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1819

CASE

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CASE

COURT OF GENERAL SESSIONS OF THE PEACE.

City and County of New York, Part I.

-----o
The People

vs.

THOMAS ROBERTS
-----o

:
: B e f o r e :
: HON. CHARLES C. NOTT, JR., J.
:
:

2262

New York, January 28th, 1914.

Indicted for burglary in the third degree.

I N D E X .

Witnesses	Direct	Cross	Re-Direct	Re-Cross
Almeader Manley.....	40	45
Thomas Roberts.....	51	51	60	63
Harry M. Levy.....	67	68
Adjournment..... (73)

Frank S. Beard,
Official Stenographer.

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vs.

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: B e f o r e :
: HON. CHARLES C. NOTT, JR., J
: and a Jury
:
:

New York, January 21, 1914

Indicted for Burglary in the Third Degree.

Indictment filed December 8th, 1913.

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

ASSISTANT DISTRICT ATTORNEY LEOPOLD LEO, FOR
THE PEOPLE.

JOHN J. HALLIGAN, ESQ., FOR THE DEFENSE.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,
Official Stenographer.

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THE PEOPLE'S TESTIMONY.

H A R R Y M. L E V Y, a witness called in behalf of the People, being duly sworn, testified as follows:

MR. LEO: I understand the defendant concedes the previous conviction, as alleged in the indictment.

THE COURT: Well, you had better get on the record the date, etc.

MR. LEO: It is conceded that the defendant was convicted of criminally receiving stolen goods, in the Court of General Sessions, upon an indictment charging him with that crime, as having been committed on the 27th day of May, 1908, as set up in the indictment.

DIRECT EXAMINATION BY MR. LEO:

Q What is your address? A 158 West 144th Street.

Q Speak out loud, please; the jury can't hear you.

A 158 West 144th Street.

Q And you know this defendant, Thomas Roberts? A Yes, sir.

Q Now, on November 14th, 1913, by whom were you employed? A By George W. Loft.

Q Where? A At his candy store at 125th Street, 266 West.

Q On Manhattan Island, in the County of New York?

A Yes, sir.

Q Do you know whether or not the defendant was employed

by Mr. Loft at that time? A He was.

Q In what capacity? A As night porter.

Q Now, in what capacity were you employed there? A
As manager.

Q And your duties as manager required you to do what?

A I had entire charge of the defendant.

Q Do you remember that particular day, the 14th of
November, 1913? A Yes.

Q Do you remember leaving the premises that day?

A I remember leaving, that night.

Q At what hour? A I locked the place at, approximate-
ly, a quarter of one.

Q A quarter of one in the morning? A Yes.

Q Now, you say you locked the place? A Yes.

Q How many doors were there in Mr. Loft's place? A
There was the main entrance from the street and a cellar
door.

Q And a cellar door? A Yes, sir.

BY THE COURT:

Q What is the business carried on there? A Candy.

Q Candy? A Yes, sir.

BY MR. LEO:

Q Was there any other entrance to those premises?

A None other.

Q None other? A No, sir.

Q Now, before you retired, what did you do in reference to those two doors? A Why, I bolted the cellar door from the inside, and then, on leaving the place, the outside door had three locks, that is, two locks and a bolt, which I bolted and locked.

Q Now, was there a safe there on the 14th of November? A Yes.

Q On the ground floor? A Upon the ground floor.

Q And in what part of the premises? A In front of the store, right back of the front window.

Q And did you place anything in the safe before retiring from the premises, as you have stated? A Yes, I placed the day's receipts, cash, money.

Q How much was that; do you recall? A A little over four hundred dollars.

Q Do you remember whether it was \$448.35? A That is the exact amount.

Q What did you do with the money? A I put it in the safe.

Q What did you do then? A I turned the knob and turned the combination and then tried it.

Q Do you know who knew the combination besides yourself? A The forelady.

Q Who is she? A Miss Keogh.

Q And she is here to-day? A Yes.

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Q And after that you retired by the front door on the street? A Yes.

Q And at that time did anybody remain in the premises?

A Yes, Thomas Roberts. who gave me the name of Saunders.

Q And what did you do then? A I locked the front door.

Q From the outside? A From the outside.

Q And locked him in? A And locked him in.

Q Mr. Levy, did you ever take any money from that safe?

A Did I ever take any money?

Q Did you ever take any of that particular money that you placed in the safe, as you stated, afterwards? A One cent was left, one penny.

Q You found one penny in the safe afterwards? A Yes.

Q But, outside of that, you withdrew no money from the safe? A No, sir.

Q Do you know Max Hauser? A Yes.

Q Was he with you when you locked up the place that night? A Yes.

BY THE COURT:

Q Did you see the safe the next morning when you arrived? A I didn't get there until late, Judge. Of course, I saw the safe when I got in.

Q Was the safe open or closed? A It was open when I got there.

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Q You were not the first to get there? A No, sir.

CROSS EXAMINATION BY MR. HALLIGAN:

Q How long were you working for Mr. George W. Loft?

A About three months.

Q Are you working now for him? A Yes.

Q And did you give a statement, on the 25th of November, to the reporter of the World?

MR. LEO: I object to that.

THE COURT: Well, he may lay the foundation for asking him whether he made any statement contradictory to any statement made here.

A No, sir; I made no statement to the World reporter.

BY MR. HALLIGAN:

Q What time did you get there in the morning? A The morning after or before?

Q The morning after you put the money in? A 11:30.

Q What time did you put the \$448.35 in the safe? A About 12:45 that morning. You call it morning after midnight, don't you?

Q You put it in at a quarter to one? A Yes.

Q Had you locked the front door previous to the time you put the money in the safe? A Oh, no; I locked the safe first.

Q And how many entrances do you say there are? A Two.

Q One is the cellar door? A Yes.

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Q How many locks on the front door? A Three locks.

Q Was the front door unlocked when you arrived in the morning? A Yes.

Q Who unlocked it; do you know? A My forelady, Miss Keogh.

Q And what was the other entrance to the candy place?
A Cellar door.

Q Was that locked, too? A Yes, I locked it.

Q Now, was the safe blown open in the morning or were there any marks on it? A There were no signs of being blown open.

Q No signs of being blown open? A No, sir.

Q Was the door simply open? A That's the idea.

Q And a man would have to know the combination of the safe in order to open it? A Yes, or he would have to be an expert safe-breaker.

Q Now, was there any money missing from that establishment the week of November 14th? A Yes, sir.

Q How much money did you have to make good? A Why, I didn't have to make it good.

Q Well, how much money was missing there? A \$20.

Q Twenty dollars? A Yes.

Q Was there a sum of \$35 missing? A No, sir.

Q Did you ever make a statement to the candy man there that you had to make up a deficiency of \$25? Did you

ever make reference to the fact to the candy man, the man who has charge of the candy counter, the soda water fountain, when he spoke of losing a spoon, not to find fault, because you had had to pay a twenty-five dollar deficiency in the store? A No, sir.

Q Did you ever tell that there were any funds of the store missing? A No, sir.

Q Is that man in Court? A Yes, sir.

Q Now, to whom did you say there was a deficiency in the money of the store? A To the young ladies who helped me balance, that morning.

Q Who are they? A Miss Hanrahan and Miss Hess.

Q Are they in Court, to-day? A They are not. They have nothing to do with this case.

MR. HALLIGAN: Now, I object to that and move to strike it out.

THE COURT: Motion granted. Strike it out.

BY MR. HALLIGAN:

Q When was the deficiency discovered in the money, who spoke to you first about it? A The forelady, immediately upon my entering the store, asked me what had happened.

Q I am talking of the twenty dollars, two days before?

A I discovered that myself.

Q You discovered that yourself? A Yes.

Q And do you know anybody in the store to whom you

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spoke about it? A As I said before, the two ladies that helped me balance the money.

Q What did you say? A I simply told them that the money was that much short.

Q And you said that someone would have to make good the money? A Yes.

Q Now, you locked the safe at a quarter to one? A About that time.

Q And, when you came the next morning, you were told that the safe had been opened? A Yes, sir.

Q And had been left open? A Yes.

Q Who told you that? A Miss Keogh, the forelady.

Q What time does she get there? A The store is supposed to be opened at eight, and she presumably gets there at a quarter of eight.

Q Was the safe left just as she found it, in the morning, when you got there? A I can't say that.

Q Did you ask her about that? A No, I didn't ask her whether it was in the same condition or not.

Q It was in the same condition when you arrived, except the door open? A Yes.

Q You saw no marks of breaking upon it? A No, sir.

Q Therefore you say that a person of experience must have opened it? A Yes.

Q When did you hire the defendant? A On the 12th of

November.

Q That was two days before, was it not? A Yes.

Q And he worked one night there? A Exactly.

Q What were his duties in the store? A To clean the store, from the cellar to the ceiling, of the ground floor.

Q And the next night he was there was the night of the 14th? This robbery was supposed to have occurred on the night of the 13th? A Yes.

