

EXHIBIT

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**CASE**

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*Muhren*

*Police Officer*

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

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-----X  
THE PEOPLE :  
against :  
JOHN GOLLIFER, HENRY HARFF, WIL- :  
LIAM CLARK and JOHN O'CONNELL. :  
-----X

Indictment filed 19th day of March, 1918.  
Indicted for Grand Larceny in the First Degree.

For the People,  
ASSISTANT DISTRICT ATTORNEY EDER.

For the Defendants,  
MR. FURSTENBERG.

Tried before HON. THOMAS C. T. GRAIN, JUDGE and a  
Jury on the 5th day of April, 1918, &c.

DAVID ROBERTS, called as a witness on behalf of  
the People, being duly sworn and examined, testified as  
follows:

(Residence 227 West 18th Street.)

DIRECT EXAMINATION BY MR. EDER:

- Q What is your business? A Driver.  
Q Whom are you working for? A M. J. O'Connell.  
Q Did you work for him on the 13th day of March, 1918?

A Yes.

Q Did you take any cases on your wagon that day to any  
pier? A Yes, sir.

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Q How many cases? A Five cases and one bale.

Q Where did you take them from? A 30th Street and Fifth Avenue.

Q Is that a stand that O'Connell has for the delivery of merchandise? A Yes.

Q Where did you take it to? A To Pier 37 East River.

Q What kind of wagon did you take them in? A Open truck, red truck.

Q Any name on the truck? A M. J. O'Connell, 4 West 30th.

Q What kind of horse was it? A Black.

Q What pier did you say it was? A 37.

Q Where is that? A Foot of Jackson Street.

Q New York County? A Yes.

Q When you came to that pier what did you do? A I drove in the line with the rest of the trucks.

Q Did you get off the truck? A Yes.

Q What did you do? A I walked to the platform to see the checker.

Q How long were you there talking to the checker? A About five minutes.

Q Did you come back to where your truck was? A Yes.

Q Was the truck there? A No.

Q Did you see the five cases or the bale that was contained on your truck? A No.

Q When after that did you see that same horse and wagon?

A I seen it about one o'clock that afternoon.

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Q Where? A At the stand.

Q Did you ever see any of those cases that were on your wagon that day? A Yes, I seen one of the bales that the goods was in, the wrapper.

Q Where? A Mr. O'Connell showed it to me.

Q When? A About the next day after that.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q What time did you leave your stand with the horse and truck? A I left the stable that morning.

Q With the load? A Yes.

Q What time? A About 7:05.

Q And you saw your horse and wagon again at one o'clock?  
A Yes.

Q The same day? A Yes.

BY THE COURT:

Q Where was your stand, where you saw the horse and wagon at one o'clock? A 30th Street and Fifth Avenue.

BY MR. FURSTENBERG:

Q Where was your stable that you left in the morning?  
A Clarkson and Washington.

REDIRECT EXAMINATION BY MR. EDER:

Q Were there any marks on the bale or cases at the time you had them on your wagon? A Yes.

Q What marks? A One mark I recollect was on the small bale Danbury, Connecticut.

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Q Look at this burlap bag, is that the bag or the bale in question? A That was the bag, that was what I had to ask the checker about, that mark, Danbury, Connecticut.

The burlap bag is marked for identification People's Exhibit 1.

N I C H O L A S J. O ' C O N N E L L, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

(Residence 107 West 11th Street.)

DIRECT EXAMINATION BY MR. EDER:

Q What is your business? A Trucking.

Q How long have you been in the trucking business?

A Thirty years.

Q Where do you keep your stand? A 4 West 20th.

Q In this county? A Yes.

Q Do you remember the 13th day of March, 1918? A Yes.

Q Was one David Roberts in your employ as a driver that day? A Yes.

Q Were you there in the morning when he placed certain cases on his truck? A Yes.

Q How many cases? A Five cases and the bale.

Q Were those cases delivered to you by your customers?

A They were.

Q What customers delivered the property? A Stalley & Reichman, one case, the Selina Manufacturing Company one, from Selina; two from Zoner & Zehise; one, Leo Nausbaum and one bale

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from Sherman & Sons. That is six.

Q What time did this horse and wagon leave your stand?

A In the morning he left about half past seven or eight o'clock.

Q You have bought horses and wagons during the thirty years you have been in business? A I have.

Q A great many times? A Yes.

Q In the open market? A Yes.

Q You have bought and sold them? A Yes.

Q What would be the fair and reasonable market value of the horse, wagon and harness that Roberts drove away that day with him? A About \$600.

Q Did you receive a telephone call from Roberts that morning? A Yes.

Q How soon after that did you see your horse and wagon?

A About eleven o'clock I seen the horse and wagon back to the stand again.

Q Eleven o'clock? A About eleven.

Q Any cases on it? A -No.

Q Any bale on it? A No, nothing.

Q Did anyone telephone to you?

Objected to.

THE COURT: He says he received a telephone call from Roberts.

Q Did you get a telephone call from someone other than Roberts? A I got a telephone call.

Objected to.

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THE COURT: Yes or no.

THE WITNESS: Yes.

BY MR. EDER:

Q After receiving that telephone call what did you do?

A I sent me son down to the McDougal Street station house for the truck and horse.

Q Then your son came with your truck and horse? A Back to the stand.

Q Did you see any of the cases that were on that wagon or the bale that was on that wagon, after it had left your stand?

A I saw them in Police Headquarters in the basement.

Q When? A The following morning.

Q That is? A The day after.

Q The day after the 13th? A Yes, the 14th.

Q You saw the same cases? A The same cases.

Q And the same bale? A Yes, and the same bale.

Q I show you this burlap bag and ask you if that is the bag? A That is the bag that the Sherman goods were in. The name is on it.

Q You saw that in Headquarters? A The cases were empty and that was in the cases.

Q Were there any marks on the cases that you saw? A The marks were all scraped off, just this one case of Stalley & Reichman. They have a little rubber stamp. They stamp their name on, and that was still on the case. It is on the case yet.

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CROSS EXAMINATION BY MR. FURSTENBERG:

Q How many trucks have you? A Twelve.

Q Were you present at the loading of all these trucks?

A Most of the time.

Q What other trucks were loaded on the 13th? A There may have been two or three others.

Q Do you know? A I do.

Q How many trucks were loaded on the morning of the 13th?

A That I cannot answer.

Q Can you tell me the contents of any of the other trucks on the morning of the 13th? A No, we have so many. We have so much goods I couldn't tell you.

Q But you do remember being present when this particular truck was being loaded? A Yes.

Q You were present when it left the stand about 7 A.M?

A It left the stable at about seven.

Q The stand I understood you to answer at first, was it the stand or stable? A The stand.

Q So that if Roberts your drive says that he left the stable he is mistaken about that, is that right?

Objected to. Sustained.

Q Where did this truck leave the morning of the 13th, the stand or the stable? A I am mistaken about the stand -- left the stable.

Q So you were mistaken about it leaving the stand? A Yes.

Q About seeing the articles go on the wagon on the morn-

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ing of the 13th --

BY THE COURT:

Q On the morning of the 13th did you see these various packages, the cases and bale put upon the truck, did you see that with your eyes, yes or no? A Not on the morning of the 13th, no, sir.

Q Did you see them put on that truck at any time we will say on the 13th? A On the evening of the 12th.

Q Where were you when you saw those packages put upon the truck? A Right on the sidewalk.

Q The sidewalk in front of what place? A 4 West 20th St.

Q In other words, on the afternoon of the 12th, you being on the sidewalk of 20th Street, saw the packages that you have been speaking about taken from the sidewalk and put upon your truck? A I did.

Q Did you see the truck driven away by anyone on that afternoon with the packages on it? A I did.

Q When did you next see the truck? A About quarter to seven the next morning at the stable.

Q At that time was there anything on the truck? A There was.

Q Were the packages that you have been speaking about at that time on the truck? A They were.

Q So you did see the truck with the packages on it in your stable on the morning of the 13th? A Yes.

Q Did you see the truck driven out of your stable on that morning? A I handed the man --

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Q Did you see? A Yes.

Q You did? A Yes.

Q And who drove the truck out? A Roberts.

Q When did you next see the truck again? A About eleven o'clock.

Q Did you ever see the packages after you saw them on the morning of the 13th on the truck in your stable? A No, sir.

BY MR. FURSTENBERG:

Q Do you remember the date they were arrested? A The 13th.

Q On the 13th? A Yes.

Q That is to say the same day that the goods were reported missing? A Yes.

Q Do you know who arrested the defendants? A Yes, sir.

Q Who arrested them? A Officer Landrigan.

Q How long have you known Officer Landrigan? A I know him for a long time as Officer Landrigan, but not personally.

Q About how long? A Five or six years, maybe, I know of him, but never spoke to the man until the day of the affair.

Q And where did you go after the defendants were arrested?  
A I did not go any place.

Q Did you go to Headquarters the next day? A No, I came down here to --

Q With whom did you come down here? A I was telephoned to.

Q With whom did you come down here, if anyone? A Myself.

Q Who did you meet down here? A This gentleman. (Indicating Mr. Eder.)

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Q Anyone else but Mr. Eder? A Mr. Eder and Mr. Landrigan was there and two other officers.

Q Where was this meeting? A In Mr. Eder's office.

Q At that time the defendants were not there in Mr. Eder's office? A They were sitting outside.

Q Were they sitting outside when you arrived there or had you arrived first? A I couldn't say that -- after I came out of Mr. Eder's office they were there.

Q Was there any talk about bringing these defendants over for you to look at? A No.

Objected to as immaterial. Overruled.

Q Was there anything said to you as to why you should come down? A Well, to fix up the case that the goods was gotten, that was all.

Q Had you been previously informed that the defendants would be arraigned in the Magistrate's Court? A No, not before that day.

Objected to as immaterial. Overruled.

Q Had you? A No, sir.

Q When were you notified of the defendants' arrest? A Why, the next day I got a telephone call that the goods were found.

Q Did Officer Landrigan tell you to be in the Magistrate's Court at any time?

Objected to.

THE COURT: If there was some claim that this witness had identified these defendants, then the evidence would be

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receivable, but there is no contention by the People that this witness identified the defendants.

MR. FURSTENBERG: Very well, that is all.

REDIRECT EXAMINATION BY MR. EDER:

Q When the driver left the place on the morning of the 13th, did you give him these receipts? A I did.

Q Did you ask him to have them signed at the per? A That was where he was going with them.

Q You gave him these receipts? A Yes.

The receipts are marked for identification People's Exhibit 3.

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

DIRECT EXAMINATION BY MR. EDER:

Q How long have you been a police officer? A Fifteen years on the 11th day of September, 1917.

Q Do you remember the 13th day of March, 1918? A Yes.

Q Did you on that day see a wagon with the mark M. J.

O'Connell & Son?

Objected to. Objection overruled.

A I did.

Q Where? A On Worcester Street between Houston and Price. Anyone

Q Name on the wagon? A No, sir.

Q How long did you have the wagon under observation?

A About ten or fifteen minutes.

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Q No one on the wagon? A No.

Q Any goods on the wagon? A No.

Q Any cases? A No.

Q Any bales? A No.

Q What did you do with the horse and wagon? A I conveyed it to the 10th Precinct.

Q Where is that? A On McDougal Street between Spring and West.

Q You left it there? A I left it there.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q What time was it? A 10:30 A. M.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes an adjournment until Monday morning next, April 8th, 1918, at 10:30.

New York, April 8th, 1918.

Trial resumed.

CHARLES MILLER, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 38 West 132nd Street.)

DIRECT EXAMINATION BY MR. EDGER:

- Q What is your business? A Shipping clerk.
- Q For whom? A Salena Manufacturing Company.
- Q What business are they in? A Cotton goods.

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Q Do you remember the 12th day of March, 1918? A Yes.

Q Did you deliver any goods to Nicholas J. O'Connell?

A I did not deliver them personally. The goods were packed --

Q Did you see the goods packed? A Yes.

Q What goods were they? A 26 pieces of satine.

Q Were you there when they were packed? A Yes.

Q Were you there when they were delivered to the expressman?

A Yes.

Q Where were they consigned to? A John J. Winchen, Mt. Vernon, New York.

Q Did you ever after those goods left your place on the 12th day of March, 1918, see the same goods again? A Yes.

Q Where? A Police Headquarters.

Q When? A A day later.

Q The day after you shipped it? A One or two days, I don't remember just how it was.

Q The same goods you shipped? A Yes.

Q The same amount? A No, there was about six pieces ~~xxxx~~ short.

**CROSS EXAMINATION BY MR. FURSTENBERG:**

MR. FURSTENBERG: I move to strike out the witness' testimony as having no bearing on the case.

Motion denied and exception.

Q Do you occupy a loft? A No, the store.

Q How many people were employed there? A About fourteen.

Q How many shipping clerks are there? A Two.

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Q You did not pack the goods? A Yes.

Q I thought you said you did not pack them? A No, I packed them.

Q Didn't you answer the District Attorney that you saw them packed?

8 THE COURT: He said he did not deliver them.

Q Did you see them packed or pack them? A I packed them.

BY MR. EDER:

Q How long have you been connected with that firm?

A Since last May.

Q Do you know the market price of merchandise that they sell? A Well, yes.

Q You see it sold and bought? A Yes.

Q What was the fair and reasonable market value of that case on that day?

Objected to.

THE COURT: I will allow you to examine him.

BY MR. FURSTENBERG:

Q Did you ever buy any of these goods? A No.

Q Did you ever sell any of these goods? A No.

BY MR. EDER:

Q Did you see it bought in your place? A Yes.

BY THE COURT:

Q Have you been present when goods of that kind have been purchased any somebody connected with your establishment?

A Slightly, at a glance, but never had no connection with it.

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THE COURT: I think I will take notice of the fact that this young man is a shipping clerk and although he has answered certain formal questions which on their surface would qualify him to answer, I do not believe that he is qualified to express an opinion as to the value, so I will not take it.

JAMES E. McLAUGHLIN, called as a witness on behalf of the People, being duly sworn and examined, testified as follows:

(Residence 376 East 139th Street.)

DIRECT EXAMINATION BY MR. EDER:

- Q What is your business? A Shipping clerk.
- Q What firm? A Stalley Reichman & Company.
- Q What business? A Lace curtains.
- Q Do you remember the 12th day of March, 1918? A Yes.
- Q Were you such shipping clerk on that day? A Yes.
- Q How long have you been connected with that firm? A About sixteen years.
- Q Did you pack any goods that day that were shipped by O'Connell? A Yes, sir, we had a case for the Curran Drygoods Company, Waterbury, Connecticut.
- Q Did you pack that case yourself? A Yes.
- Q Did you deliver it to O'Connell's drive? A Yes.
- Q Do you remember what it contained? A Yes.
- Q What? A 84 pairs of curtains, one piece of panel yard goods, six pieces of muslin goods and one piece of fille net.

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Q Did you ever see those goods after they left your place?

A At Police Headquarters.

Q When? A The day after.

Q Two days after you shipped it? A Yes.

Q Did you find the same goods there? A Yes.

Q The same quantity? A Yes -- no, some missing, 24 pairs of curtains and two pieces of muslin yard goods missing.

Q Since you have been with your firm did you yourself purchase any goods in your place? A Yes.

Q And did you sell any goods in your place? A No.

Q Did you see it sold? A Yes.

Q And charged for? A Yes.

Q Are you acquainted with the fair and reasonable market value of the merchandise in question? A Yes.

Q What was the fair and reasonable market value of the goods shipped by you on that day by O'Connell's express?

A \$351.50.

Objected to.

THE COURT: Strike out the motion and I will give you an opportunity to make your objection.

MR. FURSTENBERG: I object to the question.

THE COURT: This evidence differs from that of the last witness, from the circumstance that this witness says that he has bought goods. I think I will let him give the testimony.

MR. FURSTENBERG: I direct your Honor's attention to

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the fact that the question was only directed as to the curtains, while the witness has described the contents of that case as being any number of other things.

BY MR. EDER:

Q You saw all these articles sold in your place? A Yes.

Q All of them? A Yes.

Q And purchased in your place? A Yes.

Q During the sixteen years you have been employed there?

A Yes.

Q And you know the different values of the different items?

A Yes.

Q And you know its market value? A Yes.

Q How much were the curtains worth? A \$350.51.

Q How much were the other articles worth? A That is the contents of the whole case.

Q What were the curtains worth, can you say without looking at anything? A No.

Q Have you anything by which you can refresh your recollection? A Yes.

Q A bill? A I have a memorandum of the contents of the cases.

MR. FURSTENBERG: I object to his reading the items.

THE COURT: You may look at the memorandum and if that refreshes your recollection you may tell us from recollection what the value was.

A Each cost a different price so I would not be able to tell from

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my memory.

Q Is this a memorandum you made yourself? A No, sir, a memorandum from the firm of the contents of the case.

BY THE COURT:

Q What kind of goods were the curtains made of? A Lassey curtains and Marquisace curtains and muslin yard goods and fille net and panel yard goods.

THE COURT: I do not think theat this witness can give testimony as to the value. There are people connected with that firm who undoubtedly know what the value of these articles was. This witness may describe what he put into the case, and then, if he saw that case after he packed it, taken by the man whom he knew at the time as one employed by the truckman, he may testify to that fact.

MR. EDER: He has testified to that.

THE COURT: There is a careful and methodical way of presenting it and I think we will take time to do it in that way.

BY THE COURT:

Q You were inside of the loft of your employers? A Yes.

Q And your business was that of a shipping clerk? A Yes.

Q I understand that with your hands you put certain things into a case? A Yes.

Q That you have been talking about? A Yes.

Q Now, on what day did you do that? A On the 12th of March.

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Q Of what year? A 1918.

Q And what was it that you put into that case? A 84 pairs of curtains, one piece of panel yard goods, six pieces of muslin yard goods and one piece of fille net.

Q After you placed those things inside of that case, what was the next thing, if anything, that you did on connection with the case? A I put the routing instructions on it and addressed it New York, New Haven & Hartford, Curran Drygoods Company, Waterbury, Connecticut.

Q What did you mean by the first part of your answer, routing? A That is what route it goes by, what railroad or steamship.

Q And that data you put upon the outside of the case, is that so? A Yes.

Q After you did that, what, if anything, was the next thing you did in conjunction and in connection with the case? A I made out the shipping receipt.

Q That shipping receipt, before you wrote anything on it, came to you how? A We have all those copies of shipping receipts and we write them out as we make out the cases.

Q In other words you have blank forms? A Yes.

Q And you filled out on that blank; after you had done that, what was the next thing, if anything, that you did? A We entered in our book. We have a good for the truckman.

Q You made an entry in a book? A Yes.

Q After you made that entry in the book what was the next

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thing that you did? A As soon as O'Connell came, his truckman, he came up and took the case and signed our book for it.

Q Did you see him come? A Yes.

Q Do you know the name of the man who came? A No, sir, I do not.

Q Did you ever see him come and take cases before? A Yes.

Q And you would recognize him if you saw him? A Yes.

Q He presented a book to you and you signed? A No, we presented the book to him and he signed.

Q In a book? A Yes.

Q You saw the case removed from your loft? A Yes.

Q I take it that you do not know the number of yards of any of the material inside of that case of your own knowledge?

A No, sir.

Q I take it you have never bought yourself a single yard of any one of the kinds of goods that were inside of that case?

A No, sir.

Q And I take it that you were never connected with that part of your establishment that does the work in the making up of the curtains? A Well, not directly.

Q You have been a shipping clerk? A Yes, sir, but I give a hand on and off in the factory but not in the making of the curtains.

THE COURT: I think you have gone as far with this witness as you can, Mr. Eder.

BY MR. EDER:

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Q In placing the merchandise in a case do you check off the yardage? A Yes.

Q You yourself check that up? A Yes.

Q And did you make such an entry that day? A What.

Q Did you make an entry of the yardage that day? A The yardages are all in the shipping slip and we check the goods from the shipping slip.

Q And from that? A Pack them right into the case.

Q And from that you know how many yards in the package?  
A Yes.

Q You saw that? A Yes.

Q Can you state how many yards you saw?

BY THE COURT:

Q Did you measure the goods? A No, sir, but each piece of goods has a respective number and respective yardage on.

Q When a piece of goods comes into your hands it has on it a label or ticket or something upon which a certain something is written? A Yes.

Q By whom is that written in your place? A It is not written in our place, it comes from the manufacturer that way.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q Stalley, Reichman & Company, is that the name of the firm? A Yes.

Q Jobbers? A Wholesalers.

Q They buy from manufacturers? A Yes.

Q Buy their curtains from manufacturers? A No, we mount

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them.

Q Do you manufacture the curtains? A Mount them.

Q When you say mount them, what do you mean? A They come in frame and we mount them on the nets.

Q The body of the curtain is manufactured somewhere else?

A What do you mean?

Q What do you mean by the frame? A There are Marquisette curtains, net curtains and all kinds. The nets are cut such a size as they are ordered and frames are mounted on the nets.

Q Where do you order them from? A The nets come from the American Bobbinet people.

Q The net curtains are manufactured by someone else? A Yes.

Q And when you say net, is that a particular kind of curtain or part of any curtain? A That is a part of a curtain, that is the mesh.

Q And then is there another part added to the curtain when you receive the net? A Yes -- according to what curtain it is.

Q What do you call that part that is added to it? A We called them Lasse frames.

Q Do you manufacture the frame or buy them somewhere else? A The frames are imported.

Q So I understand it you use different parts to make up the whole curtain? A Yes.

Q They assemble the various parts to make up a complete curtain? A Yes.

Q That is your firm's connection with the manufacture of

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the curtain? A Yes.

Q The piece goods that you handle you buy from the manufacturer? A Yes.

Q And you remember the case that you marked? A Yes.

Q Did you ever see that case again? A At Police Headquarters.

Q Were the marks on it the same? A No marks -- the marks were scraped off but we have a rubber stamp that we always mark on cases from Stalley Reichman and they omitted to take that off.

MR. FURST ENBERG: I move to strike that out.

THE COURT: He saw the mark. Strike out, they omitted to take it off.

A B R A H A M S C H W A R T Z, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 1147 Tiffany Street, Bronx.)

DIRECT EXAMINATION BY MR. EDER:

Q What is your business? A Foreman in a warehouse.

Q Are you now foreman in a warehouse? A No.

Q What are you doing now? A Working for the United States Government, Brooklyn Navy Yard.

Q You are working in the United States Navy yard? A Yes.

Q How long have you been working there? A One week.

Q Prior to that week, where did you work? A For the Surety Warehouse, 384 Washington Street.

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Q In what capacity? A Foreman.

Q How long did you work there? A A little over a month.

Q Were you working for the Surety Warehouse on the 13th day of March, 1918? A Yes.

Q Did you on that day see any one of these four defendants?

Objected to as leading. Overruled and exception.

A Yes.

Q Which of these four did you see on the 13th day of March 1918? A Three of them there.

Q Step down and pick them out, put your hand upon them?

A ( The witness steps down and indicates Henry Harff, John Gollifer and John O'Connell.)

Q Was the 13th day of March, 1918, the first time that you ever saw them? A No.

Q When before the 13th day of March, 1918, did you see any one of these three or four defendants? A A week previous.

Q A week previous? A Saturday it was --

Q Saturday previous to the 13th day of March? A Yes.

Q On the 13th day of March, 1918, what did you see these three men that you have just pointed to, do, if anything?

THE COURT: Ask him where he saw them.

Q Where did you see them on the 13th day of March, 1918?

A At the time when I seen them we had a truck backed in along-side of the warehouse.

Objected to.

Q I asked you when and where? A 384 Washington Street.

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Q New York County? A New York City.

Q What kind of building is 384 Washington Street? A Public warehouse.

Q Owned by whom? A By the Surety Warehouse Company.

Q You were employed there as the foreman? A Yes.

Q What time of the day did you see them? A About half past nine.

Q In the morning? A Yes.

Q What did any one of these three men do when you first saw them that morning? A At the time, we had a truck backed in delivering a load of canned goods to be taken away from the warehouse, when they came in with a truck with five cases and a bale on it and they said would you take them in.

Q What? A Asked us if we would take the goods in the warehouse.

Q Whom did they ask? A Me, and being a public warehouse I took the goods in.

Q Did you talk to any of these three men? A I told them I was to give them a truckman's receipt for the goods and they accepted a truckman's receipt and they left and I sent the goods upstairs on the elevator.

Q You picked out three men? A Yes.

Q Were there any others around there? A I wouldn't say if there was another there, might have been and might not have been.

Q You only saw three? A I saw three.

Q Were they all on the wagon? A Three were on the wagon.

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Objected to as leading.

THE COURT: It is leading.

Q Where did you see them? A They were on the wagon together.

Q What did they do after they were on the wagon together?

A They helped take the cases off on the platform.

Q Did they all do any talking, or did any of them do any talking? A Only one.

Q Which one? A The big fellow there with the cut on his face.

Q Step down and pick him out? A (The witness steps down and points to the defendant Henry Harff.)

Q Did they say anything as to what you should do with the cases?

Objected to as leading.

BY THE COURT:

Q What was said? A He said take them upstairs -- that we should take them upstairs. I had no room downstairs and naturally had to send them upstairs. We were very crowded downstairs.

Q You say you saw them the Saturday before that? A Yes.

Q Where did you see them the Saturday before that? A 384 Washington Street.

Q The same place? A Yes.

Q The same men? A The same men.

Q What did they do on that day?

Objected to. Question withdrawn.

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Q You gave them a truckman's receipt? A Yes.

Q They left? A Yes.

Q After that did you see any one of these men again? A Yes, sir, I seen Harff, the one you say is Harff.

Q When? A He came back that afternoon with an automobile and a chauffeur for the goods.

Q What, if anything, did he say when he returned that afternoon? A He said he would be back -- when he left in the morning he said he would be back in the afternoon for the goods, and so I told him, I said to bring a truckman's receipt and go over to the office with him.

Q What? A I told him to bring the truckman's receipt that I gave him and to go over to the office. He went over there and the girl went and told him what storage was on the goods --

Objected to.

BY THE COURT:

Q Were you there when that was said? A Yes.

Objection overruled.

THE WITNESS: (Continuing) So while we were in the office he handed the driver \$15 for storage.

BY MR. EDER:

Q You saw him do something? A I saw him hand the driver \$15 for storage. He said he was going away and he should meet him down to Delancey Street somewhere, I don't know exactly where, but he said the driver should meet him down to Delancey, and I refused to release the goods until I got an order from the

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office.

Q You refused? A Yes.

Q What happened then, what did this defendant do, if anything? A He left and he left the chauffeur there to pay the storage and to wait to get the goods. I had to wait until I got the proper authority to release the goods before I could give it to him.

Q Then you released the goods, didn't you? A Yes.

Q Did you ever see him again? A I did not see him again until down in Headquarters.

Q Police Headquarters? A Yes.

Q Before seeing this defendant in Police Headquarters, did you speak to certain police officers? A Yes, sir -- the only time I spoke to the officers was at the time they came in and asked me --

THE COURT: Never mind that.

Q You spoke to certain police officers.

THE COURT: Yes or no.

Q Before you saw these men in Headquarters you had spoken to certain detectives? A Yes.

Q They came into your place? A Yes.

Q And asked you questions? A Yes.

Q You answered them? A Yes.

Q How soon after that did you go to Headquarters? A The next day.

Q That was when you next saw these defendants? A Yes.

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Q Tell me the clothes that these defendants wore that day?

A They were in their working clothes and blue shirts. I don't remember exactly the colors of the clothes but I recognized the blue shirt -- they wore heavy firemen's blue shirts and had on workmen's clothes. That is the only thing I noticed.

Q What kind of hats did they have on? A I didn't pay particular attention to the hats, either.

Q Did they have derbies?

Objected to.

BY THE COURT:

Q Are you able to recollect what kind of hats they had on?

A One of them had a cap on, I don't remember exactly what clothes they had on. I remember their faces very well and that is about all that I know. Once I see a face, I have a good memory.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q What are you working at in the Navy Yard? A As a laborer.

Q How long were you working at the Surety Warehouse? A A little over a month.

Q Where were you working before that? A I was working for the McClure Candy factory.

Q What were you doing there? A I was packing and marking.

Q How long did you work there? A About six months.

Q Where did you work before that? A Your Honor, I wish to ask you a question. I do not see whether the counsellor has

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authority to go so far into my personal details.

THE COURT: He has a right to ask you.

THE WITNESS: I would like to know if it is necessary for a man to give his whole pedigree to the counsellor.

THE COURT: We will go back in your case about six years -- no further than that.

BY MR. FURSTENBERG:

Q Where did you work before you worked for the McClure candy factory? A I worked for the Interborough.

Q How long did you work for the Interborough and under what name? A Under my right name.

Q How long did you work for them? A About three months.

Q Would you mind telling us where you worked before that?

A I don't remember.

Q How long a time did you work in the place ~~where~~ before you worked for the Interborough that you don't remember--the name of, one month, two weeks or a day, don't you remember? A I do not.

Q I thought you said you had a good memory? A For some things I have.

Q But you have not a very good memory about your occupation ten months ago -- you don't know where you worked ten months ago, try and think a moment and see if you can remember where you worked ten months ago -- you can't remember? A No.

Q Do you remember any other place where you worked or have you any recollection, or have you any reason for not wanting to tell us where you worked? A I don't remember. That is suf-

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ficient, I think.

Q Is that the fact or is it that you regard that as a sufficient answer? A I regard that as a sufficient answer.

Q As long as you regard it as a sufficient answer, tell us what is the fact, where did you work before you worked for the Interborough ten months ago? A I was sick, if you want to know anything.

Q Then you did not work -- do you remember any other place you worked in the last three years? A I do not.

Q That is the truth, is it? A That is true.

Q How long have you been in New York City? A Well, on and off about ten years.

Q Where were you during the times you were not here?

A Different places.

Q Tell us some of them? A I have been in Baltimore City.

Q Are you sure you were the foreman in the Surety Warehouse? A I was supposed to be.

Q Were you the foreman? A I was.

Q Had you ever worked in a warehouse before? A I had.

Q Where? A I worked for the Sunset Warehouse.

Q Where are they located? A Located on Greenwich Street.

Q When did you work there? A I don't remember.

Q Was it a year ago? A No.

Q Was it longer or not? A I don't remember the exact date.

Q I thought you said you had a good memory? A I have.

Q When a truckman brings a load of goods to a warehouse,

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is he supposed to hand a paper to you? A He don't necessarily have to hand me a paper. I give him a receipt.

Q What is the practice? A The practice is that when I take his goods-I give him a receipt for the amount of goods I receive.

Q Any person may drive up there and put a load of goods in your warehouse without your making inquiry about it, is that a fact? A I don't know about that.

Q It has been your experience at the Surety Warehouse, you were the foreman there and you saw mostly everything that went in? A We get orders to go and receive such lots of goods --

Q Can any drive come up to your place and put in a load of goods? A Sure. It is a public warehouse.

Q Any person can, without handing you any receipt? A That is a public warehouse. It is for the public benefit.

Q Did you look at the wagon the goods were brought in? A I seen the wagon.

Q Did you pay any particular attention to it? A Well, yes, I paid a little particular attention to it.

Q About how many wagons do you see in the course of a day? A I don't know, I never counted them.

Q About how many? A I think that is a very foolish question to ask me. I cannot answer how many. I told you I saw quite a few. I think that is sufficient. I don't stand in the street counting wagons.

Q He means at the warehouse. A The way he put it to me he means everyone passing there and there is thousands passing.

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THE COURT: He means at the warehouse.

BY MR. FURSTENBERG:

Q At the warehouse? A Sometimes might be three and some-  
times a dozen.

Q Do you remember on the 13th of March how many trucks  
drove to your warehouse, or wagons? A Yes, sir.

Q How many? A One I had.

Q Only one? A Yes.

Q After you had received the goods as you say, you saw  
this defendant O'Connell there, didn't you? A Yes.

Q Where was he standing? A He was on the truck at the  
time.

Q You are positive of that? A Sure he was on the truck.

Q You remember him distinctly being on that truck? A The  
three of them.

Q I talk about O'Connell, you remember O'Connell, the last  
man sitting at the table, you remember him being on the truck?

A Yes, he was on the truck.

Q You are sure about that? A Yes.

Q Your memory is correct about that?

Objected to.

Q Where did you next see O'Connell? A Police Headquarters.

Q Who did you go to Headquarters with? A Detective Lan-  
drigan.

Q On what day was that? A On the 14th.

Q Do you remember if that was Friday or Saturday? A I

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don't remember what day.

Q Or Thursday? A I don't remember what day it was exactly.

Q That was in the evening was it, or during the day?

A Went there in the morning.

Q At that time you saw the four defendants, all four of them? A Yes.

Q They were dressed as you say in their working clothes?

A Yes.

Q Were they alone there? A No.

Q There were four other men there? A There was other men.

Q How many others were there? A I think eight or nine.

