

START

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CASE

CASE #2075

COURT OF GENERAL SESSIONS, OF THE PEACE.

City and County of New York, Part VI.

THE PEOPLE

against

DAVID GOLDSTEIN

impleaded with

JOHN KAPLAN.

Before HON. OTTO A. ROSALSKY, J.,

and a Jury.

2535

New York, May 17th, etc., 1915.

Indicted for criminally receiving stolen property.

Indictment filed May 12th, 1915.

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

ASSISTANT DISTRICT ATTORNEY THERON R. STRONG,

For the People.

ROBERT M. MOORE, and

LOUIS SPIEGEL, Esqs., For the Defense.

TRANSCRIPT OF STENOGRAPHER'S MINUTES.

Frank S. Beard,

Official Stenographer.

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THE PEOPLE'S TESTIMONY.

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G I O V A N N I T U R C O, of 2303 Cumberland Avenue, Brooklyn, a witness called on behalf of the People, being duly sworn, and examined through the Official Interpreter, Mr. Wilhelmina, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q Well where do you live? A 2303 Cumberland Avenue, Brooklyn.

Q What is your business? A Laundry business.

Q Do you remember receiving certain shirts on or about the 19th day of March, 1914? A Yes, sir. I received them before that.

Q Yes. When did they come to you? A Well, about a week before. I can't remember exactly the date.

Q Well who brought them to your place? A My driver.

Q And how many shirts were there? A Over two hundred dozen.

Q And how were they made up, of what material? A Silk.

Q And there were two hundred dozen of them you say?

A Yes, over two hundred dozen.

Q Where were you when you first saw them? A I seen them at headquarters, the last time.

Q Yes, but before you saw them at headquarters where did you see them last? Were they in your place of business?

A In my shop.

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Q Where is that shop? A 13 Howard Street.

Q And do you remember when you first saw them at 13 Howard Street? A (No answer).

Q (Question repeated through the Official Interpreter).

A March 18th.

Q 1914? A Yes.

Q And about what day---about what time of day did you last see them at your shop? A At about half past seven in the night.

Q And did you close up your shop then? A Yes, me and two other men.

Q And about what time did you close up the place? A About half past seven in the evening.

Q Did you lock the place when you left it? A I locked it and my man takes the key with him.

Q And what are your premises there, 13 Howard Street? Tell us about your shop. Describe it to us? A It's on the top floor.

Q And how many rooms? A It's one loft.

Q One loft? A Yes, sir.

Q And how many windows? A I can't remember that?

Q About how many windows? A About ten or twelve.

Q And do you know whether those were opened or closed when you locked your shop that evening? A They were all closed up.

Q Are you sure of that? A Yes, sir.

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Q When was the next time you came to your shop? A The next morning, the 19th.

Q And what was the condition of it at that time? A Well when I went there, I find all the shirts on the floor, because my man went there before.

Q What is that? A My man opened the shop before me.

Q And what is his name? A Carmen Cinero.

Q And is he here? A Yes, sir.

Q Did you ever see any of this property again? Oh, by the way, did you examine your property? A Yes, I examined it.

Q And did you find anything missing? A Yes, sir.

Q What did you find missing? A Oh, about a hundred and eighty some add dozen. I can't remember all in my mind.

Q A hundred and eighty dozen what? A The silk shirts.

Q Were those the silk shirts that you say you received from---oh, by the way, who did you receive those shirts from? I don't know whether I asked you that? A From Liebowitz & Son.

Q And, as I understand, you received those shirts about a week before this happened? A Yes, sir.

Q And have you seen any of those shirts since they were taken from you? A Yes, I seen some in the District Attorney's office.

Q In my office? A Yes, sir.

Q And how many of those shirts did you see? A I don't

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know whether it was a dozen or two dozen. I don't know how many it was.

Q And do you know whether those were the same shirts that were taken from your place? A They were the same identical shirts.

MR. STRONG: That's all.

CROSS EXAMINATION: None.

MR. STRONG: Oh, just a minute. I would like to recall the witness for a minute.

G I O V A N N I T U R C O, being recalled by the District Attorney, testified as follows;

DIRECT EXAMINATION BY MR. STRONG:

Q Now, I show you some shirts and ask you whether you recognize them. Look them over carefully? A Yes, that's the label, that's the goods. (Indicating).

Q Well, how do you recognize those? A The label and the goods are the same.

Q The label or the label, which do you say? A The label.

Q Did you do any work on those shirts yourself? A Yes.

Q And what work did you do on those shirts? A Stiffened up the bands. I laundered the bands, and folded them up. This shirt wasn't done, and this other shirt was done. (Indicating). Some were ironed over, and some were not. Some of the shirts were already ironed, and some weren't.

Q When you last saw these shirts in your place, were some of the shirts not ironed and not starched? A Yes, sir.

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Q And some were? A Yes, sir.

MR. STRONG: I offer these shirts in evidence.

GROSS EXAMINATION BY MR. MOORE:

Q Is that the mark that you referred to, "Paragon"?

A Yes.

Q And isn't that mark on all the shirts manufactured by Liebowitz & Company? A No, he's got a different mark.