Q Now, did you see him when you went out that night, when you left the store? A I locked him in.

Q Did you speak to him? A Yes.

Q Was he intoxicated? A No.

Q Now, under what circumstances did you hire this defendant? You hired him, didn't you? A I hired him.

Q And who recommended him to your consideration? A Why, he gave me references, which proved to be very satisfactory.

Q Now, what references did he give? A Well, that's on record at our office. I can't say at random just now who they were.

Q But you didn't look them up? A No, I didn't, but the office did. It isn't my business to.

Q Your office looked them up? A Yes.

Q Did your office tell you anything about his recommendations since? A No, sir; not since.

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Q And was he recommended to you by a colored man also?

A Not to me.

Q Well, to your office? A Yes.

Q Did you hire another colored man there? Was there a colored man working there at the time the defendant was working there? A No, not at the time. I had discharged him, that very morning.

Q Why did you discharge him? A Because he refused to do some of the duties that he was supposed to do.

Q Did that colored man recommend this defendant? A No, sir. He walked in and said that he was just walking along 125th Street, and ^{needed} a job, and I thought it was strange that, after I had just discharged another colored man, this one should apply.

Q How long was the other colored man in your employ?

A About three weeks.

Q And did he have the same duties to perform that this defendant had? A Yes.

Q Did you look at the safe the next morning to see whether it had been pried or forced open, whether there were marks of instruments on it? A No, sir.

Q Now, how many people knew the combination? A There was the two in the store, my forelady and myself.

Q Miss Keogh and yourself? A Yes.

Q Whattime did the defendant go to work in the evening?

A Nine o'clock.

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Q And was the safe locked then? A No, sir.

Q Where did the defendant generally work at that time?

A In the basement, until the store closed.

Q And when the store closed, generally the safe was closed? A Yes; closed and locked before the place was closed.

Q And you were the one who locked the safe? A Yes, every night.

Q And you locked it before you locked the doors? A I had to, yes.

Q And if anybody was standing alongside of you while you were locking the safe, they wouldn't know the combination of the safe, would they? A No, sir.

Q Well, when was it opened as a rule? A It remained open all day.

Q Yes, and you went home? That was your usual procedure, was it not? A Yes.

Q How many times did this defendant have to come to you before you hired him? A He came in in the morning -- I think three times.

Q You told him once that you had already hired a man, didn't you? A Yes.

MR. HALLIGAN: That is all.

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A D A K E O G H, a witness called in behalf of the People,
being duly sworn, testified as follows:

(Residence, 1025 Ogden Avenue, New York City).

DIRECT EXAMINATION BY MR. LEO:

Q On the 14th of November, 1913, were you employed in
George W. Loft's place, at 266 West 125th Street? A I was.

Q In what capacity? A Forelady.

Q Did you arrive at the place of business, that morn-
ing? A Yes, I arrived there.

Q At what hour? A At 7:45.

Q And was it your duty to open the establishment?

A Yes, in the morning.

Q It was, in the morning? A Yes.

Q And did you open the store, that morning? A Yes.

Q Did you unlock the street door? A Yes, sir.

Q And you entered that way? A Yes, sir.

Q And you were the first one who entered? A Yes,
I was the first one in.

Q And what did you do when you went in first? A
Why, I went behind my desk, took off my gloves, and put my
purse on the desk, and then I noticed the place was upset,
the store was upset and untidy, and not clean. And we have
a time clock in the basement, on which each and every one
of us have to ring up their time, and I was rather nervous
about going downstairs, for I saw everything was upset.

Q Then where did you go? A Then I went downstairs to ring up my time, and put my hat and coat away.

Q And you returned to the street floor? A Yes, I returned to the store.

Q How long were you gone? A Probably two or three minutes.

Q Did you then see the safe? A Not immediately.

Q How long was it before you noticed the safe? A About five minutes, I would say.

Q And was the safe open or closed? A Open.

Q And did you examine it to see whether there was any money in it? A Yes, I went to give the cashier her bank, and I found there was no money in it.

Q Was there anybody else near the safe? A Nobody but me.

Q You knew the combination of the safe? A Yes.

Q Was this defendant there when you entered? A No, he wasn't there.

Q Did you look for him? A I didn't look for him. I sent a stock man to look for him.

Q But you didn't see him on the premises? A No, sir.

Q At no time did you see him on the premises? A No, sir.

BY THE COURT:

Q Did you open the basement door? A No, sir; only

the door leading from the street.

Q Was that locked? A Yes, with three locks.

Q And all of them were locked? A Yes, sir.

Q But you don't remember whether the basement door was open or not? A No, sir; I didn't examine the basement door.
(No cross examination).

W I L L I A M S O T T U N G, a witness called in behalf of the People, being duly sworn and examined, testified as follows:

(Residence, 306 West 121st Street, New York.)

DIRECT EXAMINATION BY MR. LEO:

Q On the 14th of November of last year was you employed by George W. Loft at 266 West 125th Street? A Yes.

Q In what capacity? A Stock boy; assistant of a stock man.

Q Now, do you remember that particular day, 14th of November, 1913? A Yes.

Q Did you have any duties to perform with reference to locking the door of the cellar? A Well, I always examine the lock of the cellar door after he has locked it up, to see if it is locked.

Q When do you do that? A After the boss goes away.

Q What kind of a lock is it? A It is a snap lock.

BY THE COURT:

Q You are talking of the cellar door there? A Yes,

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sir; and there is a chain bolt and a chain .

BY MR. LEO:

Q Do you remember examining the cellar door, that night? A Yes, sir.

Q What time was it? A It was about half after twelve, when the cellar door was locked.

Q Now, when did you next examine that lock? A In the evening, the next night, when I went to lock it.

Q That is the night from the 14th to the 15th? A Yes. And the lock wouldn't work.

Q Why not? A Well, it had the evidence of being forced open.

MR. HALLIGAN: I move to strike out that answer.

THE COURT: Motion granted. Strike out the answer.

BY MR. LEO:

Q What did you find out about it? A That the lock wouldn't open.

Q See any mark on the door? A Only a small mark, as though it had been hammered.

Q And when you saw it, the night before, there was no such mark on it? A No, sir.

Q Do you know Mr. Levy? A Yes, sir.

Q Do you remember his leaving the store on the early morning of the 14th? A Why, I didn't leave with Mr. Levy, that morning. I left before he did.

MR. LEO: That is all.

CROSS EXAMINATION BY MR. HALLIGAN:

Q Now, this lock that you speak about is the lock of a door at the elevator that brings you down to the basement? A Yes.

Q It goes down to the basemnt, does it not? A Yes.

Q Now, it wasn't your duty only to look at that lock, but it was the duty of other people to look at it, too?

A No, the boss would lock it, and it was my duty to open it to any friend of his.

Q The lock was open on the night of the 13th? A Yes, but the chain was hacked in the lock, and it couldn't be open, upstairs.

Q But anybody could go out, if the lock was open?

A Yes.

Q And it is open, during the day, is it not? A Yes.

Q And it is open all day long, is it not? A Yes.

Q And up to about eleven o'clock at night? A Yes.

Q And sometimes until 12 o'clock? A No, not as late as that.

RE-DIRECT EXAMINATION BY MR. LEO:

Q Look at the lock I now show you and tell me whether that is the lock you are speaking of? A Yes; and this is the mark that I referred to (indicating).

Q Now, is that the lock? A That is the lock.

Q And is it in the same condition that you found it in, the night after? A Yes, sir.

MR. LEO: I offer it in evidence.

MR. HALLIGAN: No objection.

(Received and marked Exhibit 1).

BY THE COURT:

Q Did you examine this cellar door, when you went to lock up, the next night? A Yes, sir.

Q Did you examine it in the morning when you got there? A No, sir.

Q When was the first time that you saw it after you locked it up on the early morning of the 14th? A The night after.

Q You don't know who saw it in the morning? A No.

RE-CROSS EXAMINATION BY MR. HALLIGAN:

Q Now, take that lock and see if you can make it stay together. A It will stay there if you leave it there, but I don't examine the lock that way. I always try it three or four times, pull it open (illustrating).

Q Well, couldn't that lock have been just that way and you not know it? A No, sir, because I always try it several times when I examine a door (illustrating).

Q Now, you say that lock was broken? A Yes; it won't lock.

Q Did you put that mark on it (indicating)? A No.

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Q When did you first see that mark on the lock? A
I didn't notice it until next day, that the lock was broke.

G E O R G E W. L O F T, a witness called in behalf of
the People, being duly sworn and examined, testified
as follows:

(Residence, 400 Broome Street, New York.)

DIRECT EXAMINATION BY MR. LEO:

Q Mr. Loft, you are the proprietor of the business at
266 West 125th Street? A Yes, sir.

Q And you were in November last? A Yes.

Q Do you know the defendant Roberts? A Well, I
have seen him before.

Q You have seen him before? A Yes.

Q You remember the fact that some money was said to
be missing from your safe in your place of business? A I
do, yes.