Q A total of eight or nine? A I think so.

Q That is four others besides these defendants? A I told you yes, there were others there besides them.

Q Do you remember how the other four men were dressed?

A Yes, I remember how the other four were dressed.

Q Didn't they all have stiff collars on? A Yes, sir, I think they did.

Q And these four defendants were the only ones who did not have stiff collars, is not that so? A They were in the same clothes as I saw them before.

Q That is in working clothes? A Yes.

Q With blue shirts? A Yes.

Q And the other four men were men with stiff collars?

A Yes.

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Q You knew the other men were detectives? A I did not know nothing.

Q Were you told they were detectives? A I wasn't told nothing.

Q They were much taller than these defendants? A I don't remember.

Q I thought you said your memory was very good?

Objected to. Sustained.

Q These four men were together there? A They were together

Q And there were two other men with stiff collars better dressed standing on each side of the four defendants, is not that so?

Objected to. Objection overruled.

A There were.

Q And at that time you were asked to pick out the men that you say were at the warehouse on the 13th of March, is not that so? A Yes.

Q And you walked over to the line and you picked out this defendant Clark, is not that a fact -- look at that man? A I think I did.

Q Isn't that the man you picked out as being the man who was present at the warehouse? A Yes, sir, I think.

BY THE COURT:

Q What is your answer? A I say I think I did.

BY MR. FURSTENBERG:

Q And didn't you say O'Connell was not there? A I didn't

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say nothing.

Q But you did not pick O'Connell out? A I picked out three.

Q Did you pick out O'Connell at Police Headquarters? A I don't know the man's name at all.

Q Did you pick this man <sup>out</sup> who now stands up, at Police Headquarters, O'Connell? A No.

Q You did not? A No.

Q Although you now pick out O'Connell, and say that he is the man that was down there, is that correct? A I have made a mistake.

Q After you left Police Headquarters where did you go?

A To the District Attorney's office.

Q Who did you see at the District Attorney's office?

A Mr. Eder.

Q Who was with you when you left Headquarters? A Mr. Henderson was with me.

Q Who is Mr. Henderson? A One of the men that works with us.

Q One of the employes of the warehouse? A Yes.

Q Who else was with you? A Detective Landrigan.

Q Did you have a talk with Landrigan on the way down? A No.

Q Not a word was said? A Not in regard to that case.

Q Nothing was said by you to Landrigan or by Landrigan to you about this case, was there? A No.

Q Sure of that? A Sure.

Q Did he tell you why you were wanted down in the District

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Attorney's office? A He stated that in Headquarters, in front of the lieutenant, that we were to ~~xxxx~~<sup>go</sup> there.

Q Did Henderson talk about this case while you were with him and Landrigan? A Not that I know of.

Q You were there and did not hear anything said by him to Landrigan or by Landrigan to him about this case, is that correct? A Yes.

Q When you got down to Mr. Eder's office, did you see these defendants, these four men? A They were brought in afterwards.

Q You were in the office at the time? A Yes.

Q Were you asked "Are these the men"? A Yes.

Q Was that question put to you? A I said yes.

Q Four defendants were brought in and before you in Mr. Eder's office, is that correct? A Well, yes.

Q And the question was then asked you "Are these the men", is that correct? A Yes -- he asked that question -- pick out each man.

Q At that time there were none others present but these four defendants and the officer and Henderson, is that right, A The chauffeur was there.

Q There was not attempt to line these men up with anyone else and ask you to pick out the men you saw at the warehouse, was there?

Objected to as immaterial, irrelevant and incompetent.

Objection overruled.

Q Was there any attempt to line these men up with any

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other persons and ask you to pick out the men you saw at the warehouse? A No.

Q When did you first say that you got \$50 for taking in these cases?

Objected to.

Q Have you ever said it?

Objected to. Objection sustained.

Q Did you ever make that statement that you received \$50 for taking in these cases? A I am just wondering what you are talking about.

Q Did you ever make that statement? A I never made no statement. Are you satisfied?

Q Did you receive any money for taking in these cases?

A Did I receive any money?

Q For yourself? A For myself?

Q Yes. A No. I understand what you are getting at very well.

Q There is no one you want to shield in this case? A I aint shielding anyone, I am here to tell the truth.

Q You are sure that no other person or persons than these defendants brought the goods to that warehouse, are you? A Am I sure?

Q You are sure there were no other persons than these defendants brought the goods to the ware house? A No, nobody else brought them there that I know of outside of those fellows.

Q Were you shown a picture of these defendants up at the

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District Attorney's office? A I was.

Q Is this the picture that was shown to you? A Yes.

Q Were these names on the top of the picture when it was shown to you? A They were.

The picture is offered in evidence, received without objection and marked Defendant's Exhibit A.

Q Do you know who wrote the names on the pictures? A No.

Q Were you present when the picture was taken? A No.

Q Did you learn when it was taken? A No.

Q Did you see this picture after you had left Headquarters?

A I saw that picture after Headquarters and after I identified them in the District Attorney's office.

MR. FURSTENBERG; I move to strike out the latter part of the answer.

Motion denied.

Q And were you shown this picture outside again in the hall before you went to the Grand Jury room in this case? A No.

Q When you were shown this picture -- who showed you the picture? A Mr. Eder had it up in his office.

Q Who was present at the time? A Mr. Eder was there, Mr. Henderson, myself, the truck driver -- or, the chauffeur was there.

Q The picture was shown to all of them? A The picture was shown to each one of us.

Q After you had been to Headquarters and picked out three men and after you had seen these four defendants in the District

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Attorney's office, you were then shown this picture with the names on it, is that correct? A Yes.

Q At that time there was another man present, the chauffeur, what was his name? A I don't know the chauffeur's name.

Q You remember the chauffeur was present at the District Attorney's office at that time? A I identified him.

Q He was the man who moved the goods out? A Yes.

Q Is the chauffeur in court, have you seen him around here?  
A I saw him up in the District Attorney's office.

Q Have you seen him today? A No.

Q Or on Friday when the case was on? A No.

Q He was not here at all as a witness, you have not seen him as a witness? A I have not seen him.

Q Do you remember the chauffeur being asked in your presence and in the presence of the defendant whether or not any of these four defendants were the men who moved the goods out, and do you remember him answering no?

Objected to. Sustained.

Q Do you remember what question was asked the chauffeur as to who moved the goods?

Objected to. Sustained.

Q Do you remember a conversation had by Mr. Eder and the chauffeur in the presence of yourself and the defendants?

THE COURT: Yes or no.

A Yes.

BY MR. FURSTENBERG:

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Q Do you remember the answers made to the questions asked by Mr. Eder?

THE COURT: Yes or no.

A. I don't remember.

BY MR. FURSTENBERG:

Q You don't remember? A No.

Q Do you remember whether or not the subject of the question was ~~whether~~ the goods that you claim were brought into the warehouse by some of these defendants?

Objected to. Sustained and exception.

Q Do you know that chauffeur's name? A Some Russian name--sky.

Q Have you ever seen him before? A I have.

Q Do you know where he can be located? A Yes.

Q Where? A Down in Ludlow Street near Delancey.

Q How long have you known him? A I only saw him twice, that is the only thing I know of him.

REDIRECT EXAMINATION BY MR. EDER:

Q The first time when you came to Police Headquarters, you say it was on the morning of the 14th of March? A I think so.

Q And a certain number of men were placed in a line? A Yes.

Q How many? A I should judge about eight or nine. I never counted them.

Q Including these four men? A Yes.

Q You were asked to pick out the men who brought the

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cases? A Yes.

Q And you picked out how many? A Three I picked out.

Q You stated in answer to counsel's questions that you made a mistake, did you make a mistake there or here in court?

A I made a mistake here in court.

Q You made a mistake here in court? A Yes.

Q Which three do you say now were there? A The three of them sitting in a row there together. I remember seeing their faces.

Q Are you sure of Gollifer? A Yes.

BY THE COURT:

Q I understand you to say that the three that you saw in Police Headquarters are the three that are sitting next to counsel, the first second and third? A Yes.

Q Which are the three that you saw on the truck? A Those were the three that was on the truck.

Q The same three? A Yes, sir, because two of them helped take the goods in.

BY MR. EDER:

Q You say you again saw these defendants at my office?

A Yes.

Q Was it the same day?

THE COURT: You mean the day he saw them in Police Headquarters?

BY MR. EDER:

Q Yes. A Yes, the same day.

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Q Was a stenographer in my office taking down what you were saying? A No, sir, not as I know of, I did not notice him.

Q Not a woman -- may be a man stenographer -- did you see any man writing? A Not at that time.

Q Did you hear me ask you questions? A Yes.

Q The officers were in the room? A Yes.

Q You made answers to those questions? A Yes.

Q Then how many days after that did you see this picture, Defendant's Exhibit A, how many days after that did you see that picture? A I did not see that picture until a couple of days afterwards, I think it was.

Q When you went before the Grand Jury? A When I went before the Grand Jury I saw that picture.

Q And you were asked again to pick out the men who were there? A Yes, sir.

MR. FURSTENBERG: I object to what was asked not in the presence of these defendants.

Objection sustained.

MR. EDER: I withdraw the question.

Q You said you saw certain names on here; did you see any names at the time the picture was shown to you, try and think, look at the picture and see if you can say? A These names were put on after we came out of the Grand Jury.

Q Did you see who put them on? A No.

Q Do you know who put them on? A I do not know who put them on.

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Q You say you were sick about a year ago? A Yes.

Q What was the matter with you?

Objected to. Overruled.

A I had pneumonia.

Q How long had you been sick? A Since about twelve weeks.

Q Were you in bed all that time?

Objected to.

A Yes.

Q Prior to your illness where did you work? A I was doing odd jobs around.

Q Any job you could get hold of? A Yes.

Q You had no regular trade or employment? A No.

Q You have been doing that for how many years? A Been doing that for a number of years.

Q Have you ever been convicted of any crime? A No.

RECROSS EXAMINATION BY MR. FURSTENBERG:

Q Do you remember my asking you before whether you were shown this picture before you went into the Grand Jury room and do you remember you answered no?

Objected to.

THE COURT: He has said the same thing now.

MR. FURSTENBERG: No.

(The prior testimony of the witness is read.)

BY MR. FURSTENBERG:

Q Do you remember stating on cross examination that you

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did not see that picture when you went before the Grand Jury?

THE COURT: He says now he saw it when he left the Grand Jury.

BY THE COURT:

Q Did you see it in the Grand Jury room? A Yes.

BY MR. FURSTENBERG:

Q Who showed it to you in the Grand Jury room? A I don't know who it was in the Grand Jury room, but I guess who was in charge of it, the officer.

Q Was it shown to you outside of the Grand Jury room?

A Not outside.

Q Was it shown to you before you appeared before the Grand Jury?

BY THE COURT:

Q Was it shown to you before you went into the Grand Jury room? A Yes.

BY MR. FURSTENBERG:

Q Where were you at the time it was shown to you? A I was in Mr. Eder's office.

Q When was that? A I don't know the date.

BY THE COURT:

Q How much time passed after the time that the picture was shown to you, before you went into the Grand Jury room? A I don't know exactly how much time passed.

Q At about what hour of the day was it shown to you in Mr. Eder's room? A I think it was in the afternoon, I ain't

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sure.

Q What time did you go before the Grand Jury? A In the afternoon I think it was.

Q Which happened first, the showing of the picture or going into the Grand Jury room? A Showing the picture.

BY MR. FURSTENBERG:

Q Why did you say to the contrary in answer to my question?

MR. EDER: I object. There is no such evidence.

Q Do you remember stating that at the time this picture was shown to you, that the names were on there, the first time they were shown to you? A The names were not on there.

Q Do you remember stating in answer to my question that the names were upon this picture? A I do not think so. I don't remember stating it. I don't think I stated it.

Q Do you know whether you did or not, will you say one way or the other, whether you said the names were on this picture when it was shown to you? A I would not commit myself, because I aint certain just now.

Q You don't remember? A I don't remember.

Q You don't remember whether or not you said it? A I don't remember.

Q Will you tell us why it was that you said you could not remember where you worked when I asked you the question and you suddenly remembered where you worked when Mr. Eder asked you the question?

Objected to. Objection sustained.

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Q Did you ever see any of the cases that were brought in by the men you said brought them in, after they left your place?

A Yes.

Q Where? A I went with Detective Landrigan to identify the chauffeur and from there I went to Jamaica with Detective Landrigan and two other officers. I went along and came back about ten o'clock that night.

Q And in Jamaica did you see these cases? A I saw those cases.

Q Which were brought in by these three men as you say?

A Yes, sir. The goods were taken out. They were empty.

Q Did you see where they were taken from Jamaica? A Yes, sir, from a little drygoods store.

Objected to as immaterial.

Q Where were they taken when they were taken from Jamaica, where were they taken to? A Headquarters.

Q You went along? A I went along as far as Delancey St. station.

Q Officer Landrigan was there? A Yes, sir.

Q And Collins? A Yes, sir.  
BY MR. FURSTENBERG:

Q How many cases were there? A When they took them out there was five cases and a bale.

Q How many cases were found over in Jamaica? A I think four cases and a bale.

Q Do you remember what marks were on the cases found in Jamaica? A No, I do not.

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Q You have no recollection of that at all? A Well, I saw the markings were all off.

Q Do you remember the marks on the cases received by you at the warehouse? A I did not get a chance to look at them.

Q You did not see them? A I did not get a chance to look at the cases.

BY MR. EDER:

Q When you delivered the cases to the chauffeur that came around did you take his truck number? A Yes, sir, we have to take it.

Q Is this in your handwriting, this number on there (indicating)? A Yes.

Q Was that the truck number? A Truck number 821723.

Q That was the number of the machine that took away these cases from your place? A Yes, sir.

Marked for identification People's Exhibit 2.

BY MR. FURSTENBERG:

Q The chauffeur was with you in Mr. Eder's office, the chauffeur who drove these cases from the warehouse? A Mr. Eder sent for him later, after I was there.

Q He was present with you and Mr. Eder and the detectives in Mr. Eder's office? A Yes.

Q And he is the man who took the cases from the warehouse, is not that so? A Yes.

ROBERT HENDERSON, called as a witness in behalf of the People, being duly sworn and examined, testified as

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follows:

(Residence 2096 Boston Road, Bronx)

DIRECT EXAMINATION BY MR. EDER:

Q What is your business? A I work in the storehouse, storage.

Q How long have you been working in a storage warehouse?

A About seven months.

Q What storehouse are you working for? A The Surety Warehouse for Mr. Stillman.

Q Where is that? A 384 Washington Street.

Q Do you remember the 13th day of March, 1918? A Yes.

Q Were you working there that day? A Yes.

Q Was Schwartz, the last witness, working there that day?

A He was.

Q What was his position in that place? Shipping clerk.

Q Please look at the four defendants, did you see any one of these four defendants on the 13th day of March, 1918? A Yes.

Q Had you ever seen any one of these four defendants before that day? A No.

Q That was the first time? A Yes.

Q Where did you see them on the 13th day of March? A 384 Washington Street.

Q Did you see all four? A I saw only three.

Q Step down and point to the three men that you saw on the 13th day of March at 384 Washington Street, put your hand on their shoulders? A (The witness steps down and indicates the

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first, the second and number four.)

THE COURT: He points to John Collifer, Henry Harff and John O'Connell.

Q Where did you see them that day? A At 384 Washington St.

Q What did you see any one of the three men or all of them do when you first saw them? A Just backed up their wagon.

Q Then what happened? A One or two on the wagon helped push the cases towards the back and we took them off. I helped unload and took them upstairs.

Q Is that the last time you saw them that day? A That was the last time I saw them that afternoon until they came back in the afternoon and got it.

Q Did you see the same three men come back in the afternoon?  
A I only saw two in the afternoon. I did not have much time to look around.

Q Which two did you see in the afternoon? A The first two.

Q Collifer and Harff? A Yes, sir.

Q Did you hear any conversation between either one of those two men? A No, sir, I did not.

Q (Continued) And any one in your place? A I did not -- I don't get time to listen.

Q About what time of the day did you see them? A They were there in the morning -- I couldn't say exactly what time because I don't get time to walk around and see what time it is.

Q What are you there? A A laborer.

Q You help around taking cases up and down? A I take them

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up and down.

Q Now, were you at my office? A Yes.

Q Before being at my office were you at Police Headquarters?

A No, sir.

Q You were never at Police Headquarters? A No.

Q You were asked certain questions in my office? A Yes.

Q Was a stenographer there? A Yes.

Q You answered the questions? A Yes.

Q Were these four men there at the time? A They brought them in there.

Q You were asked certain questions? A Yes.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q What was Mr. Schwartz' business? A Shipping clerk.

Q How many shipping clerks were there down there? A Only one shipping clerk, that is Mr. Schwartz, or was.

Q What was the name of the foreman? A Mr. Schwartz. He was supposed to be the foreman, our boss.

Q He was the foreman and shipping clerk? A Yes.

Q About how long a time did you see the three men that brought the truck there -- did you help unload the truck? A Yes, I did.

Q Any other loaders or unloaders, work on the truck? A A young lad -- I suppose he will be here after awhile.

Q Was is his name? A Tom.

Q Tom what? A Gilligan I think.

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Q He worked on the truck? A He was one of the laborers helping to unload.

Q You did not pay any particular attention to the cases, did you? A I did not.

Q You did not know the names marked on the cases? A No, sir, I did not.

Q Where was Schwartz when this work was going on? A Standing there telling us what to do.

Q Now, did you ever see this picture? A Yes.

Q When for the first time did you see the picture? A I think I saw it in the office of Mr. Eder.

Q When? A I could not exactly say the date.

Q Do you remember the day of the week? A I don't remember.

Q At the time you saw it were the names written on it?  
A I did not take notice to the names.

Q Was it shown to you before you went into the Grand Jury room outside in the hall? A No.

Q At the time it was shown to you was it shown to Mr. Schwartz? A It was shown to me and to Mr. Schwartz I suppose.

Q He was present at the time? A He was present.

Q What was the occasion of showing you that picture, do you know? A Just asking me if I could pick out the men.

Q Was the same question asked of Mr. Schwartz, if he could pick out the man from that picture? A Yes.

Q Was it the same day that this picture was shown to you that the four defendants were taken to the District Attorney's

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office, Mr. Eder's room? A It was on the same day.

BY THE COURT:

Q Which happened first, did you see the defendants in the District Attorney's office before you saw the picture or did you see the picture before you saw the defendants? A I saw the defendants first.

Q In the District Attorney's office? A Yes, sir, sitting outside in the hall before I came in.

BY MR. FURSTEINBERG:

Q When you came in you came along with Office Landrigan?

A Yes, sir.

Q You saw the defendants sitting out there? A Yes, sir.

Q Then you went into Mr. Eder's room? A Yes.

Q Then later the defendants were brought in? A Yes. I was not in there when they were brought in.

Q Were you there at any time they were brought in? A No, I was not.

Q Were you in the room at any time with the defendants, in Mr. Eder's room, at any time with the defendants? A Yes, once.

Q And were you then asked are these the men? A I was.

Q And then you were shown the picture, is that right? A No I was not shown the picture then.

Q Were you shown the picture before that? A They asked me if I could pick out the men.

Q Looking at the picture? A After they brought the gentlemen in.

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Q After they brought the men in you were shown the picture?

THE COURT: Now I want to get that right -- you say you saw three men on a truck?

THE WITNESS: Yes, sir.

BY THE COURT:

Q At the warehouse where you were working? A Yes.

Q Then you say that you saw three men sitting outside of Mr. Eder's office when you went into Mr. Eder's office? A Yes.

MR. FURSTENBERG: Four men sitting outside.

Q Four men -- then you say that you were at one time in Mr. Eder's office when four men were inside of it? A They were brought in.

Q Brought in? A Yes.

Q When was it that you were first shown the picture?

A That was before I see these gentlemen, before they were brought in.

Q On the same day? A No, the day before that.

Q On the day before the day upon which these men were brought into the District Attorney's office, you were in Mr. Eder's office and you were shown the picture, is that so? A They were brought in the office. I was not shown no picture that day. They asked me if I could pick out the men and I pointed out each one and the picture was shown to me a day before.

Q The picture was shown to you on one day and on the day <sup>next</sup> the four men were brought into Mr. Eder's office when you were in Mr. Eder's office and you were asked if you could pick out

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the men? A Yes.

Q Is that so? A Yes.

Q In other words at the time when you were asked whether you could pick out the men, you had already seen the picture?

A Yes.

Q Because you had seen it the day before? A I seen it the day before. I picked them out as soon as the picture was shown.

BY MR. FURSTENBERG:

Q And then you picked out O'Connell? A Yes.

Q As one of the men? A Yes.

Q That was the first time you had seen the defendants other than as you say on the 13th of March? A Yes.

Q Were you not at Police Headquarters? A No, sir.

Q Weren't you up there with Schwartz? A No.

Q And Officer Landrigan? A No.

Q Sure of that? A I am very sure.

REDIRECT EXAMINATION BY MR. EDER:

Q How long have you been in this country? A Since I was two years old.

Q And you have worked all your life -- how long have you been working? A Since I was old enough to go to work.

Q You never were convicted of any crime? A No -- I have been in the army.

Q When that picture was shown you, did anyone tell you which men to pick out?

Objected to. Objection overruled.

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THE COURT: Yes or no.

Q Did anyone tell you what men to pick out? A No.

Q You picked out three men? A Yes.

RE-CROSS EXAMINATION BY MR. FURSTENBERG:

Q Had you spoken to Officer Dandrigan about this case before you went to the District Attorney's office? A No.

Q Sure of that? A Very sure of it.

Q Mr. Landrigan never said anything to you about the case?  
A No.

Q Who asked you to come to the District Attorney's office?

A Mr. Landrigan came to the place where I was working.

Q Did you ask Landrigan why you were wanted at the District Attorney's office? A He told me --

Q Did you, yes or no? A Did I ask him if I was wanted there?

Q Why you were wanted there? A No, I did not.

Q Where were you when he asked you to come to the District Attorney's office? A I was working.

Q Did you immediately go with him there? A I did not.

Q Did you make an appointment with him for another time?

A Told him I would be ready whenever I was called upon.

Q Did he call for you in person and bring you down? A No, sir, he just left word there at the place.

Q You never spoke to Officer Landrigan at all about the case? A No.

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Q Not up until this day? A No -- say how do you do and good morning to him; that was about all.

Q Never told him what you knew about the case at all? A No.  
ever

Q Never told Officer Landrigan you had seen either of these defendants before? A Certainly I told him I saw the men.

Q Then you did talk to him about the case? A Sure, in that manner.

Q What? A In that manner I did, I just told him I knew the man, that was all.

Q Did you pick these men out by their names? A No, I did not see any names when I picked them out.

Q Are you positive you were not at headquarters and put your hand on the shoulder of one or three of these men? A Yes, I remember now, yes, I remember now.

Q Who did you go to Headquarters with? A With Mike.

Q Who? A With the detective.

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

Q Was it Officer Landrigan? A I think it was.

Q Did you have a talk with Officer Landrigan on the way to Headquarters? A No, I did not.

Q Did you know what you were going to Headquarters for?  
A Sure I did.

Q How did you know it? A Because he told me it before.

Q Who told you about it before? A Told me he might call upon me.

Q Who told you? A Mike.

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Q Who? A The detective.

Q You are very friendly with him, you know him by the name of Mike? A Just what I have heard.

Q Is that Officer Landrigan? A That is Officer Landrigan-- I suppose the way they call him.

Q Don't you know whether it is or not -- is that Officer Landrigan you refer to as Mike? (Indicating the officer) A I suppose that is his name, everyone calls it to him.

(Officer Landrigan is brought into the court room.)

BY MR. EDER:

Q Is that the officer? A Yes.

BY MR. FURSTENBERG:

Q Did Officer Landrigan tell you what you were wanted at Headquarters for? A All I know I helped unload and load the wagon and I don't know nothing else.

Q Did Officer Landrigan tell you why you were wanted at Headquarters? A To see if I knew the men.

Q And was there anything else said about what happened at the warehouse on March 13th? A I didn't hear nothing else.

Q Did you say anything else to Landrigan? A I did not.

Q Did Landrigan say anything else to you? A Didn't say nothing to me.

Q Only you were asked to come to Headquarters and see if you could do what? A If I knew the men.

Q Did he tell you how many men were up there? A He did not.

Q Who was with you? A Schwartz.

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Q Were you and Schwarta together when you picked out the men? A Schwartz was in first.

Q Did you know the men that Schwartz picked out? A Did I know the men?

Q Did you know which ones Schwartz picked out? A How should I know when I was outside and he was inside.

Q I ask you did you know which men he picked out? A No.

Q How many men did you see in the line when you picked out the three men that you have indicated? A Four or five men in the line.

Q A total of about five? A Five men, something like that.

Q Altogether how many men were there in line? A I couldn't exactly tell, five or six, something like that.

Q Including these four defendants? A No -- including the whole lot -- yes, five or six together, the whole crowd.

Q When Schwartz went in to pick out the men, where were you? A I was in the hall.

Q Who were you standing with? A Standing by myself.

Q Was any officer with you? A No.

Q Where was Landrigan then? A I don't know, he was talking to someone in the hall somewhere.

Q Did Landrigan say anything to you about whom you picked out? A No, nobody had to tell me who to pick out.

Q You are sure of the men you say you saw on that truck?  
A Yes.

Q You are sure O'Connell was one of the men that was on

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the truck? A Yes.

Q Take a good look at him, look at this man (Indicating O'Connell); are you sure that is the man? A I picked him out.

Q I know you picked him out, but are you positive that is the man you saw on that truck? A I said yes.

Q Did you pick him out on this picture also? A I did.

Q Did you? A I did.

Q Who did you indicate -- to whom did you tell you picked him out on this picture that he was the man -- who asked you to look at the picture and see if he was there? A Mr. Eder.

Q When was that? A In his office.

Q Was that before you had seen the defendants or after?

A That was before I had seen them.

Q So that you saw the picture before you saw the defendants up at the District Attorney's office?

THE COURT: He has said that already.

BY MR. EDER:

Q You mean before you had seen these defendants in my office, is that correct? A Yes.

Q Not before you had seen them at Police Headquarters? A I did not see no picture at all when I went to Headquarters.

Q When you came to my office you were shown this picture and ask to pick out which ones of the men were there? A Yes.

Q Are you sure there were only three men on the wagon?

A That was all I took notice of, I didn't get much time to look to see how many men.

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Q May have been there, but that is all you noticed?

A That was all I seen.

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

(Residence House of Detention.)

DIRECT EXAMINATION BY MR. EDER:

Q You have no permanent home, have you? A No, my folks are dead.

Q What is your business? A Fireman.

Q On a ship? A Yes.

Q And you have been a sailor for how many years? A 35.

Q On the 13th of March, 1918, where were you working?

A Employed by the Surety Warehouse, 384 Washington Street.

Q How long had you been employed there? A About a month.

Q At that time you were working there a month? A Yes.

Q Do you remember any cases and a bale coming in that day?

A Yes.

Q Five cases and a bale? A Five cases and a bale.

Q Were you there when those five cases and bale were delivered? A Delivered out?

Q Delivered in? A Yes, sir, I helped to take them off the wagon.

Q Did you see the men that brought those cases there?

A Yes.

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Q Do you see any of them here in court? A Yes, I do.

Q Come down and point out the men you saw bring those cases into your place -- point them out. A (The witness leaves the stand and goes towards the counsel table.)

THE COURT: Now come back -- what did you say.

A Two.

THE COURT: Put your hands on the two.

(The witness indicates the defendant Gollifer and Harff.)

BY MR. EDER:

Q Those are the two that you recall bringing the cases there? A Yes.

Q Were there any others? A There was another man with them that day.

Q You cannot recall him -- can you recall the man, if you cannot, say so?

BY THE COURT:

Q Can you recognize him, can you recognize the third man?

A Yes, I can.

Q Where is he? A Right next to the other men.

BY MR. EDER:

Q That is the third man? A Yes.

THE COURT: Indicating the defendant William Clark.

Q Are you certain of that? A Pretty certain -- certain.

Q Where were you when those five cases and bales were brought into your place? A We were loading paper on an auto

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truck when the truck backed up.

Q Did you hear any one of these three defendants that you picked out say anything to them? A No.

Q Did you that same day see any one of these men again?  
A Yes.

Q Which one? A Gollifer.

Q Come over here and point him out. (The witness indicates the defendant Gollifer.)

Q Where did you see Gollifer again that day? A In the warehouse.

Q What floor? A On the third floor.

Q Did he talk to you? A Well, yes.

Q Who was he there with? A He was there with a well dressed man.

Q What did Gollifer say to you when he was on the third floor with the well dressed man? A I opened the cases up for him.

Q What did he ask you to do, what did he say? A They told me to scrape the boxes off.

Q Who did? A Gollifer and the well dressed man.

Q Told you to scrape what? A Scrape the boxes.

Q You mean the names? A Yes, sir, scrape the names.

Q When you say scrape the boxes what do you mean? A Where you write the names on the boxes -- which is a common occurrence to do in a warehouse.

Q Did you do that? A Yes.

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Q With what? A With a scraping iron, piece of iron.

Q What was done after the names were scraped? A Well, I couldn't say -- it was dinner time then and I couldn't say.

Q I mean to say did you do anything with the cases?

BY THE COURT:

Q After you had scraped these names off, what was the next thing you did? A I went to dinner.

BY MR. EDER:

Q Did you do anything else before you scraped the names off? A Yes, I opened the boxes up.

Q Who was asked you to open the boxes up? A A well dressed man and the man I just showed you.

Q Gollifer? A Yes.

Objected to.

THE COURT: I will receive it as against Gollifer.

BY MR. EDER:

Q What did they do when they opened the boxes? A The big man felt it and he said it is cotton -- black stuff.

Q What did Gollifer say? A Nothing.

MR. FURSTENBERG: I move to strike it out.

Q Was Gollifer there with him? A Yes.

THE COURT: I will leave it in.

Exception.

Q Did you close the cases up after that? A Yes, I knocked the nails back in again.

Q Did Gollifer give you anything? A The well dressed

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man handed me a dollar and he said I am coking back in an hour with a truck to get this stuff.

Q Gollifer was there at the time? A Yes.

Q Did they leave then? A Yes, they left together.

Q Were you there when the cases were taken away? A I left as they were taking the cases out. They were just taking the cases out when I left.

Q Did you see who was there when the cases were taken away? A I couldn't say about that because they left as I started to take them down the elevator.

Q Did you ever see these men from the 13th of March until today, did you ever see them? A Yes, I seen them once before that.

Q Where?

MR. FURSTENBERG: When, have the time fixed.

THE COURT: I will let him answer the question.

Q When did you see them once before that? A The following Saturday before that.

Q You mean the Saturday -- A I mean the Saturday before that.

Q You mean the Saturday before the 13th day of March you saw these men? A Yes.

Q Did they bring any goods then? A Brought in cases of Japanese stuff --

Objected to.

THE COURT: I will let him state how long they were

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under his observation at that time.

MR. FURSTENBERG: I object to the last question.

BY MR. EDER:

Q How long a time were they in the Surety Warehouse the Saturday before the 13th day of March, how long a time were they in there? A How long a time were they there?

BY THE COURT:

Q Yes, on the Saturday before, from the time you first saw them until they left? A About a half an hour.

BY MR. EDER:

Q Now after the 13th of March until today did you ever see any one of these men? A No.

Q You were up in my office? A Yes.

Q I showed you a photograph? A Yes.

Q And asked you to pick out certain men? A Yes.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q Who were the men that you were asked to pick out by the District Attorney?

Objected to.

BY THE COURT:

Q You may tell us what you were asked by the District Attorney, what did the District Attorney say to you? A Up in his office?

Q Yes. A Just asked me what happened in the warehouse.

Q Aside from that, when he asked you to pick out men or

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asked you if you could do so, what did he say? A He just asked me to pick out the men I saw there.

Q He showed you a photograph and asked you to pick out the men you saw at the warehouse? A Yes.

BY MR. FURSTENBERG:

Q How many men did you pick out from that photograph?

A From this picture here?

Q At the time it was shown to you by Mr. Eder, how many men did you pick out? A Two -- three men.

Q Which is it, two or three? A Three.

BY THE COURT:

Q When you were in Mr. Eder's office and were shown the picture how many men did you pick out? A Three.

The Court admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes a recess until 2:15.

After recess. Trial resumed.

T H O M A S G I L L I G A N, resumes the stand:

CROSS EXAMINATION CONTINUED BY MR. FURSTENBERG:

Q After you were shown the picture, did you indicate on the picture, the men that you say you saw down at the warehouse?

A Do you mean did I identify them on the picture?

Q Did you point out on the picture the men that you saw at the warehouse, as you say? A Yes I did, three of them.

Q Without looking at the times, tell us and point out

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which ones you say you saw down at the warehouse? A First, second and third.