Q Well, what other mark has he? A I can't remember.

Q All three of these shirts have the word "Paragon" on them, have they not? A Yes.

Q And that's the trade mark of this company, is it not?

A Yes, but his company has a different mark.

Q And how many different trade marks have they got?

A I couldn't tell you.

Q Well, how many shirts do you suppose you've done for them with the "Paragon" trade mark on them? A Oh, we used to do work right along with them.

Q And you have made up many hundreds of dozens in that way, doing the laundry work? A Yes, thousands of dozens.

Q And you can't say what firm one of the thousands of dozens that you did of these shirts may have belonged to? A Yes.

Q All four of these shirts have that word upon them. Now you couldn't tell when you did that shirt up, can you? (Indicating) A No.

Q Neither could you tell when you did this shirt up, found

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in People's Exhibit 1, (Indicating); when you did that up?

A No, sir.

Q Or that these shirts were in your place on the 18th of March? A No, but there was lots of shirts like that in my place.

Q And all that you can say is, that shirts like these were stolen? A Yes.

(The people was marked People's Exhibit 1 for identification).

THE COURT: Q How many laundries does the firm of Liebowitz & Company employ? A Four or five years ago, he used to employ four or five laundries, but he used to pay me ten thousand dollars a year for my work, and now he don't give me any work, and now I don't work, he sends his work to somebody else.

BY MR. STRONG:

Q You lost his business on account of this burglary?

A Yes, sir.

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

THE COURT: Yes, strike it out. And the Jury will disregard it.

BY THE COURT:

Q Then he gave his work to other laundries besides yours, Liebowitz & Son did? A Yes, now they do.

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LOUIS ROSENW E I G, of 145 Second Avenue, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q What is your business? A Manager.

Q Of what concern? A S. Liebowitz & Sons.

Q And what business are they in? A Manufacturers of shirts.

Q Do you know the previous witness? A Yes, sir.

Q And how long have you known him? A Oh, five years.

Q Was he--- He used to do work for you? A Yes, sir.

Q And what was the work that his concern used to do for you? A He used to launder shirts. We sent them unlaundered, and he returned them. laundered.

Q And what part of the shirt? A Neckband. And he used to fold the shirts, ready to be boxed.

Q I show to you Exhibit 1 for identification and ask you whether you recognize the contents of that bundle. Open it up and look at it? A Yes, I recognize the shirts.

Q And how do you recognize them? A I recognize them first by the material, different patterns, and then also by the label, "Paragon", and, lastly, by our number. All our shirts have a number, every shirt that goes there has a number. This shirt is "4244", N.Y." Every shirt of a lot has a number.

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Q And how many dozen do you make of the same lot?

A Maybe twenty-five dozen or maybe three hundred dozen.

Q And you remember sending shirts such as these to the laundryman who has just testified? A yes, sir.

Q And were they all of the same lot number or different lot numbers? A There were two hundred---one hundred and ninety-nine dozen of the same lot number, forty-two forty-four, and ten dozen of forty-two sixty-one lot number.

Q Now are all the shirts in that exhibit one lot number?

A Yes.

Q And you know what was done by your concern with these shirts? A Why, we delivered them to the expressman that worked for the "Expert Laundry", on different days, and the total quantity was two hundred and nine dozen.

THE COURT: Let me ask one question of this witness.

BY THE COURT:

Q You say that one hundred and ninety-dozen were of the same lot number, forty-two forty-four? A Yes, sir.

Q Now with reference to the pattern and the material, did they differ or were they the same? A They did differ.

Q The material differed? A Yes, sir.

Q And the pattern differed? A Yes, sir.

Q But they all had the same lot number? A The patterns differed, but the material was the same.

Q That is different colored stripes? A Yes, sir.

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BY MR. STRONG:

Q Did you deliver all of that lot number to Turco's man?

A We delivered all we had on hand at that time, one hundred and ninety-nine dozen.

BY THE COURT:

Q Now did you give shirts to any other laundryman? How many laundrymen does your firm employ? A We only employed one at that time.

Q Which one was that? A "The Expert Laundry", Mr. Turco's laundry.

Q And that was the only concern that did work for you at time? A Yes, sir.

Q And that is the only concern to which you delivered the shirts of the lot numbers that you have described? A Yes, at that time.

BY MR. STRONG:

Q And when did you obtain any more of that lot number?

A Why, we obtained some after the twentieth of March.

Q After March twentieth? A Yes, sir.

BY THE COURT:

Q What year? A 1914.

MR. STRONG: That was after the burglary, Your Honor.

Q And do you know what became of the balance that you obtained on that date? A Well we sent them to a different laundry.

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Q To a different laundry? A Yes.

Q Did you receive them back again? A Yes.

Q So you have got those back in your possession? A Yes,

sir.

CROSS EXAMINATION BY MR. MOORE:

Q Under this lot number, 4244, how many shirts did you manufacture? A About three hundred dozen.

Q Had you manufactured and sent to the laundry any before this lot of one hundred and ninety-nine dozen? A No, sir; as soon as they were finished in the sewing department, we sent them to the laundry department.

Q Well, I assume that is so. Are these the first lot of the three hundred dozen that were sent out? A Yes, sir.