Q And thereafter you saw this defendant? A I did.

Q How long after and where? A Why, I don't remem-
ber how long after, but I saw him at the preliminary hear-
ing in the Magistrates Court, at 129th Street, I think it
was.

Q Or was it 121st Street? A Yes, 121st Street.

Q After that examination, did you have a talk with
this defendant? A Yes.

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Q Well, just state what he said, if anything? A Why, Roberts told them that he would like to speak to me, after he was held for examination, or held for trial, I don't know which, and I met him in the Judge's room, at the Magistrates Court, and he wanted to tell me how the job was done.

BY THE COURT:

Q Well, what did he say? A He said that he knew nothing about the matter until about -- during the night, some man had jumped out of a corner in the store, and put a revolver against his stomach, and said, "Do exactly what I tell you or I will kill you."

Roberts then said he ordered him to open the safe, and take the money out, and then, after he got the money out, this man went down in the cellar, and the other man got -- they went up on the elevator, and, just as they got to the top, they found a policeman up there, and so Roberts explained to the policeman something about the man going out, and said, "Thank you for helping me out on my work, because I have had a heavy night."

And I said, "Well, you were honest, why didn't you turn them over to the officer at the door?" And he said he didn't know why he didn't do it.

And I said, "You had all night long, why didn't you do something? You could get out"; and he said, he

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didn't know.

And, about an hour after that, he said, he went up on the elevator and went away.

Q Did Roberts tell you the name of this man? A Why, he did tell me the name of the man, but I don't remember the name now, though.

He told Detective Hughes, who was there most of the time, and, at other times, the representative of the District Attorney was there.

CROSS EXAMINATION BY MR. HALLIGAN:

Q Now, did you ask him how the safe could be opened without being blown open, Mr. Loft? A I only heard what the man said, and I asked him but one question; I simply heard what he said, and I asked him one question: "Roberts, if that is true, why didn't you turn him over to the officer up at the top of the cellar door?"

He said it was when he went down into the basement to do his mopping or scrubbing. He said he made him open the safe and take the money out and take it downstairs.

Then the two of them went up on the elevator, and met the policeman there.

And I said: "Why didn't you call that policeman? He was right there."

Q Are you quite sure of that, Mr. Loft, what you have

said? A Yes, I am and I am under oath, and I am not in the habit of lying.

Q Of course I know that, but -- A No; I knew that the case was coming to trial and I was very particular.

T H O M A S S. H U G H E S, of the Detective Bureau, a witness called in behalf of the People, being duly sworn testified as follows:

DIRECT EXAMINATION BY MR. LEO:

Q You are attached to the Police Force of the City of New York? A I am.

Q And the detective bureau? A Yes.

Q Do you know this defendant Thomas Roberts? A Yes.

Q You arrested him? A Yes.

Q Accompanied by another officer? A Detective Hyams.

Q He is here? A Yes, sir.

Q When did you arrest Roberts? A On the morning of November 24th.

Q Where? A At a dance hall at 132nd Street and 7th Avenue.

Q And when did you first know that it was said that Mr. Loft's place had been robbed? A At about 7:50 on the morning of November 14th.

Q And then you found the defendant on the 23rd? A On the 23rd, -- on the morning of the 24th.

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Q You had a conversation with him when you arrested him? A Yes. When I placed him under arrest he wanted to know what he was being arrested for.

And I asked him if he had ever worked for Mr. Loft as a night porter, and he said no.

And I asked him if his name was Saunders, and he said no.

And I asked him if his name was Roberts, and he said no.

After Detective Hyams and I got him to the 37th Precinct, we had a talk with two ladies that he had brought down to the station house with him, and they wanted to know why we had arrested him, and we told them that Mr. Loft's safe had been robbed of \$448.35, while he was employed there as a porter, and he jumped up and said, "How much?" And I told him again the figures, and he said, "Well, I only got twenty dollars out of it."

CROSS EXAMINATION BY MR. HALLIGAN:

Q Well, there was twenty dollars found on him, wasn't there? A Twenty-one dollars.

Q And he stated -- that is one of the ladies who were present, is it not (indicating)? A Yes. His sister, I believe.

Q And she said ten dollars of the money was hers, was

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her money, didn't she? A Yes.

Q And he said that eleven dollars of that money belonged to his brother in law, didn't he? A No, sir. He said that was his own money, the eleven dollars.

Q Was his own money? A Yes, sir.

Q And ten dollars, that he had gotten from his sister that day? A Yes.

Q And that was all that was found on him? A Yes.

Q Now, you want to be exact, officer, don't you?

A As exact as I can.

BY THE COURT:

Q What was the date of this? A The robbery?

Q Yes. A November 14th.

Q I mean the arrest? A November 24th.

Q The arrest was ten days after the robbery? A Yes.

BY MR. HALLIGAN:

Q Now, he didn't say the identical twenty dollars was the sum of money that he got from the burglary at Mr. Loft's store, did he? A No, sir; he said that all he got out of it was twenty dollars, out of the \$448.35.

Q And you searched him and found the twenty dollars on him? A No, that was before I searched him that he said that.

Q He admitted his guilt? A Yes; he admitted that he went in there under the name of Saunders to work.

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Q And I suppose he told you that he committed the crime, didn't he? A No, sir; he told me he got twenty dollars out of it; he told me that in front of officer Hyams, another lady, his sister, and myself.

Q Now, when you arrested him what did you first say to him? A I asked him if his name was Saunders, and he denied it. And I said, "Aren't you known by the name of Blue?" And he said no.

And I said, "What is your name?" And he said, "None of your business; I'm not going to tell you anything until you tell me something first."

And then we went to the station house and he sat one side, and wouldn't tell anything about himself at all.

And his sister and another lady were very much interested in the case, and wanted to see how they could help him, and his sister said she had never known he was in Loft's employ, and, when he heard so much money had been taken out of the safe, he jumped up and said, "I only got twenty dollars out of it."

Q What did you tell the sister about the defendant?

A We told her that, while he was in the employ of Mr. Loft as a night porter, the safe had been robbed of \$448.35, that that money had been taken out of it, and he jumped up out of his chair, and said he only got twenty dollars out of it.

Q And he didn't say that he got that twenty dollars

that was taken away from him from those people; did he?

A No, sir.

Q He said he had no money except the twenty dollars?

A No, it wasn't until afterwards, when we searched him, and found twenty-one dollars.

MR. HALLIGAN: That is all.

L O U I S H Y A M S, of the Detective Bureau, having been duly sworn as a witness in behalf of the People, testified as follows:

DIRECT EXAMINATION BY MR. LEO:

Q You are attached to the Police Department of the City of New York? A I am .

Q And you are one of the officers who arrested this defendant? A I am, yes.

Q Do you remember the date? A I do. On the 23rd of November, or the 24th.

Q And where? A A dance hall at 132nd Street and Seventh Avenue.

Q And officer Hughes was present? A He was.

Q And you had a conversation with the defendant Roberts?
A We did.

Q What was said? A We took him out of the dance hall at 132nd Street and Seventh Avenue, and he asked us what we wanted him for, and Mr. Hughes told him that we wanted

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him for the Loft Job,

And his sister and a friend of his sister's came down all the way to the station house, the 37th Precinct. And we got up there, on the second floor, and he sat in a chair alongside of a small desk.

And we asked him if his name was Saunders -- Hughes asked him, and he wouldn't make any response to that.

And we asked him if he was known "Blue" and he wouldn't make any response to that.

We asked him if his name was Roberts, and he wouldn't make any response to that.

And so his sister wanted to know all about what he was arrested for, and Mr. Hughes told her.

And I asked him if he wasn't employed at Loft's, 125th Street near Eighth Avenue, and he said he didn't know anything about Loft's.

And I said, "You don't mean to say, do you, that you were not employed there as a porter?" And he wouldn't say anything further about that.

And when he heard the amount that was entered in the blotter, \$448.35, the amount that was stolen from the safe, he jumped up and said, "Did they get that?" And I said, "Yes." And he said, "Well, they only gave me \$20 out of it."

And so I asked him then -- I said, "Now, why

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don't you tell me that you are Roberts?" So he said, "Yes, I'm Roberts."

And I said, "Were you ever convicted before?" So he said no.

Mr. Hughes had a picture and we showed it to him, and he denied that was he.

And then we took him over to the 36th Street Precinct and detained him over night.

CROSS EXAMINATION BY MR. HALLIGAN:

Q Now, then, did you go to 55 East 135th Street, to look for another man in this case? A No, sir.

Q Did your partner go there? A No, sir.

Q Or went to 135th Street? A No, sir.

Q Did you ask the defendant if any one else took part in this robbery? A Yes. At least, he told me, without my asking the question. He said that he was walking through 125th Street, and a colored man came up to him and said, "Do you want a job?" And he said, "Go down to Loft's candystore. There they want a man."

And he said, "I did go down there." And I said, "Who was this man?" And he said, he didn't know.