THE COURT: The first three. (Indicating Gollifer, Harff and Clark.)

Q Now, look at the defendants seated here and tell us which or you say you saw ones you saw down at the warehouse? A Which ones I saw at the warehouse?

Q Yes, of the men here? A The first three.

THE COURT: That is Gollifer, Harff and Clark.

Q Did you ever say you saw this last man? (Indicating O'Connell)? A No, sir.

Q Why was it that you first stated you only saw two and then hesitate for quite some interval before you picked out the third man? A I wanted to make certain about it.

Q Was there a doubt in your mind? A No.

Q About the third man, at the time you picked out two? A No, sir, no doubt in my mind, I only wanted to make sure.

Q Was there any doubt in your mind at the time you picked out the third man? A No, no doubt in my mind.

Q Why didn't you pick out the three? A Because I wanted to make certain of the third man.

Q When you picked out two, you were not certain as to which ones of the remaining two was the third man, is that so?

Objected to. Objection sustained. Exception.

Q You say you saw, as you term it, a well dressed man at the ware house on the afternoon of the 13th, is that right?

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A Yes.

Q Describe that man? A The man is not here.

Q Will you describe him? A A well built man with black overcoat and black suit and a watch and chain hanging across here and a black mustache.

Q About how tall was he? A A man about five feet eight.

Q Mustache? A Yes.

Q Light or dark? A Dark.

Q Had you ever seen him before that day? A No.

Q You were not at Headquarters? A No.

Q Had you ever seen Gollifer before that day? A Excuse me, what did you say.

Q Had you ever seen Gollifer before that day? A I seen him once before.

Q Did you know his name then? A No.

Q When for the first time did you learn his name? A Upon that picture.

Q By looking at the picture you heard his name? A No, I heard the names mentioned.

Q When did you hear his name ~~xxx~~ name mentioned? A I heard the name mentioned three or four times.

Q What? A I heard it mentioned three or four times.

Q When was the first time you heard it mentioned? A I think I heard that on Dey Street.

Q Was it Officer Landrigan mentioned his name? A No, sir-- it was a fellow telling me they had some fellow arrested.

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Q Was it Officer Landrigan who mentioned his name? A No.

Q Was it a police officer mentioned his name? A No.

Q Who mentioned his name the second time, you say you heard it mentioned several times? A I think I heard -- pretty certain I heard it mentioned again.

Q Did Londrigan ever mention his name? A No, no names to me.

Q Did any detective ever mention his name? A I am trying to think.

Q See if you cannot recollect who it was mentioned his name the second time? A The second time?

Q Yes, you heard it mentioned several times, you say?

A You can hear plenty of names mentioned lost of times.

Q Just Gollifer's name. A In a place like the Detention Home you heard everybody's name mentioned.

Q Before you went to the House of Detention? A I told you I heard it on Dey Street.

Q Any other place then on Dey Street? A No, I would say no.

Q Do not say no if it is not so, is that so? A Yes, sir, I heard it mentioned in Dey street.

Q Did you hear it mentioned by any police officer? A No.

Q Did you hear it mentioned in the District Attorney's office? A No -- I couldn't say --

Q Were you in the District Attorney's office? A Yes.

Q When? A I couldn't say the date -- the 16th or 19th-- I couldn't tell you the date I first went but I was taken there.

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Q This picture was shown to you then? A Yes.

Q Was the name on it at the time it was shown to you? A I did not notice any name on it, no, sir.

Q Would you say it was or was not or don't you remember?  
A I don't remember any name on it.

Q It may have been on and you don't remember? A It might have been, yes.

Q Did you mention his name as Gollifer then? A No.

Q Was he present at the time? A No.

Q Was he sitting outside the District Attorney's office?  
A No, sir, I did not see him.

Q Who was present at the time? A The attorney prosecuting -- the attorney in the office.

Q Mr. Eder was present? A Yes.

Q Was Officer Landrigan there? A Yes.

Q Were any other persons there? A No, not that I know of.

Q Do you know Mr. Henderson? A No.

Q You don't know Mr. Henderson? A Bob Anderson?

Q Bob Anderson, is that his name, do you know him? A Yes.

Q Was he in the District Attorney's office while you were there? A Once.

Q Were these defendants there? A No.

Q Outside? A No, sir, I don't know.

Q Was Officer Landrigan there? A Yes.

Q Was the picture there at the time? A Yes.

Q How many times in all were you up there in the District

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Attorney's office? A Twice.

Q Was Mr. Schwartz there? A Once.

Q Was the picture shown to Schwartz while you were there?

A I couldn't say.

REDIRECT EXAMINATION BY MR. EDER:

Q Do you know the names of these four men sitting here, do you know which one is Gollifer? A The one I pointed to -- no, -- the one they call Gollifer was the man that had the slouch hat at the time they fetched the stuff there.

Q You don't know their names now? A No.

Q You know there is a Gollifer among them? A Yes.

Q You know their faces? A Yes.

RECROSS EXAMINATION BY MR. FURSTENBERG:

Q As I understand you to say the man you knew as Gollifer had a slouch hat? A He had a slouch green hat.

Q Where did you see that? A Saturday and again on Wednesday.

Q Where did you see it Wednesday? A On the man's head.

Q Where was he then? A At the Surety Warehouse, 384 - Washington Street.

Q You notice that none of the men in this picture has a slouch hat on?

Objected to upon the ground the picture speaks for itself.

THE COURT: The picture is in evidence.

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A L B E R T H. S T I L L M A N, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

(Residence 2096 Boston Road)

DIRECT EXAMINATION BY MR. EDER:

Q What is your business? A Manager of the Surety Warehouse Company.

Q Corporation? A No, just a warehouse company.

Q Do you remember the 13th day of March, 1918? A Yes.

Q Were you such manager on that day? A Yes.

Q You are one of the proprietors there? A Well --

Q Your wife is? A No, I act as manager and half the profits -- I get \$25 a week and half the profits of the company.

Q Was Mr. Schwartz in your employ on the 13th day of March? A Yes.

Q What was his position? A Foreman of the warehouse.

Q Was Thomas Gilligan in your employ on the 13th of March? A Yes.

Q What was his position? A Porter.

Q Was Bob Anderson or Charles Henderson in your employ that day? A We called him Bon.

Q Was he in your employ? A Yes.

Q What was his position? A Porter.

Q Look at these four men and state if you ever saw any one of these men on the 13th day of March, 1918? A Yes, one man.

Q Which one? A The middle one.

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Q Step down and pick him out? A The middle one.

BY THE COURT:

Q Put your hand on the man?

THE COURT: The witness puts his hand upon the defend-  
ant Harff.

BY MR. EDER:

Q What time of the day on the 13th of March did you see  
him? A I saw him around about noon time.

Q Did you have any conversation with him? A Yes.

Q State the conversation you had with him? A He offered  
me storage money for cases that came in that building that morn-  
ing.

Q Louder. A He offered me money for the storage for the  
cases that came in there that morning.

MR. FURSTENBERG: I move to strike out the answer.

THE COURT: I will strike it out.

BY THE COURT:

Q What did he say? A He offered me money.

Q What did he say? A He said here is money for the cases,  
for the storage. I told him to go around to the office and pay  
it around there at the office.

BY MR. EDER:

Q Did he say how many cases? A No, sir.

Q Go on. A And then I went around the corner to the of-  
fice and I said to the girl --

Objected to.

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Q Was he there? A Who.

Q Was this defendant there when you spoke to your girl?

A No.

Q Do not say then what you said -- you had a talk with your girl? A Yes.

Q When did you see this man do anything after that? A No.

Q Did he give any money? A I did not see him give any money.

Q You did not see? A No.

Q Did you see him again after that? A I saw him a few minute safter when I came back from the office, he was around there and I said to the foreman --

BY THE COURT:

Q What did you see him do? A I just saw him standing there. That was all.

BY MR. EDER:

Q Were cases brought down at that time? A Yes, there was two cases down there ~~on the walk~~ at the time, going out.

Q Did you have any further talk with this defendant?

THE COURT: Yes or no.

A No.

Q And did you see any more cases going out after that?

A I stopped the rest of them from going out.

MR. FURSTENBERG: I move to strike out the answer.

Motion denied.

BY MR. EDER:

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Q Did you see any more cases going out after that? A No.

Q You did not see any more? A No.

Q Do you know whether they went out? A Yes, sir, they went out because I was told they went out.

THE COURT: I will strike out what he was told.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q When a person brings in a case to your warehouse for storage, don't you make any inquiry as to who it is to be charged against, for the storage? A Yes.

Q That is the regular course? A Yes.

Q Do you know if it was done in this case? A Yes.

Q How do you know? A I inquired from the foreman and I said to him did you get the name.

BY MR. EDER:

Q Now, you inquired as to the name of the person bringing it, is that correct? A Yes.

Q You merely inquire as to the name of the person bringing in the goods? A Yes.

Q And that name is marked down in your book? A Yes, sir, we are compelled to, we have to do that.

Q That is all the inquiry you make? A That is all the inquiry I made, yes.

M I C H A E L J. L A N D R I G A N, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

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## DIRECT EXAMINATION BY MR. EDER:

Q How long have you been attached to the Police Force of the City of New York? A Sixteen years.

Q How long have you been a detective? A About fifteen.

Q Did you arrest these four defendants? A Yes.

Q Prior to their arrest did you go to the Surety Warehouse on Washington Street? A Yes.

Q Did you there have a talk with anyone? A Yes.

Q With whom? A With Mr. Schwartz, the foreman.

Q After that talk with the foreman what else did you do?

A After we talked with the foreman the foreman told us --

THE COURT: Never mind that.

A We went with the foreman, Officer Crowley, Collins and myself to Rockaway Road, Jamaica with a moving van man from Ludlow and Delancey Street.

Q Before doing that did you arrest these defendants? A No.

Q You did not? A No, after.

Q You went with the foreman? A With the foreman.

Q With a moving van man? A Yes, sir, from Ludlow and Delancey Street to Rockaway Road, Jamaica.

Q What number Rockaway? A 135 and there the moving van man told us --

Q Never mind that? A There we found five empty cases and some goods, merchandise.

Q The goods were out of the cases? A Yes.

Q In a store? A It was a drygoods store in the place we

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found them, in the dru goods store.

Q What did you do after that? A We took the goods and the proprietor of the store back to Police Headquarters and took the receiver who had the goods in his possession in Rockaway Road under arrest and left him in Headquarters with the goods.

Q Did you see Charles Miller and Mr. McLaughlin in Headquarters? A The next day I think it was.

Q Did they see the goods -- the goods they looked at, were they the same goods you brought from Jamaica Road, or Rockaway Road, Jamaica? A Yes.

Objected to. Overruled and exception.

Q What did you do after that? A After we left the goods and the prisoner that we got in Rockaway Road, we went with the moving van man and three officers, Officers Crowley, Collins and Reilly up to a moving picture house at Christopher and Hudson Streets and we placed the four defendants under arrest.

Q Is there any special assignment that you are on at Police Headquarters?

Objected to. Sustained.

Q Did you have a talk with these defendants? A Yes.

Q Did they answer any of your questions? A No.

Q Did not answer any of your questions? A No.

Q After that what did you do? A After that we brought the four defendants to Police Headquarters.

Q They were placed under arrest? A Yes.

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## CROSS EXAMINATION BY MR. FURSTENBERG:

Q After that what did you do? A Well --

Q With these defendants?

THE COURT: What did you do?

A I left until next morning.

Q Then what did you do? A They were brought upstairs.

Q And taken to police court first? A They were brought upstairs and the next morning the first thing I done was to go to the warehouse.

Q Were the defendants then taken to the police court from police headquarters? A Yes.

Q And they were arraigned before the Magistrate? A Yes.

Q And they were committed by the Magistrate to the Tombs in default of bail? A I believe they were.

Q On what day was that? A That was on the 14th or 15th.

Q What day was that, Thursday or Friday? A I couldn't tell you just now.

Q You delivered the prisoners, these four defendants, to the keeper of the Tombs? A One of the officers did.

Q One of the officers of the Tombs, is that right? A Yes.

Q When did you next see the defendants? A The next I saw the defendants was later on in the day.

Q The same day? A I think it was, yes.

Q Had you seen Mr. Eder before that? A Yes.

Q Where did you go to see the defendants? A To the Tombs.

Q Did you have any paper with you? A Yes.

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Q Where did you get that paper from? A From the District Attorney's office.

Q What was that paper? A The paper was to bring them to Police Headquarters and ~~after~~ have them photographed from orders of the District Attorney, in their working clothes.

Q Was that on the paper? A I couldn't tell you.

Q Who has that paper now? A I don't know.

Q What did you do with the paper? A Turned it back to the clerk.

Q What clerk? A District Attorney's office.

MR. HURSTENBERG: I ask the District Attorney to produce that paper.

MR. EDER: I do not know what paper you have reference to.

Q Tell us again what paper you have reference to?

BY MR. EDER:

Q Was that the paper to bring them over to the District Attorney's office? A Yes.

BY MR. FURSTENBERG:

Q These four defendants had been ordered by a Magistrate to be committed to the Tombs, that is so?

Objected to.

THE COURT: He has testified to that already.

Q Did you have any order from any judge to bring these defendants to the Tombs?

Objected to.

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Q Did you or did you not?

Objected to. Objection overruled.

BY THE COURT:

Q Did you? A No, sir, no judge.

BY MR. FURSTENBERG:

Q Did these defendants ask you to be brought to the District Attorney's office?

Objected to as incompetent, irrelevant and immaterial.

Overruled.

A No, sir.

Q Did these defendants ask to be taken to Police Headquarters to be photographed? A No, sir.

Q Do you remember when you took them out of the Tombs, that one of the defendants asked you where are you taking us to?

A Yes.

Q And you remember that you said you were taking them to the District Attorney's office? A No, sir.

Q Do you remember when you had passed this building, that the same defendant said to you, "I thought you were taking us to the District Attorney's office and you said, "Well, the District Attorney has offices all over the city"? A No.

Q Did you say that to him? A No.

Q Do you remember when you went to Headquarters that the defendant said to you, why are you taking us here? A No, sir.

Q And that you punched him in the face? A No -- now counsellor, they know better.

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Q Is that so? A No.

Q Who was with you? A Officer Crowley, Officer Collins and Officer Reilly.

Q Did anyone punch them? A No, sir.

Q Did you see it? A I was there all the time and I did not see anything like that.

Q Who told you to have this photograph taken of these four men? A We had --

Q Who told you to have this photograph taken? A Yes, I will tell you -- the District Attorney.

Q Who? A Mr. Eder.

Q You have been a detective for fifteen years? A Yes.

Q And you have seen men photographed in Police Headquarters in the regular course of police business? A Yes.

Q Is this such a photograph?

Objected to. Sustained.

Q Is this the photograph that is taken of men in Headquarters -- I ask you if this is similar to one that is generally taken there?

Objected to, sustained and exception.

Q Are you acquainted with the practice in Police Headquarters as to the taking of photographs of persons brought there?

A Yes, sir -- of prisoners that I bring in myself.

Q Have you ever taken them under similar circumstances before?

Objected to as immaterial. Sustained.

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Q Who wrote the names of these men on top of this photograph, do you know? A When I --

Q Do you know who wrote the names? A No.

Q Did you write them? A No.

Q Did you say to any person the names of the various persons on there? A To the District Attorney.

Q You did tell them? A Yes, he asked me.

Q Who was present at the time? A I think the two warehouse men -- I don't really know --

Q Who were they? A Schwartz and Bob Henderson.

Q Schwartz and Henderson were there when you indicated the names of the various persons, is that right? A I think so, I am not sure, but I know I mentioned the names to the District Attorney. He wanted to know.

Q On the day these defendants were brought to Headquarters, who was in the line-up with them? A Four other men.

Q Who were those men? A They were, a World reporter, and I think there was three other detectives, rather small men, and these four were put in.

Q Who were those men? A I haven't got the names -- I think there was a man named Marron and Griffin and one Fogarty and this World reporter.

Q Marron and Griffin? A Yes.

Q And Fogarty? A Yes.

Q Of the First Branch? A I don't know -- Officer Collins has their names on a piece of paper.

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Q Do you mean to say Griffin is a small man? A I don't know the Griffin you mean, there is two or three of them.

Q The one you mean? A The smallest one.

Q Where does he belong? A He has a squad of men looking after truck thieves all over New York.

Q Where does he belong? A The First Branch.

Q Where does Marron belong? A You have got me -- I don't know.

Q Where does Fogarty belong? A I think he is in the First Branch, I aint sure.

Q How big a man is Fogarty? A I guess as big as myself or maybe a little bigger.

Q How tall would you say Fogarty was? A About five feet eight or eight and a half.

Q Does he in any way resemble any one of these defendants?

Objected to. Objection sustained as calling for expression of an opinion.

Q Describe Fogarty's looks? A He looks -- I couldn't describe him -- he looks like --

BY THE COURT:

Q Now you give to the jury promptly as good a description of Officer Fogarty as you can? A He looks like juryman number two.

BY MR. FURSTENBERG:

Q Does he wear glasses? A No, not as I know of.

Q Is he slightly bald? A I think he is, I aint sure.

Q None of these defendants are? A No, none of the de-

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defendants are, but I don't know if Fogarty is or not. He has a full face like that jurymen. That is all.

Q Now, can you give us a description of Griffin? A Griffin is like jurymen number eleven.

Q Has he a mustache? A Well, no, he is clean shaven, but built something like that. No mustache at all.

Q You want to say that juror number eleven resembles any of these defendants? A No.

Q Or that juror number two does?

THE COURT: Mr. Furstenberg pass now to something else.

Q Describe Officer Marron? A A young man, I think his name is Marron -- tall man, something like one of the defendants, Harff.

Q Which one? A Harff.

Q Do you know whether Officer Marron -- stand up Harff --

A As tall as him.

Q Describe his face? A Something like Harff.

Q Do you know where Officer Marron can be reached now?

A No.

Q Do you know whether he is connected with the First or Second or Third Branch? A I don't know that -- I think he is a clerical man there somewhere in Police Headquarters -- that is all I know about him.

Q Who was the reporter, do you know his name? A Max -- his last name I don't know. He is as big as Mr. Eder.

Q Any of them wear blue shirts? A No.

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Q Did all have white collars on? A Yes.

Q They were all standing together, the four of them? A They were in between.

Q Sure of that? A Yes.

Q Positive? A I think I am.

Q Are you? A Well, I think so, because that is the way they put them in a line-up.

Q I ask you if you are or not? A Well, I cannot say.

Q Were you there when Schwartz came in? A Yes, I was there for awhile I think, just a minute or two, because --

Q Were you there when Schwartz picked out the men? A I did not pay any attention to him.

Q You were not interested in that? A No, I was not -- I had another case --

Q You brought Schwartz up there? A Yes.

Q And still you were not interested to see?

THE COURT: He has answered the question.

THE WITNESS: There is a lieutenant in charge, that has charge of all this line-up.

BY MR. FURSTENBERG:

Q After you got this picture what did you do with it? A I brought it and gave it to Mr. Eder.

Q Who did you show it to? A Mr. Eder.

Q Who else? A Nobody else.

Q Did you show it to any witnesses before they went to the Grand Jury room? A No.

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Q No one at all? A No.

Q Did you show it to Schwartz? A No, Mr. Eder done all that.

Q Were you present when Schwartz was in Mr. Eder's room?

A Yes, I think so -- in and out.

Q Were the defendants there? A Yes, they were in and out.

Q The defendants were in and out Mr. Eder's room? A I think they were in there -- they were in there together or two at a time -- I don't know.

Q You came over first, the defendants or Schwartz, who was in the room first? A That is what I cannot say, I aint sure.

Q Were you there before the defendants were there? A I brought the defendants there to Mr. Eder's office.

(A paper is now handed to Mr. Furstenberg by Mr. Eder)

MR. EDER: I consent that that be put in evidence.

The paper is marked for identification Defendant's Exhibit B, and consists of four slips of paper, or four sheets.

BY MR. FURSTENBERG:

Q I ask you to look at these slips and tell me if you find anything on there stating that you received orders to take these defendants to Police Headquarters to be photographed?

MR. EDER: I object, the paper speaks for itself.

Objection sustained.

MR. FURSTENBERG: It is not in evidence.

MR. EDER: I will consent that it go in evidence.

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MR. FURSTENBERG: The officer has testified that is the fact, that he received orders to take them to Headquarters on those papers and I asked for the production of the papers.

THE COURT: You are in error. He said he did get an order on a paper to take these men and have them photographed. He has not said that he got the order on these papers.

Q I ask you where did you get that order on paper to take these men to Headquarters to be photographed? A We never got any order on paper.

Q You did not get an order? A No order.

Q You stated before you did get it? A No.

Q Where did you get the order from to take these men to be photographed? A The District Attorney, Mr. Eder.

Q Who suggested that these men be brought to the District Attorney's office, did you? A No, sir.

Q Who did? A The District Attorney.

MR. FURSTENBERG: I ask that the paper B for identification be marked in evidence.

No objection.

Defendant's Exhibit B for identification is now received in evidence and so marked.

Q Please take this Exhibit B, who put that stamp on there, "I consent to be taken to the District Attorney's office", do you know? A No.

Q Was it on there when you got the papers? A I aint sure

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about that. I never took notice of it.

Q None of these defendants had ever asked to be taken to the District Attorney's office?

Objected to.

THE COURT: You have been all over that. I sustain the objection.

Q When you went to the Tombs, what did you do with the papers? A When you got to the Tombs --

Q What did you do with these papers when you went there?

A Officer Reilly and the officer in charge of the prisoners -- you give them to the prison keeper over there and he gives you two duplicates to come back.

Q Did you say to these defendants that the District Attorney wanted to see them and to sign this paper? A No.

Q They signed the paper? A They must sign that of their own accord or somebody else but not the officers.

THE COURT: Pass on to something else, Mr. Fußtenberg, and that means no additional questions regarding these papers.

Q Do you remember what date it was that you brought the defendants into the Magistrate's Court? A It was the next morning I believe, on the 15th -- they were arrested on the 14th and taken to the Magistrate's Court on the morning of the 15th.

Q Do you remember to what date the case was adjourned?

A I do not.

Objected to as immaterial. Objection overruled.

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Q Do you know whether or not it was the following Tuesday?

A I couldn't say.

Q On the 15th, had you seen Schwartz and Henderson and O'Connell, and had you seen any of these three men up to the 15th?

A I think -- I might have -- I seen Schwartz and Anderson on the 14th, because we brought them to Mr. Eder's office, them two witnesses and they described the men, the clothes they were wearing --

THE COURT: You have answered the question.

Q Had you seen all the witnesses who appeared here today, on the 15th? A About the 15th, I must have, yes.

Q Who did you go to Headquarters with, Schwartz and who else -- was Henderson with you? A Schwartz and Henderson, yes.

Q Where was Henderson when Schwartz went in to look over the four defendants? A When Henderson went in, he was outside.

Q Were you with him? A Yes, I stood outside with him.

Q Have a talk with him? A Only talked about the case.

Q You were? A Yes, I think we were, that is the only thing I was talking about, the case, where they were working and anything like that.

Q You were talking with them about the case all the time, as matter of fact? A About how many truck loads went into this warehouse.

Q You were talking with him about this case? A Yes, all the time.

Q From the time you met him down at the warehouse on your

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trip to Headquarters, you were talking to him about the case?

A Yes.

Q And from your trip to Headquarters to the District Attorney's office, you were talking to him about the case? A Yes.

Q That holds true of Schwartz also, you talked to them both about the case? A Talking to all of them, Schwartz and his boss and the manager and everything.

Q Did Schwartz tell you whom he picked out at Headquarters? A I think he said he picked out three or four. I did not pay no attention to him. When he came out -- he said he picked them out and the lieutenant --

Q Did Schwartz tell you who it was he picked out? A No, I don't think he did.

THE COURT: Pay attention to the questions and if you understand them answer them, and after answering them stop talking.

Q Did Henderson tell you whom he had picked out? A No.

Q Did you in any way indicate to Schwartz or Henderson who in your opinion should be picked out? A No, sir.

Q Did you show them the photographs and ask them to tell you whom they picked out on the photograph? A No.

Q How long do you know Henderson? A I never met the man before the 14th of the month -- the first time I ever saw him in my life or any of them in that warehouse.

REDIRECT EXAMINATION BY MR. EDER:

Q After the arrest was made you took the men you say to

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Headquarters, is that right? A Yes.

Q Then they were arraigned in the Magistrate's Court?

A Yes.

Q After you had asked Schwartz and the other man to identify these defendants? A Yes.

Q Was it after that you took this picture? A Yes.

Q That was at whose suggestion? A The suggestion of the District Attorney, yourself.

Q Did you see each defendant sign his name? A Yes.

Q That is the only written order you received from the District Attorney's office to bring them to my office? A Yes.

(Referring to Defendant's Exhibit B)

Q You heard me question these defendants? A Yes.

Q Did you ask these defendants any names of persons who received these goods? A Yes.

Q Did they give you those names? A No.

Q Did they give you any names? A No.

Q Did you ever suggest to anyone to ~~take~~<sup>pick</sup> out anyone of these four men? A Only them warehouse men --

Q Did you suggest -- did you pick out the men for them?

A No.

Q There is a lieutenant in charge of the Identification Bureau at Headquarters? A Yes.

Q And men that are brought in to be identified are put in charge of that lieutenant? A Yes.

Q Who was the lieutenant in this case? A Lieutenant Mo

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Mullin was in charge of this case, he is in the Detective Bureau.

Q Are you as an arresting officer permitted to remain in when they are picked out? A That is up to yourself.

Q Were you in when they were picked out? A No.

RECROSS EXAMINATION BY MR. FURSTENBERG:

Q Your partners Reilly and Collins were in there? A That is what I cannot say.

Q You say you saw the defendants sign these slips? A Yes.

Q Was that stamp "I consent to be taken to the District Attorney's office" on the slips when they signed it? A That I cannot say.

Q Did you see O'Connell sign right there? A I guess I did. I know he signed the paper but I cannot say.

Q Did you see Harff sign right there? A Yes.

Q And Clark sign there? A Yes.

Q And the other there? (Indicating) A Yes.

Q You will notice that they are signed right under that consent? A Yes.

Q Do you wish to say that you do not know whether or not that consent was stamped on there before they signed it, if you saw them sign it? A We pay no attention to it.

Q Did you get the chauffeur in this case? A Yes.

Q Is he in court? A No.

Q Did he look over these men? A Not that I know of, I don't know.

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Q Did you ask him if he knew the men?

Objected to. Sustained.

J A M E S J. C O L L I N S, called as a witness in behalf of the People, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. EDER:

Q Were you in company with Officer Landrigan when these four men were arrested? A Yes.

Q Did you see Schwartz, the witness? A I did.

Q Did you see Gilligan, a witness? A I did.

Q Did you see Henderson, a witness? A I did.

Q Did you ever ask any one of those men to select any one of these four men? A No, sir, I was not there at that time, at the line-up.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q Who was there, do you know?

THE COURT: He says he was not there.

Q Did you ever learn who was there? A You mean at the line-up?

THE COURT: I have sustained the objection to that. He cannot know, because he was not there.

MR. FURSTENBERG: I withdraw the question.

Q Did you go to the Tombs to bring these defendants to the District Attorney's office? A I was at the District Attorney's office when they were there but I did not bring them there.

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Q Who went over, do you know? A I believe Officer Landrigan and Reilly, I believe, brought them over there, and I was in Newark at the time.

Q You don't know anything about it?

MR. EDER: About what?

Q About bringing them over? A About bringing them over. I was there at the time --

Q Were you in the office at the time they were brought over? A Yes.

Q Who else was there? A Officer Landrigan, Mr. Eder, Mr. Marcowitz, I believe, and those witnesses whom you have just referred to.

Q Was there a chauffeur there? A There was.

Q What was his name? A His name was Girlogowitz.

Q Is he here? A No, he is not. He is sick in a hospital.

Q Did you have a conversation with him? A I did.

Q Did he look at these four men? A Yes, he did.

BY THE COURT:

Q What hospital is he in? A I don't know. His wife came here --

Q You have answered it when you say you don't know.

MR. EDER: Now, if your Honor please, the People rest with the exception of waiting for the clerk, Mr. Fay, to come down and testify that this consent was on there at the time -- that the consent to be taken to the District Attorney's office was on every one of these slips that comes

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from the chief clerk's office.

MR. FURSTENBERG: That is all I want, it is now conceded that this stamp was on the slips "I consent to be taken to the District Attorney's office," before the slip is submitted to the defendants.

MR. EDER: That is right.

THE PEOPLE REST.

MR. FURSTENBERG: I move on the whole case to dismiss the indictment upon the ground first, that the People have failed to make out a case, in that there is no proof that the goods alleged to have been stolen are the goods that have been produced here, if anything has been produced. There is no proof here of any connection <sup>of</sup> ~~with~~ these defendants with the goods alleged to have been stolen. We have evidence that certain merchandise was missing from a truck. We have evidence that some cases and a bale were received at a certain warehouse and from there taken to another place, but we have absolutely no evidence that the goods alleged to have been taken are the same goods that were received at the warehouse, or any connection with them, or that they are the same goods supposed to have been taken and found in Jamaica. I urge that seriously because I have listened and waited to hear some claim or some connecting link along those lines.

THE COURT: You say the only evidence connecting these defendants with the alleged larceny is evidence that goes

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to the point that they went to a warehouse, or some of them went to a warehouse on a truck and delivered four cases, or five cases and a bale, and you say that there is no testimony showing what marks were upon those cases and no testimony tending to show what was contained in those cases or in the bale. In other words, nothing to indicate that the merchandise which was said to have been stolen was in that --

MR. FURSTENBERG: Yes.

THE COURT: What is your answer to that, Mr. Eder?

MR. EDER: The evidence in this case is that on the 12th of March the cases containing the merchandise in question were delivered to that truck by the shipping clerks and then on that day the same cases appear in a warehouse, and then the same goods, the same cases are found in Jamaica, Long Island, containing the same goods that were originally on the express wagon owned by O'Connell.

THE COURT: I am sorry to say that I think you are in error, in one regard. I do not recall any evidence in the case as to what was contained in the packages that were left at the warehouse.

MR. EDER: That is true.

THE COURT: Nor do I recall any evidence in the case which identifies those packages with the packages that were taken or which are said to have been taken from the truck of the trucking firm.

MR. EDER: Schwartz testified that the same five cases

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and the bale that were taken from the warehouse were found in this place in Jamaica, Long Island, if you will recall. We have the evidence what was contained in the cases in Jamaica, Long Island. Then we trace it back and we show that the same contents were delivered to O'Connell's express. Schwartz identifies these as the same cases that were found in Jamaica, Long Island, and the same bale, as were delivered in his warehouse, and he testified those were the cases that these men brought into the warehouse.

THE COURT: You say that you have connected these defendants with the alleged crime through the testimony of Schwartz?

MR. EDER: Yes.

THE COURT: You say that Schwartz gave testimony that he identified at Jamaica the cases there as being the same cases which were delivered by some of these defendants, as he says, at his warehouse?

MR. EDER: Yes, and there was testimony on the part of Gilligan that he scraped names off the cases, and the testimony is that when the cases were brought or found in Jamaica, Long Island, the same scraping was on them, with the exception of one stamp that was permitted to remain and in addition to that the horse and truck were described.

THE COURT: I will tell you what I will do, Mr. Eder, I will ask Mr. Osborne to kindly write out the stenographer's minutes and I will go over the evidence very care-

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fully and if I think there is sufficient, on an examination of the evidence, to take the case to the jury, I will let it go to the jury tomorrow, and I will even go further than that. If by tomorrow you have any additional evidence that you feel you can submit or care to submit, I will receive it.

MR. FURSTENBERG: At this time, if your Honor please, may I make another motion directed against some of the defendants -- that is insofar as the defendants Clark and O'Connell are concerned. I feel it is my duty at this time, irrespective of your disposition of the other motion to ask your Honor for a direction or for a dismissal in their case at this time, on the ground the People have failed to make out a case, insofar as they are concerned.

THE COURT: I think, inasmuch as I have ordered the minutes, I will take both motions under advisement.

MR. FURSTENBERG: And I ask that the second count be taken from the consideration of the jury.

THE COURT: I will reserve decision on that.

The Court now admonishes the jury in accordance with Section 415 of the Code of Criminal Procedure and takes an adjournment until tomorrow morning, April 9th, 1918, at 10:30.

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New York, April 9th, 1918.

Trial resumed.

THE COURT: I have glanced, although I have not read carefully, the minutes in the case of Gollifer, Harff, Clark and O'Connell. It appears to me that the testimony of the witness Schwartz, coupled with testimony that was given by another witness relating to a stamp which was on the box or on one of the boxes is sufficient to warrant the submission of the case to the jury as far as John Gollifer and Henry Harff are concerned. I am inclined, Mr. Eder, to advise the jury to acquit John O'Connell and before disposing of the case as against William Clark, I will be glad to hear what you have to say.