Q Well I show you this lot. Are these the first lot of the two hundred dozen that were sent out? A Yes, these were sent in four different shipments.

Q Now when was the first shipment? A On March 12th.

Q And the second? A March 13th.

Q And the next one? A March 16th.

Q And the next one? A March 18th.

Q And that made the four shipments, up to the time that these shirts were disposed of? A Yes, sir.

THE COURT: When was the alleged burglary?

MR. STRONG: The night of the 18th and the 19th--
the morning of the 19th.

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BY MR. MOORE:

Q When did you ship the other hundred dozen? A Why, after the twentieth. I don't remember the date.

Q And you say you shipped those to another laundry? A Yes, sir.

Q And those were all returned to you? A Yes, sir.

Q And how soon after the twentieth were they returned, or after the eighteenth? A About two weeks.

Q And then you say they were returned to you about the first of April? A Yes, sir.

Q And what did you do with them after they were returned to you? A We stamped them with an initial, and sent them out to the trade, so that we could identify them from the lot that was stolen.

Q That is, you put a special mark on these particular shirts? A Yes, we prefixed the letter "P".

Q And of the number 4461, how many did you manufacture? A About twenty-five dozen.

Q And those were in the first lot that were sent to the laundry? A No, sir.

Q They were sent about the twentieth, the balance of the second lot? A About the same time, yes.

Q And you got them back about the same time that you did the others? A About that.

Q And did you put a special brand on those? A No, sir.

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Q So that there was nothing about the lot 4261 so that you could identify them from the stolen ones? A No, sir.

Q Is that right? A Yes, sir.

J O H N J. M E N S C H I N G, of 209 Lee Avenue, Brooklyn, a witness called on behalf of the People, being duly sworn, testified as follows;

DIRECT EXAMINATION BY MR. STRONG:

Q What is your business, Mr. Mensching? A Express.

Q Expressman? A Yes, sir.

Q And how long have you been in that business? A About thirty or thirty-five years.

Q And where is your place of business? A 307 Bowery.

Q And it is your brother that is in business with you there, Mr. William Mensching? A No, that's my son. He was working for me. He is now working for the Schuberts.

Q Do you know this defendant sitting here (Indicating the defendant)? A Yes.

Q And how long have you known him? A Well, the first time I met him was about a year or a little over a year ago.

Q And did you have some transaction with him on or about the eighteenth or twentieth day of March, 1914? A Yes, sir.

Q Do you remember the date? A I don't just recall the date, but I do recall that it was on a Friday---or, rather, Saturday morning. Excuse me.

Q Yes, Saturday morning? A Yes, sir.

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Q And where did you meet him? A Mr. Bunselman, of 108 First Street, came into my place with him and told me that he had some trunks that he wanted me to take care of for a few days.

Q And you had known Mr. Bunselman before, had you?

A Yes, for more than twenty years.

Q And he introduced this defendant to you? A Yes, sir, as a friend of his, no name.

Q And did they have the trunks with them at that time?

A No, sir.

Q Now, when was the first time that you saw the defendant, after your introduction to him by Mr. Bunselman? A That same afternoon.

Q And where did you see him then?

THE COURT: Pardon me.

BY THE COURT:

Q Who came there with the defendant? A Mr. Bunselman.

Q And at that time they did not have any trunks? A No, sir, they gave me an order for the trunks.

BY MR. STRONG:

Q And who gave you the order for the trunks? A This gentleman. (Indicating the defendant).

Q And what did you do with the order? A I turned over the storage receipt to Mr. Hartman, of 6, 8 and 10 First Street.

Q And you say you saw this defendant in the afternoon?

A Yes, the same day.

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Q And he gave you the order for the trunks at that time?

A No, sir, he gave me the order the first time.

Q He gave you the order for the trunks? A Yes, sir.

BY THE COURT:

Q Was that in the morning? A Yes.

Q And then you saw him twice that day? A Yes, sir,
and then he came in in he afternoon and took one of the trunks
away.

BY MR. STRONG:

Q Oh, I see. You got the trunks in the meantime?

A Yes, sir. He waited at the place, at my place. I didn't
have a wagon in at the time, and I sent a man with a hand truck
for them, and Mr. Bunselman and him were there when they were
brought in.

Q And how many trunks were there? A Four.

Q Now, after you got the trunks around to your place of
business, did you have any talk with the defendant?

BY THE COURT:

Q Where did you get the trunks from? A 6, 8 and 10
First Street, from Mr. Hartman, a storage warehouse.

BY MR. STRONG:

Q And did you have any talk with the defendant about the
trunks after they came to your place of business? A He said,
that he would leave them there for a few days, and take them
away.

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Q What happened after that? A And then he came in the afternoon, possibly about three or four o'clock, and wanted one of the trunks to go to Second Avenue, and I asked him the address and he said, "Never mind the address. I'll tell the driver." and so he waited for my boy to come in, who was driving the wagon, and we put a trunk on the wagon, and my boy delivered it at 97 Second Avenue, I believe.

Q Did you ever see that trunk again? A No, sir.

Q And when did you next see the defendant after that?

A On the following Monday.