And I said, "Why, do you mean to say that a strange man, an utter stranger to you, would come up to you in the street and ask you if you wanted a job?" And he said, "Yes."

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And finally he said the man was Steve, who left when he came there.

And I said, "Now, will you tell me the truth? Wasn't it he that opened that safe?" And he said, "I don't know anything about it."

Q He said, "I don't know anything about it"? A Yes, that's what he said.

Q And that was the same time in the conversation when he said he got only twenty dollars out of it? A Well, I said, "I can't lock up Steve, unless there is something to show that he was in this job."

Q Now, you say that he said he knew nothing about it, when you accused him of opening the safe, or of knowing about somebody else opening it? A Certainly he did. But subsequently, before we took him to the 36th Street Precinct, and after he heard about the amount of money that was obtained from the safe, he said, "Well, I only got \$20 from them."

Q And this conversation was after he told you that he knew nothing about it? A No, he denied it before.

Q Now, were you present at the conversation which took place between him and Mr. Left? A No, sir; I was not.

Q Did he tell you anything about the men forcing him out of the place, with a revolver? A No, he didn't tell me that.

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Q Who did he tell that to? A I think to Mr. Hughes, in Court.

MR. LEO: The People rest.

T H O M A S S. H U G H E S, being recalled for further cross examination by counsel for the defendant, testified as follows:

CROSS EXAMINATION (Continued) BY MR. HALLIGAN:

Q How many men did you arrest before you arrested the defendant? A None.

Q Did you go to 55 West 135th Street, looking for a man? A No, sir.

Q You were present when the defendant Mr. Loft talked to each other, weren't you? A Yes.

Q Didn't you hear the defendant say then that he was forced out of the place with a revolver? A Yes.

Q And he denied his guilt to Mr. Loft and said that he was forced out of the place with a revolver? A He said that when he went downstairs to get water to scrub the floor upstairs, a man jumped out of a corner near the elevator, and held him up with a gun, and forced him to go upstairs and get the money out of the safe. That's what he said.

Q You asked him if the safe was open? A I did not.

Q You didn't say anything to him about that on that

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occasion? A No, sir; that was after he was held for trial.

Q That was after he was searched, too; wasn't it?

A Yes.

Q And that was after the twenty dollars was found on him? A That was the next day.

MR. HALLIGAN: That's all.

MR. LEO: The People rest.

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THE DEFENSE:

S A D I E H U M P H R E Y, a witness called in behalf of the Defense, testified as follows:

(Residence, 8 West 99th Street, New York.)

DIRECT EXAMINATION BY MR. HALLIGAN:

Q You are a married lady, are you not? A Yes.

Q You have a family? A Yes, sir.

Q The defendant is your brother? A Yes, sir.

Q And you were with him, the night he was arrested?

A I was.

Q Where was he arrested? A He was with me in a dancing class.

Q A dancing class? A Yes.

Q Where is that? A 132nd Street and 7th Avenue.

Q Were you taking dancing lessons with your brother?

A No, we just went there for pleasure.

Q Now, were you present when these two officers arrested him? A Yes.

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

Q And you heard a conversation there? A Yes.

Q Between him and the officers? A Yes.

Q Did you have a conversation with the officers?

A Yes.

Q Now, what was the conversation? A Do you want me to

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start from the beginning?

Q Yes. Tell this jury everything. A When we first went to the dancing class my brother --

MR. LEO: No, you are only asked for the conversation you had with the officers.

BY THE COURT:

Q What was said at the station house after you got there or on the way there? A After I got to the station house, I went in there, and they said to me my brother was upstairs, and , when I got upstairs, they were all around my brother. My brother had been drinking, and really what he said -- some things he said was one thing and some was another, and they were trying to get his name. They never asked him what his name was before, or anything.

BY MR. HALLIGAN:

Q Did any of the officers know him? A No, they only knew him by his picture they had in their pocket, and they had arrested two men.

Q Did they say that? A Yes, they said they had two men before.

BY THE COURT:

Q Did they say that they had arrested two men? A Yes, and they said, "The boy you want is the boy with the raincoat on," and they come and take my brother, because he worked in the store.

And they said, "Tom, we can't hold you because you haven't did anything. We know you didn't do it, but we are taking you because you worked in the store. We know that you didn't know how to break the lock or open the combination."

And I said, "Will they send my brother away? Can't he go home with me now?" And they said, "No, he can't go home. If he hadn't left the store we wouldn't have anything against him."

Q Did your brother say that he was guilty? A No he said that he wasn't guilty.

Q And did he tell them that he had nothing to do with this crime? A He said he didn't know anything about it. And I said, "If I thought he was guilty, I wouldn't have anything to do with him."

Q You say your brother was intoxicated at the time? A Yes, sir; he had been drinking. And I said, "Can I get my ten dollars?" -- I didn't have much change with me -- "that he has on him?" And he said, "No, you can't. We have searched him and got \$21, but you will get the ten dollars when it's over."

Q Did you give him ten dollars of that money that he had? A Yes.

Q When? A That day.

Q Did he say to the officers when he explained the

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money that was found on him, that all that he got was \$20 out of it? A I never heard him make that explanation.

Q Did the officers say that the safe was robbed of \$448.35, in your presence? A Yes, sir.

Q And what did your brother say? A He said, "Oh, I don't know anything about it. Why do you hold me?" And they said they would have to hold him because he worked in the store, and he said he was forced out of the place. And another officer, the officer here (indicating), he said, "Oh, come up with it, Tom, you know you did the job." And he kept us from one o'clock at night until four o'clock in the morning.

Q To try and get a confession? A Yes, sir.

BY THE COURT:

Q Did your brother say he was forced out of the store?

A Yes, sir.

Q And did he say who forced him out of the store? A A man.

Q Well, tell us all that he said about that. A He said that a man forced him out of the store, and, when he went up on the sidewalk, with the cans, this man got off the elevator, and he was afraid to say anything, because he was afraid the man would kill him, and he went on home.

BY MR. HALLIGAN:

Q Was it a white or a colored man? Did he say? A A colored man.

BY THE COURT:

Q He said he found a man in the store and the man forced him to leave the store; did he? A He said the man forced him to leave the store, with a gun, and he didn't go back and he went on the elevator, and they went up, and the man went away, and he went back down in the store again, and got scared after that happened, and he came away from the store, and was afraid to go back to the store again.

Q Did he say what this man did in the store? A No, sir.

Q Did the officers ask him? A No, sir; they asked him did he do the job, and he said, "No," he didn't do it. And they said, "Well, who are the boys we have to arrest?" And he said, "Maybe those boys know something about it," and they said, "Well, we will go uptown and see if we can get this fellow named Steve," and they took the address and they looked it up, they said, and they said, "We'll catch those fellows, because we know your brother isn't guilty. He doesn't know how to break a safe."

BY MR. HALLIGAN:

Q And were you there until four o'clock while the detectives were trying to get an admission of guilt out of him? A Yes, sir.

Q And he maintained his innocence, during all that time?

A Yes. And he told them that he didn't know anything about it.

CROSS EXAMINATION BY MR. LEO:

Q Did your brother tell the officers the name of this man

who forced him to open the safe? A All he said, was, "Steve."

Q Did he say he had known "Steve" for some time? A No, he didn't.

Q And did he say how he knew his name was Steve? A No.

Q And did he tell the officers that he looked for an officer, when he got outside with "Steve"? A No, sir.

Q Did he tell the officers that he left the Loft place with Steve? A I didn't hear it, no.

Q Did he say that he left the Loft place with "Steve"; that "Steve" and he went out of the premises together? A I did not hear him say that.

Q Didn't you hear your brother say that he met a policeman outside of Loft's place? A Yes, I did.

Q And that, nevertheless, "Steve" passed out, passed away? A Yes, sir.

Q And that your brother didn't speak to the policeman? A No. He didn't say that.

Q But your brother did say to the officers that, as he went out of the premises with "Steve" that there was a policeman there? A I didn't hear him say that; no.

Q Didn't you hear him say that there was a policeman there? A Yes, I heard him say there was a policeman there.

Q And also that he went out of the premises? A Yes.

Q After this man had made him open the safe?

MR. HALLIGAN: I object to that. There is no such evidence.

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THE COURT: Well, she did not say that the man made him open the safe.

THE WITNESS: I didn't hear him say nothing about that.

BY MR. HALLIGAN:

Q Did he or did he not say that? A No, he didn't say it.

BY MR. LEO:

Q Did you hear him say that this man "Steve" had forced him to do something? A No, sir.

Q He didn't use that expression? A No, sir.

Q What did he say about Steve? A He said, "Probably if you get Steve, the fellow that worked here before, then you might find out something." And I said, "Tom, wait until you get a lawyer, and then you'll know what you are talking about. You've been drinking. Stop your talking."

Q Didn't your brother tell the officers that night that "Steve" came into Loft's place? A He didn't tell me that.

Q But didn't he tell the officers that? A I didn't hear him say that.