MR. EDER: In regard to William Clark there were two witnesses who identified him absolutely, Gilligan and Henderson. So far as Schwartz is concerned there may have been four there. He is positive of seeing three of them, he at first pointed to Clark and then changed his mind and said he saw O'Connell. He may have seen all four of them, but we have two men absolutely identifying Clark.

THE COURT: I am inclined to think it was the other way. I think he first pointed to O'Connell and then afterward corrected himself and said Clark.

MR. EDER: Yes, that is so.

THE COURT: I will hear you upon that point.

MR. FURSTENBERG: Mr. Eder says undoubtedly they

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identified three of them. You will remember Gilligan first looked at the four defendants and then pointed to two men and said it was two and it was only after additional questions on the part of Mr. Eder that he said it was one of the other men. You will remember that Henderson picked out, as his identification, the man who Schwartz now denies, was the man that was there.

THE COURT: I will let it go to the jury as against John Gollifer, Henry Harff and William Clark and give you an exception to my denial of your motion, and when we come to the conclusion of the case I will advise the jury to acquit John O'Connell. We will proceed.

MR. FURSTENBERG: I now move that the count charging grand larceny in the first degree, and the count charging criminally receiving stolen property in the first degree, be taken from the consideration of the jury as there is no evidence of value in this case.

THE COURT: I think I will deny your motion.

Exception.

JOHN GOLLIFER, one of the defendants, being called as a witness in behalf of the defence, being duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. FURSTENBERG:

(Residence 93 Bedford Street.)

Q. How old are you? A. Twenty.

Q. Who do you live with? A. My mother and two sisters.

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Q Do you remember the 13th day of March, 1918? A Yes.

Q Are you working at the present time? A Yes.

Q For whom? A The Clyde Line.

Q Where were you on the 13th of March, 1918? A On the 13th of March, 1918, I was down in 164 LeRoy Street.

Q What is 164 LeRoy Street? A 164, the I. L. A. Headquarters.

Q What is that? A Longshoremen's Union.

Q What work do you do? A Laborer.

Q Where had you been working? A On Pier 38 North River.

Q What time did you leave your home that morning? A Around ten o'clock.

Q Did you go directly to the Union room? A Yes.

Q What was the occasion of your going there? A I wanted to go down to see the head delegate to see if I could transfer from one local to another local.

Q What local do you belong to? A 895.

Q Where do they work, New York City? A Yes.

Q Where was it you wanted to be transferred? A Local 791.

Q Where are they located? A That is the local at the big docks, Cunard Line.

Q How long did you remain in the Union? A From about ten o'clock until one.

Q Where did you go then? A Home.

Q What time did you arrive home? A About quarter after one.

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Q How long did you remain home? A I remained there until about two o'clock, after I had my dinner, went out.

Q Where did you go? A To a moving picture show.

Q In the afternoon? A Yes.

Q You were not working that day? A No.

Q How long did you stay in the moving picture show?

A About half past five.

Q Where did you go when you left the moving picture show?

A Home.

Q How long did you remain there? A About half past seven.

Q Did you go out after that? A Yes.

Q Where? A To the moving pictures.

Q Where? A Up in Christopher Street.

Q Were you alone when you left the house? A Yes.

Q Did you go into the moving picture place alone? A Yes.

Q Did you meet anyone there? A Yes.

Q Who did you meet? A I met O'Connell.

Q Had you seen O'Connell that day? A No.

Q Were you at the storehouse of the Surety Warehouse Company at 384 Washington Street during the 13th or at any time during that day? A No.

Q Did you take, with Harff or Charles O'Connell, any merchandise to that warehouse? A No.

Q When was the first time that you ever saw the witness Schwartz? A The first time I saw him was in Headquarters.

Q You were in the moving picture place? A Yes.

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Q Tell us what happened in there? A In the moving picture place Thursday night, about between 10 and 10:30, I was sitting upstairs watching the moving pictures, up in the gallery, and four officers come in and called me down and they took us around to the station house. In the station house they took us to Police Headquarters.

Q Have any conversation with you? A I asked them what was the matter, I asked Officer Landrigan and he told me to ask Officer Collins and I asked Collins and Collins told me to ask Officer Reilly. Would not give me no information at all.

Q Did you ask them where they were taking you to? A Yes.

Q What did they say? A Police Headquarters.

Q Did they say why? A No.

Q When you got to Headquarters what happened there? A I got to Headquarters and we were put under arrest for Grand Larceny.

Q Who told you it was grand larceny? A Officer Reilly. When he was making the arrest I heard him say held for grand larceny.

Q What happened the next morning? A Taken upstairs. We were lined up and then taken up into the office and lined up again.

Q Tell us about the second line-up, who else was in the line-up besides the four defendants? A There was some detectives on each side of us which I understood was two detectives.

Q Were they tall or short men? A Taller than what I am.

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Q How were they dressed? A With overcoats and collars and ties and split hats.

Q What kind of spring hats? A Split hats.

Q What kind of hats did you boys have? A Caps.

Q Did you boys have overcoats on? A I had an overcoat on.

Q Did you have stiff collars on? A No.

Q Who came in? A The first one that came in was Schwartz.

Q Had you ever seen Schwartz before that time? A Yes, before that time I seen him out in the hall standing with Officer Landrigan.

Q Did you hear any conversation between Landrigan and Schwartz? A No, I did not because we just passed them by. They were outside the door.

Q Schwartz and Landrigan were standing in the hall?

A Yes, with another fellow.

Q Who was the third man? A He just testified, Anderson I think his name was. He was standing with Schwartz and Officer Landrigan was there with those two.

Q You four boys were taken past Schwartz and Anderson and Landrigan in the hall? A Yes, sir, and passed them right by just like that.

Q And shortly after that Schwartz was brought into the room? A Yes.

Q It was then after you had all passed them, that he picked out certain men in that room? A Yes.

Q Had you ever seen Schwartz prior to the time you passed

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him in the hall? A I never saw him in my life.

Q After Schwartz came in who came in next? A After Schwartz was another fellow came in.

Q Henderson? A Henderson.

Q Anyone else? A No, that was all there in Headquarters, just Schwartz and Henderson.

Q Then where were you taken? A Downstairs and then we were brought to the Magistrate's Court. In the Magistrate's Court we were remanded until Tuesday morning for examination, so we were brought over -- remanded to the Tombs and brought over there between eleven and twelve o'clock and we were in there --

Q Just a moment, when did you next see Officer Landrigan?

A About between twelve and half past.

Q At the Tombs? A At the Tombs.

Q Had you made any requests to visit the District Attorney's office?

Objected to as immaterial. Objection sustained.

Exception.

Q Did you have a conversation with Officer Landrigan in the Tombs after you had been brought from the Magistrate's Court? A Yes, sir, when we were downstairs we asked him where we were going.

Q Please state what the conversation was? A I asked Officer Landrigan where we were going and he said to the District Attorney's office. He said the District Attorney wants

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to see you. And so he showed us a piece of paper to sign our names. We signed our names to it.

Q. And then where were you taken? A. We went outside and passed the Criminal Court Building. I said to Officer Landrigan, I thought we were going to the District Attorney's office. He said there is a branch over here.

Q. Where were you taken? A. To Police Headquarters.

Q. What happened there? A. We had our pictures taken.

Q. Did Landrigan tell you that you were to have your pictures taken?

Objected to as immaterial. Sustained.

Q. After you left Headquarter where were you brought?

A. To the District Attorney's office.

Q. When you got upstairs whom did you find there? A. Went upstairs in the District Attorney's office. We sat outside on a bench and we seen Mr. O'Connell, the truckman, he was talking to Officer Landrigan.

Q. Did you hear anything said by O'Connell to Landrigan or by Landrigan to O'Connell? A. No, they were a little further away from us.

Q. How long did you remain outside of the office? A. We were outside of the office about ten minutes and he brought some chauffeur out. Mr. Eder brought a chauffeur out who said that he could not identify us.

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

THE COURT: Strike out what he said and the jury will

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disregard it.

BY MR. FURSTENBERG:

Q Did you hear a conversation between Mr. Eder and a man you call the chauffeur?

Objected to.

THE COURT: Yes or no.

A Yes.

Q Did you hear any names mentioned? A Yes.

Q Did you see Exhibit No. 1 shown to the chauffeur, did you see the picture shown to the chauffeur? A No.

Q Now do not answer this question --- what did you hear mentioned in connection with your names or the names of any of the defendants?

Objected to. Sustained and exception.

Q What conversation did you hear between Mr. Eder and the chauffeur?

Objected to as immaterial. Sustained and exception.

Q Now, after the chauffeur had left, who else came there?

A There was nobody came out in the hall because we were sitting out in the hall.

Q Did you go into Mr. Eder's room? A Yes.

Q Who was in there? A Officer Landrigan, Officer Colline, Schwartz, the chauffeur and Henderson.

Q Was there a conversation in Mr. Eder's office? A I don't know what the conversation was. I did not hear no one, but we just came in and they just point, that is him and that

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is him.

Q Who did the pointing? A Schwartz and Henderson.

Q Were there any other persons put in the line with you four defendants?

Objected to as immaterial. Overruled.

A No, sir.

Q Were you asked any questions by Mr. Eder or by the officer? A No.

Q Did the officers ever ask you whether or not you had participated in the taking of the goods which are claimed to be missing? A No.

Q Did you have anything to do with taking four or five cases and a bale from the truck of Mr. O'Connell and placing the same in a warehouse? A No.

Q And then removing that from the warehouse to another place? A No.

Q Have you ever been convicted of any crime in your life? A No.

CROSS EXAMINATION BY MR. EDER:

Q How old did you say you were? A Twenty.

Q Where do you live? A Up in 93 Bedford Street.

Q How long do you know Harff? A I know Harff about pretty close to a year.

Q Is that all you know him? A That is all I know him.

Q Did you go to the same school with Harff? A No.

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Q Do you remember about six months ago being at my office with Harff?

Objected to. Overruled.

Q Do you remember that? A Yes.

Q Do you remember me asking you how long you knew Harff?

A No.

Objected to. Overruled.

THE COURT: - I will let the answer stand.

BY MR. EDER:

Q Where did you meet Harff? A I just know him from dancing.

Q From what? A I met him at a few dances.

Q What dances did you meet him, or what dances did you go to where you met him? A Up in St. Veronica School.

Q When do they have their dances? A Every Tuesday night.

Q How often did you attend them? A Every Tuesday night.

Q Do you see him every Tuesday night? A Yes.

Q That is where you first met him? A Yes.

Q Were you ever at his house? A No.

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

Q How long do you know Clark? A About three months.

Q Where did you meet him? A I know him from working for Gilroy -- used to pass along on his truck and I knew a few fellows that worked there and I used to talk with them and that is how I got acquainted with Clark.

Q Do you know where he lives? A Yes.

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Q Where? A Greenwich Street.

Q How far is that from your house? A About six blocks.

Q How long do you know O'Connell? A About ten years.

Q Where does he live? A 15th Street.

Q You say you remember the 13th of March? A I do.

Q What day was it on? A Wednesday.

Q How long had you been out of work that Wednesday? A I did not go to work at all that Wednesday.

Q How long had you been out of work before that Wednesday?

A I wasn't out of work at all.

Q You just took that one day off? A Yes.

Q Where did you work the day before? A The Clyde Line.

Q For whom, under whom? A A stevedore named Larry Brock.

Q What did you do? A Switcher.

Q What do you mean by switcher? A When merchandise or anything goes out, they have different marks on them and tell which shed to go to, sheds out on the farm.

Q You say you are a longshoreman? A Yes.

Q Will you please step down and show the jury your hands?

.Objected to. Objection overruled.

The witness shows his hands to the jury.

Q Step down and show the jury your hands? A (The witness does as requested.)

Q What time did you leave your house that morning? A About ten o'clock.

Q What time do you leave the house every morning? A About

half past six.

Q How long had you been working for Larry Brook? A About five months.

Q Did you tell him the night before that you were not coming the next morning? A No.

Q That was on Wednesday you say? A Yes.

Q On Tuesday you went to that dance is that right? A Tuesday night.

Q You met Harff there that Tuesday night? A Yes.

Q Did you tell him that you were not going to work the next morning? A No.

Q When did it occur to you that you would not go to work that morning? A When did it occur to me?

Q Yes. A That night.

Q The night before? A Yes.

Q Do you know where Harff works? A Yes.

Q Where? A He is a loader at Pier 38.

Q Did he work Wednesday? A I don't know.

Q Did you ever ask him while he was in the Tombs with you whether he worked that Wednesday? A Yes.

Q What did he say? A He said yes.

Q Then you do know? A I did not know until then.

Q You left your house at ten o'clock that morning and where did you go? A To the International Longshoremans Union room.

Q Whom did you see there? A I saw about three delegates.

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Q What are their names? A Pete Hussey, Mike Webber and there was a Polak delegate, I can't say his name -- he is a Polish fellow.

Q You had a talk with them? A I played cards with them while I was waiting for the head delegate to come in.

Q Did you see the head delegate? A No.

Q He didn't come in at all? A No, not while I was there.

Q How long did you remain there? A From ten to about one.

Q Why didn't you stay there longer? A I wanted to go home and have my dinner.

Q Did you go back to the I. A. L. A No.

Q You were anxious, you stopped work in order to be transferred from one local to another? A Well, I found out that delegate was going to be uptown on that day and I knew I would make connections with him at his house that night.

Q The delegate comes to the I. A. L. in the evenings?

A No, I never saw him there in the evening.

Q Isn't the office open in the evening for longshoremen who work all day? A No.

Q It is closed you say in the evening? A Yes.

Q What day were you arrested? A The 14th of March.

Q Did you go to work on the morning of the 14th? A Yes.

Q Were you working on the 14th? A Yes.

Q For whom? A The same people, Larry Block at the Clyde Line.

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Q After you had your lunch on the 13th you say you went to a moving picture? A Yes.

Q What moving picture show? A Christopher street.

Q What show did you see? A Moving pictures.

Q Do you remember the name of the feature picture? A One of the pictures there, the Heart of the Lion.

Q You remember that distinctly? A Yes.

Q And how long did you remain there? A About half past five.

Q Did you see Harff there? A No.

Q Did you see O'Connell there? A No.

Q Did you see Clark there? A No.

Q Did you meet any fellow you knew there? A No, sir, sitting by myself.

Q And then you went home again? A Yes.

Q And then you went to the pictures again that evening?  
A Yes.

Q Did you meet Harff? A No.

Q Did you meet any one of the other two defendants? A I met O'Connell.

Q What did you see that night, what was the feature picture? A What night?

Q Wednesday night. A The same picture --- the same picture in the afternoon and the same picture in the night.

Q You went to see the same picture in the evening as you did in the afternoon? A Yes, I did.

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- Q What time did you get home? A About eleven o'clock.
- Q You did not stop at any saloons? A No, I do not drink.
- Q You went right home? A Yes.
- Q Did you go home with O'Connell? A No.
- Q You went your way and he went his? A Yes.
- Q What time did you get up the next morning? A Half past six.
- Q You did not go to the Local again? A No.
- Q You were not changed? A No.
- Q You went to work? A Yes.
- Q What time did you leave work? A Four o'clock in the afternoon.
- Q Where did you go after that? A Home.
- Q Stayed home until what time? A About half past seven.
- Q And then you went to the pictures? A Went to the moving pictures.
- Q All alone? A Yes.
- Q You met Harff there? A Well, Harff came in about ten o'clock. I was there when Harff arrived.
- Q You went in there at seven o'clock? A Yes -- not seven o'clock, I left the house at half past seven.
- Q How long did it take you to go there? A Oh, between quarter to eight and eight o'clock I was inside the moving picture show.
- Q Then what time was it when the police officer came there? A Between ten and half past.

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Q Harff was there? A Yes, at that time he was there.

Q O'Connell was there? A Yes.

Q Clark there? A Yes.

Q All four of you were sitting together, isn't that right?

A Well --

Q Yes or no. A No, when the detective came in we were seated together.

Q You say all four of you were sitting together when the detective came in? A Yes.

Q Were there any balconies in that theatre? A Yes.

Q Where were you sitting, in the balcony? A Yes.

Q You did not expect Harff there? A No.

Q You did not expect Clark there, did you? A He was there before I got there.

Q Did you know where to find him? A Yes.

Q Was the seat vacant right next to him? A It was up on the top -- the only seat that was vacant, the rest of the seats were filled.

Q The only seat that was vacant was the one next to him?

A The back seats.

Q Is that what you said? A It was the back seats.

Q You looked for another seat and could not find it and you sat there because that was the only seat that was vacant, is that right?

MR. FURSTENBERG: I object. He did not say that.

THE COURT: He has not said that.

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Q You say you found Clark inside when you went in? A Yes.

Q Where was he sitting? A In the back.

Q On the ground floor or upstairs? A Upstairs in the  
balcony.

Q When you got upstairs did you see him? A Yes.

Q What did you do when you saw him? A I went up and took  
a seat alongside of him.

BY MR. EDER:

Q Were there any other vacant seats? A Might be, I  
didn't look.

Q You told us a moment ago that was the only seat there?  
A Most of all the seats was taken up.

Q How soon after that did O'Connell come in? A I saw  
O'Connell about half past nine.

Q There was a vacant seat next to you? A I could not  
say -- at that time when O'Connell came in --

Q What time did Harff come? A About ten o'clock.

Q Until what time does that place keep open? A Until  
eleven o'clock.

Q When Harff came in he sat next to you? A Yes.

Q Did you ever see Schwartz in your life before he picked  
you out at Headquarters? A No.

Q Were you ever in the Surety Warehouse? A No.

Q Do you know where it is? A No.

Q On Washington Street, 2247? A No.

Q Are you sure of that? A Positive.

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BY THE COURT:

Q On March 13th where did you live? A Up in 93 Bedford Street.

BY MR. EDER:

Q Did you ever see Thomas Gilligan? A No.

Q You never had any trouble with him? A No.

Q Never had any trouble with Schwartz? A No.

Q Did you ever have any trouble with Landrigan?

Objected to. Objection overruled.

BY THE COURT:

Q Before Landrigan placed you under arrest had you had any quarrel or difficulty with him? A Well, about two weeks before that.

BY MR. EDER:

Q Did you on the 31st of December, 1917, together with Henry Harff steal a truck with nine cases of cotton goods?

A No, sir.

Q Did you ~~steal~~ <sup>sell</sup> those nine cases of cotton goods to one Max Hennerman?

Objected to. Sustained.

Q How long have you worked for the Clyde Line? A Five months.

Q Where did you work before that? A Over in the Edgewater Ammunition Plant, Edgewater, New Jersey.

Q What pier of the Clyde Line do you work? A It takes in Pier 36 and 37.

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Q 36 and 37? A Yes.

Q Did you ever see Roberts, the driver of O'Connell come to Pier 37? A No.

Q You heard him testify here -- did you hear Roberts' testimony? A Yes.

Q You heard him say that he took that truck and horse over to Pier 37 on the morning it was stolen, did you hear that? A East River.

Q East River? A Yes -- and I work North River.

Q You were taken to Headquarters? A Yes.

Q The next morning you were arraigned? A Yes.

Q And you say there was a line-up in the detective bureau? A Yes.

Q Landrigan did not come in with Schwartz, did he? A He was out in the hall.

Q He did not come in with Schwartz? A No.

Q He did not come in with Henderson, did he? A No.

Q Schwartz when he came in put his hand upon you? A Yes.

Q Henderson when he came in put his hand upon you, didn't he? A Yes.

Q When you were taken over to the Magistrate's Court and arraigned? A Yes.

Q And your examination was adjourned? A Yes.

Q And then you were taken to the Tombs? A Yes.

Q From the Tombs you were brought over to Police Headquarters again? A Yes.

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Q And then this picture was taken? A Yes.

Q And then you were brought in my office? A Yes.

Q And in my office Henderson was there? A Yes.

Q Schwartz was there? A Yes.

Q They had already picked you out? A Yes.

Q I asked you to whom this property was sold, didn't I?

A No, sir.

Q Wasn't I inquiring as to who the receiver was? A No, you did not ask me.

Q Then you were taken back to the Tombs? A Yes.

Q You say you never saw Gilligan in your life? A No.

Q Were you upstairs in the Surety Warehouse with another well dressed man? A I don't know where the Surety Warehouse is

Q You know where Washington Street is? A Yes, I could find it if they gave me the address but never saw the place.

Q How often have you passed Washington Street? A Well, I aint very seldom down that way.

Q How often are you down there? A Well, never, may as well say.

Q Never? A No.

Q And you did not come there and request him to open any cases? A No.

Q You did not ask him to scratch any names off? A No.

REDIRECT EXAMINATION BY MR. FURSTENBERG:

Q What did your work consist of as switchman, what are

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your duties? A Like when any freight or merchandise goes out to the dock to be put on the farm they have different kinds of numbers and they have sheds on the farm and different certain numbers go to different sheds, just like that.

BY THE COURT:

Q In other words merchandise that is on what is called the farm is divided into lots, that is to say in the different divisions and it is put, according to certain numbers on different parts of what is known as the farm? A Yes.

Q And your duty was as switcher to see that the merchandise that bore a certain number was placed where that same number was on the farm? A Yes.

BY MR. FURSTENBERG:

Q In your work as a switcher you do not have to do the lifting yourself? A No.

BY MR. EDER:

Q Don't you life any cases? A No.

Q None at all? A No.

Q Don't help take them off the trucks? A No.

Q How is it you are a member of the longshoremens union?

A Have to belong to the union to work on the dock.

Q Have you a union card? A No, no union card with me.

It is home. Always in my working clothes.

Q Haven't you got your working clothes on now? A No.

Q Did you wear your working clothes on the 13th of March?

A No.

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Q Did not wear a cap on the 13th? A Yes.

Q You did? A The 13th of March?

Q Did you wear a blue shirt? A No.

Q Did you change your clothes when you came from work?

A Yes.

Q When you go to the moving pictures? A Well, I don't change my clothes when I come home from work unless I put on a different suit and blue shirt, if I am going any place in particular.

Q When you went to the moving pictures on the 14th did you change your clothes? A Yes.

Q Are not these the same clothes you had on the night you were arrested? A Yes.

(Showing photograph to the witness)

Q Are not these your working clothes? A Yes.

Q You had a blue flannel shirt on? A I don't work in a blue flannel shirt.

Q You do not? A No.

Q Do you work in a white shirt? A No.

Q What kind? A A gray shirt.

HENRY HARTF, one of the defendants, called as a witness in behalf of the defence, being duly sworn and examined, testified as follows:

(Residence 130 Christopher Street)

DIRECT EXAMINATION BY MR. FURSTENBERG:

Q How old are you? A Twenty.

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- Q With whom do you live? A Mother and sister.
- Q What do you work at? A At the present time?
- Q Yes. A I was working down at Pier 38 as a loader.
- Q Loader? A Yes, to load trucks.
- Q Who are you employed by? A Two young fellows.

BY THE COURT:

- Q What are their names? A William Connelly and Thomas Kirck.
- Q How long have you worked for them? A Three months.
- Q Where did you work before that? A I used to take trips to sea.
- Q What boat did you go on? A The Lapland.
- Q How long were you working on the sea? A About three months.
- Q Where did you work before that? A On the Clyde Line.
- Q What was your duty at sea, seaman or oiler or what?
- A Fireman.

- Q You have been convicted before? A Yes.
- Q How long ago? A I couldn't say.
- Q What happened to you? A petty larceny.
- Q Were you sent away? A I was sent to the City Prison for thirty days.
- Q That was the only time you were convicted? A Yes, sir, outside of, I was over in the Island for five days for disorderly conduct.
- Q What was that disorderly conduct? A In making a fire

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on the pavement in the street.

Q Were you working on the 13th of March? A Yes.

Q Where were you working? A Down at the dock, Pier 38.

Q Do you remember the 14th of March? A Yes.

Q Where were you at the time you were arrested? A Five cent picture show.

Q What time did you get in there? A About half past ten.

Q How long were you in there before you were arrested?

A About five minutes.

Q Did you have any appointment to meet Gollifer or Clark or o'Connell? A No.

Q Were you ever in the Surety Warehouse? A No.

Q Did you on the 13th of March take any goods, five cases and a bale or any goods at all? A No, sir.

Q To the Surety Warehouse? A No.

Q And subsequently on that same day did you return and take away some of those goods or any of them? A No.

Q Had you ever seen the witness Schwartz before you seen him at Headquarters? A No.

Q Or Henderson? A No.

Q Or Gilligan? A No. I have seen the other witness, one of them.

Q Which one? A The fellow with the mustache.

Q Mr. Stillman? A Yes.

Q Where did you see him? A I saw him in a warehouse over in Varick Street.

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Q You never saw him at 384 Washington Street? A No.

Q You say you got to the moving picture place around half past ten? A Yes.

Q Did you worry that gollifer was going to be there? A No.

Q Who came to you in the moving picture place and brought you out, what officer was it? A I couldn't say -- yes, it was Reilly. I was sitting on the top seat and he said come down here and I jumped down off the top seat and came down and asked him what was the matter.

Q What did he say? A He said you will see.

Q You went to Headquarters? A Yes.

Q Did he tell you then why you were arrested? A I heard conversation then that I was arrested for stealing a truck.

Q Who was that conversation between? A Between Officer Collins and Mike Landrigan.

Q After you were brought to the police court the next day and your case was adjourned, you went to the Tombs? A Yes.

Q Did you have a conversation with the officers in the Tombs? A No, sir, I did not.

Q Did you have a conversation with them when you left the Tombs? A Sir?

Q Did you have a conversation with them when you left the Tombs? A No, I did not speak to them at all.

Q Did they speak to you? A Yes.

Q What was it? A Asked me what am I going to do.

Q What did you say? A I didn't speak. I did not answer

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Q Did anything happen on your way to Headquarters? A Sir?

Q Did anything happen on your way to Headquarters? A When I came out of the Tombs?

Q Yes. A This here defendant William Clark asked them where was the District Attorney's office and he said they are all over the United States.

Q Did anything happen to you then? A When I hit in Headquarters I asked this officer was I an ex-convict getting my picture taken and he said you made a bad crack then and came over and belted me in the mouth.

Q Who was that? A I don't know his name, but it aint Reilly or Collins and it aint Mike Bondrigan.

Q After that there was nothing further said about taking picture? A No.

Q When you went to the District Attorney's office was your lawyer there with you? A No.

Q Your lawyer was never present at the time you were brought to the District Attorney's office? A No.

Q Are you sure you had no connection with the cases or bale? A No.

Q Had nothing to do with it? A No. They have been looking to frame me all the time.

CROSS EXAMINATION BY MR. EDER:

Q You say you knew Mr. Stillman? A Yes, I don't know his name but I know the fellow with the mustache.

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Q Is that the man? (Indicating) A Yes.

Q What is the proprietor or manager of the Surety Warehouse? A I don't know what he is, I knew he was something in the other warehouse where he used to work.

Q Where was that? A Around in Varick Street.

Q How often did you see him there? A I saw him there twice with Clark.

Q You were with Clark? A Yes, Clark used to drive for Gilroy.

Q Did you ever talk to him? A What?

Q Did you ever talk to him? A Once he let a case drop on my foot and I said what is the matter with you.

Q You spoke to him? A Yes.

Q He looked at you? A Yes.

Q And he saw you there? A Yes.

Q Did you ever have any quarrel with him? A Well, I shoved him, that is all.

Q That time? A Yes.

Q How long ago is that? A I couldn't just remember.

Q About how long ago? A About a year ago.

Q Were you ever in the Surety Warehouse? A No.

Q Never? A No, sir.

Q Do you know where it is? A No.

Q Do you remember whether on December 31st, 1917 this card of the Surety Warehouse was found upon your person? A No, sir, you show me a card that Officer Collins took off me -- he knows

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I cannot read and that is why he wants to put this card up against me. If he shows me the card I showed him I can tell it by the telephone number. Let me see it.

Q Look at the telephone number.

MR. FURSTENBERG: I move to strike out the latter part of the answer as not responsive to the question.

THE COURT: Will you have the kindness to read the question.

(The question is repeated and the answer is repeated)

THE COURT: I will leave in the answer no, sir, and the balance is out.

BY MR. EDER:

Q Look at this card with the telephone number on top?

A No telephone number was on the back.

Q On the back? A Yes.

The card is marked for identification People's Exhibit 3.

Q Did your father ever work for the Surety Warehouse?

A No.

Objected to. Objection overruled.

Q Did you tell me he worked for the Surety Warehouse?

A I don't remember.

Objected to.

THE COURT: I will let his answer stand. (To the witness.) Do not answer questions until your counsel has had an opportunity to object and the Court has had a chance

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to rule.

Q You say you don't remember whether you ever told me that your father ever worked for the Surety Warehouse? A No.

Q Did you tell me that your father gave you that card of the Surety Warehouse?

Objected to as immaterial.

BY THE COURT:

Q Did you say to Mr. Eder that your father had handed to you the card which Mr. Eder showed you a moment ago? A No.

BY MR. EDER:

Q Did you ever have any quarrel with Anderson or Henderson, the witness who was on the stand?

Objected to. Overruled.

BY THE COURT:

Q Yes or no. A This here fellow once --

BY MR. EDER:

Q No, Henderson? A I don't know Henderson.

Q You saw him on the stand? A The fellow that was on the stand?

Q Yes. A No.

Q Did you ever have any quarrel with Gillian? A Is that another fellow that was on the stand?

Q Yes. A No.

Q Any quarrel with Schwartz? A No.

Q You say you worked on the 13th? A Yes.

Q the 13th of March? A Yes.

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Q How long do you know O'Connell? A I don't know  
O'Connell -- I know him about four months.

Q How long do you know Clark? A About four months.

Q Where did you meet them? A At the dance hall sitting  
on the table.

Q What dance hall? A Manhattan Casino.

Q Where is the Manhattan Casino? A 42nd Street if I am  
not mistaken.

Q Who runs those dances? A All sorts of fellows.

Q What? A All fellows run the dances.

Q How often did you meet O'Connell and Clark at those  
dances? A I generally used to meet them in the street going  
to work.

Q A moment ago you told us you met them at dances? A I  
do meet them.

Q At 42nd Street, is that right? A Yes.

Q How often did you see O'Connell and Clark at dances on  
42nd Street? A I never saw them up there hardly at all.

Q Did you ever see them there? A Yes, once.

Q How often did you go to those dances? A Very seldom.  
I went to dances.

Q Once a week? A May be twice a month.

Q Always at the Manhattan Casino? A No.

Q Where else did you go? A All dances, down at the  
school.

Q What school? A St. Veronica's School.

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Q How often did you go to St. Veronica's School? A Lots of times.

Q How often? A About five or eight times.

Q In how long? A Just lately I started to go to that school.

Q Where did you first meet Gollifer? A Down at that school.

Q How long ago? A About five months ago.

Q That is all you know him, five months? A That is all.

Q Who introduced you to him -- who introduced you to Gollifer?

Objected to. Overruled. Exception.

A You ask me who introduced me to Gollifer?

Q Yes. A Nobody.

Q Where did you say you live? A 120 Christopher Street.

Q Where does Gollifer live? A I don't know.

Q Never in his house? A No.

Q Where is this moving picture place? A Right across the street from me.

Q Where is it? A Here is 120 on this side of the street is the moving picture place, I don't know the number of it.

Q How often did you go to that moving picture place?

A I used to go there pretty near every night.

Q Did you see Gollifer there every night? A Well, once in awhile I saw Gollifer there.

Q Every night? A Once in awhile not every night.

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Q About how many times a month? A About six times.

Q Six times a month? A Yes.

Q Did you ever go there in the afternoon? A Sometimes.

Q How often did you go there in the afternoon? A About three times I went there in about three months in the afternoon.

Q Did you ever see O'Connell there? A No.

Q Did you ever see Clark there? A No.

Q That was the first night you ever met those two there?

A No, it was not the first night I ever met those two there.

Q You saw them there before? A I saw them there before in the night time.

Q How often? A About five or six times.

Q You know one of them lives in 14th Street? A Sir?

Q O'Connell lives in 14th Street, doesn't he?

Objected to. Sustained.

Q Do you know where O'Connell lives? A I don't know.

Q Do you know where Clark lives? A No.

Q You came in there about half past ten that night? A Yes.

Q Did you look at the time? A Yes, I was after leaving the house and walked right in.

Q At half past ten? A Yes.

Q Do you know that the show finishes at 11 o'clock? A Yes.

Q Why did you go in so late? A Well, because my mother was in the house and my sister was in the house and I do not like to explain why I went in so late.

Q Don't like to explain? A No.

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Q Did you go there to meet Clark? A No.

Q Or Collifer? A No.

Q About half past ten the place was not very full? A I did not pay attention to look around the place I went in there to pay to see a picture show.

Q Did you sit down in the first seat you saw vacant?

