't know whether he saw me. I remember speaking to Mr. Day, a day or two before that.

Q And the other day, in the park.

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MR. SMITH: That is all.

RE-DIRECT EXAMINATION BY MR. WARE:

Q Did you ever see any order telling people who were not employees of the company not to enter the yard? A No, sir.

Q And did you ever hear of any such order? A No, sir.

Q And you had been employed by the company? A Yes, sir.

Q And you expected to be employed again? A Yes, sir.

Q And so you went up there to look for work? A Yes, sir.

MR. WARE: That's all.

RE-CROSS EXAMINATION BY MR. SMITH:

Q Then was the last time you served on a car that came into the Mott Haven Yard? A At the time of the Football Match, in November.

Q That was not a Pullman car, was it? A No, sir, it was a New York City car.

Q And you last worked on a Pullman car? A In March, 1934.

MR. SMITH: That is all.

MR. WARE: That is the defendant's case, if you honor please.

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R E B U T T A L .

C H A R L E S S T E I N , being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. SMITH:

Q Mr. Stein, on the 20th day of December, 1913, when you entered the car Hartman, was there any one else in the car besides the defendant? A No, sir.

Q Were there any cleaners in the car? A No, sir.

CROSS EXAMINATION: Done.

THE COURT: I want to ask Mrs. Eayk a question.

M R S E D Y K , being recalled by the Court, testified as follows:

By the Court;

Q Mrs. Eayk, I haven't it clearly in my mind. When did you check this linen? A Saturday, the 20th of December.

Q And what time was it you got through and left that car locked? A About a quarter of twelve in the morning.

Q And had the car, at the time you left it locked, been cleaned? A Yes, sir.

Q It had been cleaned, when you left it locked? A Yes, sir.

THE COURT: Well, it is so near four o'clock now, I don't think I will send the case to the jury, tonight, and you may reserve your summing up until tomorrow morn-

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(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case to Wednesday Morning, January 7th, 1936, at 11 o'clock.)

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THE PEOPLE VS. JAMES F. KING

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TRIAL RESUMED.

New York, January 7th, 1913.

MR. WARE: If your Honor please, I announced, yesterday, that the case was all in, but since then I have endeavored to get a witness to character, Mr. Jacobs, and, if he is here, may I put him on the stand?

THE COURT: Yes, he may be called on the stand.

MR. WARE: He doesn't answer.

MR. WARE: Then, if he isn't here, shall I go to the jury?

THE COURT: Yes, proceed, Mr. Ware.

(Mr. Ware then summed up on behalf of the defense, and Mr. Smith closed the case for the People).

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