RE-DIRECT EXAMINATION BY MR. HALLIGAN:

Q Now then, he didn't tell you that Steve and he went out when the officer was standing on the sidewalk, did he? A No.

BY THE COURT:

Q Well, what did he say about the officer? A He said when the officer was up there and he went up there with the cans.

Q Was that before or after Steve? A After Steve had left.

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Q Then he went up with some cans? A No "Steve" went up on the elevator where these cans are taken up, and he went up with the cans, at the same time "Steve" went up.

Q Is that the time they saw the officer? A Yes, and he didn't say anything to the officer, because he was afraid that "Steve" might kill him, because he had a gun.

RE-CROSS EXAMINATION BY MR. LEO:

Q You say on direct examination that your brother told the officers he was forced out of this place by "Steve"?

A Yes.

Q Well, how did he force him out? A With a gun. And he didn't see him rob the safe, he said. I asked him, "Did you see him open the safe", and he said no.

Q But your brother, going out, saw this policeman? A Yes. When he was taking this "Steve" up on the elevator, he seen this policeman out on the sidewalk.

BY MR. HALLIGAN:

Q Did he say where the officer was? A On the sidewalk.

Q He wasn't at the door then? A No.

Q And he didn't go out on the sidewalk or street? A No.

Q Where did he say he went? A He went back down again.

(The Court admonishes the Jury in accordance with Section 415, of the Code of Criminal Procedure, and adjourned the further trial of the case to Wednesday, January 28th, 1914, at 2:15 P. M.)

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THE PEOPLE VS. THOMAS ROBERTS

TRIAL RESUMED.

New York, January 28th, 1914.

A M E A D E R M A N L E Y , of 122 West 139th Street, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HALLIGAN:

Q Where do you live? A 122 West 139th Street.

Q And you are married or unmarried? A I am married.

Q And do you know the defendant? A I do; yes.

Q Thomas Roberts? A Yes, sir.

MR. HALLIGAN: Stand up, officer.

BY MR. HALLIGAN:

Q Did you ever see that officer before? (Indicating Officer Hyams) A Yes, sir.

Q Did you ever see that officer before? A Yes, sir.

Q And did you ever see that other officer before? (Indicating Officer Hughes) A Yes, sir.

Q And when did you first see those two officers? A When I was entering the dancing hall, 132nd Street and Seventh Avenue.

Q Now, please talk up so that we can hear you, and tell us everything that transpired and that you heard on that occasion. Talk up so that we can hear you. A Why, I went to the hall at 132nd Street and Seventh Avenue on Saturday night, and I met those two detectives.

And as I started to go upstairs, I saw those two detectives, coming downstairs with two colored men.

And when I meets them I says, "What's the matter up there?" And I got upstairs and I said to some of the boys, "What's the matter? Is there a fight?" And they said "No".

And then I went down again and I saw them go towards Seventh Avenue, with the two fellows, and one of the colored fellows says, "I'm not no 'Blue'. You don't want me. You want 'Blue'. And he's upstairs in the hall."

And I stood by the box, with my ticket in my hand, and I says, "I ain't going up. There must be a fight up in the hall." And, in a minute or two, they come rushing down with Thomas Roberts, and I looked up, and I seen Sadie, and I said, "What's the matter? Have they got your brother?" And she said "Yes." And I said, "What's the matter?" And she said, "I don't know."

And she said, "Come go with me to the station house."

THE COURT: Now, what has this got to do with the issues here?

MR. HALLIGAN: It is in contradiction of the alleged confession. The officers swear that ~~they~~ arrested this defendant, and they didn't arrest two other men before they arrested him in that hall.

THE WITNESS: Well, they did.

THE COURT: Then lethartestily as to the arrest. I am talking of the conversation between the defendant's sister

and this witness. What has that got to do with it?

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MR. HALLIGAN: I am just laying the foundation for the contradiction, your Honor.

THE COURT: Very well.

BY MR. HALLIGAN:

Q Well then, go on. A The detectives said, "We'll take him over to the station-house. We'll go over to 123rd Street, and you can come over there." And I said, "Well, give us the address so we will know where to go." And he gives the address." And I and Sadie got over there about one o'clock, and was over there until four or after four, that morning.

Q From four o'clock---one o'clock that morning until about four o'clock, Sunday morning? A Yes, sir.

Q Now, tell us just what transpired. What the detectives said to the defendant, the whole conversation that ensued between the defendant and the detectives in your presence? A Why, the detective said to him, "Why didn't you say that you wasn't the fellow when you was up at the hall, when we had those two other fellows?" And he said, "I didn't know what you was taking me for. You didn't give me a chance to say anything." And he said, "Oh, yes, we did. You knew exactly what we got you for."

And he said, "We will look up the other two fellows, later, but we've got you now, and we'll hold you, and you might

as well come across, because you know all about this thing, because we have got you and we have got to hold you.

Q - And what did Roberts say to the detectives? A He said, "God knows I don't know anything about this. You have certainly got me wrong. The two fellows that know all about it, you had."

And I said, "Come on now, Roberts, and tell the truth, because the Lord will always help you, if you tell the truth." And he said, "I swear I don't know anything about it, and I wouldn't tell a lie."

And the detective said, "We will have to lock you up anyhow." And they opened his coat and took his things out of his pockets.

And they find twenty dollars or twenty one dollars on him, and ten dollars belonged to his sister, which I knew.

MR. LEO: That is objected to, and I move to strike it out.

MR. HALLIGAN: That is consented to.

THE COURT: Motion granted. Strike it out.

BY MR. HALLIGAN:

Q And what was the talk about the twenty dollars that was found on him? A He said that ten dollars of that money belonged to his sister.

Q And what did the detectives say, if anything, about the money? A Nothing at all. And I said, "What are you

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going to do with this money?" And they said, "Well, we'll give him his money back," and they give him his papers and cards, and other such junk, and kept the money.

And he said, "Well, ten dollars of that belongs to my sister," and he said, "Never mind. You needn't be afraid, we'll give you your money back," and Thomas Roberts gave the detectives the address that these two fellows lived.

Q And you are positive that the defendant did not make any confession or guilt to the detectives on that occasion?

A Yes, sir.

Q And you absolutely swear that you were with him from one to four o'clock? A Yes, sir; after four.

Q Was anything said about the third degree? A No, nothing was said about the third degree, when I was present, and I was there the whole time.

Q Did one of the officers tell you that he had to get Roberts to confess, and they wanted to get you out of the station house?

MR. LEO: I object to that as leading, your Honor.

MR. HALLIGAN: Well, I will withdraw that.

BY MR. HALLIGAN:

Q Was there anything else said? A No, nothing else was said in my presence. But they said, "You are foolish not to give the names of these other fellows."

And I said, "Well, if anybody else is in it, why don't

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you go on and tell them that there is somebody else in it." And they said, "Well, we can't let him go, because we have got him, but we will go out and look up the other fellows."

MR. HALLIGAN: That's all.

CROSS EXAMINATION BY MR. LEO:

Q Did either of the detectives tell Roberts what he was charged with? A Yes, sir; breaking a safe.

Q Did he mention any name as to the place where the crime was committed? A Loft's, he said.

Q And did he say that the robbery was of \$448.35? A Yes, sir.

Q And the detective said that to Roberts, the defendant, didn't he? A Yes, sir. And he said he didn't know anything about no four hundred and forty-eight dollars.

Q Didn't he say that somebody had forced him out of the store? A After the detectives had been questionizing him a while, he did say something about being forced out by the point of a gun.

Q By whom? A He didn't say who was it.

Q No, he didn't mention the name of the person that forced him out, at the point of a gun? A No, sir.

Q But he said that somebody had forced him at the point of a gun? A Yes, sir.

Q Now then, just what did he say? What did he say about that? A Well, the detective asked him so many questions,

that I have went over all that I could remember he said.

Q But he did say that somebody in Loft's store pointed a gun at him? A Yes; and made him take him up on the elevator. Yes, I remember him saying that.

Q Did he say what that somebody had done in Loft's store? A No, he didn't say.

Q And did Roberts say he had taken this somebody, this stranger, up in the elevator? A He said by the point of a gun, this man forced him.

Q And that he saw him out on the street? A I don't remember that he saw him out on the street, but I remember he said he went up on the elevator by the point of a gun.

Q And that he went out on the street? A Yes, I do remember he said something like that.

Q You do remember that? A Yes, sir.

Q Now, then, what did he say about a policeman being outside? A He did say something about a police officer being outside, but he was too afraid to say anything to the policeman concerning it.

Q Well, what did he say he was afraid to say? A This man broke in the place.

Q Yes, that's what he meant to convey to the officer, that this stranger had broken into the safe and had stolen the money and gone out by way of the elevator, and this defendant saw him go out, and saw the policeman outside; is that

right?

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MR. HALLIGAN: I object to that. That isn't the testimony.

THE COURT: It is cross examination. I will allow it.

A I don't remember that.