A Yes.

Q Just happened to be next to these three? A No.

Q You sat next to them? A Sir?

Q You sat right alongside or next to them? A No, the little fellow they brought to Headquarters with us was next to me.

Q Who was the one following this little fellow that you talk about? A I think it was William Clark.

Q Now, you say there was a little fellow arrested also that you talk about? A Yes, they let him go at Headquarters.

Q He was not picked out? A Sir?

Q He was not one of the men picked out? A The man did not come there to pick him out.

Q What was the little fellow's name? A I couldn't say.

Q Did you know him? A No, sir.

Q Did you ever see him before? A Yes.

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

Q You say you worked for three months at Pier 38? A Yes.

Q Where is that pier? A North River.

Q Right next to Pier 37 North River? A Yes, right next to Pier 37.

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Q And you reported to work at what time that morning?

A Seven o'clock.

Q You were working every day that week? A Yes, until the day I got arrested.

Q And do you know Roberts the driver for O'Connell's truck in company? A No.

Q Did you ever see him at your pier? A No.

Q What do you do? A Down at the end of the deck loading.

Q What do you do? A Load trucks.

Q For whom? A For William Connors -- Connelly.

Q Is it Connors or Connelly? A Well, Connelly -- Connors or Connelly.

Q Don't you know your boss's name? A Yes.

Q Why do you say it is either Connors or Connelly, because you don't know? A He has so many names, that is why.

Q What? A He has so many names, they call him Bill and Connelly.

Q How long have you been working for him? A Three months.

Q What is the other boss's name? A Burke.

Q Burke? A Yes.

Q What do you get a week? A Three dollars and a half a day.

Q Were you paid for the last week you worked? A Yes, I sent a fellow up there to come down to see me.

Q How much did you get? A I think it was about twelve dollars he gave me.

Q What? A About fifteen dollars he gave me down there.

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Q When did your week begin? A On a Friday.

Q On Friday? A Yes.

Q Did you work Sunday? A Sir?

Q Did you work on Sunday? A No.

Q You say you were convicted once for petty larceny? A Yes.

Q What did you steal? A I don't remember.

Q How long ago was it? A I guess it was about six years ago.

Q Was it in 1914? A I don't remember.

Q Did you steal a case of goods? A No.

Q What did you steal? A I don't remember, I know it was not no case.

Q You don't remember what it was? A I know --

Q Did you on the 31st day of December, 1917, together with John Gollifer steal nine cases of cotton goods and sell them to one Hennerman? A No.

Q You say you were convicted of disorderly conduct and got five days, is that right? A Yes.

Q Wasn't that for picking pockets? A No.

Q Are you sure of that? A Yes.

Q When was that? A That was a good while ago, I was about fourteen years old then.

Q Were you taken to the Childrens Court? A No, sir.

Q Don't you know if you are under sixteen and you commit any offence, you are taken to the Childrens Court? A Well, I gave my age --

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Q You say you gave your age as what? A I gave me age as twenty.

Q At that time? A Yes.

Q How long ago was that? A That was a good while ago.

Q Where was you born? A The United States.

Q When, what year? A 1897 or 1907 -- something like that.

Q Did you register for the draft? A Yes.

Q When? A About a year ago, I guess.

Q Have you your card? A No, not with me.

Q You say you registered for the draft? A Sir?

Q Which draft did you register for? A I don't know, I got one piece of white card.

Q Were you 31 years of age last May? A No, sir, this May I will be 31.

Q You say about six years ago you gave your age in court as 30? A Yes.

REDIRECT EXAMINATION BY MR. FURSTENBERG:

Q Did you ever go to school? A No.

Q Do you know how to read or write? A I know how to write but I don't know how to read.

Q You say there were five men arrested that night in a moving picture place? A Yes.

Q Five taken to police headquarters? A Yes.

Q One named Charley Morrelo? A I guess that was his name.

Q About how tall was Charley Morrelo? A He was only about a big as O'Connell, a little smaller than him.

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Q Is he in court, do you see him, have you ever seen him since the time you were arrested? A No.

Q He was not up at the District Attorney's office? A No. They let him go in Headquarters.

W I L L I A M O L A R K, one of the defendants, called as a witness in behalf of the defence, being duly sworn and examined, testified as follows:

(Residence 645 Greenwich Street)

DIRECT EXAMINATION BY MR. FURSTENBERG:

Q How old are you? A 23.

Q How do you live with? A My aunt.

Q What do you work at? A Teamster.

Q Who are you employed by? A Daniel Gilroy & Sons.

Q How long have you worked for them? A Four years.

Q Where did you work before that? A Charley B. Cooper.

Q You have been convicted before? A Yes.

Q For what? A Misdemeanor and disorderly conduct.

Q What happened to you? A Carrying concealed weapons and fooling on the corner and a policeman came up.

Q What sentence did you get? A Thirty days and I was convicted for riding trains.

Q Were you working on the 13th of March? A No.

Q You were not working? A No.

Q Where were you on the 13th? A In the house all day.

Q Why did you not go to work that day? A Well, three

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weeks previous to my arrest I got a draft card for call to the colors and I showed it to my aunt and my aunt said to me as long as you got called for the colors you may take a couple of weeks off and enjoy yourself.

Q What class are you in? A Class A, and expect to be called any moment, and I took a couple of weeks off and about three weeks previous to my arrest I took the weeks off.

Q What time did you leave your home on the 13th of March?

A I left at 11 o'clock in the morning -- not eleven -- I got up around eleven and I left the house at quarter to twelve. My aunt sent me down for some salt and newspapers and I came up and had my dinner and went to bed and read the papers and slept awhile and then got up in the evening between six and seven and asked for the price of a moving picture show to go to the moving pictures.

BY THE COURT:

Q Where did you live on March 13th? A 645 Greenwich Street.

BY MR. FURSTENBERG:

Q Who was in the house at the time you were there? A My cousin May and her mother, my aunt.

Q Is your cousin in court? A Yes, sitting back there.

Q What time did you get home on the 13th? A On the 13th?

Q Yes, the day before you were arrested? A Between ten and eleven at night. I was in the moving picture show.

Q On the 14th what time did you get to the moving picture

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show? A On the 14th?

Q Yes. A I went in about seven.

Q Did you meet anyone in there? A When I went in, no, sir, I was by myself when I went in.

Q Did you have any appointment to meet anyone in there?

A No.

Q Who was the first person you met in there that you knew?

A I saw Mr. O'Connell sitting up there in the corner.

Q Had you known O'Connell? A Yes.

Q When whom did you meet there? A I was there sitting with O'Connell and I think Clark came in.

Q And after that Gollifer came in? A Gollifer came in I think.

Q When you were there and the officer arrested you? A The officer arrested me.

Q Took you to Headquarters? A Yes.

Q When to court the next day? A Yes.

Q Now, had you ever seen Schwartz before? A No.

Q Or Anderson? A No.

Q Or Gilligan? A No.

Q Had you ever seen Mr. Stillman before? A Yes.

Q Where? A When I used to be a teamster for Daniel Gilroy & Sons he was in charge of the Varick Warehouse in Beach Street between Greenwich and Hudson, and that man knows I have been driving --

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THE COURT: You have answered the question.

BY MR. FURSTENBERG:

Q And when he was at the Varick Warehouse did you have occasion to go there in your business? A Yes.

Q Had you ever been to the Surety Warehouse? A No.

Q Did you with Gollifer and the other take any five cases and a bale or any goods whatever? A No.

Q And put them in the Surety Warehouse? A No.

CROSS EXAMINATION BY MR. EDER:

Q How old did you say you were? A 23.

Q How many times have you been convicted? A Three or four times, disorderly conduct and misdemeanor.

Q Disorderly conduct was picking pockets? A No.

Q The 15th day of May, 1915, you were charged with disorderly conduct? A Yes.

Q And sent to the Workhouse for thirty days? A Yes.

Q On the 6th day of June, 1915 you were found on a train where you had no right to be and fined \$3, on a freight train? A Yes.

Q Were you looking to steal anything from the train? A No.

Q On the 9th of February, 1917, you were convicted of carrying concealed weapons, is that right? A Yes.

Q What was it? A An empty old revolver I had.

Q You were sent -- A I had a suspended sentence.

Q Again on the 20th day of October, 1917, you were again

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convicted of disorderly conduct, is that right? A Yes.

Q By Magistrate Fuchs and you again received a suspended sentence? A I did not receive a suspended sentence again, I was recontinued on parole on my first suspended sentence.

Q Were you convicted of robbery on the 2nd day of January, 1917? A No, never in my life.

Q How long do you know Harff? A About four months.

Q How long do you know Gollifer? A About five.

Q Did you on the Saturday preceeding the 13th day of March together with Gollifer and Harff take six Japanese cases up to the Surety Warehouse? A No.

Q You have not been working for how long did you say? A About three weeks previous to my arrest.

Q Your aunt told you to stay home and have a good time? A Yes.

Q What did you do during the time that you did not work? Objected to as immaterial. Sustained.

Q Did you have any money? A Yes.

Q Did you have any money on the 13th of March? Objected to. Overruled and exception.

A No.

Q Did you have any money on the 13th of March? A Yes. Objected to. Objection overruled.

Q You say you went to the moving pictures on the 13th of March, is that right? Objected to. Objection sustained.

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Q Did you go to moving pictures on the 13th of March?

A Yes.

Q What moving picture? A Christopher and Hudson Street.

Q How far is that from your house? A That is about two blocks.

Q What picture did you see, can you recall? A I think the main picture was In the Heart of a Lion and then they had other comedy pictures.

Q Did you go to the pictures the next night? A Yes.

Q Did you see Gollifer there on the 13th? A No.

Q What time were you there on the 13th? A The 13th I went in about seven o'clock.

Q What time did you get out? A Between ten and eleven.

Q On the 14th what time did you get in? A I went in about seven and went out about eleven.

Q What picture did you see on the 14th? A I really can't remember the one on the 14th.

Q But you are sure that you remember seeing The Heart of a Lion on the 13th? A Yes.

Q Isn't that because Gollifer said that? A No, because I know on the 13th of March, 1918, I saw that picture and the next night I was locked up and I could memorize that from the night before.

Q Which day is more impressive, the 13th for you or the 14th? A The 13th?

Objected to.

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Q The night you were arrested you don't remember the name of the picture? A No.

Q You were there over three hours? A Yes, around three hours, from seven to eleven.

Q From seven to eleven? A Yes.

Q Do those pictures continue more than two hours? A They go right along.

Q You see the same pictures over again? A Sometimes you do and sometimes you don't.

Q During the four hours you sat there did you see any picture twice? A No, sir, I was not sitting looking at them all the time.

Q What were you doing? A Talking to the boss of the place, I generally go in there and talk with him.

BY THE COURT:

Q What is his name? A Mr. Housler, I guess.

BY MR. EDER:

Q Are you sure that is his name? A Mr. Houser.

Q Where did you speak to him? A I just spoke to him -- after I used to see the pictures I would come downstairs and stand downstairs and speak to him.

Q Did you speak to him after you saw the pictures on the 14th? A Yes.

Q When did you speak to him? A I spoke to him and went upstairs again.

Q After you eat with these three men you went down and

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spoke to the boss? A Yes.

Q And then you came back and sat down again? A Yes.

Q The same place? A Yes.

Q And saw the picture again? A I did not pay attention to the picture.

REDIRECT EXAMINATION BY MR. FURSTENBERG:

Q That revolver that you were convicted for, that was an empty gun? A Yes.

Objected to. Overruled.

Q And that suspended sentence was before Judge Fuchs and were you brought back on your original parole after that?

A Yes, sir, I was standing in the door in the evening and there was some kind of a disorderly row in the neighborhood and I happened to go down for buns and on the way back I was at my door looking at the excitement and these officers came along and picked me up.

Q Have you ever been charged with picking pockets? A No.

M A Y B R E N N A N, called as a witness in behalf of the defendants, being duly sworn and examined, testified as follows:

(Residence 45 Greenwich Street)

DIRECT EXAMINATION BY MR. FURSTENBERG:

Q You live there with? A My mother.

Q Who else? A My sister and two brothers.

Q The defendant Clark is related to you? A Yes, he is my

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cousin.

Q On the 13th of March was Clark at the premises where you were? A Yes.

Q Did he live there? A Yes.

Q Do you remember him being home that morning? A Yes.

Q Do you remember what time he left the house? A He got up at about eleven o'clock and went to the store for a bag of salt and two papers.

Q Who else was present at the time? A My mother and my sister.

Q Where is your mother now? A Sick.

Q Is your sister in court? A No, she had to go to work today.

Q You are positive he was home up until eleven o'clock that morning? A Yes.

Q He had been home for how long before that that morning?

A What do you mean?

Q That he had not been working, how long before that morning? A He had not been working?

Q Yes. A Since he got his draft card my mother told him not to work.

CROSS EXAMINATION BY MR. EDER:

Q Do you work? A Yes.

Q What do you do? A Paper boxes.

Q Where? A At King and Greenwich.

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Q How long have you been working there? A Seven years with that one place.

Q What time do you go to work? A Eight o'clock in the morning.

Q Do you work every morning? A Yes, just until I was sick one day this week and stayed off.

Q One day this week? A One day last week.

Q And that was the only day you were away? A Well, I came up to see my cousin's trial.

Q You say you were sick one day last week? A I was sick the week my cousin -- sick the week my cousin got in trouble.

Q You said a moment ago that you were sick one day last week and didn't work? A Yes, and then stayed off the rest of the week.

Q Last week? A Yes.

Q Every other week you worked every day? A Until this trial. I did not work right along since. Before that I did.

Q Is it a week ago that you were away from work? A A week ago?

Q Yes. A Well, no, it is more than a week I am away from work.

Q Were you away at all last week from work? A Yes.

Q How many days? A I was home the whole week.

Q Beginning Monday until Saturday? A Yes.

Q Did you work before that? A Yes, I did.

Q All week? A Yes.

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Q The week before that? A No.

Q All week were you away? A No, sir -- not the week before that I didn't.

Q Were you away at all during the month of March? A Yes.

Q How many days? A I was home the whole week.

Q What whole week? A The 13th of March right on from Monday right on I was sick.

Q What day was the 13th on? A Wednesday.

Q You were home that whole week? A Yes.

Q Did you mark the date down anywhere? A No.

Q How do you know it was the 13th of March? A Because I know it was, because I know my cousin got arrested Thursday night and I remember it was the 13th of March.

Q You stayed home all that week? A Yes.

Q Where do you say you work? A For Frederick Neff & Company.

Q Where do they keep their place of business? A King and Greenwich.

Q Do you know their telephone number? A No.

Q Do you get paid by check or cash? A Cash.

Q Who is the forelady there? A Allie Horn.

Q Man or lady? A Lady.

Q Have you ever been away before that during the seven years? A Yes, off and on.

Q How long has Clark been living in your house? A He has been living with us five or six years off and on.

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Q What do you mean by off and on? A Sometimes he would get a little quarrel in the house and go out and live with another lady.

Q When counsel asked you whom you lived with and who lives in your house, do you remember you said yourself your mother, your two brothers and you did not mention his name? A I meant him, too.

Q Does he pay any rent there? A He pays his board but not since he got the card for the draft he don't pay anything.

Q When did he get the card for the draft? A Two or three weeks before he was arrested.

Q You were in court while he testified, you were in the court room while he was on the stand? A Yes.

Q You heard what he said? A I heard what he said, yes.

Q The card that he got did not tell him to come and report? A He was supposed to go and get examined.

Q Do you know if he went to get examined? A Yes, he did.

Q He told you that? A Yes.

Q And you don't know when he will be called? A That is the first draft, First Class A, they say.

Q You don't know when he will be called? A Any minute they want him.

Q Your mother told him to stay home? A Yes, my mother told him to stay home.

Q Did he stay home all the time? A Yes.

Q You saw him at home every day? A Yes.

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Q And every night? A Yes -- not every night -- he would go to the movies and come back again.

DEFENCE RESTS.

M I C H A E L J. L A N D R I G A N, recalled by the People.

BY MR. EDER:

Q At the time that the cases were taken from Jamaica to Headquarters, what did you do with them?

Objected to as not rebuttal.

THE COURT: While it is not strictly rebuttal, I think I will allow it. Exception.

Q What did you do with the cases? A I turned them over to the owner Mr. O'Connell.

N I C H O L A S T. O ' C O N N E L L, recalled:

BY MR. EDER:

Q I show you these boards and ask you where you got them?

Objected to. Objection overruled.

THE COURT: Just where you got those boards.

A I got these pieces from Stalley Reichman.

BY THE COURT:

Q Who handed you these pieces of wood? A Yesterday do you mean or when we got them before?

Q Not where you bought them? A I did not buy them -- I don't understand you.

BY MR. EDER:

Q Where did you get these boards from? A These were from

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7 and 9 East 20th Street.

Q After that? A Oh, from Police Headquarters.

Q How did you get them back from Headquarters?

Objected to.

Q Did you get the whole cases back?

Objected to. Overruled.

A I got the whole cases and these boards were thrown into the cases.

Q Are these boards in the same condition as they were when you received them?

Objected to. Overruled.

BY THE COURT:

Q Yes or no. A Yes.

Q In other words at Police Headquarters there was turned over to you a case and inside of the case that was turned over to you were some loose boards and the loose boards which were inside of the case are boards that you now see? A Yes.

CROSS EXAMINATION BY MR. FURSTENBERG:

Q You don't know how long they were left in Headquarters?

A Only over night.

Q Do you know? A No.

Q You don't know who handled them there? A No.

Q As far as you know you are not sure if they were at Police Headquarters over night other than you got them from there? A I was told they were taken there.

EXHIBIT  
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Q I mean of your own knowledge you do not know? A Certainly not.

Q Of your own knowledge you don't know where they were before they were put in Headquarters?

THE COURT: He merely purports to say that he got them from Headquarters. He only gives testimony to the point that he received them at Headquarters.

BY MR. FURSTENBERG:

Q You don't know where these boards were before they arrived at Police Headquarters?

THE COURT: He does not give any testimony on that point.

Q Do you know where those boards were before they arrived at Police Headquarters to your own knowledge?

BY THE COURT:

Q Of your own knowledge, yes or no? A No.

T H O M A S G I L L I G A N, recalled by the People:

BY MR. EDER:

Q Mr. Gilligan, you testified that you did some scraping on some cases, is that right? A Yes.

Q Will you please look at these two boards and tell me if you recognize any one of these two boards as the ones you did the scraping on?

Objected to. Overruled and exception.

A Yes, sir, I recognize this board with the number on it.

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with that red number.

THE COURT: That board will be marked for identification.

Marked for identification People's Exhibit 4.

BY THE COURT:

Q Have you seen the board you scraped, from the moment you scraped it until you claim to see it now? A No, sir.

THE COURT: I regard the testimony of this witness as preposterous, and I will strike it out of my own motion, and tell you gentlemen of the jury to disregard it.

C H A R L E S M I L L E R, recalled:

BY MR. EDER:

Q I show you this board here, please look at it, and I ask you if you recognize the handwriting on there?

Objected to.

A Yes, sir.

THE COURT: It may be marked for identification.

Marked for identification People's Exhibit 5.

BY THE COURT:

Q When you say you recognize the handwriting, you mean those words in pencil? A Yes.

BY MR. EDER:

Q Did you see who marked that name on that board? A Yes.

Objected to: overruled and exception.

BY THE COURT:

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Q Do you know the handwriting? A I don't know the handwriting but I saw the one who marked the case.

BY MR. EDER:

Q Who marked that case? A Mr. O'Connell.

Q Who is Mr. O'Connell? A Nicholas J. O'Connell, the truckman.

BY THE COURT:

Q You say that is the handwriting of O'Connell? A In pencil.

Q You say the pencil writing there is the handwriting of O'Connell, the truckman? A Yes.

BY MR. EDER:

Q Did you see him mark that? A Yes.

Q When? A When he took it out of our place the Salina Manufacturing Company.

Q The case that was sent to this man on the 12th day of March, 1918 was the merchandise contained in the case which was sent on the 12th of March, 1918 --

MR. FURSTENBERG: I object to any testimony that there was any goods contained in that case consigned on the 12th of March.

Objection sustained.

BY THE COURT:

Q When you say that that is in the handwriting of O'Connell, do you know anyone in the room here now? A Yes.

Q The gentleman who was on the stand before you took your

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seat? A Yes, to identify the case.

Q You say that he wrote that in your presence? A Yes.

Q On what day? A I don't remember the date.

BY MR. EDER:

Q What day was this case shipped?

Objected to. Overruled.

A It was shipped the night before the goods were missing.

Q Was that the night that you saw him write that name on there? A No.

Q When did you see him write that name on there? A After the case was received from Police Headquarters.

Q After that? A Yes.

MR. FURSTENBERG: Now I move to strike out the testimony.

MR. EDER: I comment to it.

THE COURT: Strike it out.

BY A JUROR:

Q When did you see Mr. O'Connell write that name that you say ~~you saw~~ Mr. O'Connell write on the case, when did you see it, was it after you saw it in Police Headquarters? A After it came from Headquarters, yes.

MR. EDER: I was misinformed.

THE PEOPLE REST.

TESTIMONY CLOSED.

Later, the jury rendered a verdict of guilty of Grand Larceny in the First Degree as to Gollifer, Harff

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and Clark, and render a verdict of not guilty as to John O'Connell.

THE COURT: I now say to the defendants that I shall be somewhat influenced in the punishment that I will give to each one of you by the degree frankness which you show when you come to the Bar on the 13th, in telling me either personally or through your counsel all about the theft -- when it was planned, where it was planned, with whom it was planned; the full name of the man who was with one of you inside of the Surety Warehouse and who was described by one of the witnesses, and the address of that man so far as you know it, so that he may be placed by the police under arrest. You are remanded until the 13th.

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

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RECEIVED  
MAR 20 1918

-----X  
THE PEOPLE  
against  
JOHN GOLLIFER, and others.  
-----X

*File under  
Indictment filed  
Mch 19, 1918.*

Indictment filed 19th day of March, 1918.

-----X  
THE PEOPLE  
against  
EDWARD MAHONEY, JOHN COOK and  
FRANK LATERO.  
-----X

Indictment filed 31st day of March, 1918.

For the Defendant GOLLIFER and others, MR. FURSTENBERG.

For the Defendants MAHONEY, COOK and LATERO, MR. JOONBETH, ESQ.

All six defendant arraigned before HON. THOMAS C. T.  
CRAIN, Jr., on the 19th day of April, 1918.

THE COURT: I will hear what counsel for Mahoney,  
Cook and Latero has to say.

MR. JOONBETH: If your Honor please, I believe that  
all motions were reserved until today, and I think it is  
my duty as attorney to formally make a motion in arrest  
of judgment and to set aside the verdict and for a new  
trial upon the ground that the verdict is not sustained

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by the evidence and contrary to law and upon all the grounds provided by the Code of Criminal Procedure.

THE COURT: That motion is entertained and denied and you have an exception. I will hear you on behalf of the three defendants you represent.

MR. JOONBETH: On the question of sentence, concerning Cook, he has never been convicted before and as your Honor stated, that, if he would consult with his attorney, and that if he would be advised to speak, if he would speak, that your Honor would be lenient with him -- I believe that was the gist of what your Honor said. I want to now inform your Honor that I gave the District Attorney permission to see the three defendants in the Tombs, and furthermore I myself saw the three of them two days ago, and I had a rather lengthy conversation. What I have to report to the Court this morning is the fact that they stoutly deny that they stole the property and as matter of fact they have told me nothing but to confirm their statements as made on the witness stand. As far as I personally am concerned I believe the stories told by the three of them upon the stand as well as what they told me in the Tombs corroborating themselves --- I believe that they are absolutely truthful.

With reference to Cook, in view of the fact that he has never been convicted before and that he is a young man, he tells me that if there is any way at all for him

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not to be sent to jail, but to be let out on parole under a suspended sentence, that he will immediately make application to join the Army or Navy of the United States.

As far as Mahoney is concerned, I would like to call your attention to the fact that he is now out on parole under a suspended sentence.

As far as Latero is concerned, he was convicted about five years ago. Since then he has behaved himself except for the crime he is charged with having committed and was found guilty of. I believe that is all I have to say to your Honor on behalf of these three defendants.

THE COURT: Mahoney, Cook, Latero, Gollifer, Harff, and Clark, listen to what I am going to say.

On January 1st, 3rd, 4th, 5th, 8th, 10th, 13th, 14th, 16th, 22nd, 23rd, 25, 28th, 29th, 30th and 31st, merchandise was stolen from trucks. On February 1st, 2nd, 5th, 6th, 7th, 8th, 9th, 11th, 13th, 15th, 16th, 20th, 21st, 23rd, 23rd, 25th, 26th and 28th, merchandise was stolen from trucks. On March 2nd, 4th, 9th, 10th, 11th, 12th, 13th, 14th, 16th, 19th, 20th, 22nd, 23rd, 25th, 27th, merchandise was stolen from trucks. On April 3rd, 4th, 5th, 6th, 8th, 9th, 10th and 12th, merchandise was stolen from trucks. On some of these days there were as many as four separate thefts. In many instances the horse or horses and the truck were stolen as well as the merchandise. It has become somewhat customary, when young men come be-

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fore the Court and are convicted of theft, if it is the first conviction, to suspend sentence, or if that is not done to deal leniently, that is to say lightly by sending the one convicted either to the Penitentiary or to the Elmira Reformatory.

I am not going to dispose of the case of any one of you by a suspension of sentence, and I am going to sentence each one of you entirely without regard to your past record and entirely without regard to your youth, and entirely without regard to what may be the consequences or effect upon any one of you personally, for just as long a time as the law will allow me to sentence you, unless within the next sixty minutes, in the room to which you will be sent, you, one by one, own up to your clearly proven guilt, and one by one fully, plainly and truthfully disclose the names of all who helped you directly or indirectly in the thefts that you committed, the names of all associated with you in this line of thieving; the names and addresses of those who procured you to do what you have wrongly done; the names of the receivers of the stolen property, and that kind of information which will enable the police to get back some of the merchandise stolen by you and your companions and received by the receivers to whom you customarily sell ~~it~~, and some information which will enable the police of this city to bring to this court, so that they may

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be tried the men who in company with you from time to time have robbed the truckmen and merchants. I shall not diminish by one day the prison term inside of the State Prison which may be given to each one of you in default of that information.

If the statements are made then I will remand you until the 26th to ascertain whether you have told the truth, and will dispose of your cases at that time in the light in part of the information that you have given. I intend as far as possible to break up thievery of the kind that you have been indulging in and I intend if it is possible to punish those who like yourselves have been doing it, and to get back for the merchants as far as possible the property stolen. Now there is not one of you young men who has any cause to think that there is anything under the sun that stands or can stand between him and a prison term, the minimum of which will be five years and the maximum of which will be ten years, except a disclosure to be begun within ten minutes. I have told you that. Now, Captain, take these men back to the pen and at quarter past twelve today you can bring them here and I will pass upon the cases then.

Later: Defendants rearraigned before HON. THOMAS C. T. GRAY.

THE COURT: Mr. Joonbath, in the absence of Mr. Furstenberg, I will ask you to represent the other three

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defendants, Gollifer, Harff and Clark.

MR. JOONBETH: May I inquire if the usual motions have been made in their cases?

THE COURT: I think the motions were made, but you may do so again.

MR. JOONBETH: I move that you set aside the verdict of the jury, and that a new trial be granted and also move in arrest of judgment upon the ground that the verdict is not sustained by the evidence and contrary to law and upon all the grounds mentioned in the Code of Criminal Procedure.

THE COURT: The motion is entertained and denied and you have an exception. Send for Mr. Furstenberg. I would like to have him here.

(Mr. Furstenberg now appears in court.)

MR. FURSTENBERG: If your Honor please, I understand the motion has been made with respect to each of the defendants.

The defendant Gollifer is twenty years old and has never been convicted, although he has been arrested several times. He contributes, and is one of the main supports of his widowed mother and I ask you to take those facts into consideration in sentencing him. I do not know what has happened since your Honor's statement before.

THE COURT: I may say that these young men have made no disclosures.

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MR. FURSTENBERG: They have maintained from the very beginning that they knew of nothing that can be of assistance to the District Attorney. They have maintained their innocence, though the jury has found against them. I want to say for the defendant Harff that I think he is a fit subject for a Reformatory. He cannot read or write and certainly sending him to Sing Sing will not aid him in that regard, whereas in a reformatory he would be so aided.

The defendant Clark has just received his classification notice, Class 1-A and expects to be called. None of these boys have been convicted of any serious offence heretofore. The greatest sentence imposed was one of thirty days and I ask your Honor to reconsider your previous determination to sentence these men to not less than five nor more than ten years in State Prison, and let them have the benefit of reformatory treatment.

THE COURT: John Gollifor, I sentence you to the State Prison for a term of not less than five years nor more than ten years.

Henry Harff, I sentence you to the State Prison for a term of not less than five years nor more than ten years.

William Clark, I sentence you to the State Prison for a term of not less than five years nor more than ten years.

Edward Mahoney, I sentence you to the State Prison for a term of not less than five years nor more than ten years.

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John Cook, I sentence you to the State Prison for a  
term of not less than five years nor more than ten years.

Frank Latero, I sentence you to the State Prison for  
a term of not less than five years nor more than ten years.

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**START**

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**CASE**

**CASE # 2435**

0 5 5 5

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

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----- x  
T H E P E O P L E

B e f o r e :

-against-

HON. JAMES T. MALONE, J.

SAMUEL ROSEN.

and a Jury.

----- x  
New York, April 8th, ect., 1918.

Indicted for seduction under promise of marriage.

Indictment filed July 25th, 1917.

A P P E A R A N C E S :

ASSISTANT DISTRICT ATTORNEY NEILSON WOLCOTT,  
FOR THE PEOPLE.

SIDNEY AUERBACH, ESQ., FOR THE DEFENSE.

--oOo--

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

--oOo--

Frank S. Beard,

Official Stenographer.

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THE PEOPLE'S TESTIMONY.

Y E T T A L V O F S K Y, of 321 East 12th Street, a witness called on behalf of the People, being duly sworn and examined through the Official Interpreter, Mr. Landau, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Now, Miss Lvofsky, when did you come to this Country?

A Four years ago.

Q And when you came over here, did you go to work? A Yes.

Q Just tell us briefly, what kind of work you did? A Operating on dresses.

Q And you had been employed from the time when you came to this country, up until May, 1917? A Yes, sir.

Q Now, in May, 1917, where did you live and with whom?

A 292 Monroe Street with Mrs. Silverman.

Q And that is in the City and County of New York, is it not, 292 Monroe Street? A Yes, sir.

Q How long had you been living with Mrs. Silverman at 292 Monroe Street? A Two years.

Q Boarding there? A Yes, sir.

Q Mrs. Silverman is no relation of yours, is she?

A No, sir.

Q What kind of place is this place of Mrs. Silverman's at 292 Monroe Street?

MR. AUERPACH: May I interrupt for a moment, if you

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Honor please, and ask your Honor to exclude the witnesses on both sides?

THE COURT: Yes, certainly.

A It is a tenement house.

Q And how many rooms does Mrs. Silverman occupy in this house? A Four.

Q What kind of rooms are they? What kind of furniture is in these rooms? A There is a dining room, front room, a bedroom, and kitchen.

Q What kind of furniture do the rooms contain? A There is a bureau, chair, china closet, just a nicely furnished house.

Q Who else lives in this house besides Mrs. Silverman and yourself? A Nobody else. Just a young couple with a baby, and myself.

Q Do you know the defendant, Samuel Rosen? A Yes, sir.

Q How long have you known him? A I know him for two years time, just as I know my fingers.

MR. AUFREAGE: I object to that, if your Honor please, just as she knows her fingers, and move to strike it out.

MR. OLCOTT: I consent to the striking out.

THE COURT: Leave out everything but the "two years".

BY MR. OLCOTT:

Q Where did you meet him first? A At Mrs. Trube's, 105 Avenue B.

Q That's where you first met him? A Yes. The 11th of May, he was in her house, Mrs. Trube's house, and he came

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an appointment with me for Friday night, to wait for me.

Q Won't you please tell me where you first met him?

A In Mrs. Trube's house.

Q How long ago is that? A Two years, a week after last Christmas.

Q And before the month of May, 1917, about how often did you see him? A About six times.

Q Now, in the month of May, when <sup>did</sup> you first see him in that month, and where? A The 11th of May, I, a countryman of his, his wife, and me and he were in Mrs. Trube's house.

Q Did you have a conversation, a talk with the defendant at that time? A Yes, all of us had a conversation.

Q Now, will you tell us what you said, and what this defendant said to you, if you can remember any of the <sup>things</sup> he said?

A He didn't talk about marriage that time. He told Mrs. Trube that he is rich, that he has money, that he is making a nice living, and he said he wants to marry me.

Q Did he tell you ~~that~~ in their presence? A No.