Q Yes? A And then he came in with another gentleman, and asked---I was all alone in the place at the time---and one flight up---and he asked me if I would mind stepping downstairs for a few moments; that he wanted to show the gentleman what was in the trunks, and so I told him, "All right", and he handed me fifty cents and told me to go out and take a drink; I stayed downstairs for twenty-five minutes and was just going upstairs, because it was kind of cool, and he came to the door and said, "It's all right. This gentleman will now give you the address where to send the trunks."

Q And did that gentleman do so? A Yes, sir, he gave me the address to ship them to Savannah, Ga., and he waited till I went out and got some rope, and tied the three trunks up, and then he made me put tags on them, which I nailed on the top of the trunks, with the address, and he said, "I want them to go

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right away," and I said, "Well I haven't got a wagon right away,"¹⁷
and he said, "Well, I'll be back in an hour, " and so the gentleman
called back and they both went away together.

BY THE COURT:

Q What other gentleman? A Mr. Kaplan, I believe, of
savannah, Ga.

BY MR. STRONG:

Q And he is the one who came there with he defendant?

A Yes, sir. And after that I gave a receipt, the Adams Express
receipt, to Mr. Kaplan, after I had shipped the trunks away.

Q You didn't see the contents of the trunks at any time,
did you? A No, sir.

Q While they were at your place? A No, sir.

Q You just saw the trunks? A yes, sir.

Q Have you ever seen any of the trunks since? A Yes,
at Police Headquarters.

Q And did you recognize them as being the same trunks that
were in your place? A Yes, sir.

BY THE COURT:

Q Did you test those trunks, to see whether they were
locked? A Yes; at the time they went away they were locked
and tied.

CROSS EXAMINATION BY MR. MOORE:

Q This was on the nineteenth of March, was it? A It was
on a Saturday. I don't recall the date.

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Q And the defendant came to you with your friend Bunselman? A Yes.

Q How long have you known Mr. Bunselman? A More than twenty years.

Q You never knew the defendant at all, did you? A No, sir.

Q And he didn't tell you who the defendant was upon that occasion; did he? A He just said he was a friend of his.

Q And he never told you who that friend was, did he?
A I never asked him.

Q And you say you went over to Hartman's Storage Warehouse?
A No, I sent a man over there, or a boy, with a push cart, a hand truck.

Q And you got the four trunks from Hartman and put them in your place? A Yes, sir.

Q And did you record them in the name of anybody, as being stored by any person there? A I didn't know his name, so I put "Bunselman".

MR. MOORE: I move to strike that out that he didn't know his name.

THE COURT: Motion granted.

BY MR. MOORE:

Q Did you register them in anybody's name? A Yes.

Q Well, whose name did you put on them? A Bunselman.

Q And you stored them, or pretended to store them, in the name of your friend of twenty years? A Well he said for a day

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or two.

Q I don't care how long. You didn't know how long they were to stay? A No, sir.

Q When you take goods to store them, you register them in the name of the person who stores them with you, don't you?

A I don't make a practice of storing trunks or any other stuff for more than a day or two.

Q Well, anyway, you make a memorandum of the person who leaves the goods with you to store? A Yes.

Q And then you differed from your ordinary rule, and didn't record them in the name of the man who left them there, did you?

A Well I didn't know him.

Q (Question repeated). A No.

Q And there were these four trunks? A Yes.

Q And you say, the same day, in the middle of the afternoon he came there and told you to take one trunk away? A Yes.

Q And you took that where? A Second Avenue.

Q And, on Monday, he came and told you to ship the others to Savannah? A Yes.

Q Did he tell you to ship them to Savannah, or was it the other man, Kaplan? A He said the other man would give the address.

Q Are you sure about that? A Yes.

Q You testified in the Magistrate's Court, didn't you?

A Yes.

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Q What is the name of your concern? A Curtin's Express.

Q After having taken the goods that the defendant brought there, and registered them in the name of your friend Benselman, in whose name did you ship them to Savannah? A I believe the name is Kaplan, he gave.

Q No, I mean as the shipper of the goods? A Curtin's Express.

Q You shipped them in your own name, did you not? A I always do ship any goods---

MR. MOORE: I object to that and move to strike that out.

THE COURT: Motion granted.

BY MR. MOORE:

Q Then it was not your goods that you shipped? A No, sir.

Q It was the goods of man that you didn't know? A Yes.

Q For that reason you shipped them in your own name?

A Well, he didn't give any name to ship them by.

Q Well, didn't you ask him the name of the shipper of the goods? A No, sir.

Q You knew that they were not yours? A Yes.

Q Then you ought not to have shipped them in your name; should you? A Well, the man come back, and got a receipt for the trunks.

Q That you had shipped in your own name? A Yes.

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Q Who is the man who came back and got the receipt?

A The man that left the order for Savannah.

Q Do you know anything that was in those trunks? A No, sir.

Q Did you know anything that was in those trunks? A No, sir.

Q Not a thing? A No, sir.

Q Didn't make an inquiry? A No, sir.

Q Did you think that it was at all strange that the defendant should come there with another strange man, and ask you to leave the storage warehouse for half an hour while he showed the other man goods? A No, that often happens.