BY MR. LEO:

Q Well, what did he say about the Policeman? A Well, that's all he said.

Q That a policeman stood outside? A Yes, but he was afraid. That's what he said in the presence of me and the detectives and his sister, that the policeman was up there, but he was afraid to notify the policeman.

Q Well, what was he afraid of, when he saw the policeman there? A Well, I guess he was afraid to tell the policeman that the safe was robbed.

MR. HALLIGAN: I move to strike that out, her guess.

THE COURT: Yes, strike it out.

BY THE COURT:

Q Did he say why he was afraid? A No, sir. They asked him so many questions, I guess they asked him a million questions, and I don't want to tell anything false.

BY MR. LEO:

Q But you are quite certain that he said that somebody had pointed a gun at him in Loft's store, and had robbed the safe? A Yes, sir.

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Q And had gone up in the elevator? A He said he didn't know what they did, but the man forced him out of the building by the point of a gun.

Q That is what he said, is it? A Yes, sir.

Q And that he was afraid to mention it to the policeman?

A Well, I don't remember. I wouldn't say positive. He said something concerning the officer upstairs.

Q Did he say what his name was to the officers? A He said his name was Thomas Roberts.

Q Well, was anything said about his name being Saunders?

A Well, the officer tried to pull so much out of him---

BY THE COURT:

Q Well, was anything said about his name being Saunders?

A No, sir; I don't know anything about Saunders.

Q Did he say that the man who forced him out of the place was named "Steve"? A The detective says, "that's the man we want, Steve."

Q I didn't ask you that.

(Question repeated).

A That's what he said, something about "Steve".

BY MR. LEO:

Q What did he say about Steve? A He said "Steve is the man that forced me out of the building. That's the man you want."

And the detective said, "Why didn't you say so when we had him?"

Q Do you know "Steve"? A Only by sight.

Q Was this man in the dancing hall with Steve? (Indicating the defendant.) A I didn't enter the dancing hall.

Q Did you see Steve at the dancing hall? A I saw the man that they called Steve. He was with the detectives. He was coming downstairs with them. They had Steve first.

Q At the dance hall? A Yes, sir.

Q The same dance hall where this man was? A Yes, but they brought this man Steve down first.

Q Did the man at the dance hall---did you see this man arrested? (Indicating the defendant) A Yes.

Q Did he tell the officers then that Steve was up in the dance hall? A Steve was the one that told the officers, "I'm not Blue. Blue is upstairs." And, when the officers got over there to 123rd Street, they said, "Why didn't you say Steve was the one we wanted?"

Q Now, you are not answering my question at all. Now, just pay attention to my question. Did they arrest Steve at the dance hall, and the defendant, both? A Yes.

Q Who did they arrest first? A The man that was pointed out to me to be Steve.

Q And how long after they arrested Steve did they arrest the defendant? A They took him out first, Steve, and went up toward Seventh Avenue, and Steve said, "You don't want me. You want 'Blue'."

Q And how long afterwards did they arrest the defendant? A I guess it was only two or three minutes, because they came running back and they come past me, going down fast.

Q Now, did the defendant say anything about Steve? A When they got over to the Night Court, he said, "You had the right man up there."

Q He didn't say anything until he got to the night Court? A No, sir.

Q But Steve and this defendant were in the dance hall together? A I didn't see them in there together. I saw the detectives, with both of them, coming downstairs.

Q Well now, you are quite certain that Roberts said to the detectives that, if they got Steve, they would get the right man? A I don't remember he saying that. But he said, "Steve is the man you want" and they said, "Why didn't you tell us that. We'll go back and get him, but we've got to hold you."

Q Were you introduced to Steve that evening at the dance hall? A No, I only know him by sight, when the detectives had him.

Q And did you see Roberts and him together that evening? A No, sir; I didn't.

Q You merely saw the two at the dance hall? A When they was arrested, yes.

Q But you saw them both in the dance hall? A Yes, on the stairs.

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T H O M A S R O B E R T S , the defendant, of Number 8 West
99th Street, being duly sworn and examined, testified as fol-
lows:

DIRECT EXAMINATION BY MR. HALLIGAN:

Q Did you live there with your sister? A Yes, sir.

Q And you went to work for Loft's around November 14th,
did you not? A I went to work for Loft November 12th.

Q And you are charged with stealing \$448.35 from a safe
in that candy store of Mr. Loft's. Did you take any of the
money? A No, sir.

Q Did you open the safe? A No, sir.

Q Did you know the combination of the safe? A No, sir.

Q Did you ever work in any place where they manufactured
safes? A No, sir.

Q Do you know anything about safes? A No, sir.

MR. HALLIGAN: The witness is yours.

CROSS EXAMINATION BY MR. LEO:

Q Do you remember being locked in by Mr. Levy, the morn-
ing of the 14th of November; don't you? A Mr. Levy didn't
lock me in. I locked myself in.

Q You locked yourself in? A Yes, sir.

Q And then you have certain duties to perform there?
A Yes, sir.

Q To clean up the place? A Yes, sir.

Q And stay there during the night, until somebody opened
in the morning? A Yes, sir.

Q Now, then, what time did you leave the premises? A Well, I left there between---I was home by two o'clock.

Q Two in the morning? A yes, sir.

Q Now then, what---Mr. Levy left a little before one? A Mr. Levy left there about 12:15; no later.

Q 12:15? A Yes, sir.

Q And at two o'clock you were at home? A Yes, sir.

Q How long did it take you to get from Mr. Left's place to your home? A Well, I couldn't exactly time that.

Q Well, about? A Well, as far as to go from 125th Street to 99th Street.

Q The same side uptown? A Yes, sir; west side.

Q So that you were there in the place over an hour? A Yes, sir.

Q Well, then, did you see anybody in the place while you were there? A When I came on duty at nine o'clock or about nine o'clock, a man was concealed in the place.

Q How do you know that? A Why, when Mr. Levy demanded of me to get done with my work immediately, and I rushed, and got done with it as far as I could, and Mr. Levy went downstairs, he said, "Everything was all right, Thomas?" and I said, "Yes, I locked the lock" and he goes out. And I went down to get a pail of water to mop up my floor, and the man stuck a revolver, pointed a revolver, right in my ribs, my stomach or ribs, either one.

Q Now, where did that man first appear to you? A Right

at the head of the steps, at the time clock.

THE COURT: One moment. I want to ask you something.

BY THE COURT:

Q You say you locked yourself in. Did you lock the upstairs door? A No, sir; the basement door. Mr. Levy locked the upstairs door. Downstairs it is a snap lock, a padlock on it.

Q Did you have a key to the padlock? A No, sir.

BY MR. LEO:

Q So that after you had closed the padlock downstairs, there was no way of your getting out without the lock giving way, or being opened by a key? A My way of getting out, when I was forced out with the command of this revolver, was I went on out of the store.

Q Well, we'll get to that. Now, where did this man first appear to you? A At the time clock, right at the head of the steps, down in the basement.

Q Standing right against the wall? A Well, not exactly. The time clock shut him off from me. He pointed the revolver on me, before I could protect myself.

Q What is his name? A I gave his name as "Steve".

Q Isn't he the man that sent you to Loft's to get the position? A He is not.

Q Who is the man that sent you to Loft's to get the position? A The man that sent me to Loft's was the day porter there.

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

Q Where does he live? A I don't know his address.

Q Is he a day porter there now? A I couldn't say.

Q When did he speak to you about a position being vacant? A On the morning of the 12th.

Q Then it was not that you met a man, that very day when you presented yourself for the position, who told you about it? A I don't understand that. It was the 12th I went to work. The same day I met the man, I went to work.

Q And you applied for the position? A Yes, sir.

BY THE COURT:

Q Did you know this man before? A I never seen him before, your Honor.

Q And where did you meet him? A At 125th Street, right by the Alhambra Theatre.

Q Well, did he, a stranger, come up to you and tell you that there was a vacant position? A I was looking at the pictures, and he had a white coat on, and he said, "Are you working?" And I said, "No". And he said, "If you want a position, go up to Left's, because the night porter has quit."

Q And he was an absolute stranger to you? A Yes, sir.

BY MR. LEO:

Q And how did you know that it was "Steve" that pointed the gun at you? A After the crime was committed, I met

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the day porter and told him about it. I hadn't went away from the detectives nowhere. I have been in the streets every day. And I went to see this man Steve, and I seen him and he gave me his address, which I gave to the detectives.

Q You saw Steve? A After the crime was committed?

Q Yes? A No, sir.

Q Then when did he give you the address? A The day porter give me the address, not Steve.

Q Wasn't Steve at the dance hall? A Steve wasn't at the dance hall.

Q You heard the testimony of your witnesses. A Well, my witnesses, in fact, really don't know Steve. I give the description of him and the detectives said, "That description resembles the man that said his name was Stevenson or Slater." Mr. Levy got that name from him.

Q And what did Steve say to you? A To get my overcoat and beat it, or he is going to take my life.