THE COURT: No. Strike that out.

BY MR. OLCOTT:

Q When did you first have a conversation with him, about marriage at the time? A The 11th of May, after we went down, he asked if Mrs. Trube read something to me, and I said, no.

Q And what did you say, and what did he say, when you got out of Mrs. Trube's house? A He told me he had \$3500, and that he is earning in one place for five years, and he is

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CONFIDENTIAL  
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making a very decent living, and he will try and make me happy, and he wouldn't come up to her house any more, unless I would give him my word that I would marry him.

Q When you say "the house", what house do you refer to?

A Where I was living, 393 Monroe Street.

Q Now, before the 11th of May, how many times had he come up to that house? A He wasn't in the house.

Q Well, where did you meet him, and where did you see him before the 11th of May?

MR. AUERBACH: I object to that, if your Honor please.

That has been already answered.

THE COURT: Overruled.

MR. AUERBACH: Exception.

A In Mrs. Trube's house, and also in the street.

Q And that was the five or six times that you refer to as having seen him between the first time you met him and May 11th; is that right? A No, after the 11th of May, he was in my house.

Q How many times before the 11th of May did you see him?

A I saw him many a time, because I knew him for two years.

Q During those two years, how many times did you see him?

A I can't remember; I can't tell you.

Q Tell us about how many times? A About 15 times.

Q Now, when he stated what you have just told us he did, when you left the house, Mrs. Trube's house, 102 Avenue B, that was your answer? A I gave him my word, because I knew him.

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Q You promised to marry him? A I did.

Q When, after the 11th of May, did you next see him?

A Saturday night.

Q The next Saturday, following the 11th of May? A The 12th of May, yes.

Q That is, the next day? A Yes, sir.

Q Where did you see him on Saturday? A He came up to my house, and I introduced him to the people.

Q What house do you refer to when you say "my house"?

A Mrs. Silverman.

Q Had Mrs. Silverman met him before? A No.

Q Did you say anything to Mrs. Silverman or did she say anything to you, about your marriage, in this defendant's presence? A Yes, sir.

Q Well, tell us in substance, what was said by you to Mrs. Silverman, and by Mrs. Silverman to you, and by this defendant when he was there? A When he came up, I introduced him. I told her, "this is my sweetheart", and I told her that he is well off, that he has got \$2500 of his own.

Q Did you tell her this in the defendant's presence?

A Yes, sir. And he told us where he was working.

Q Was there any one else there besides Mrs. Silverman, on that first occasion, the 12th of May? A Mr. Silverman, also Mr. Silverman. Then we went down for a walk.

Q Did you see him again after the 12th of May? A The

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following Wednesday night.

Q Not from the 13th, until Wednesday the 16th; is that right? A Yes, sir; he wanted to come up every day, but I wouldn't allow him.

MR. AUFRBACH: I object to that, and move to strike that out, what he wanted to do.

THE COURT: Strike it out.

BY MR. OLCOTT:

Q Now, did you see him on the 16th of May, 1917? A Yes, sir.

Q Where? A In my house, Mrs. Silverman's house.

Q At what time did he arrive there, that evening? A About eight o'clock, before eight.

Q Who was there at that time? A Myself. When he came up, I was all alone.

Q And where was Mrs. Silverman? A They were downstairs.

Q In some other apartment in the building? A Downstairs in the street, near the house. They greeted him before he came up.

Q And then he came upstairs, is that right? A Yes, sir.

Q Did you see anyone else that evening, earlier in the evening? A Yes, sir; a woman who lives in the back, a friend of mine, Mrs. Silverman's.

Q Any one else? A Then came up, the Mr. and Mrs., and a cousin of mine from Brooklyn.

Q Mr & Mrs. Friedman? A No, Mr. and Mrs. Silverman came up, and my cousin, Ben. Friedman.

Q Do you know a Mrs. Kreiser? A Yes, she is now deceased.

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Q Did she come in, that evening? A Yes.

Q Now, before the defendant came up to that apartment, that evening, had you had conversations with other people about coming up to see you, about eight o'clock that night? A Yes, sir.

Q So that these people came in there by arrangement or appointment with you? A I asked them to come in to see my bridegroom.

Q Now, do you remember the conversation that took place between Mrs. Freedman, Mrs. Kreiser, and Mr. and Mrs. Silverman, or any others and the defendant, or with the defendant or in his presence? A They were talking about marrying.

Q What did they say? A I introduced him to Mrs. Kreiser, who is a young woman, only 18 years old, and the defendant said he was surprised that she is married, though so young, and he said, "We'll marry too".

Q Was there any other conversation that you can recall?

A Mrs. Silverman spoke to him. They found out that they came from the same state.

Q Now, is that Mrs. Silverman or Mrs. Silverman? A Mrs. Silverman.

Q And did you hear any of the conversation between this defendant and Mrs. Silverman that evening? A We were all gathered, and he told them he was rich and so forth.

Q Now, did you see any of the people that you have mentioned in this case, that evening, again?

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THE COURT: This is on the 16th of May?

MR. OLCOTT: Yes, sir.

A Mrs. Silverminz left right after, after about fifteen or twenty minutes, and we were there until about half past nine, and went down to take the cousin to Suffolk Street.

Q What cousin was that? A Mrs. Freeman.

Q Mrs. Ida Freeman? A Yes, sir.

Q When you say "we" who do you mean? A I, and Rosen.

Q This defendant? A Yes, sir.

Q After you had taken Ida Freeman to Suffolk Street, what did you and the defendant do? A We went into an ice cream parlor, and then we took a walk.

Q And, after taking a walk, what did you do? A Then he took me home.

Q Meaning Mrs. Silverman's apartment? A Yes, sir.

Q Who was in the apartment when you got there? A When we came, it was dark, the people were sleeping already.

Q Whereabouts were they sleeping? A In the bedroom, in their bedroom.

Q And where did you go? A We sat down in the dining room.

Q And how far is that from the bedroom where the Silvermans were? A The third room from the bedroom.

Q Did you light a light? A Yes, sir.

Q Now, before the 16th of May, when you returned to this dining room, as you have just told us, did you see...

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intercourse with any man? A Never.

Q And I include this defendant also, when I say any man. Had you ever had sexual intercourse with him? A No.

Q Now, tell us what happened, what you said to this defendant, what he said to you, what you did, and what he did, after you got back in the dining room, and lit a light? A We sat down by the table in the dining room, and then he started to tell me, "What's the use of being boarders? Don't I make a decent living. We will hire a room in Coney Island for a few months, the same as other people do."

And then he started to embrace me, and I went into the front room, and he followed me.

Q When you say the front room, what room do you refer to? Where was it in relation to Mrs. Silverman's bedroom? A The second room.

Q And that room is where you sleep? A Yes, sir.

Q You sleep there on a couch, is that right? A No, on a bed.

Q Now, what was said and what was done after you went into the front room? A I asked him to go home, and he told me, "What's the use? I am yours and you are mine. Tomorrow we will get married".

Q Did he embrace you at that time? A Yes, sir.

Q Now, at the time of this conversation, were you fully dressed as you were when you came in from the street? A Yes, with the exception of the jacket and the hat, I took off.

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Q You mean your coat when you say jacket, do you not? A Yes.

Q And after that conversation, what did he do, and what did you do, and what was said? A He embraced me again, and he repeated the same thing again, "What's the use? You are mine and I am yours."

Q Then what happened? A Then he ruined me.

Q No. You say he ruined you. Please tell us what he did?

MR. AUERBACH: If your Honor please, I move that that be stricken out, that he ruined her.

MR. OLCOTT: No objection.

THE COURT: Strike it out.

(The question was repeated by the interpreter.)

A: (No answer.)

Q Were you sitting or standing at the time you had this conversation, when you say he embraced you? A He opened the

Q You were dressed at that time; is that right? A Yes.

Q Well, did you lie down on the bed? A Yes, sir.

Q And did he do anything? A Yes, sir.

Q Tell us what he did? A He talked so long to me until I allowed him.

Q You allowed him to do what? A Being that he told me that the next day we would get married, I believed him.

MR. AUERBACH: I move that that be stricken out.

MR. OLCOTT: No. I think that, while possibly it is not quite responsive, it is proper.

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THE COURT: No, strike it out.

Q Did you regard his promise to marry you as sincere, and did you rely upon it?

MR. AUEREACH: I object to that as calling for the operation of the witness's mind.

(Overruled. Exception.)

A Yes.

Q Now, you permitted him, you say, to do something. Now, tell us what he did. Did you or he undress at all at this time?

A No, he was fully dressed.

Q And were you? A No.

Q What part of your clothing did you have off? A My dress, my corset, everything.

Q And, after you undressed, did you lie down in the bed?

A Yes, in my bed.

Q Now, tell us, what did the defendant do? A He told me he wanted to lie down, too.

Q Well, did he? A Yes, sir.

Q Where did he lie? A In bed.

Q And where did he lie in relation to you? A I felt like insane, I don't remember.

Q Did he lie on top of you? A Yes, sir.

Q Did he put his private part into your private part?

MR. AUERBACH: Now, if your Honor please, I object to these leading questions.

THE COURT: Objection sustained.

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BY THE COURT:

Q What did he do? A (No answer).

THE COURT: You must answer these questions.

BY MR. OLCOTT:

Q What did he do? A He ruined me.

MR. AUERBACH: I object to that, and move that it be stricken out.

THE COURT: Objection sustained. Strike it out. Tell her she must answer these questions. It is necessary that we should know.

(The question was repeated through the Official Interpreter.)

A What he has done to me, I was bleeding.

BY MR. OLCOTT:

Q Well, before you noticed that you were bleeding, -- I withdraw the question. You have said that this defendant lay on top of you. Now, while he lay on top of you, was any part of his person exposed? A Yes, sir.

Q Well, what was the condition of his trousers as to being opened or closed? A Open.

Q Did you see his private part? A Yes.

Q Where did he place that part?

MR. AUERBACH: Just a moment. There is no testimony introduced, if your Honor please, that he placed it anywhere.

THE COURT: You may ask her what he did with it, if he

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did anything, when his private part was exposed."

Q (Question repeated by the Interpreter)? A (No answer).

THE COURT: Tell her that she must answer these questions, otherwise this case cannot stand.

A He put it in my private part.

Q How long did he remain on top of you? A Very long.

Q Then did he get up? A Yes, sir; somebody went to the toilet, so he got off me.

Q And did you have any conversation with him after he got up? A No, I was tired and weak. He said that he would come the next day.

Q Did he go away? A Yes, sir.

Q When did you next see him? A He was supposed to come the following morning, but he didn't come. He came Friday night.

Q The 16th of May was on Wednesday; is that right? A Yes, sir.

Q Now, going back to the night of the 16th, you mentioned blood. Did you see any blood on your clothing, and if so, when?

A There was blood on the linen, on the bed linen.

Q When did you first see that? A At night, after he left.

Q Now, you saw him on Friday? A Yes, sir.

Q Where? A Friday night, he came upstairs to me.

Q To Mrs. Silverman's apartment? A Yes, sir.

Q Did you have a conversation with him? A Yes, sir.

Q Who was there when you talked to him, if anyone? A Mr and Mrs. Silverman.

Q Well, tell us what was said by the defendant, what was

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said by you, and what was said by either Mr. or Mrs. Silverman, on that occasion, on Friday, the 18th of May?

MR. AUERBACH: If your Honor please, I object to this. This was several days subsequent to the alleged seduction, and I do not think that it is material.

(Overruled. Exception.)

A He told me he was busy, he couldn't come. Then he told me that the boss sends him to the country for a week or so, and that if he doesn't go to the country, he will come. I believed him, what he said, I believed.

Q Did he say anything else? A He spoke to the missis.

Q Did you hear what was said to the missis? A No, sir.

Q Did he say anything further than you have told us, in Friday the 18th of May? A He said he was busy, and we will marry, but he doesn't know when, because his boss wants to send him to the country on business, and, if I want I can go with him to the country.

Q What did you say to that? A I didn't answer anything. I believed him all.

Q And when did you see him again after the 18th, Friday? A Monday night.

Q Did you have a conversation with him then? A Yes, sir; he was in the house.

Q Where did you have that conversation with him?

MR. AUERBACH: I object to this testimony, if your Honor please.

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~~strike out the last answer.~~ I submit that this evidence is entirely immaterial, occurring after the alleged seduction.

(Overruled; Exception.)

A In Mrs. Silverman's house, 292 Monroe Street.

Q Was anybody else there on that evening? A The mister and the missis, and Mr. Silverminz.

Q Tell us what the conversation was then?

MR. AUERBACH: I object to that question again, if your Honor please, as immaterial, irrelevant and incompetent.

THE COURT: Why? Suppose he confessed?

MR. AUERBACH: Well, I don't know whether there was any such confession or not, if your Honor please.

THE COURT: I was supposing. Overruled. Go ahead.

MR. AUERBACH: Exception.

A I introduced him to Mr. Silverminz as my bridegroom.

BY MR. COLCOTT:

Q What other conversation was there? A Then we went down for a walk, to a moving picture.

Q Did he have any conversation with any of those people that you did not hear on that night, Monday? A No, sir; we were all together.

Q When did you see him again? A I didn't see him afterwards.

Q You didn't see him at all afterwards? A Yes, that was the last time.

Q You saw him in Court, in July, didn't you, in June, rather.

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I beg your pardon, June is right. A I obtained information in his place where he is working, that he is not in the country, and on June 4th, I saw him in the place of his friend -- no, I saw him in his place where he was working.

I called him down, and --

Q Did you have a talk with him then? A Yes, sir.

Q What did you say to him, and what did he say to you?

A He got scared. He said, "What are you doing here."

THE COURT: Let that go out, that he got scared. Let the rest of the answer stand.

BY MR. OLCOTT:

Q Go on? A He told me, "Everything is right. I will be up tonight, at eight o'clock."

Q Did you see him that night at eight o'clock? A No, I waited for him, and then I went to his countryman, and watched for him.

Q Did you see him there? A Yes, sir.

Q And did you have a conversation with him there?

MR. AUERBACH: Objected to, /the same grounds as before, if your Honor please.

(Overruled. Exception.)

A Yes, sir.

Q What did you say to him? A He took me home. That was in Ludlow Street. I started to cry, and I said, "you know what you done to me. What did you want of me?" He answered he was sick,

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and he couldn't marry at that time.

I told him, "Didn't you know before that you were sick? What did you want of me. You are bluffing me."

I found out from his countryman that he has made a date with another girl.

Q Did you tell him that? A Yes, sir. I told him, "You made an appointment with another girl, Friday night," and he said, "I also made a date with her for Wednesday, to go with her."

He answered that he knew her a year before he knew me, and that she refused him, and that, therefore, he wanted to take revenge on her, and, when she heard he was going with me, she came back to him.

Q Anything more said about marriage on that night? A Yes, sir. I told him, "In the meantime, you took advantage of me. What did you want with me then?"

He answered, "Go to a doctor. If the doctor will tell you that you are pregnant, we'll marry tomorrow."

I told him, "I am ashamed, I don't want to go to a doctor. I would rather commit suicide."

He told me, "Go into a druggist then." And I asked him if he wanted to have a poisoned wife, and he said no.

I started to cry, and he answered, "Do as you please, I can't marry you." And then I said, "Come into a doctor with me," and he said, "If you would pay me a thousand dollars, I wouldn't go into a doctor." And I felt sick.

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He said, "If you want to go to live with me just as we are, I'll go with you. I can't marry you."

Q What did you say? A I told him, "Don't think that I am a greenhorn. I am green, and poor, but nobody will stand for that, what you done."

Q Were you working all this time? A I didn't work at that time.

Q When did you stop working? A Because he told me to stop working.

Q When? A I was working until the 13th of May.

Q That was two days after you were engaged to marry; is that right?

MR. AUERBACH: I object to that, if your Honor please.

There is no such testimony, that they were engaged to marry.

MR. OLCOTT: She testified that he asked her to marry him, and she promised that she would.

THE COURT: I will sustain the objection.

BY MR. OLCOTT:

Q Did you see him after the 4th of June? A Wednesday night.

Q Well, how long after the 4th of June, was this particular Wednesday night that you are speaking of? A Two days later.

Q Did you have a talk with him then? A He was walking with a girl, and I was walking with a country woman of mine, who knows me for six years.

Q Who was it? A Mrs. Prober. She was living with Mrs.

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Trube. I worked with her in one shop.

Q Did you talk with the defendant on this night, the 6th of June? A Yes.

Q What did you say to him, and what did he say to you?

A When I met him with a girl, I got stupefied. I stopped in the place, and my countrywoman said, "You dope, why did you stop?"

MR. OLCOTT: I consent to have that stricken out. What the countrywoman said.

MR. AUBREACK: Yes, I move that it be stricken out.

THE COURT: Yes; strike that out.

Q Did you speak to the defendant or did the defendant speak to you on this occasion? A I asked him, "Where are you going?"

Q And what did he say? A He said, "I'm not afraid of you. You can do to me what you want."

Q Did you see him after that, except in Court? A Yes; in his house, at Mrs. Kreiser's.

Q You are speaking now of Mrs. Eva Kreiser? A Yes, sir.

Q And did you have a conversation with him, and did Mrs. Kreiser have a conversation with him on that occasion? A I cried, and I asked him, "What did you want of me?"

MR. AUBREACK: Objected to, on the same grounds as before.

(Overruled. Exception.)

A He answered, "If you would have had me arrested immediately, I would have married you, but you gave me plenty of time, and I

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don't speak the English language, neither do you, and I have plenty of money, and I can hire a lawyer."

And he insulted me and called me different names, and then Mrs. Kreiser said, "Why, was she good enough for you before?"

Q Did he answer that? A He said, that he is not afraid of a Court, or a jury or anybody. "If you will bother me, I will leave the State of New York, and then you couldn't do anything to me anyway."

Q Now, these various conversations that you have told us about were they carried on in English, or in Yiddish, or in Russian, or in what language? A In Yiddish.

Q How old are you now? A Twenty-three, past.

Q You have not married this defendant from the time in June when you last saw him, have you? A No.

MR. CLOTT: That is all.

MR. AUFBACH: If your Honor please, I move to strike out all the testimony of the last witness with regards to the conversations had subsequent to May 16th, 1917, the day of the alleged seduction.

THE COURT: Denied.

MR. AUFBACH: Exception.

CROSS EXAMINATION BY MR. AUFBACH:

Q Miss Leofsky, you say that in May 1917, you received with Mrs. Silverman? A Yes.

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Q Was she related to you in any way whatsoever? A No.

Q Is it not a fact that your aunt is a cousin of Mrs. Silverman's? A No, sir; they are friends. My uncle is a carpenter, and her husband is a carpenter.

Q How many times did you see the defendant before you met him in Mrs. Trube's house in Avenue B? A About fifteen times. It is two years ago, and I don't remember exactly.

Q You are sure it was fifteen times? A Yes, about.

Q Do you remember testifying in the Magistrates' Court -- who was Mrs. Trube? A An acquaintance of mine, a countrywoman of mine, has lived with her for some time.

Q And did you ever meet the defendant outside of any home? A Yes, in the street, I used to meet him.

Q Were you ever introduced to him? A Two years before.

Q Who introduced you to him? A Mrs. Prober.

Q Where was it that she introduced you to him? A In 105 Avenue B, in Mrs. Trube's house.

Q Now, you say that, at that time, you knew him for a period of about two years; is that right?

MR. OLCOTT: At what period? Do you mean in May, 1916?

MR. AUERBACH: Yes. I will withdraw that question.

Q In May, 1917, when you saw the defendant at Mrs. Trube's house, had you known him? A About a year and a half.

Q Now, did you not testify in your direct examination that you had met the defendant at an earlier time than you met him?

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at Mrs. Trube's house? A No.

Q You are sure you didn't say that on direct examination?

A No, sir.

Q Now, you say that, when he came to you at Mrs. Trube's house, or at least when you met him there, that he said he has \$2500? A Yes, he told them that he had three thousand dollars, and he made an appointment with me. I didn't say it, I didn't see his pocket, but that's what he said.

Q But prior to the 11th day of May or even on the 11th day of May, the defendant had never been in your house at all; had he?

A No, sir.

Q Did you not say, on direct examination, the defendant said that he would not go up your house at all, unless you would marry him?

MR. OLCOTT: Now, I object to the form of the question. The testimony has been given here. I don't think that this is a memory test. I object to the form of the question, what this witness testified to, five minutes ago, and the form of the question is argumentative.

THE COURT: What is the purpose of it, counsellor? To contradict something that she said?

MR. ADPHEAG: Yes, sir. And immediately after she said that, that they met there, she said that he said that he would go up to her house again, unless she married him.

THE COURT: You may have it, you may have the answer, counsellor.

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A Yes.

BY MR. AUERBACH:

Q You say you saw him again Saturday night, the following night? A Yes, sir.

Q Where did you see him? A Where I was living at Mrs. Silverman's house.

Q And what did you do when he came up to the house? A I introduced him to the people. I told them, "This is my sweetheart."

Q So that you mean to tell this Court and jury that this defendant had proposed marriage to you before the 12th of May, 1917?

A Yes, sir. He said, "We'll get married soon, in a month or so."

Q No, before the 11th of May, 1917, had you ever had any conversation with the defendant? A Yes, but not about marrying.

Q Where did you see the defendant before the 11th of May, 1917, and on how many occasions? A Last Christmas was two years that Mrs. Prober, my countrywoman, introduced him to me, but I disappointed him. I was supposed to meet him, and I disappointed him.

Q So that you had not really met the defendant for the purpose of any conversation before the 11th day of May, 1917; is that true? A Yes. A week afterwards, I went up to the house of my friend, who didn't work on Saturday, to give her a letter which came to the shop, and he was there.

Q When was that? A On a Friday night.

Q What night? A The 11th of May, 1917, I think, two years.

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Q And how long was that after you first met him? A About two weeks later.

Q Later than what? A After I disappointed him.

Q And when was the next time you met him? A Then I used to see him in the street.

Q Did you have any conversations with him on these occasions?  
A No. I used to greet him; that's all.

Q And then he never took you out before the 11th of May, 1917? A No, sir.

Q And you say that on the 11th of May, 1917, he proposed marriage to you in the house of Mrs. Trube in Avenue B; is that right? A That week, he saw me threetimes,-- no he didn't see me three times, he was there waiting for me.

Q Did you ask him how well off he was, or did he volunteer that information to you? A No, he volunteered it himself.

Q And what were the exact words he used to you/<sup>in</sup>proposing marriage? A "I am making a decent living. I will fix up a nice four room flat, for \$800, and I will marry you, and you will be happy all your life."

Q Did he ask you to marry him? Yes or no? A He told me, "We will marry a month later, quick, a month or six weeks later."

Q Where did you go on Saturday night, and you got out?  
A At first, we were going out in our pool, and then we went to an ice cream parlor, and then we took a walk, and he again told me, "How happy you are going to be, and so on, and so on."

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Q What time did you see him on Wednesday? A About eight o'clock.

Q What time had you come home from work on that day?  
A A quarter to seven.

Q You were working that day, weren't you? A Yes, sir.  
Q Didn't you testify, a few minutes<sup>ago,</sup> that the defendant had stopped you from work, about the 11th of May, 1917, and that you were not working at all after that time? A Yes, he told me to stop, but I used to work, and, when it was slow, I didn't work. I worked one day, and then I didn't work the next day.

Q Didn't you testify before this jury that you stopped working on or about the 11th day of May, 1917? A No.

Q How long did you work after the 11th of May? A Until the 13th of May.

Q So that you were not working on the 12th of May, 1917, were you? A I don't remember. Sometimes I used to go into the shop, but the season was slow at that time.

Q But didn't you testify, a few minutes ago, that you came home from work on the 15th of May, 1917? Was it the 15th? A I did, but I don't remember exactly, the 15th.

Q But you remember November/pretty well, don't you?

MR. SCOTT: Do you mean May 16th?

MR. ADENBACK: Yes.

Q May 16th? A Yes, sir.

Q And you remember everything that occurred on that day, don't you? A Yes, sir.

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Q And yet you don't remember whether you were working on that day or not? A I can't remember.

Q Now, on the 11th of May, just what was said about your stopping work by the defendant?

MR. OLCOTT: I object to that, your Honor. There is no testimony that anything was said about stopping work until the 13th of May. The question presupposes that something was said on the 11th.

THE COURT: What have you to say as to that?

MR. AUFRBACH: If your Honor please, the testimony seems to be that they met on the 11th, 12th, and 16th.

THE COURT: My recollection is that Mr. Olcott is right about it. Objection sustained.

MR. AUFRBACH: Exception.

Q Did you meet the defendant the following night? A No.

Q Did you meet him on the following Sunday? A No, sir.

Q Well, when did he say anything to you about your stopping work? A Every time.

Q Did he tell you that the first time when he met you on the 11th? A No.

Q Now, what time did he tell it to you? The first second or third time, or when? A We were talking about the work -- it was slow, and he said, "You will stop anyhow now."

Q What time did he meet you on the 16th, Wednesday? A About eight o'clock.

Q Was that by appointment? A Yes, sir, certainly.

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Q And who do you say was there at that time? A When he came up, I was there alone.

Q Well, who came up later on? A Mrs. Silverminz.

Q And who else. A Mrs. Ida Freedman.

Q And who else? Tell us everybody that was there? A Mr and Mrs. Silverman, and Mrs. Kreiser.

Q Do you remember testifying in the Magistrates' Court on the 21st day of June, 1917? A Yes, sir.

Q And do you remember this question being put to you at that time: "Q Was anybody present during any of this conversation?"  
A Yes, sir.

Q And the following question was: "Q Who?" A A woman from next door, I don't remember her name.

MR. OLCOTT: Now, I object to this question unless it be shown that it is contradicting something that the witness has said here. The question doesn't show what time this means.

MR. AUERBACH:

Well, I read the entire testimony to show that it contradicts the testimony of the complainant at this time.

THE COURT: Anything that is contradictory of her testimony, I will, of course, allow. If it is not contradictory, it would be an idle thing to offer it or to receive it. If it is in contradiction of anything that she said, you may have it, but I will ask you, of course, not to incorporate something into the case that should not be in it.

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BY MR. AUERBACH:

Q Do you remember testifying as to whether Mr. and Mrs. Freedman were there at all, Wednesday night, when you testified in the Magistrates' Court.

MR. OLCOTT: I object to the form of the question.

THE COURT: You may answer it.

A Only Mrs. Freedman was there.

Q -You didn't testify that in the Magistrates' Court, did you?

MR. OLCOTT: Now, your Honor, I object to that. She may not have been asked the question there. I think it is improper in form. The form of the question is objectionable. She may not have been asked, and it does not, therefore, tend to contradict her.

THE COURT: What do you think about that objection, counsel?

MR. AUERBACH: The question asked was, was anybody else present during this conversation, and she said yes, and the question was who, and then she went on to tell the names of the people who were present; and what I am trying to find out now, whether she testified that Mr. and Mrs. Freedman were there in the Magistrate's hearing.

THE COURT: Well, suppose the question was not asked her? Suppose no question was put to her that would furnish an opportunity? Would her attitude be to come in, or volunteer something, and perhaps get into trouble with the Court?

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MR. AUERBACH: She went on to say who was present, after saying that somebody else was present.

MR. OLCOTT: Your Honor will remember that I objected and that he didn't go on to show what was said in the Magistrates' Court.

THE COURT: If it were calculated in any way to aid you, counsel, I would allow it, and I am going to be very liberal with you. If you can show that it is in any way pertinent, I will let you have it, or anything else that is calculated to assist you, but I do not see the pertinency of this, and, therefore, I exclude it.

MR. AUERBACH: Exception.

Q Did you light the gas when you got into the room? A No, he lit the gas.

Q And did you immediately take off your hat and coat? A Yes, sir.

Q Where did you put it? A In the front room.

Q And you came back to the dining room after that? A Yes.

Q And did you and the defendant sit down together? A Yes, sir; by the table in the dining room.

Q And did he say anything to you at that time? A Yes, sir, about marriage.

Q Did he say -- what did he say about marriage? A He said, "He'll get married." And he also spoke about his surprise about Mrs. Kaiser being married so young.

Q Well, did he say anything about having intercourse at that time? A No.

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Q Did you know he wanted to have intercourse with you?

A No, sir.

Q Well, did he say anything about being married, as to when he would be married?

MR. OLCOTT: I ask that it be limited to the time in the dining room, so that the question will be clear.

A He said, in about a month.

Q Didn't you, in your direct examination, say that, on this occasion, the defendant has said that you would be married the following morning?

MR. OLCOTT: There is no such testimony as to any conversation that occurred in the dining room, and that is what the counsel was directing his inquiry to, and I object to the form of the question.

THE COURT: You may answer that.

A That was afterwards, when we were on the bed.

Q How long did you remain in the dining room? A About three quarters of an hour.

Q Well, when you left for your room, had you consented to have intercourse with him at that time? A No, he ran after me.

Q Did you make any outcry? A No, sir; he was holding me.

Q Was he holding your mouth or your lips? A No, not the mouth. He said, "We will marry tomorrow."

Q Did he at that time, when he was holding you, what he wanted to have intercourse with you? A Yes, sir.

Q And just what did he say to you? A "You are mine."

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yours. What is the difference, sooner or later? Tomorrow we will marry."

Q And did you immediately take your clothes off, after he had said that? A A few minutes later.

Q How long did he remain in your room? A I didn't have any watch, but it was about three o'clock, I think.

Q Did you, on that night, ask the defendant to go home at all? A He heard somebody went to the water closet, and so he left.

Q Well, did you ask him to go home, before you had this sexual intercourse with him? A Yes, sir.

Q How long before? A After I jumped out of the dining room into the front room.

Q What did he say when you told him to go home? A "It's all right, it's all right. I'll be here a little while longer!"

Q Do you remember testifying in the Magistrates' Court, Miss Lvofsky, and that a question was put to you: "Q. You wanted him to go away with his affections, didn't you? A. I asked him to go home. Then he asked, what difference does it make to you? You are going to be married anyway. What difference does it make to you whether it is an hour later?" Do you remember testifying to that effect?

THE COURT: Well, hasn't she said that here, before?

MR. AUFREAGE: I don't remember that.

THE COURT: Well, perhaps I am in error, but that is my recollection.

A. Yes,

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Q Now, who occupied the flat right next door to you?

A Mrs. Harris.

Q Well, where did Mrs. Kreiser live? A The same place.

This Mrs. Harris is the mother of Mrs. Kreiser.

Q And was there a window between your dining room and her apartment? A No.

Q Was there at any time a window between your apartment and any other apartment in that house? A The window from the dining room goes into the same shaft with the window of the kitchen of the rear apartments.

Q Well, did you see any lights in the adjoining apartment?

A I didn't pay an attention to any other apartment.

Q Until how late was the defendant there that night? A Until about three o'clock, I can't say exact.

Q Did you look at the clock to see at what time it was? A There was no clock in the room.

Q When was the next time you saw him? A Friday night.

Q Didn't he come the following morning? A No, I was waiting for him, but he didn't come.

Q You were suppose to marry the following morning, weren't you, Miss. Lvofsky? A Yes, sir.

Q Had you made arrangements for your wedding? A We had decided to make a marriage licence, and then hire a room at Coney Island.

Q Well, when was that decided? A Before it happened.

Q Oh, then, it had been agreed between you and him, before

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this alleged seduction, that you would be married, the following day, is that right? A Yes, sir.

Q And he came to see you the following Friday? What time was that? A About eight o'clock.

Q Were you crying when he came to see you? A I was sad.

Q Well, did you say anything at your house about being married? A I told the missis, the following morning, that I was waiting for him, and he didn't show up.

Q And how long did the defendant remain with you? A About an hour.

Q Did you at any time say anything to the defendant about being married? A When he came up, I asked him why he didn't come, so he replied that he was busy.

Q Well, did he make any appointment as to when you were to be married at that time, on the 18th? A He said, he isn't positive, that the boss may send him to the country. If he doesn't, then we will get married.

Q And you said that you went to see him at his place of business, is that right? A Yes.

Q How long after that, after the 18th of May? A The fourth of June, Saturday, I went to his place, to find out whether they sent him to the country, and the manager laughed, and he said, "This place doesn't sell anybody to the country".

Q Well, did you speak to the defendant

when you went to his place of business? A No; he wasn't there any more. I waited for him, and I thought he would come. I thought Sunday, he would come, but he didn't come.

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Q Well, didn't you testify that you had a conversation with the defendant wherein he told you that he was going to the country, and, if you wanted to go along with him, you could?

A No, he didn't give me a chance to call.

Q Well, did the defendant ever say anything to you about taking you along to the country? A Yes, he said, "If you want, you can come with me for a few weeks."

Q When did he say that? A When he came and told me that the boss is going to send him to the country.

Q When was the next time you saw him? A June 4th, I called him down, and talked with him.