MR. MOORE: I object to that and move to strike that out.

THE COURT: Strike it out.

BY MR. MOORE:

Q And after he had asked permission to take a strange man into a private room, you still shipped the goods in your own name, didn't you? A Yes.

Q And you never knew what was in any of those trunks? A No, sir.

Q Why, didn't you sell three dozen of them yourself? A Not from them trunks, no.

MR. MOORE: I move to strike that out.

Q Didn't you sell three dozen of those shirts that came to

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your place in those trunks? A No, they came in in a valise.

Q This is the first time you have ever mentioned a valise in this case, is it not? A No, sir.

Q Did you say anything in the Magistrate's Court about a valise? A I'm almost sure I did.

Q Now, don't you know that you didn't? A No, sir, I don't.

Q Then did he bring four trunks and a valise, with shirts? A No, sir.

Q Well, did somebody else bring the valise, full of shirts? A Somebody else brought that in.

Q Who was the one that brought the valise, full of shirts? A I didn't have any name from him either.

Q The man that brought the valise full of shirts didn't give you any name either? A No, sir.

Q Did you register them in the name of your friend Bunselman? A No, sir.

Q Or of your own name? A No, sir.

Q Well, you sold them in your own name, A Yes.

Q How many dozen of them were there? A I believe there was seven or eight dozen.

Q And you sold them to a man by the name of Harry Beyer, did you not? A He got some of them, yes.

Q How many dozen did you sell him? A Three.

Q And who did you sell the rest to? A Different people.

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Q Well they all bought some of them? A A man named Stein got some, on Third Avenue.

Q How many did you sell him? A Well, in fact, he disposed of the balance that was at his place.

Q And that balance was about six or eight dozen, wasn't it? A About five dozen.

Q Eight dozen, all together then, that you admit having sold? A Yes.

Q And you sold them for a good deal less than they were worth, didn't you? A I didn't know the value of them when I sold them.

Q Didn't you know every one of these silk shirts—or, rather, that three dozen of them is worth more than thirty dollars? A No, sir.

Q You didn't? A No, sir.

Q What did you pay for them when you bought them? I paid seventy-five cents for them, after I sold them, and I sold them for one dollar apiece.

Q That is, those which you bought, you paid ^{five}seventy-cents each for? A Yes.

Q And sold them for a dollar? A Yes, sir.

Q And I suppose this is the first time you ever dealt in silk shirts? A Yes.

Q And, when you got this eight dozen silk shirts, at this bargain price, seventy-five cents, it occurred to you to ask

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somebody what a shirt like that was worth? A No, sir, I didn't think of it.

Q And you didn't care, did you? A I never thought to ask.

Q And isn't it a fact that you didn't care to ask anybody because you knew they were stolen shirts? A No, sir.

Q And in April, you were arrested, were you not, for selling these stolen shirts to Beyer? A Yes.

Q And he was arrested at the same time, for having these stolen shirts in his possession, and selling them? A Yes.

Q And you knew he was retailing them here in New York? A No, sir, I didn't.

BY MR. MOORE:

Q Is Mr. Beyer outside?

BY COUNSEL:

I don't know.

THE WITNESS: No; he isn't outside.

THE CAPTAIN: He doesn't answer.

BY MR. MOORE:

Q Now just when was this valise, full of silk shirts, brought to your place, by this strange man who didn't give any name? A On Monday or Tuesday of the same week that the trunks went away.

Q And how soon after that was it that you sold some of these shirts to Beyer? A Possibly three or four days after.

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Q Now, after you were arrested, and taken to the Police station upon the charge of having three dozen of these stolen shirts in your possession, you then said you got them from Goldstein, didn't you? A No, sir.

Q Did you say anything about Goldstein at that time?
A No, sir.

Q Did you ever say anything about him? A Not that I know of.

Q Why, don't you know that, after that, you said to the Police what you are saying now, that Goldstein brought the trunks to you, and you were arrested and let go? A Yes, sir.

Q Then you did say something about Goldstein? A Yes.

Q In other words, you charged him with being the man that brought this stuff to your place? A With the trunks.

Q Well, with the shirts, I am talking of now? A Well, he had taken a package, out the day he was up there with the other man, and left it there.

Q And you didn't see what was in that package, did you?
A Yes.

Q What was in it? A Shirts.

Q Didn't you swear, in the Magistrate's Court, that you didn't know what was in the package? A He took it out of the trunks, and left it with me.

Q (Question repeated). A Not at the time he took it out, but, after he left, I looked at it.

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Q (Question repeated). A Not that I can recall.

Q Now, then, do I get you right; then, after he left there on Monday---was that the day you saw him take out the package? A No; Monday he took it out of the trunks.

Q Well, when did he come, and leave the package, and come back after it? A On Monday.

Q And, during the time that package was there, and he was absent, you looked into it and found the shirts were in it?

A The package wasn't tied up, and laid on the floor, and opened and I saw what was in it.

Q And, on the same day, some one came and sold you eight dozen of the same shirts? A The same day or the following day.

Q And I suppose that didn't appear at all strange to you, that that happened? A No, sir.