Q And he pointed a gun at you? A Yes, sir.

Q And he said no more than that? A No, sir.

Q And what did you do? A I did what he commanded. I got my overcoat and beat it.

Q Well, where did you go? A I walked up the street.

Q Well, how did you get out of the building? A There was one way to get out of the building, and that was to hoist me out of the building on the elevator, but I had to crank the elevator to bring me up to the street.

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Q You tried the elevator in the basement? A Yes, sir.

Q And up to what floor did you go? A Up to the sidewalk.

Q And this Steve helped you up? A He didn't help me up. He stayed in the store and he cranked the elevator up and I went up on the elevator, and I went to Seventh Avenue.

BY THE COURT:

Q Now, how did you get out of the building? I don't understand you at all. A The whole place is open, the basement is open. When I went down to get the pail of water -

Q You said you locked yourself in the basement. A I snapped the lock, but the lock was broke. They claim that here, too, judge.

BY MR. LEO:

Q Oh, you went downstairs to get out? A No, sir.

Q Didn't you go up on the elevator? A The elevator leads me up to the street. I didn't go through the store at all.

Q How did you get up on the street? A From the basement.

Q Well, what reason had you to use the elevator? A Well, that's the only connection for a man to go in the street.

Q From the basement? A Yes, sir.

Q And the elevator leads out on the street? A Yes, it goes right up to the level of the street. That's the shipping elevator, to let down the freight.

Q So you didn't go upstairs inside of the building?

A No, sir.

Q And the elevator didn't rise inside of the building?

A Yes, it must raise up in the building, to put me on the sidewalk.

Q And when you go up on the elevator, are you right on the sidewalk? A Yes, sir.

Q Is that where you saw the policeman? A Well, no, sir; not exactly there.

Q Where did you see the policeman? A Well, I wouldn't swear if it was a policeman, or if it was one of them night policemen, Holmes Policemen, or what. And I walked past him, and I was dazed, and I walked to Seventh Avenue and then I walked on home.

BY THE COURT:

Q I don't understand this yet. Did you have to go through the door that had this snap lock on it to get out?

A Yes, sir.

Q You had to go through that door? A Yes, sir.

Q And did you have to go through that door to get on the elevator? A Yes, sir.

Q Before you got on the elevator---A No, sir; there was no door there. The door was on the street.

Q Well, is that the door that has the snap lock? A Yes, sir.

Q Then that door is not in the basement? A No, sir; it's up on the sidewalk.

Q And that is the door that had the snap lock on it?

A Yes; it is a chain that goes down from the door, and snaps on to the wall.

Q Did you break that lock? A No, sir.

Q How did it get broken? A I don't know nothing about it.

Q Well, it was on the inside of the building, and you snapped it yourself? A Well, the man that was concealed in the place must have broke it, because I don't know nothing about it.

BY MR. LEO:

Q Well, you got out? A Yes, sir.

Q And the lock had been fastened by you, caught? A Well, Mr. Levy examined it. It wasn't my duty to look after the lock. He said it was all right.

Q Well, you say you snapped it? A Yes, sir.

Q And you made sure that it was secure? A I only snapped it, and walked away from it, and done my duty.

Q Well, you had snapped locks before, hadn't you? A No, sir.

Q This was the first instance? A Yes, sir.

Q Well, you snapped this one several times? A I snapped it just twice.

Q And made sure that it was closed? A Well, I wouldn't

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swear that it was closed.

Q Well now, then, when you endeavored to get out what did you do? Remove this lock? A I had nothing to do with the lock, after I put it on there, and snapped it, that night. I hadn't touched it since.

Q Well, didn't you get out through that same door? A Yes, I was forced out.

Q Yes, forced out. That's all right. But didn't you go through the door to which that lock was fastened? A No, the lock wasn't fastened when I went through the door.

Q Do you mean to say that it was open? A Yes, sir.

Q And you yourself had closed it? A Yes, sir. With the man in the place at the time that I closed it. The man was in the place before I came on duty.

Q And when the door was open, did the lock open? Did you go through the door? A Yes, sir.

Q And what was it fastened to? A It fastens to the chain, like a ~~scuttle~~ scuttle chain, that comes down in the house, from the roof. And I couldn't express my feelings, and I just went out in the street, and I was forced---

Q And you saw the officer out there? A I wouldn't swear whether he was a police officer or what he was.

Q Had Steve come out, when you did, from the building?
A No, sir.

Q Did you say a word to this officer about Steve being

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in there? A No, sir.

Q But he had pointed a gun at you? A I didn't say nothing about nobody.

Q But you feared your employer was being robbed? A I didn't say nothing to nobody.

Q Did you return to Loft's? A No, sir.

Q Did you return to Loft's place before you were arrested, nine days later? A I was through 125th Street, every day.

Q Why didn't you tell the policeman that somebody was in the premises, robbing the safe? A Because by my record, which I have confessed here, I knew, if I went to work and told the police, they would lodge the crime on me, the same as they are accusing me of it now.

Q That was the only reason? A Yes, sir.

Q And you didn't return to the place for the same reason? A Yes, sir.

Q What name did you give when you went to Loft's? A I never given Thomas Saunders.

Q Was that ever your name? A Yes.

Q Well, which is it? Is it Saunders or Roberts? A Roberts.

RE-DIRECT EXAMINATION BY MR. HALLIGAN:

Q Did you have any conversation with the detectives in reference to the commission of this crime? A Did I have what?

Q Did you have any conversation with the detectives?
Did the detectives ask you about it? A The detectives was trying to pick it out of me, and they said, "We've got your picture, and I'm going to make the detective that arrested you indict you as a second offender," and I said, "You don't have to. I pleaded guilty to my crime and was sent away for it", and he said, "That don't stop us from indicting you for the second offence."

And Officer Hughes said, "Tom, I don't think you had anything to do with this crime. I believe they are framing you up. Now, ~~why don't~~ you give us the address of the other two men?"

And I said, "I can't do any more than I know myself. If I had found the man you would know it right away. I can't tell you who done the crime, because I don't know."

Q And what did you say in reference to the twenty dollars which was found on your person? A I had twenty-one dollars. Officer Hughes took that away from me. He says, "This is some of Loft's money", and I said, "It's no Loft's money. My sister give me that. I borrowed it from my sister, and I borrowed some money from Brown," and he said, "Well, the rest of it you must have gambled away" and I said "No, I don't gamble".

Q Now, when did this conversation take place? Was that between one and four o'clock in the morning? A Yes, sir.

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Q You denied your guilt? A I did.

Q That you had anything to do with this transaction? A Yes, sir.

Q Did you ever make the statement, in respect to the twenty dollars that that was all you got out of it? A No, sir; I didn't.

Q Well, did you have any conversation with Mr. Loft in reference to the matter, in the Police Court? A Officer Hughes persuaded me to go to Mr. Loft, and explain it to him, and he said, "There is Mr. Loft. Now, talk to him. You told us about Mr. Levy being short in his monthly receipts."

Q Where was that? A At 121st Street, in the Police Court.

Q Now, just tell us your version of that. A And I said to Officer Hughes, "What's the use of my going to Mr. Loft and telling him? I can't tell him any more than I told you." And he said, "Well, Mr. Loft is here to see you personally," and I said, "Well, I'll speak to Mr. Loft, if I can get back my twenty dollars, and give her money back to my sister." And he said, "Well, you can get the money back all right."

And all I said to Mr. Loft was that I had twenty one dollars; that's all I said to him, and, if he says any more, he is--- well, he is mistaken.

Q Did you tell him that you broke open the safe? A No,

sir.

Q Did you ever say that a man forced you with a revolver to open the safe? A No, sir.

Q Did you ever say to any one that you knew the combination of the lock of the safe? A No, sir.

Q Did you know the combination? A No, sir.

MR. HALLIGAN: That's all.

RE-CROSS EXAMINATION BY MR. LEO:

Q Did you say to the detectives, "Probably, if you get Steve, the fellow that worked here before, then you might find out something?" A Detective Hughes and Hyams said to me---

BY THE COURT:

Q No, did you say that? A No, sir.

BY MR. LEO:

Q Did you hear your sister testify, yesterday, that you did say so? Did you hear this question put to her:

"Q What did he say about Steve?"---meaning what you said about Steve---to the detectives? A He"--- meaning you "said, 'Probably, if you get Steve, the fellow that worked here before, then you might find out something.'"

A That statement I told the detectives.

Q You did? A Yes, sir.

Q Now was Steve the fellow that worked there before?

A By Mr. Levy's statement, he was.

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Q Well, do you say he was? A Well, I couldn't say, but I heard Mr. Levy tell the detectives that his name was Steve, or Slater, that worked there, the last man that worked there.

Q Wasn't it Steve that told you to go there and get that position? A No, sir; it was the day porter.

BY THE COURT:

Q When did you hear Mr. Levy say that it was Steve?

A In the police Court.

Q Well, but this conversation took place, when your sister swore you said that, in the station house, before you got to the Police Court? A I also told Mr. Levy that, the same thing, in 121st Street.