Q Well, now, following the 16th of May, when this occurred, did you see him on the following Monday? A Yes, sir.

Q And did you say anything to him when you saw him at his place of business, about getting married? A No.

Q Well, didn't he come down to meet you, and say that everything would be all right, tonight? A Yes, sir.

Q But he did come down to speak to you? A Yes, sir.

Q Did you get married that night? A No.

Q Did he see you that evening? A He didn't come, and I went to his friend, to his countryman.

Q You are sure about the fact that he didn't come, that night? A Sure.

Q Do you remember testifying in the Magistrates' Court as follows --

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MR. OLCOTT: I object to this if your Honor please. I understood that these questions were put as to the time when the defendant and the witness saw each other on the fourth of June, when she went to his place of business, and counsel seems now, to be talking of some other time.

MR. AUERBACH: Now, if that is the only time that the complainant went to the defendant's place of business, then I am referring to that very time.

Q Now, did the defendant at the time that you came to see him at his place of business, say anything about getting married, within six weeks of that day? A No, we didn't talk about it then.

Q On this very day that you went to see him at his place of business, didn't he come to see you, that same evening? A No, I waited for him at his friend's house.

Q And didn't he say on that very evening, "You are going to be married six weeks from date"? A Yes, sir.

Q Then he did call to see you that very evening, didn't he? A No, he didn't call. I waited for him, and then he took me over to my house.

Q What was that date? A Monday, evening, the 4th of June.

BY MR. AUERBACH:

Now, you called at the defendant's house with Mrs. Kreiser?

A Yes.

Q And did you ask him to marry you? A Yes, I started to cry,

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and I asked him, "What did you want of me."

Q What did he say? A He said, "You are a fresh girl. I don't know you, and I don't want to know you."

Q Do you remember testifying in the Magistrates' Court as follows, in answer to that question: "Q What did he say? A He said he is sick, and he can't get married, but if I shouldn't make any complaint, he would have gotten married?" Do you remember testifying to that extent? A Yes. Before he insulted me, I asked him, "was I all right before, and not now?"

Q Did he say anything else at that time? A He said, all the lawyers are his, and, if I wouldn't have made a complaint, he would have married me right away. He said, he isn't afraid of anybody. If I would bother him very much he will move out, and leave the State.

Q Did he say anything to the extent that he would prefer a prison sentence rather than get married? A Yes; he said, even ten years in prison, he would take.

Q This was all on the same evening, wasn't it? A Yes, sir.

Q Did you ever go around to his house again? A Myself, once.

Q Now, you said that you had met him, and that he had advised you to go to a doctor, is that right? A Yes, sir.

Q Did you tell him that you were pregnant at that time, or about to become pregnant? A I told him, "You know what you have done to me. I am sick!"

Q And did he offer to give you any money to go to the doctor?

A No, sir.

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Q What did he say about going to the doctor? A He told me, "Go to a doctor." I told him, "I would rather die, I would rather commit suicide, than go to a doctor. What are you talking about?" And then he said, "Go into a drug store, and take something" and I said, who would go to a drug store. Do you want to have a poisoned wife?" And he said, "No!"

Q Well, you did go to a doctor? Yes or no? A Yes.

Q When? A The following day.

Q And you were examined by the doctor, were you not? A Yes.

Q And were you in the family way at that time? He said it looked like it; I was sick.

Q But you were never pregnant were you?

MR. OLCOTT: That is conceded.

A No.

Q Now, on May 16th, were all the people sleeping at that time in your apartment, I mean? A Yes, sir.

Q Now, you just describe to the jury what kind of an apartment this is, that you have a room in? A Four rooms.

Q Well, did they follow each one lengthwise, or were they steep like a box, or what? A No, they didn't follow each other straight.

Q Now, that anybody in the bedroom, could see into the dining room, could they not? A No.

Q Well, was there not a door leading from the bedroom into the dining room? The door of the bedroom was leading into the kitchen.

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Q Now, when you were in the dining room with the defendant, was the gas lighted, burning, very strongly? A It was burning.

Q Well, was it a low light? A No, just a light as usual.

Q And when you went into your room, the front room, did you turn that light out? A He did it.

Q Was there any objection on your part when he did that? A I told him to go home.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure; and took a recess until two o'clock).

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## AFTER RECESS:

YETTA LVOFSKY, her cross examination being continued, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. AUFBACH:

Q Miss. Lvofsky, when you claim that the defendant asked you to marry him, on May 11th, 1917, at the house of this Mrs. Trube, did you give there any sort of ceremonial, as a symbol of your engagement and coming marriage? A No.

Q Well, isn't it a custom among Jewish folks to celebrate the engagement or marriage by breaking some sort of dish of some kind?

A Yes, that's the custom, but being that I have no relatives here, it was decided that we should furnish up a house, and then make a little party.

Q And was that also spoken of the first night you met the defendant? A No.

Q But the defendant did ask you to be married on the 11th day of May, 1917, and you consented to it? A Before I consented, I told him, "This is war time," and he answered, "I'm not a citizen, I'm not afraid of the draft."

Q Did he take you to any places of amusement after May 11th, 1917? A Yes or no, please. A Yes, sir; we were to the moving pictures.

Q How was this? A Saturday night and Monday night.

Q Did he ever give you any presents of any kind? A No.

Q How, then, did you know that he was a Jew?

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and Mrs. Freedman and Mrs. Silverminz, and the different other people who may have been at your house, did you do so with a view of closing the engagement or contract of marriage, in their presence? A No, there was no party there, but they were just seeing my bridegroom.

Q But you knew that the defendant was coming there that night, didn't you? A Yes, sir; I did.

Q And didn't you have them there for the purpose of meeting this defendant? A Yes, sir.

REDIRECT EXAMINATION BY MR. OLCOTT:

Q Just one question, please. Before the 11th of May, had you had an opportunity to talk to this defendant at Mrs. Trube's house? A Two years before -- a year and a half.

Q Well, did you talk with him, did you meet him and speak with him before the 11th of May, 1917? A No, we used to see each other and greet each other, but didn't talk.

F V A K R E I S F E R, of 218 South Third Street, Brooklyn, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q Mrs. Kreiger, do you know this defendant? A Yes, sir.

Q When did you first see him? A Well, I can't remember the date, but it was in the month of May, on a Wednesday.

Q Where was it? A In Trube's house.

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Q Well, where is that please? A In 292 Monroe Street.

Q Is that the apartment that Mrs. Silverman occupies? A Yes.

Q What time of day was it on this Wednesday in May? A It was in the evening.

Q Do you remember who else was there? A Yes, sir; there was Mr. & Mrs. Silverman, and a friend of hers.

Q Do you know who she was? A A friend of Yetta's, and Mr. and Mrs. Silverman were in the house, and Mr. Rosen.

Q And did you hear any conversation between the defendant and any one else? A No, sir.

Q Was the defendant there? A Yes, sir.

Q Do you know what I mean by conversation? Did you hear what was said on that night? A Well, he was talking to me.

Q Well, what did you say to him, and what did he say to you? She come into my house --

Who is she? A Yetta, and she said that she wanted me to meet --

(Objected to; sustained.)

Q You were invited over there that night? A Yes, sir. And the defendant said he was going to get married soon?

Q To whom did he say that? A To me. He said, that he was going to get married to Yetta, and he was going to take a room in Coney Island, because I live there.

Q How long have you known her? A I have known her for a year and a half, ever since last May.

Q Did she invite you into her house, that night? A Yes, sir;

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I was then in my mother's house, next door.

Q How long did the defendant stay there, that evening? A Well I don't know.

Q How long did you stay there? A For about an hour.

Q Did you leave before or after the defendant? A I left before.

Q Did you ever see him again after this Wednesday? A Yes, I was down that way.

Q When? A It was a couple of days later. I was down to his house.

Q Where was that, please? A It was on Eldridge Street.

Q You were down there with Yetta; is that right? A Yes.

Q And did you have any talk with the defendant, or did you hear Yetta have any talk with the defendant? A Well, I heard her talk, and I spoke to him too.

Q Tell us what you all said on that occasion? A She was waiting for him, and she wanted to get his answer.

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

THE COURT: Strike it out.

Q You were waiting there? A Yes.

Q Now, when he came up, what happened? What was she wanted to do, but what she did, and what you said, and what she said, and what he said? A She said to him that he shouldn't leave her, and he shouldn't leave her in that condition.

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And he said, "Get out, you dirty woman. I don't know you."

And I said, "Well, who made her dirty, if not you?" And he said, he didn't care, she was a dirty woman, and he won't marry her, even if he gets ten years in prison.

Q When was this, do you remember? A That was the same day when I came down to see him.

Q How long after that Wednesday, was it that you speak of?

A About two days after that.

Q As short a time as that? A Yes.

Q Are you sure of that? A Yes.

Q Did you see him any other time? A Only twice.

Q Wasn't it on a Monday night, this conversation that you speak about?

MR. AUERBACH: I object to that. The witness has already answered that it was two days after.

THE COURT: Two days after what?

MR. AUERBACH: Two days after the Wednesday when she first met him.

BY THE COURT:

Q Can you fix the day when you met him? A It was on a Wednesday, in the month of May.

Q You can't tell us the date of the month? A Well, I can't exactly remember the date.

BY MR. OLCOTT:

Q You are not sure of the date? A No, sir.

Q Did you ever see him again? A Yes, I did see him.

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Q When? A Well, I saw him later, but I don't remember how many days after it was.

Q But sometime later? A Yes, sir; I was down to his house with her, and he wasn't home from business yet.

She was waiting for him, and he come and chased her out of the room, and he said, "Get out, because I want to get dressed."

And she said, she won't get out, unless he gives her the answer.

"Well if you don't get out, I'll undress myself in front of you," he said, and so he did.

Q Well, did you get out then? A Well, then we had to get out.

Did you ever see him again? A No, sir; not since then.

CROSS EXAMINATION BY MR. AUERBACH:

Q You never met the defendant before in your life did you, before the 16th of May, 1917? A No, sir.

Q And you say that you were in your mother's house at that time? A Yes, sir.

Q On what floor did she live? A On the fourth floor.

Q And where did Miss Lvofsky live? A Also on the fourth, next door.

Q And you had come to that house, for what reason? A To visit my mother.

Q And you were in your mother's apartment? A Yes, sir.

Q And the complainant, Miss Lvofsky, called you; is that

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right? A Yes, sir.

Q And what did she do? A Well, she come in and asked me to go and meet her intended husband.

Q Well, was that said in his presence? A No. She left him next door, and came in to see me.

Q Then, never mind what she said to you. She brought you into her house; is that right? A Yes.

Q And what did she do then? A She introduced me to him, then.

Q Did she say, "This is Mr. Rosen"? A She said, "This is Mr. Rosen, my intended husband, the fellow I am going to marry.

And he said to me, "you are quite young to get married", and I said, I heard you were going to get married too", and he said, "Yes, I'm going to get married, and take a room at Coney Island."

Q Well, when did you next see Miss Lvofsky? A I seen her a couple of days later.

Q Well, about how many days? A Well, I don't remember how many days.

Q Where did you see her? A I met her in her house.

Q In her house? A Yes, sir.

Q Did she ask you to come in? A Well, I went into see her.

Q Well, was there any especial reason why you came to see her? A Well, I came to see her as a friend.

Q Just on a friendly visit? A Yes, sir.

Q She didn't invite you to her house, is that? A Well, it is no.

Q You were living in Coney Island, is that right? A Yes.

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Q And a few days after you made that first visit, you came back for no reason, to visit her again? A No, I came to my mother's house, and, while I was there, I went into see her.

Q And you had a conversation with her? A Yes, sir.

Q And, after that conversation, you went to the defendant's house? A Yes, sir.

Q What time of the day was it? A It was about half past five when I went down to his house.

Q And that was about two days after you saw him; is that right? A Well, I don't remember how many days ago, it was.

Q Did you say it was five days after? A Well, I'm sure it was about two days.

Q Yes, you are sure about that? A Yes, sir.

Q And the complaining witness asked you to go with her to the defendant's house, which you did? A Yes.

Q What was first said when you came to his house? A She was speaking to him, and she said, "I want you to marry me."

Q Yes? A He said, that he won't marry her; she should get out.

Q Is that all that was said? A Well, he said that he won't marry her, even if he gets ten years in jail, and he don't care for her, and he said that she was a dirty woman.

THE AGENT: That's all. No, just one more question.

Q Mrs. Kreiser, when you stated to the court and jury the conversation that took place in Mr. Koenig's house, before you

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first met him, was that all the conversation that took place there?

A Yes, sir.

Q Did he say anything, did Mr. Rosen say anything, on that occasion, about being sick? A No, sir.

Q Absolutely nothing? A No, sir.

Q Did he say anything about that, if no complaint would have been made, he would have been married? A Yes.

Q Oh, he did say that? A Yes, sir.

Q Do you remember this question being put to you in the Magistrates' Court: "Q What did he say? A He said he is sick; he can't get married." Do you remember testifying to that effect?

A No, sir.

Q You don't? A No, sir.

Q So that, if you said that, it was untrue? A Well, I didn't say that he said he was sick.

Q You never said that he said he was sick? A No, sir.

Q Or never said that he was sick? A No, sir.

I D A F R E D M A N, of 545 Grand Avenue, Brooklyn, a witness being called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. GLENN:

Q Mrs. Friedman, in May 1917, where did you live? A At the same address, in Brooklyn.

Q Do you remember the 16th of May, a Wednesday night? A Yes.

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Q Where were you that evening? A That evening, I was in Yetta's house, where she was boarding.

Q And where was that? A In 392 Monroe Street.

Q How long had you known Yetta? A I know her from a very long time, from Europe yet. I knew her when she was fourteen or fifteen years old.

Q After you came to this country, did you see her frequently or not? A Well not very often. She used to come over to see me, but not very often, because she was working, and could not come out to my house.

Q Now, on the 16th of May, were you invited to her house?

A Yes, sir.

Q Who invited you? A Yetta Lvofsky, on Sunday, was at my house, and she invited me on Sunday, I should come Wednesday night at her house, because on account of that --

Q No. Never mind what she said. When you get to her house on the 16th did you find anybody there? A Yes, I found Mr. Rosen, this here fellow, Sam Rosen (indicating the defendant).

Q Had you ever seen him before that night? A I know him for over three years. I used to meet him in a friend's house, Mrs. Klauber.

Q Then you knew him? A Yes, sir.

Q Did you have a talk with this defendant on the 16th, or did he talk to anybody else, that night? A --. He was talking away, Yetta Lvofsky, and me and Mr. Rosen was talking away, and

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Yetta Lvofsky showed me a box where she had some house things and she said, "Isn't that good enough for a boarder?" And then Mr. Rosen said, keep it until we get married, and you will find a use for it."

Q Was anything else said about getting married then? A Well, then, we didn't say anything else.

And we were talking away about his work, and where he worked, and he is making out pretty good, and is making a good salary.

And then we recognized each-other as friends, me and him; that he knows me a long time; and we were talking, and then me, and Yetta, and Mr. Rosen went down, and I went to my brothers house, and they took me down there.

And I asked them to come up to my house sometime, and Mr. Rosen said, "we have time. We'll go up to your house. But first I want to go up to my relations," and so I went up in my brother's house, and they went away.

Q And did you hear how Yetta introduced this man to anybody else there? When I came in, Mrs -- I forget her second name.

Q Mrs. Silverman? A Yes, Mrs. Silverman. I met her there after; she was not there when I came, and after that she went out, and Mrs. Kreiser went in.

Q Did you hear how she was introduced to this man?

A Oh, as her -- I can't remember exactly.

Q Well, tell us what your best recollection is as to how they were introduced? A I don't understand that word.

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Q Tell us as nearly as you can just what was said when Mrs. Kreiser was introduced to Mr. Rosen by Yetta? A I can't remember, but I know she introduced me.

Q Well, how did she introduce you to him? A As her fellow, as her boy. I don't remember just the words she said. It was Yiddish.

Q What language did she use in Yiddish? A "My boy".

Q And this conversation was in Yiddish? A Yee, sir.

Q And you all talked in Yiddish there? A Yes, sir.

Q Did you see the defendant after that? I went up to his house with a friend of mine, and he refused to speak to us.

Q And he didn't speak to you? A Yes, sir.

Q When was it? A On a Sunday morning.

Q How long after the 16th of May? A I can't remember. I don't remember the time, but I know it was on Sunday morning, about ten o'clock, and he sent down his--

Q How long afterwards about was it? Two weeks or more?

A Two or three weeks I think, I don't remember exactly, but I know it was on a Sunday morning.

Q Now, during the time that you were there in Monroe Street, at the house on the 16th day of May, did you hear any date set for the wedding, or anything like that? A No, no dates was settled; only that he said they were going to get married soon, but no dates.

CROSS EXAMINATION BY MR. AUERRACH:

Q When you came up to her house that Wednesday night, the

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complainant's house, just tell us how she introduced you to him, and him to you? A She introduced me to him as her cousin -- as her relative -- and she introduced him to me as her boy.

Q And you said, you were pleased to meet him? A Yes.

Q Didn't you testify that you had met the defendant several times in Mrs. Grube's house? A Who is Mrs. Grube?

Q Mrs. Trube, I mean-- several times before May 16th?

A I used to meet him very often in Mrs. Prober's house.

Q And do you mean to say that on the 16th of May, 1917, you were first introduced to him? A No, sir.

Q Didn't you so testify? A I wasn't first introduced, and I didn't say so. She introduced me, because she didn't know that I know him before, but, after we had been talking to each other for some time, we recognized each other.

Q When you were introduced, you said that you were glad to meet Mr. Rosen, didn't you? A Yes, sir.

Q And he said he was glad to meet you? A Yes.

Q And it was like a pair of strangers meeting, was it not?

A Yes, sir.

R O S E S I L V E R M A N, of three hundred and seventy Madison Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q In May, 1917, where did you live Mrs. Silverman? A 293 Monroe Street.

Q And did Yetta Lvofsky live there with you? A Yes, sir.

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Q And how long did she live there with you? A About a year and a half.

Q And this was an apartment in a tenement house there?  
A Yes, a tenement house.

Q How many rooms did you have? A Four rooms.

Q And who lived in this apartment? A I and my husband, and Yetta.

Q And then you had a little baby, did you not? A Yes, sir.

Q Now, when did you first see the defendant, Mrs. Silverman, this defendant here? A On a Saturday in May.

Q And in what place was it that you first saw him? A In my house.

Q Do you remember the date? Was it before or after the 16th of May that you first saw him? A I don't exactly remember the date, but I know that it was on a Saturday in May.

Q And who was with the defendant when you first saw him?  
A Me and my husband and Yetta Lvofsky.

Q And where was this? A In my house.

Q And did you have any talk with this defendant, and did you hear yetta talking to him, and did she say anything to you in his presence? Tell us just what happened? A He was talking to us altogether, about different kinds of things. He was talking to my husband about the country and about work, and he is at Blocmingdales for about five years, and he is making money, and he is going to get married.

Q Did he say to whom he was going to get married? A No, sir;

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not the first time, but he said that he was going to get married, and that he is making good money, and has been there for five years.

Q And when did you see him the second time? A It was on Wednesday, the same week, Wednesday.

Q Well, that was after the Saturday? A Yes, sir; after the Saturday.

Q The first Wednesday after the Saturday; is that right?

A Yes, sir.

Q And what happened then? Who was the house at that time?

A When he came in, I was sitting downstairs. I was sitting near my house, and he come over and asked me, "Is Yetta upstairs" and he went up.

And, when I was sitting there about half an hour, I went up with my husband, home, and I found Mrs. Freedman in my house, and after comes Mrs. Kreiser, and Mrs. Kreiser/ that she is married not long ago, and she lives in Coney Island.

And he said, "Well, I am going to get married too, and I will take a room at Coney Island."

And he said, she looks so young to be married, and he is going to take a room at Coney Island and get married too.

And I had in my house a picture of Yetta, and Yetta took the picture and showed it to Mrs. Kreiser, and Mrs. Kreiser showed it to him, and asked him how he liked the picture, and he said, it was all right, and she was all right, and he is going to get married; she is a nice girl. He showed Yetta with his hand (illustrating by pointing) and he said, "I am going to get married to her".

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Q Now, you say Mrs. Freedman and Mrs. Kreiser were there?

A Yes, sir.

Q And who else? A My husband and I, and he and Yetta. Mrs. Silverminz come in before, when I was downstairs.

Q Now, did you leave before or after this defendant did, that night; did you leave the house at all again? A When I went down, Yetta was in the house, and I was sitting near the house with my husband, with the children.

Q No. After these people left? A After, we were all sitting down, and talking, and she went out with him for a walk.

Q With Rosen? A Yes, sir.

Q Now, when did you see him again? A On Friday night.

Q You didn't see him again that night? A No, sir.

Q Or hear him say anything more? A No, sir; I didn't hear nothing more.

Q When did you go to bed that night? A Well, it was around ten or half past ten.

Q Well, how soon after Yetta left the house, did you go to bed? A Just in this time, about five minutes after.

Q That you went to sleep? A Yes, sir.

Q Did your husband go to sleep? A Sure.

Q You went to sleep together? A Yes, sir; together.

Q Now, when did you see this defendant again? A Friday night.

Q Two nights later? A Two nights later, yes, sir.

Q Did you hear any talk that Yetta had with him, or did you say anything to him there? A Yes, sir; I don't know.

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Friday.

Q What did you say and what did he say to you, on Friday night? A I tell you. Shall I tell you what she said to me?

Q Oh she made a statement to you about what happened on Wednesday night? A Yes, sir. When he came in, I said, "What's the matter, Mr. Rosen, you promised to come today and take out a marriage license with Yetta," and he said, "I was busy, and couldn't come, and maybe my boss send me away to the country for a few weeks, to work.

And I said, "What are you going to do now?"

He said, "Well I'm going to get married soon. I'll be married in the Court, and then, when the Jewish holidays come, I will make a Jewish wedding."

She told me in the morning about what happened.

Q Is that all the conversation you had that night? A Yes, sir.

Q And when did you see him again? A Monday night.

Q Three night after that Friday? A Yes, sir.

Q Now, where was it you saw him on Monday night? A In my house again, he come up.

Q And was Yetta there? A Yes, sir; and my husband.

Q And did you have a talk with him? A Yes, sir; and Mr. Silverman, he was there. They live in my house, you know.

Q In the same apartment house? A Yes, sir.

Q But not in the same apartment? A The Silvermans live back, and I live front. They are just across the street from

me.

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Q And what did you say to him, and he to you, on Monday night? A When he come in, I said, "Hello Rosen, what's the matter?" And he said, "Well, I am going to get married. I told you so," and I said, "All right, I'll enjoy it on your wedding." And then they went out together.

Q And when did you see him after Monday night? A I don't remember exactly, I think it was a week around. I want to see him. He didn't come anymore in my house.

Q And was you at home? A Yes. But he didn't come, and so I went to his friend's house in Ludlow Street. He has got friends in Ludlow Street.

Q You learned of that? A Yes, sir; and I didn't find him there. I was writing until 11 o'clock, I didn't find him there, and so I went home.

And I went after a week to his home in Eldridge Street I went with Mrs. Silverman, and I find him there.

Q Did you find him two weeks after the Monday you last saw him? A Yes. When I come in there, I didn't see him. He was in his rooms, and then the missis didn't let us in. We asked for him, and she said he wasn't at home, and we sat there for a while, and he come in.

And he said, "I don't know nobody" and I said, "Wasn't you in my house, and didn't you speak to me?" and he said, "Well, what do you want?" and I said, "I want to hear to you about it too."

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"What do you want," and I said, "I came to speak to you about Yetta".

And he said, "What do you want? If I did anything, I amnot afraid for nobody, and, if she arrested me, I would get married with her, and, if she takes that in Court, I will wait until the Court says something.

And he said, "I'm not afraid for nobody. I'm not afraid of the Judges or the prison, or anything. I have plenty of money, and I can do what I want"

And then I said, "what are you going to do now?" And he said he knows what he did, but he isn't afraid for anybody.

Q And what else did he say, if anything? A He said, he isn't afraid for anybody, and he has got plenty of money, and he could do whatever he wanted, and he don't know Yetta, and don't know nobody.

And he said, "All right if she would arrest me, I would get married with her, if she will leave it by the Court to say."

But he said, she should leave him alone for six weeks, and he will get married with her.

And I said, "What for? That you will run away?" And he said, "This is my business, it belongs to me."

Q Just a minute ago, you started to say that Yetta had been at your house, and what he had done. What did you say in that connection?

A I object to that. I don't know.

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THE COURT: No, he is bring her back to a subject that she started on, but was diverted from. Now, go ahead.

A I said, "Yetta lives at my house about a year and a half, and she is a very nice girl. What do you say now. You make so much trouble, and you do not make it all right."

And he said, "She shall leave me alone for six weeks, and she shall go with me, not married, and live with me."

And I said, "No, its better you get married. She's not that kind of a girl."

And he said, "It is better she should come away with me together, live with me, and go to work."

Q Now, did you say that he should marry her? A Yes, sir. But he said, he isn't afraid of anybody.

Q You said, a moment ago, "I told him what he had done to her." What did you mean by that? What did you say upon that subject?

(Objected to. Allowed)

A He said, "I know what I did to her, and I am going to get married to her." He said that in my house. But in his house he telle different things.

He said in my house that he is going to have a marriage in Court, and after that, after the holidays he will have a Jewish marriage.

Q What did you say to him, when you told him that you knew what he had done to Yetta? A I told him what he had done to her.

Q Well, tell us the language that you used?

(Objected to. Allowed)

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answered that question.

THE COURT: Go ahead.

BY THE COURT:

Q What did you say?

MR. AUERBACH: I take an exception.

A I told him that he ruined her. I said, "Mr. Rosen, you ruined her, and now you don't want to recognize her. She is a fine girl!"

And he said, "Well, I am not afraid of anybody. What do you want to do to me?"

Q So you used the word ruined, did you? A Yes, sir.

Q Did you speak in Yiddish? A Yes, sir.

Q What did you say to him in Yiddish, what word did you use?

(It is interpreted by the Official Interpreter.)

THE INTERPRETER: Ruined.

CROSS EXAMINATION BY MR. AUERNACH:

Q Did he say anything about Yetta being a bad woman, when you came to speak about her? Didn't he say that she was a bad women, and that he didn't want to have anything to do with her? A He said, very bad words.

Q (repeated?) Surely, he talked very bad words about Yetta.

Q He did? Sure he did.

Q He didn't say that he ruined her? Sure he did.

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Q And that she was a bad woman? A He was speaking bad words, but he said he wasn't afraid of nobody.

Q Did he say that she was a bad woman? A I don't know what that means, a bad woman.

Q Well, a disrespectable woman? A I don't remember that he said she was a bad woman. He said, "I ruined her, and I don't want to marry her, and I am not afraid of nobody."

Q (Repeated)? A Sure he did say he ruined her.

Q Will you say yes or no, whether the defendant called the complaining witness a bad woman or not at the time you called to see him? A (No answer).

Q Put the question to her?

(The Interpreter repeats the question.)

A I don't remember whether he said that, I don't remember exactly.

Q Well, you remember the other things pretty well, don't you?

A I remember everything that I heard.

Q But you don't remember that? A Well, that's a long time.

Q Well, how long was it after that Wednesday, May 16th, when you were in his house? I can't remember exactly the date, but it was over two weeks.

Q And that was after the complaining witness, Yelva Lvofsky, had made a complaint against the defendant in the magistrate's court? A Sure it was after, not long after. That wasn't long after.

Q About two weeks after? A About two weeks, yes.

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ESTHER SILVERMINZ, of 292 Monroe Street, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. OLCOTT:

Q You are married Mrs. Silverminz? A Yes, sir.

Q These gentlemen all want to hear you, so talk up, will you? A Yes, sir.

Q In May 1917, where did you live? A In Monroe Street.

Q The same house in which you now live? A Yes, sir.

Q 292? A 292.

Q Where was your apartment, on what floor? A I don't understand much English. May somebody talk to me in Jewish?

MR. OLCOTT : May we have an interpreter, sir?

THE COURT: Yes.

Q (Question repeated by the Official Interpreter.)?

A On the fourth floor I am living.

Q Where was Mrs. Silverman's apartment at that time? A Also on the fourth floor.

Q Is your apartment in the front or back? A In the back.

Q And Mrs. Silverman's was there? A In the front.

Q Can you see into Mrs. Silverman's apartment, her dining room from any window of her apartment? A Yes, sir; it was just on the opposite side.

Q Now, on the 16th of May, 1917, did you see this defendant, and if so, where, for the first time that evening?

A I see him in the house of Mrs. Silverman.

Q Were you in the house at the time? A Yes, sir.

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Q About what time was it when you first saw him that night? A About eight o'clock.

Q Had you ever seen him before? A No.

Q Were you introduced to him, that night? A Yes, sir.

Q Who else was there when you were there? A At first I was alone there. Then, came a lady, Mrs. Freedman.

Q And did you see Mrs. Kreiser there, later? A Yes, sir.

Q Now, when you were introduced to this defendant, what was said by Yetta in introducing you? A Yetta introduced him as an acquaintance, as a fellow that she knew well, and she is going to marry him.

Q She said that to you? A Yes, sir.

Q And was the defendant there at that time? A Of course he was there.

Q What did he say when that was said? Anything? A Then we had a conversation. I told them, "If you are going to get married, I wish you luck".

Q And other people came in then; is that right? A Yes, sir; and Mrs. Freedman came.

And I told Mrs. Freedman we would soon have a wedding, and I left afterwards.

Q How long were you there altogether in the early part of the evening? A I came at eight o'clock, and I was there about a quarter of an hour.

Q Where did you go at a quarter past eight? A To my house.

Q Now, did you see the defendant again that night, anywhere?

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A Yes, sir.

Q Where? Tell us where please? A In the same house, about 11 o'clock, in Rose Silverman's house.

Q And where were you when you saw him? A In my house. I opened the window to take the clothes off the line, and I saw them in a very friendly position on a chair.

Q And where was this, where were they sitting? A In the dining room.

Q Was the light on? A Yes, sir.

Q You have already stated that you could look from your window into theirs; is that right? A Yes, sir; it was just opposite.

Q Now, you said a very friendly position. Will you please tell us very briefly, what her position was? A They were embracing.

Q You say they were in a chair, were they occupying only one chair? A Yes, sir.

Q And you watched them; is that right? A Yes, sir. I was curious.

Q And how long were they in the chair? Did you see them when they got up from the chair? A Yes, sir; I saw her get up and leave the room, going towards the front room, because the front room is just adjoining the dining room.

Q And what did you see the defendant do then? A That I saw it got dark.

Q Did you see the turned out the light? A Right; I didn't see. I only saw her go to the front room.

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Q And then it got dark? A Yes, sir., then it got dark.

Q Did you see anything more, that night? A No.

Q You went to bed then? A Yes, sir; it was about 11 o'clock at the time.

Q Did you see the defendant after that night? A Yes, sir; I was in his house with Mrs. Silverman.

Q When? A Two weeks afterwards, about two weeks.

Q Did you and Mrs. Silverman talk to this defendant? A Yes, sir; we did.

Q What was said by you or Mrs. Silverman in your presence, and what was said by the defendant at this time, two weeks after the 16th.

MR. AUERBACH: I object, as it was two weeks after this alleged occurrence.

THE COURT: Overruled.

MR. AUERBACH: Exception.

~~At~~ first, his landlady wouldn't let us in. Then we told her we are only human beings, we didn't come to fight, and we want to see Rosen.

Q Never mind all that. You got in, did you? A Yes.

Q Now, what was said by you and Mrs. Silverman and the defendant, after you got in, and saw him? A I said, to him, "Mr. Rosen, why don't you marry me?" and he said, "I don't know you at all."

I told him, "Mr. Rosen, don't we come from the same neighborhood on the other side, because we recognized each other in Mrs.

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Silverman's house?"

He answered, "Well, Mrs. Silverminz, tell her not to bother me, and in about six weeks, I will marry her. I told him, "Why do you lay it off, put it off for six weeks? Do you want to leave?"

And he said, "This is my business, I know what I have to do."

Q Did you hear anything that Mrs. Silverman said? A Yes, she said the same thing.

Q Now, what else was said? A She said, "You know Mr. Rosen you are guilty in this matter. She is an orphan. She has no parents."

He said, "Mrs. Silverman, please do not bother me. I told you I will put the matter over for six weeks, and then I will marry her."

Q Did you hear anything said about Court? Did you hear him say anything about Court? A Well, then he said, "If she is going to press the charge against me, I'm not afraid of anybody. I have money, I can buy anybody, I have plenty of money."

Then he said, just the opposite; that he can't make a living, and then began the same thing again.

Q Did you hear Mrs. Silverman accuse him of anything that he had done? You say she said, he was guilty. Guilty of what? Did you say or did Mrs. Silverman say, or did the defendant say anything in regards to what "guilty" meant? A Yes, she said it.