Q And you were perfectly willing, after that, to ship these trunks to Savannah in your own name? A Well, but they had gone then.

Q It wasn't upon the written order of Mr. Goldstein, or any one else that you shipped these trunks; was it? A Goldstein introduced the man.

Q No, just answer me. Was it upon a written order?

A No, sir.

Q Was this question asked you in the Magistrate's Court:

"Q" Upon what kind of order did you ship? Written order?

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A Personal order of Mr. Goldstein and another man that was with him." Is that correct? A Yes.

Q You didn't see the defendant take the package out of the trunks? A No, sir.

Q You say he came there with a package. Now did he make up the package while he was in the room with this strange man?

A He made it up, and he said he was going to leave it there for a day or two, and I told him all right.

Q Did you swear to this in the Magistrate's Court: "Q" What was the occasion of his coming there the fourth time? A He had left a package there"? A Yes.

Q Well, did he leave a package there? A After he went away from the trunks, he left a package.

Q Oh, that's what you mean? He had made up the package, and forgot to take it away with him? A No, he didn't forget it. He asked me to mind it for him.

Q Now, you minded everything that was left there in your storage warehouse? A Yes; it's a common occurrence to go away for a day or two, or an hour or two.

Q Now, isn't it a matter of fact that you are trying to protect your friend Bunselman and yourself from the receiving of the stolen goods? A No, sir.

Q And you can't tell us who you bought these eight dozen shirts from, except some stranger, some mysterious man? A No, sir, I hadn't seen him before or since.

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Q And you didn't ask him where he got them? A No, sir.

Q And you didn't think it at all strange that a strange, mysterious man should be there, selling you shirts by the dozen?

A No, sir; not at the time.

Q And that's the only explanation you can make of having sold the portion of these shirts that you did sell? A Yes, sir.

RE-DIRECT EXAMINATION BY MR. STRONG:

Q You say you received three dozen of these shirts in a suit case? A I don't know how many were in the suit case.

MR. MOORE: He said eight dozen.

BY MR. STRONG:

Q About how many? A Well, there was about eight dozen.

Q And when was it that you received that eight dozen?

A It was either one or two days after the trunks had gone away to Savannah.

Q And you say you don't know from whom you received them?

A No, sir.

Q What sort of a looking man was he? A Oh, he was a man taller than what I was.

Q Well, describe him? A I should judge he was a man about five foot eight or nine, and weighed about one hundred and eighty-five pounds I should judge.

Q And have you got the suit case? A No, sir; it was called for.

Q What? A He took it away.

Q And did you pay for the shirts? A I didn't sell

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them all at once, but whatever I sold I paid him for.

Q How much did you pay for each one? A Seventy-five cents.

Q And did you sell them all? A Yes. Sometimes I sold two or three at a time, and three dozen to Beyer. That was the last I had there.

Q And how much did you get for them? A Seventy-five cents a piece.

RE-CROSS EXAMINATION BY MR. MOORE:

Q You said you paid for the shirts as you sold them?

A Yes.

Q Paid this stranger who didn't give you his name?

A He came every night for a week, about.

Q He thought pretty well of you, didn't he? A I don't know about that.

Q A stranger to trust you with three dozen shirts, to pay for as you please? A Well, he came in every evening, for about a week, until I sold them all..

Q Did he bring those whole eight dozen shirts in a valise at one time? A Yes, and took them out himself.

Q And then he didn't come there with a dozen at a time?

A No, but he gave them to me that way.

Q Didn't he give you eight dozen at one time? A Yes, in the valise.

Q After that did he give you any more? A No, sir.

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He would come and take them out, and lay them on the floor for me.

Q And then you would sell them? A Yes, sir.

Q And then he would come back and get the money? A The next night.

Q And how long was that going on? A Possibly a week.

Q Why, it was more than a week, wasn't it? A I don't think so.

Q It never occurred to you at any time while he was coming there, every day or night, to get the money, or returns from these shirts, to say, "What's your name, Mister?" A No, sir.

Q You were not interested in that? A No, sir.

Q You were perfectly satisfied to come into court and say that it was a mysterious stranger, that can't be found?

A Well, I've tried to find him.

A L B E R T H A R T M A N , of 304 Second Avenue, a witness called on behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q What is your business? A Warehouse.

Q And what is your position there in the warehouse?

Is it your warehouse? A I am President. It's a corporation.

Q What is the name of the corporation? A The Knickerbocker Storage Warehouse.

Q Do you remember delivering certain trunks to Mr. Turco,

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or his representative---I mean Mr. Turco---no, I mean Mr. Men-
sching, or his representative? A Yes.

Q Do you know what day that was on? A March 21st.

Q And do you remember who you got those trunks from?

A No, I don't.

Q And when did you get them? A March 30th.

Q And who brought them to your place? A An expressman,
two at a time.

Q And do you know who the expressman was? A No. It
was an east side expressman, and I've tried to trace him but I
couldn't. He came with the other man that put them in, and
the expressman didn't make himself known, but just threw the
trunks on the elevator and went away.

Q And under whose name did you register them there?

MR. MOORE: I object to that.

MR. STRONG: I will withdraw the question.

THE COURT: Sustained.