Q Well, when you were in the station house, did you know that Steve was the man that worked there before? A From what Mr. Levy told me.

Q But Mr. Levy hadn't said anything. This was the night you were arrested? A Yes, I did know this, through the day porter giving the name of the last man employed by the firm. I said to the day porter, "I want to find out the last man that worked for the firm, before me," and he said, "What's the matter?" And then I explained to him, and told him.

Q What did you say to him? A I told him "I was forced out of the place, last night." The day porter told me where

he lived at.

Q What did the day porter say about Steve? A He just told me where he lived at; that's all.

Q Did you ask him his name? A Yes, sir; and he said his name was Steve. That's all the name he knew.

Q Why, at the time the day porter offered to you this job, did you ask him the name of the man that was leaving?

A That was after the crime was committed, I asked the day porter.

Q After you were arrested? A After the crime was committed. Days afterwards.

Q Now, this last witness preceding you says that she knows Steve by sight, and saw him arrested in the same dance hall that you were in? A Well, I didn't see him, because I was right in the dance hall when the officers took me right off the middle of the dance hall floor, and I couldn't see Steve there.

Q Do you know Steve by sight? A No, sir. And I haven't seen him after the crime was committed. I never could get any reach on him at all.

Q Was Steve in the dance hall or not, when you were there, that night? A I didn't see him.

Q But you didn't know him by sight then? A No, sir, I just had his address.

Q And, if you had seen him, you wouldn't have known him?

A No, sir; I just had his address, where he lived at, and I was there, and they turned me down a couple of times, and says, "He ain't home."

BY MR. LEO:

Q You say that the detectives asked you to talk to Mr. Loft? A Yes, sir.

Q Didn't you offer to talk to him? A No, sir; I wrote him a letter after I was down here in the Tombs, and told him I wanted to have an interview with him about what the detectives told me, after I was coming down here.

MR. HALLIGAN: I ask that that letter, if it is in the possession of the District Attorney, be put in evidence.

MR. LEO: There is nothing in the record about a letter, but it is a fact that I had a letter in my hand. Now, if the defendant's counsel desires to offer it in evidence, I have no objection.

MR. HALLIGAN: No, I will not offer it. I don't want it.

MR. LEO: You don't want it?

MR. HALLIGAN: No. The defense rests.

---oooOooo---

H A R R Y M . L E V Y , being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. LEO:

Q Mr. Levy, I think you testified that you tried the lock in the basement before leaving, the morning of the 14th of November? A Yes, I did try the lock.

Q And did it snap? A I locked it myself, and it snapped, and it stood the test we give it, every night, by yanking it several times, to see that it was actually locked.

Q And that was the morning of the 14th? A Yes, sir.

Q Just before you left? A Yes, sir; a few minutes before.

Q Now, that lock was fastened to what? To what door? A It was fastened to a chain, that was fastened to the door that led out into the street.

Q Well, directly from the basement? A Directly from the basement, from the elevator shaft.

Q Well, how did you get from the basement up to the level of the street? A Well, it was this way, if the front door isn't locked, you can go up the steps that lead from the basement to the store floor, and then out through the main entrance.

Q The steps are outside of the building? A No, sir; inside of the building.

Q So that there is no immediate exit from the basement

to the street? A By steps?

Q Yes? A No, sir.

Q You must go up steps inside of the building? A Yes, sir.

Q And then go out? A Yes, sir.

Q And it was the door at the foot of that staircase to which this lock had been fastened? A It wasn't exactly at the foot. It was towards the front, may be thirty-five feet.

Q Mr. Levy, you have already testified that Miss Keogh and yourself knew the combination? A Yes, sir.

Q Now, was the combination noted anywhere? A Yes, sir.

Q Where? A In the time book.

Q In the time book? A Yes, sir.

Q And the time book was kept where? A On the desk.

Q On the desk? A Yes, sir.

Q And was that true of before the 14th of November? Was that so on the 14th of November? A Yes, sir.

Q That the time book was kept on the desk? A Yes, sir.

Q And for how long prior to that? A Ever since I have been in Mr. Loft's employ.

Q How long was that? A About three months at that date.

Q And during all that time was the combination noted in the time book? A Yes, sir.

MR. LEO: You may examine.

CROSS EXAMINATION BY MR. HALLIGAN:

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Q There was nobody else that knew the combination except you and Miss Keogh? A I daresay Mr. Loft knew it.

Q Well, except Mr. Loft? A And I daresay Mr. Underhill knew it, the General Manager.

Q Mr. Underhill, the General Manager knew it? A Yes, sir.

Q And how often did the general manager visit the store? A Every day.

Q Every day? A Yes, sir.

Q And did he always go to the safe? A No, sir.

Q Miss Keogh, you say, went to the safe every morning at eleven o'clock? A No, sir.

Q At what time? A I said, when Miss Keogh came in, she usually opened the safe for business.

Q And the nights you were on, you locked the safe? A Yes, sir.

Q And the nights you were not on, she locked it? A Yes, sir.

Q What kind of safe was it? A Well, I think it was a Hall & Herring, or a Marvin & Hall, or something like that.

Q Now, you say that the sum of twenty dollars was missing, a couple of days previous to that? A Yes, sir.

Q Now, did you lay the blame for the loss of that twenty dollars on anybody? When you said that you would have to recompense Mr. Loft for that loss?

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MR. HALLIGAN: I object to that. That is not an exact statement of the evidence.

THE COURT: Objection sustained.

MR. HALLIGAN: Well, I will leave out the last clause of the question.

BY THE COURT:

Q Did you lay the blame for the loss on anybody? A No, sir.

BY MR. HALLIGAN:

Q And was that the tenth or eleventh of November? A I can't say which day it was. I will have to look up in the records and find out.

Q And when moneys was missed that way from your store, did you ever investigate any; if there was any deficiency in the cash account? A It was the first time it happened, and we investigated, and, at the time, this occurred.

Q Who handled the cash, that time? A In the morning?

Q Yes, on November 10th? A As I told you yesterday, Miss Hanahan and Miss Hess and myself.

Q And you were twenty dollars short? A Yes, sir.

Q And only three of you handled the cash? A Well, the cashiers took the money in.

Q And you couldn't trace that money to anybody? A We could not, at the time.

Q Now, you had a man by the name of Slater in your em-

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ploy? A We had a man named Stevens.

Q And he went by the name of "Steve"? A No, sir; I didn't know him by that name.

Q Was he a white or colored man? A A colored man.

Q How long did he work there? A Approximately, two and a half or three weeks.

Q And that was all the time he worked in the store? A Yes, sir.

Q Did you hire him? A No, I didn't.

Q Who hired him? A Why, he was engaged either by Mr. Keogh or Mr. Underhill. I think Mr. Keogh hired him.

Q Are you sure that Mr. Keogh hired him? A No, sir; I am not sure.

Q And did you know where he lived? A I had his address in the book.

Q Was it 55 West 135th Street? A I can't say just now. If I had the book, I could tell you.

Q And when this money was missed, you gave the detective that address, didn't you? A He asked me for the address of Stevens, and I gave it to him.

Q And you don't remember what the address was? A Not just now, no.

Q Under what circumstances did Stevens leave your employ, the employ of Mr. Loft? A Why, he refused to perform some of the duties that were his duties to perform; that's

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all.

Q What were his duties? The same as the defendant's?

A Yes, sir.

Q And what time did he come on? A The same time, nine o'clock in the evening, and left at eight o'clock in the morning.

Q Was he well recommended? A Yes, sir.

Q And the detective told you that Mr. Stevens had left the City, didn't he? A Why, no, I don't think he did.

Q This detective (Indicating) told you that he went up to this address, 35 West 155th Street, and he couldn't find him, that he had left the City? A I don't remember it.

Q You wouldn't swear that he didn't tell you, would you?

A I never swear to anything, unless I am sure.

Q Now, did he tell you or not? A I don't remember, I am telling you.

Q You don't remember? A No.

MR. HALLIGAN: That's all.

MR. LEO: The People rest.

MR. HALLIGAN: Now, I ask your Honor---that is to say, I move for the dismissal of this case, on the ground that I don't think the evidence is sufficient for consideration by the jury, to be passed upon by the jury.

THE COURT: I shall submit it to the jury.

MR. HALLIGAN: We take an exception.

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(Mr. Halligan then summed up for the defense and Mr. Leo closed the case for the People.)

THE COURT: Gentlemen of the jury, I do not think I will submit this case to you now, because by the time I have charged you, it will be well past the hour of four o'clock, and I think that would be too late to send you out on this case; and, therefore, we will take an adjournment.

And I will ask you, gentlemen, to be here at 10:30 so that I can charge you at once on the opening of Court, and you can retire then, while the rest of the Court's business is proceeding, and you will not have to wait until the rest of the Court's business is transacted.

(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 Thursday morning, January 29th, 1914, at 10:30 o'clock.)

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