Q Who said it? A Mrs. Silverman said it to him.

Q What did she say to the defendant? A She said, "Why you know you are guilty, you ruined me."

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Q And what did he say when Mrs. Silverman said that?

A Then, at that point, I said, "Mr. Rosen, I saw through the window."

And then his landlady said, "I can see that these people will swear to it that you are guilty. Why don't you marry her?" And he said, "I have plenty of time."

Q Well, when Mrs. Silverman said to Rosen, "You have ruined her," what did the defendant say? A At first he said, "Did I ruin her? Perhaps somebody else did it. Nobody saw me."

And then I said, "I know that you are the guilty person. I can swear by my children".

And then Mrs. Silverman said, "Why, Rosen, you are guilty. She is an orphan, and you ruined her."

Q And what did he say then, when she said that the second time? A He said, "Well, if I am guilty in this matter, why didn't you try me in Court. If she would have done it, I would have married her."

CROSS EXAMINATION BY MR. AUERBACH:

Q Did you tell Rosen, on this occasion, that you had seen him ruin Yetta? A I couldn't see that. I could only see that they were sitting on the chair in a friendly manner, embracing.

Q Did you tell Rosen that you had seen him do something to her? A How could I see that? It was dark. I didn't take any more interest to look. I had my own business.

Q Oh, you only took an interest when it was light, was that

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it? A Yes, I am good friend of Mrs. Silverman, and we looked into each other's apartment very often.

Q Now, on May 16th, were you called in my Yetta to her house?

A Yetta was in my house some time before, and she said, "Mrs. Silverman, you know I am an orphan, I am all alone in this country. I want you to come in and see the boy that I am going to marry."

Q And how long was that before you came into her house?

A That was Tuesday night.

Q So that on Friday night -- on Wednesday night I mean -- you came in there by appointment, didn't you? A Yes, of course. She asked me to come in.

Q And when you got into the house, who else was there? A Only Mr. Rosen and Yetta. Mrs. Silverman was downstairs.

Q And a short while after, Mrs. Kreiser and Mrs. Freedman came along; is that right? A First Mrs. Freedman, and then when I was going to leave, Mrs. Kreiser came in.

Q And did you see Yetta introduced the defendant to these people that came in? A Only to Mrs. Freedman.

Q And what did she say to Mrs. Freedman? A "I want to introduce to you my boy, Mr. Rosen".

Q And what did Mrs. Freedman say? A She said she was very glad, and then I left.

Q Did she say she was glad to meet him? A Yes, sir; she said, "I'm glad to meet you."

Q And you say that you went in about a quarter of an hour after

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that, into your own apartment? A Yes, sir.

Q And what did you do in your own house? A I went about my work. I attended to the children.

Q Well, how long did your work take you? A I cleaned up the table. It was right after supper.

Q Well, what other work did you have? A Then I undressed the children and put them to bed.

Q And how long did that household work take you? A Until eleven o'clock and then I was going to sleep, and prior to that, I was going to take in the wash.

Q Well, do you mean to tell this Court and jury that your housework took you from a quarter past eight to eleven o'clock; is that right? A Of course, cleaning up the house, washing the dishes and putting the children to sleep, it takes that much time.

Q And did you see the gas light in Yetta's room? A In the dining room, also in the kitchen.

Q When for the first time did you see it lighted? A About eight o'clock, when he came.

Q Well, were they there all the time after you left them?  
A At least they were in the dining room.

Q But they were in her apartment ever since you left her apartment that night, weren't they? A Well, I can tell you. I saw them in the dining room and in the kitchen, and then again in the dining room.

Q But you saw them for the entire period after you left their

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house, and remained in your own house; is that so? A Yes, sure.

Q You are positive about that? A Positive.

Q And if it has been testified by previous witnesses that the defendant and the defendant and the complaining witness had left that same evening, and then came back again, that would be untrue, wouldn't it?

MR. OLCOTT: Oh, I object to that, sir.

THE COURT: Sustained.

MR. AUERBACH: Exception.

Q Now, did you volunteer the information that you had seen these people close together to anybody in Yetta's house? A Yes, sir; I told it to Mrs. Silverman.

Q When did you tell it? A I told it to Mrs. Silverman in the morning. I told her, "It looks as if they are going to get married soon", and she said, "Of course".

Q Did you tell it to her in her own house? A Yes, sir.

Q Not in your house? A No, sir.

Q And then the next time that you saw the defendant was when?

A Two weeks afterwards in his house in Eldridge Street.

Q Didn't you see him in Yetta's house that following Friday, the Friday following Wednesday, May 16th? A No, I saw him twice in his own house.

Q Well, you always looked across from your rooms into this window, and saw anybody that was in Mrs. Silverman's house, didn't you? A At the time he called again, I was to a sister in

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law of mine. I was told afterwards that Rosen was there.

Q And you and Mrs. Silverman went up to the defendant's house, after the complainant, Yetta, had lodged a complaint against the defendant in the Magistrates' Court, didn't you? A Yes, sir; of course.

MR. AUERBACH: That is all.

MR. OLCOTT: That is all. The People rest, sir.

MR. AUERBACH: If your Honor please, I move to dismiss the complaint, which charges the prisoner, on the following grounds:

The People have failed to prove several elements necessary to prove the crime of seduction under a promise to marry.

In the first place, they have failed to prove that she was of previous chaste character.

There is absolutely no testimony in that respect.

They have, in addition to that, failed to prove that the defendant was the first one to have had intercourse with her. They have failed to prove that he was the first one who penetrated her, if your Honor please.

And on the further ground they have failed to prove that, on the consideration of this promise of the defendant's to get married, she had sexual intercourse with him.

THE COURT: Notice denied.

MR. AUERBACH: Exception.

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## THE DEFENSE:

S A M U E L R O S E N, of 216 Eldridge Street, the defendant,  
being duly sworn, testified as follows:

## DIRECT EXAMINATION BY MR. AUERBACH:

Q How old are you, Rosen? A Thirty-two.

Q And how long have you been in this country? A Seven years.

## BY THE COURT:

Q You have been here in New York seven years? A Yes, sir;  
this March.

## BY MR. AUERBACH:

Q And what is your business? A Mattress making.

MR. OLCOTT: I think we ought to have the interpreter,  
if your Honor please.

THE COURT: Very well.

MR. AUERBACH: Now, speak up loud, so that the least  
juror can hear you.

THE COURT: Yes, I think we will save time by it, by  
having the interpreter.

(The witness testified through the same Official Inter-  
preter.)

## BY MR. AUERBACH:

Q And where do you work? A At Bloomingdale Brothers.

Q And how long have you been working there? A Six and a  
half years.

Q And did you begin to work there as soon as you came into

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this country? A Yes, sir.

Q Do you know Yetta Lvofsky, the complainant in this proceeding? A Yes, sir.

Q How long do you know her? A I knew her from the 18th of May until the 28th of May, that's all.

Q What year? A 1917.

Q Where did you first meet her? A In Avenue B, in the house of Ettel Prober.

Q Were you introduced there to her for the first time? A Yes, sir.

Q And what was said by you or by anybody else at that time? A Nothing was said. I came up there at half past eight. She came up there about a quarter to nine. Mrs. Ettel Prober came over and introduced the girl to me.

Q At whose invitation were you in that house? A Ettel Prober.

Q And what was said by you or by anybody else in that house on that occasion? A Nothing.

Q Well, what was the discussion, if any, there? A Ettel Prober spoke about her own affairs, about having a husband of her own, some time before, and about separating from him.

Q Did you say anything to Yetta Lvofsky about marrying her at that time? A No, sir.

Q Was there anything said between you and her /by anybody else there as to your marriage to her? A No, sir; nothing.

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Q Did you say that you were going to be married?

A No, sir.

Q Now, what did you do after you left that house, Mr. Rosen?

A At ten o'clock I got up and wanted to go home. Ettel Prober came over and asked me to take the girl home.

Q Had you ever met this girl before in your life, before this 18th of May, 1917? A Never in my life.

Q And you didn't know who she was? A No.

Q Did you take her home? A Yes, sir.

Q And where did you take her to; where was her home? A 290 or 292 Monroe Street.

Q Did you have any conversation with her downstairs, at her house? A Yes, when we walked.

Q What was the topic of your conversation, in general? A She told me she came to this country, that she was living in Ettel Prober's house, and that she came to a brother of hers, and that she lived there, too; that she had no money to pay for the room, and Ettel Prober told her to move, and she wouldn't have come up, this time, but she needed a dress, and Mrs. Ettel Prober was a good dressmaker.

Q Was there any conversation between you and the complainant as far as marriage was concerned? A Never.

Q Did you tell her that you wanted to marry her? A No, sir.

Q Did you tell her that you wanted to be married quickly?

A Never.

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They told me it was a very dirty work. I told them, "The work I do is not dirty. I work for Bloomingdale Brothers, and it is a nice place."

Q Was there any discussion at all of the marriage of the complainant? A No.

Q Well, was there any discussion about your marriage altogether? A No, sir.

Q What was the general line of discussion or conversation while you were there that Saturday? A About the war.

Q And what time did you leave? A Ten o'clock.

Q Well, was everybody there when you left? A Yes, sir.

Q Who was there at the time? A The missis, the mieter and herself.

Q By mieter and missis, you mean Mr. and Mrs. Silverman?

A Yes, sir.

Q And Yetta and yourself, do you mean? A Yes, sir.

Q Was there a cousin of hers there too? A No, sir.

Q Well, when did you leave the house that night?

A Ten o'clock.

Q Where did you go? A Home, to sleep.

Q Did the complainant, Yetta, go with you? A No, sir.

Q You left her in the house did you? A Yes, sir.

Q And were you invited to call again? A She asked me, she said she needs me very much, that she wants to tell me something; that she couldn't tell me what she wanted to tell me then,

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but I must come another time.

Q Well, she didn't intimate at that time what she wanted to tell; you, did she? A No, sir.

Q And she had told you at the time previous, that she wanted to tell you something important, didn't she? A Yes.

Q But she didn't tell it to you? A No, sir.

Q So that when did you call again? A Wednesday night.

Q And that was the Wednesday following that Saturday that you were up there last? A Yes..

Q Now, state to the Court and jury what transpired that night? A I came up at half past eight. The misses was downstairs.

Q The Mrs. who? A Her misses.

Q Mrs. Silverman? A I don't know the name. She told me that Yetta was upstairs.

I came up. Yetta was upstairs, and she asked me to sit in the dining room, and I did.

She told me that she wasn't working at the time; that she was someplace, and didn't eat any supper, and she wanted to make supper for herself.

And she went into the kitchen and she was preparing supper.

And, as soon as she started to prepare the supper, her cousin came up.

Q Which cousin is that? A I don't know her name. The woman.

Q Did you see her here today? A Yes, sir.

Q Was it Mrs. Silverman, if you remember? A Maybe Mrs.

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Freedman, I don't know.

Q Go ahead? A She had supper, and we came into the kitchen, and I went in too, and then her mister and missis came in, and then another woman came in.

Somebody brought in some theatre tickets for a benefit performance, and this woman took some tickets.

Q Now, at what time was it that you came up to that house, that night? A Half past eight.

Q And when you got upstairs, you found Yotta alone there; is that right? A Yes, sir.

Q And how long was she alone, before this cousin of her's came up? A About five minutes.

Q Well, did you in any way attempt to have any intercourse with her in that period of time? A No, sir.

Q Did you make any advances to her at all? A I didn't even talk to her. She went into the kitchen.

Q Did you hug or kiss her?

MR. OLCOTT: I object if your Honor please as to what transpired on a day when it is not alleged that the defendant did anything at all.

THE COURT: What date do you refer to?

MR. AUERBACH: On the 23rd of May, when the defendant claims that he was up there. He doesn't deny that he was up there.

THE COURT: Well, you may have an answer.

A No, sir.

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BY MR. AUERBACH:

Q What were you talking about, if anything? A We didn't say anything. We had no chance. The women got in soon, and we had a general conversation.

Q Well, who else came up, if anybody? A Nobody else.

Q Now, go right ahead, and state what happened that night?

A It was half past nine and we had a general conversation, and I got up and I wanted to go, and her cousin said she was going to buy a hat.

And, at that time, the cousin said to me, "Why are you in such a hurry? We'll go together."

I sat down and was there until ten o'clock, and I got up again, and they wouldn't let me go. We left the house twenty minutes of eleven.

Q And where did you go? A Suffolk, corner of Stanton.

When we reached that house, they asked me to wait for them that they had to go up to the house, and I told them that it is late, and I had to go to work. It was then ten minutes after eleven.

Q And did you go home from there by yourself? A Yes, sir.

Q And when did you next see this complaining witness?

A Monday night. It was a holiday between. She asked me to come, and I told her I was leaving the City to see a cousin of mine.

Q Well, when did you see her again? A Monday night, in her house.

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Q How long after the last visit that you are talking about?

A It was the 28th. It was after Wednesday the 23rd.

Q Where did you see the complaining witness? A At her house.

Q You came to call at her house? A Yes, sir.

Q What time did you get there? A About a quarter after eight.

Q What was the conversation, if any? A There was another man there, I found, and we were talking about the registration.

Q Was that the draft registration, you were talking about?

A Yes, sir.

Q How long did this conversation take place? A Until half past nine.

Q And then what did you do? A I went downstairs, and she followed me.

Q And what did she say to you, and what did you say to her?

A She told me what she wanted to tell me about this woman, Ettel Prober.

Q Is that what she had told you she wanted to tell you, about a secret? A Yes, sir.

Q And what did she tell you? A She told me about this Ettel Prober not being a decent woman; that they came from the same town, and she said she had lived with a man for ten years, and wasn't married to him, and then left him and went with somebody else.

Q And what did you do then? A We took a little walk, and

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then I told her goodnight and went to my own home.

Q Was that the last time you saw her, or did you see her again after that? A The last time.

Q Well, that was the last time at her home? A Yes, sir.

Q When did you next see this complaining witness? A The 4th of June.

Q Where? A I was working in the shop when a man approached me and said, "Mr. Rosen a woman is waiting for you downstairs."

Q And did you go down to meet her? A Yes, sir.

Q Who was it? A Yette Lvofsky.

Q Was she there with anybody else? A No, sir.

Q Was there any conversation between you? A I asked her, "What are you doing here?" and she said, "I happened to be in the neighborhood, I came to tell you, tomorrow is registration day. Don't register, because I know a good many of them don't register."

Q Did she say anything about getting married at that time?

A No, sir.

Q Did you say anything to her about getting married?

A No, sir. I was there about two minutes. I had to finish my work. I went ~~down~~.

Q Now, was there any conversation or discussion from the very first time you saw her, and this time in particular, you spoke as to your marriage to her? A Never in my life.

Q Did you ever propose marriage to her in that period? A No.

Q Well, now, when did you next see her, Mr. Rosen? A The 7th

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of June, when she handed me the summons, downstairs, about half past seven.

Q At your house? A Near my house, downstairs. I was going to work.

Q And was she there with anybody else? A No, sir.

Q Now, did you have any conversation with her at that time?

A No, sir.

Q Did you ever see her again? A No, sir; I had no time.

Q (Repeated?) A In Court.

Q On what day? A In Court.

Q Well, did she ever call at your house with anybody else, or did anybody else in her behalf, call at your house? A Never in her life.

Q Was Mrs. Silverman in your house, you know Mrs. Silverman, don't you, the missis with whom the complainant lived? A Yes, sir.

After the Court, the 7th of June, at night.

Q And who was she there with? A With the other woman.

Q Do you mean Mrs. Silverman? A Yes, sir.

Q And what conversation, if any took place at that time?

A I came home from work, and I found them in my house.

Mrs. Silverman came in, and told me that she was a good girl, and that I should marry her; and I said, I couldn't marry her, because I have another girl.

Q How long had you been keeping company with this other girl? A Over a year.

Q Did you ever tell her that you were keeping company with

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another girl; did you tell the complainant, at least? A No, sir.

Q Well, did you ever encourage her, and make her feel that you were paying attentions to her and courting her? A No, sir; I had no time to do it.

Q No, what was the conversation at that time with Mrs. Silverminz and Mrs. Silverman? A Mrs. Silverminz said that she will testify that she saw me embracing her and kissing her.

Q And what did you say? A I denied it.

BY THE COURT:

Q What did you say?

BY MR. AUERBACH:

Q What did you say? A "You couldn't see me, I never done it".

Q Well, what was said about marrying her, if anything? A They both talked about marrying her.

Q Did they tell you that you had raised her, and that they wanted you to marry her? A No, sir.

Q Did your landlady say that it appeared you were guilty, and that you ought to marry the girl? A No, sir.

Q Did you at any-time admit having ruined this complainant here? A Never in my life.

Q Did you ever have any intercourse with the complaining witness, Zelta Ivofsky, in your life? A Never.

Q Now, these dates that you have mentioned. How is it that they are fixed so well in your mind Mr. Rosen? A I remember, on account of the Jewish holiday that happened to fall at that time.

Q Now, it was testified by the complainant, Mr. Rosen, that

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on Wednesday May 16th, 1917, you sat with her in the dining room of her apartment, and that you were hugging and kissing her; and that thereafter, you coaxed and induced her to have intercourse with you, promising her that you were marry her shortly thereafter. Did any such occurrence take place? A No, sir.

Q Were you there on May 16th? A Yes, sir.

Q What time did you leave? A About twenty of eleven; and ten after 11 I was in Suffolk Street.

Q It was testified by the complainant that you left about three or four o'clock in the morning. Is that so? A I can swear that I was never there later than twelve o'clock.

Q Did you ever tell the complaining witness that would marry her in about six weeks time? A No, sir.

Q Or that you would marry her, the following day? A No, sir.

Q Or that you were sick, and you couldn't marry her? A No, sir.

Q Did you ever ask her to come with you, and live with you as a mistress? A No, sir.

Q Did you ever propose any such thing to her, or to any of the witnesses who testified for the People? A Never.

Q Did you ever take complainant, the complaining witness to any moving picture shows? A Never.

Q Did you ever present her with anything? A No, sir.

Q Now, Mr. Rosen, were you ever arrested for any crime? A No.

Q Were you ever convicted of any crime? A No, sir.

CROSS EXAMINATION BY MR. CROFT:

Q Now, you remember that time you left this house on the

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first night that you were there, don't you? A Yes, sir.

Q And you are sure it was twenty minutes of eleven? A That was the second time.

Q Were you there on the 16th? A I never was there on the 16th.

Q I assume that there is a confusion of dates in your mind, and I don't want to take advantage of that. When were you first there? A The 19th of May.

Q You were not up in her house, up in Mrs. Silverman's house, that night? A Yes, sir.

Q What time did you get there? A Half past eight.

Q And where did you come from? A From my house.

Q Wasn't that the first night you met her, On Saturday, according to your story? A No, sir; this was the second time.

Q Well, on the second night, Wednesday night, how do you remember that it was twenty minutes of eleven when you left the house?

A As soon as we came downstairs, we passed a candy store, and I saw a clock, and I said, "You see it is already twenty minutes after eleven."

Q You remember that distinctly now, do you? A Yes, sir.

Q Now, when were you with this other girl, when were you with her, this other girl of yours? A She was at that time in Philadelphia, visiting a cousin.

Q Well, when she came back from Philadelphia, when were you first with her, after she arrived in the city? A It was a Friday night, I think it was June 1st or 2nd.

Q What time did you leave her, that night, this girl from

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Philadelphia? A Also ten o'clock.

Q Exactly ten o'clock is that right? A Maybe two minutes of ten or after ten.

Q Well, how do you remember now that it was ten o'clock?

A I know I never was at a girl's house later than ten o'clock.

Q Well, a little while ago you said that you were never at this other girl's house later than eleven o'clock, this complainant's house. What did you mean by that? A No, sir; I didn't.

Q Well, you didn't leave her house until twenty minutes to eleven? That is later than ten o'clock, isn't it? A Because they were forcing me to stay.

Q And at another time or at another girl's house, were you later than ten o'clock; is that it? A Unless I went to the theatre to a show with her.

Q And that's why you are so sure that it was ten o'clock when you left your girl's house, on June 17th, is that right?

A Yes, sir; because it was my custom to go to bed early, because I have got to go to work the following day.

Q Now, when did you first know that a Wednesday night in May was an important date for you to remember? When was it that anybody accused you of doing anything wrong on a Wednesday night in May? A They brought a summons over to me on June 7th.

Q But did you know that that involved any accusation against you on a Wednesday night in May? A No, sir.

Q Isn't it a fact that the first time you know that you were accused of doing anything on a Wednesday night in May, was on

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the 28th of June at a hearing in the Magistrates' Court? A It wasn't the 28th.

Q Well, when was the hearing in the Magistrates' Court? A The lawyer told me, after I brought the summons over to him.

Q Well, you heard some people testify in the Magistrates' Court, didn't you; these witnesses who have been here today? A Yes.

Q That was some time around the first of July, was it not? A It was in the middle of June.

Q June 21st? A Maybe the 21st.

Q Now, isn't it a fact that the time you heard these people testify was the first time, according to your story, that you knew you were accused of anything in the middle of May, or on a Wednesday night in May? A Yes, sir.

Q Do I understand you to say -- Question withdrawn. And that was the first time, wasn't it, that you had any occasion to think of what time you left this house on a Wednesday night in May? A It is not a very long time.

Q But you remember that you left it at twenty minutes to eleven; is that right? A Yes, sure.

Q And you are so sure of that that you are now willing to state under oath, that that is the time that you left? A Yes, sir.

THE COURT: I think we will continue the trial, tomorrow morning, Mr. Olcott.

(The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and adjourned the further trial of the case until Tuesday morning, April 9th, 1913, at ten thirty o'clock.)

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## TRIAL RESUMED:

New York, Tuesday April 9th, 1918.

SAMUEL ROSEN, the defendant, his cross examination being continued through the Official Interpreter, Mr. Rosenthal, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. OLCOTT:

Q Now, Mr. Rosen, did you ever see any of these witnesses who appeared here? I refer to Mrs. Silverman, Mrs. Silverminz, Mrs. Kreiser and Mrs. Freedman? Did you see them before May, 1917?

A Never.

Q When was it that you say you first saw these people? A May 23rd.

Q And did you ever see Mrs. Kreiser again? A I may know her, but I don't know her by name.

Q She is the first witness that appeared here after Yette Lvofsky, a young woman, a very young woman? A She was in my house.

Q And when was that? A About the tenth or eleventh of June. It was anyway, after the 7th of June.

Q And then you saw her in all, twice; is that right? A Twice altogether.

Q You never had, before the 7th of June, any quarrel with her any reason that you can give here why she should testify here?

A Never even spoke to her a word.

Q Now, Mrs. Silverman, when she came to the apartment there, at 230 Marlee Street, was she there first on May 18th, --

the 14th.

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Q That was a Friday? A No, Saturday.

Q Saturday? A Yes, sir.

Q And how often after the 19th of May, did you see her?

A Twice.

Q Both times at her house? A Yes, sir.

Q And she never come to your house? A The 7th of June, after I was given the summons, after work, in the evening, she came.

Q And did she have a talk with you then? A Yes, sir.

Q Well, please tell us what that conversation was? A She came to me and told me that I should go and get married with her.

Q Was that the first time that she had ever talked to you about getting married with Yetta? A Yes, sir.

Q Never had said anything about getting married before that; is that right? A No, sir.

Q Nothing was ever said about getting married on the occasions when you saw her at her house? A Never spoke.

Q You never, up to that date, had had any quarrel with her?

A Except that I spoke to her husband. I didn't speak to her at all.

Q And what did you say to her husband? A Once when I came up there we spoke about that.

Q Well, was that conversation in the nature of a quarrel?

A No, an ordinary talk.

Q So, then, you had no disagreement with those people?

A No. When I was there the first time, I was strange. And I didn't

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speaking very much, only a few words.

Q Do you know Mrs. Silverminz? A Yes, sir.

Q Had you ever seen her before May, 1917? A Never.

Q When did you see her for the first time? A The 23rd, of May.

Q And, after the 23rd of May, did you see her at any time?

A I saw her in the 7th of June, when she came with her missis.

Q With Mrs. Silverman, I understand you to mean by her missis; is that right? A Yes, sir.

Q Never had any quarrel with her or any words? A No, she only said she knew my family, and she didn't want to tell me who she was.

Q When was that? A On June 7th.

Q And how long had you seen her on the 23rd of May? It was in the evening, after work. It may have taken ten minutes or half an hour, until I got dressed, and then I went away to get my supper.

Q Mrs. Silverminz, I am talking about now. On the 23rd at the house of Mrs. Silverman how long was it that you saw Mrs. Silverminz? A Maybe about ten minutes.

Q That is the only time you saw her before the 7th of June, is that so you remember? A That was the only time.

Q Do you know Mrs. ~~Silverman~~? A I saw her only once on the 7th.

It is not a fact that she was with you before, and that

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she renewed your acquaintance when she met you at Mrs. Silverman's house? A That's not true. She may have seen me, but I didn't know her.

Q The point I make is that you didn't have any conversation about having seen each other, or known each other, for several years? A No, sir.

Q Now, isn't it a fact that the first time that any conversation, or any fact, was brought home to you about a marriage with Yetta or a promise to marry her, Yetta, was on the 7th of June, when these people came to your house? A I can swear by everything that is wholly that that was the first time.

Q You haven't done anything to the girl; you haven't had intercourse with her, or even been affectionate to her; is that right? A Nothing at all.

Q Can you suggest any reason to us why this girl should have picked you out of the whole horde of people on the east side?

MR. AUERRACH: I Object if your Honor please.

THE COURT: Sustained.

Q You were not there on the 16th of May at the house of Mrs. Silverman? A I didn't even know where the house was.

Q And on the 23rd of May, when you say you were there, there was no talk of marriage; is that right? A No.

Q You didn't talk about your business, and how much you were making, and that you were eligible as a husband? A No; no talk about that. I was only asked where I was working.

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Q Well, now tell us, will you, just what the topic of conversation was, what was said by the various people to you, and what you said, on the night of the 23rd of May? A On the 23rd of May, I had a conversation with them, in less than ten minutes.

When I came in there, a cousin of the young girl came in and she said she came to go out with her to buy a hat, and they started to talk about hats.

Q And you saw them for only ten minutes; is that right? A I saw them for a longer time, but I was watching them, and listening to their talk.

Q Did they say anything about Yetta's marriage to you, or anything like that? A No, sir.

Q You were just a caller there; is that right; to see Yetta, and these people happened to be there? A Yes, sir.

Q There were other people there, weren't they, besides the cousin and Yetta? A The other two ladies were there about ten or fifteen minutes, and they left.

Q Now, after these people left, did you go out? A I wanted to go away, but they wouldn't let me go away.

Q And you stayed there all the time until twenty minutes of eleven, is that right? A Yes, sir. Several times I got up to go away, and they wouldn't let me, and I told them, "You have something to attend to, to buy hats," and they said, "We have time. We don't mind it."

Q When you say "they" who do you mean? A The cousin of the girl, and the woman in the neighborhood.

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Q And did you talk to her about anything? Did you join in the conversation? A No.

Q Just sat there and never said a word? A They brought me a picture, her picture, and they showed it to me.

Q But nothing was said about marriage? A No.

Q And, after the 23rd, how often did you see Yetta? A On the 28th, that was Monday night, after our holiday, Pentacost.

Q Where was that that you saw Yetta's aunt? A In her house.

Q How long did you stay in her house that night? A Until a quarter after nine, about.

Q Were there other people present there then? A A Man was there.

Q Well, you just stayed there and talked; is that right? A Well, we were talking about registration day, that they out to go and register.

Q Anything said about marriage on that occasion? A No, nothing.

Q Did you put your arm around her or kiss her or make any other friendly demonstrations with Yetta? A No, never. I was like a stranger there. I didn't have much to do with the people.

Q After the 28th, when did you see Yetta? A The fourth of June.

Q Well, that was the time when she came to your place of business? A Yes, sir.

Q Was that before she came to your place and made a demand that

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you marry her -- that is all she said when she came to your place of business, wasn't it? A No, A man came up and said, a woman wanted to see me, and I came down in my working clothes, and I saw her there.

And I asked her, "What are you doing here?" She said, she had thought that I would go to register the following day, and she came to tell me that I shouldn't go to register.

Q And nothing else was said? A No, sir.

Q And nothing was said about marriage? A No, sir.

Q Did she ever say anything to you about marriage? A No, sir.

Q Not until she testified in the Magistrates' Court; is that right? A No.

THE TWELFTH JUROR: May I ask a question, your Honor.

THE COURT: Yes, certainly.

BY THE TWELFTH JUROR:

Q What day of the month were you born on, Mr. Rosen? A 1886, the first day of January.

THE TWELFTH: Well, I would like to know the date of the month that the complainant was born on.

MR. OLCOTT: We can recall the complainant as to that, your Honor.

THE COURT: My notes show that she said she was twenty-three years of age.

THE DEFENDANT: Four years I served in the Russian Army.

EXAMINATION BY MR. ADGE-SON:

It is testified here by the witnesses that, on

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the first occasion that you met her, you after proposing marriage to her, told her to stop work, to stop from the work that she was doing. Did you ever tell her any such thing? A I never in my life said that, to her.

Q It was testified to here by the complaining witness, and the other witnesses for the prosecution, that you had, at various times, said that you had twenty-five hundred dollars in the bank? Did you ever make any such statement to the complaining witness?

A No, sir.

Q Did you ever make any such statement to the other witnesses who testified here? A Never.

Q It was testified to by the complaining witness, that after the 16th day of May, 1917, she had met you, and told you that she was afraid she was in a pregnant condition? A She didn't say anything of the kind to me.

Q And she testified also, that you had advised her to go and see a doctor, and she said, she wanted you to accompany her?

A Nothing of the kind.

MR. AUERBACH: That's my case, sir.

MR. CLOTT: I will recall the complaining witness. The twelfth juror wanted to ask her a question, your Honor.

THE COURT: very well.

Y. E. T. A. L. V. O. F. S. K. Y., the complaining witness, being recalled by the District Attorney, in rebuttal, testified as follows:

MR. AUERBACH: If your Honor please, I just want one

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more witness as a charter witness.

THE COURT: very well.

MR. OLCOTT: Shall we have this one question now?

THE COURT: Yes. We might as well.

DIRECT EXAMINATION BY MR. OLCOTT:

Q. Do you know the day of the month, and the month and year in which you were born? A. No.

Q. You told us that you were twenty-three years of age now. What day do you celebrate as your birthday? A. I know it is about Christmas, but I have no birth certificate, and I'm not sure.

Q. And each year, at about Christmas, you say that you are a year older; is that right? A. Yes, sir.

Q. And you were twenty-three last December, last Christmas time, is that right? A. Last Christmas, I was twenty three-years old.

MR. AUERBACH: No questions.

SUR-REBUTTAL.

YETTA GOLDSSTEIN, a witness called on behalf of the defense, of 214 Eldridge Street, testified as follows:

DIRECT EXAMINATION BY MR. AUERBACH:

Q. Do you speak English Mrs. Goldstein? A. A little bit.

Q. What is your business? A. American Flag business, I make flags.

Q. Are you in business for yourself? A. Yes, sir.

Q. Do you know the defendant, Sam Brown? A. I know Sam

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Rosen.

Q How long have you known him? A (No answer)

Q (The question is repeated through the Official Interpreter.)

A More than three years.

Q How do you come to know him? A I put up a sign "To let" once, and he came and hired a bedroom in my place.

Q And has he been living with you ever since? A Yes, sir.

Q Now, it has been testified to here, Mrs. Goldstein, that subsequent to the 16th of May, 1917, Mrs. Kreiser and another woman came to your house to see Sam Rosen, and that, after a conversation that you heard, you said that if those were the facts, as these woman stated them to be, that the defendant was guilty, and ought to marry this woman, referring to Yetta Lvofsky? A I don't remember anything about it at all.

Q Did you ever hear that the defendant -- A I myself am working at a machine in the evening. We are busy people.

Q Now, you have had occasion, Mrs. Goldstien to observe the habits of the defendant? A Yes, sir.

Q Now, the defendant testified, that he has at all times, kept early hours.

(Objected to. Sustained.)

Q Will you tell the Court and jury from your observations made of the defendant and any conversations that you may have had with other people in the vicinity, what the reputation of the defendant in this case is as to respectability, and moral cleanliness?

MR. BLOTT: I object to the form of the question, your

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Honor.

(Sustained. Exception.)

MR. AUERBACH: That's all.

MR. OLCOTT: No questions.

MR. AUERBACH: We rest.

MR. OLCOTT: We rest.

MR. AUERBACH: If your Honor please, I now renew my motion to dismiss the complaint, and for the discharge of the defendant on the same grounds urged at the close of the People's case, and on the further ground that the People have failed to make out a case of seduction under promise of marriage, as alleged in the indictment.

THE COURT: Motion denied.

MR. AUERBACH: Exception.

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