BY MR. STRONG:

Q Well, you kept them thereat your place, these four
trunks? A Yes, sir.

Q And you say you delivered them, later on, to Mr. Men-
sching? A Yes, sir.

Q And did you get any receipt of order? A Yes, but I
gave it to the policeman who came up to see me.

Q You gave it to the policeman that came up to see you?

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A Yes, sir.

Q And after you had delivered the trunks, did you ever see them again? A No, sir.

Q So you don't know who brought them to your place, but you remember giving them to Mr. Mensching? A Yes, sir.

Q Was anybody with him when you gave them to him.

A Mr. Bunselman came there first to get them out, and he didn't have an order. He had a warehouse receipt, and we told him that he would have to have an order from the man under whose name they were stored.

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Q Well under what name were they stored in the place?

A Mr. Gold.

Q Who? A Mr. Harry Gold.

MR. MOORE: I object to that if your Honor please, if they were not stored under the name of the defendant.

THE COURT: That is incompetent, and that will be stricken out, the reference to Gold.

CROSS EXAMINATION BY MR. MOORE:

Q Do you know Mr. Bunzelmann then? A Yes sir.

Q And about how long was it before the expressman came around, and did get the trunk that Mr. Bunzelman was there? A Oh, I should judge about half an hour or so.

Q And Mr. Bunzelman came without a receipt? A No, he has a warehouse receipt.

Q What was it that you wanted? A An order from Mr. Gold.

Q Oh, you wanted an order? A Yes.

Q And where is your place of business? A #8 First Street, 6, 8, and 10 First Street.

Q And he was gone about half an hour? A Yes.

Q And came back with an order purporting to be signed in the name of the man in whose name the goods were stored? A Yes.

Q Now do you know where the defendant's place of business is? A No sir.

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Q At 37th Street and Broadway? A No sir.

Q And did Mr. Bunzelman come back with a receipt or order, or did he -- A No, I believe not.

Q Now do you recollect whether he sent that by the expressman or not? A By the expressman I believe.

Q But you are not certain whether he came back? A No, I am not positive of that any more.

M I C H A E L B U N Z E L M A N, of 100 First Street, a witness called in behalf of the people, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q What is your business? A Dealer in leaf tobacco.

Q And where is your place of business? A At 100 First Street.

Q Number 100 First Street? A yes sir.

Q Do you know this defendant? A Yes sir.

Q How long have you known him? A A few years.

Q A few years before March 20th, 1914? A yes sir.

Q And do you remember meeting him about that time?

A Yes sir.

Q Will you state under what circumstances you met him about that time? A One Saturday morning I come down to my place and Mr. Goldstein has been waiting for me, and he has been waiting there a few minutes before I come in; and he asked me who my truckman was, and I mentioned Mr. John Mensching, and he said he has some work for Mr. Mensching, and

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he would like me to go over with him and introduce him, and I said "All right".

And I walked over and introduced him to Mr. Mensching and, on the way over, he asked me if I knew Mr. Hartman, in the warehouse, and he said, "I've got a warehouse receipt here, and I would like to see if you could go in there and get that stuff out for me."

And I went there alone, and I told Mr. Hartman that this party wanted the merchandise out, and he said, "You will have to get a delivery order for it."

And I walked out and told Mr. Goldstein that there must be a delivery order, and we walked over to Second Avenue and he met another party there.

Q Do you know who that was? A No sir. The other party made the delivery order and give it to me and I walked over with Mr. Goldstein, over to Mr. Mensching's place, and I stopped in to see Mr. Hartman, and showed it to him, and he said it was all right.

Q And do you remember what was in that order? A "Kindly deliver --"

MR. MOORE: One moment, I object.

THE COURT: Who has the order?

MR. STRONG: The officer, and he is at present in the parade in Honor of the President of the United States.

THE COURT: Sustained.

A (Continued) Then I went around with Goldstein to Mr.

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Mensching's place of business, and introduced Mr. Goldstein to Mr. Mensching.

BY THE COURT:

Q What did you say to Mr. Mensching? A I said, "I have a party here who has som work to be done. He wants some expressing done."

CROSS EXAMINATION BY MR. MOORE:

Q What did you say your business was? A Leaf tobacco

Q Well what do you mean by that? A Selling leaf tobacco to cigar manufacturers.

Q In business for yourself? A With my father.

Q How long have you been in that business? A Oh, about ten or twelve years.

Q Do you wholesale tobacco? A Both wholesale and retail.

Q Mostly retail? A Yes.

Q Have you your own delivery wagons? A No sir.

Q Where is your place of business? A 100 First Street.

Q And how far is Mensching's express office from yours?

A At the Bowery and First Street.

Q And, if you want to send out goods, you send down to the Bowery for a truckman? A If we have a case, that's all. If we have packages, we send them out by a boy.

Q On this particular morning this defendant came to you and asked you who your truckman was? A yes sir.

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Q You told him it was Mensching? A Yes

Q And that you would go down and introduce him to him?

A Yes.

Q You didn't introduce him to Hartman, did you? A No sir.

Q He waited outside, you say, while you went inside?

A He waited at Second Avenue and First Street, at the corner

Q And how far is that from Hartman's place? A About fifty feet.

Q And you went in there? A I went into Mr. Hartman's place, yes.

Q With the receipt? A Yes sir.

Q And you went into Mr. Hartman's place and ordered the goods shipped over to Mensching's didn't you? A No sir. I said, "This party wants these goods to be ready, because he will have an expressman call for them".

Q Didn't you say you wanted them shipped over to Mensching's? A No sir.

Q And didn't Mr. Hartman tell you that he couldn't ship them without an order from the man that owned them? A Yes.

Q And you went out and came back in a little while with a shipping order? A I went right over and told that to Mr. Goldstein, he took me across the street to a delicatessen store.

Q Never mind where he took you. You went out and came back with the order in half an hour? A Yes.

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Q And you know where Mr. Goldstein's place of business was then? A At Hamilton Place.

Q Where is that about? A About 137th Street.

Q About what time were you in Hartman's with this receipt? A Half past 9 in the morning.

Q You didn't, of course, think it at all strange that the defendant stood fifty feet away from Hartman's place on the corner? A No sir.

Q While you went in with this deceased? A No sir.

Q You didn't think it strange? A No sir.

Q Didn't you say, "It ^{is} strange you want me to transact this business for you?" A No sir; he being a friend of mine.

Q Well, he could have transacted his own business down there, so far as going in, and telling Mr. Hartman to get the goods ready, that somebody was coming for them? A I suppose so.

Q Now you have been a friend of Mensching's much longer than you have been a friend of this defendant's; hadn't you? A Yes.

Q And you have been intimate with him for the last twenty years haven't you? A Yes.

Q And you didn't tell your friend Mensching, when you got the goods over there, whatever they were, to enter them in your name, did you? A No sir.

Q Do you know that he did enter them upon the books

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of the Storage Warehouse, or place, in your name? A No sir³⁹

Q Did he tell you about that? A No sir.

Q Now, when you went out, after being in Hartman's and saw the defendant, about fifty feet away, where did you say you went with him? A I went across on Second Avenue to a delicatessen Store. He went to meet another party that was there.

Q When you got into the delicatessen store, the other party -- he wrote out a shipping order didn't he? A Yes.

Q Gave it to you? A Gave it to Mr. Goldstein.

Q And Mr. Goldstein gave it to you? A Yes. He handed it to me while going over to Mr. Hartman's place.

Q So that you went back again into Mr. Hartman's place with a shipping order? A Yes sir.

Q And Mr. Goldstein didn't go in with you then? A No sir.

Q So that you met Goldstein, as I understand you right and he told you that he wanted to go down there because he wanted to ship some goods? A Yes sir.

Q And you went in there and ordered the goods shipped? A No sir.

Q Is that right? A No sir.

Q Went in and told them you wanted to have them shipped? A Yes.

Q And they said that you would have to have a shipping order? A yes.

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Q And you went out and told Goldstein that you would have to have a shipping order? A Yes.

Q And then he got some one else to sign this shipping order? A Yes, in the delicatessen store.

Q Who was that man? A I don't know. I never seen him before.

Q You were not down there running errands for him, were you? A No sir.

Q You were no friend of his? A No sir.

Q And then you went over with him to Mensching's? A No sir, to Mr. Goldstein's, and I just introduced him to Mr. Mensching.

Q You introduced him, did you? A Yes sir.

Q What did you say? A I said, "Mr. Mensching, this is Mr. Goldstein."

Q Sure about that? A Yes.

Q You didn't say, "This is a friend of mine?" A I said "This is Mr. Goldstein, a friend of mine."

Q Then Mensching did know the name? A I don't know whether he remembered it or not.

Q And you told him he wanted to store some goods there? A I don't know what he said to Mensching. He told me he had some expressing for him.

Q You can't tell, I suppose, or explain to us why -- I withdraw that. There is no doubt at all that Mesching knew these trunks didn't belong to you? A Yes sir.

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Q And you can't tell us why ^{he} you, having introduced Goldstein to him, should have entered those goods in his books in your name? A No, I don't know why.

BY THE COURT:

Q How long have you known the defendant? A About two or three years.

RE-DIRECT EXAMINATION BY MR. STRONG:

Q Did you hear this defendant mention the name of the other party that you met in the delicatessen store? A No sir.

Q And you saw the other man and not this defendant, sign the order? A Yes.

RE-CROSS EXAMINATION BY MR. MOORE:

Q You have known the defendant for less than a year at the time this happened? A About a year.

Q Well, wasn't it less than a year at the time that this happened? A About a year.

Q Well, "about" is indefinite. It is even less than a year wasn't it? A Well it might have been a month less or more. I can't say exactly.

Q And where was your place of business? A 100 First Street, and it has been there for the last sixteen or seventeen years.

Q Over a hundred blocks from the defendant's place of

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business, is it not? A Yes.

EDWARD CASTANO, First Branch Detective Bureau
a witness called on behalf of the people, being duly
sworn testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q How long have you been in the Detective Bureau in
this City? A Eight years.

Q You investigated this case against David Goldstein
didn't you? A Yes sir.

Q Now how was your attention called to this case?

MR. MOORE: I object to that if your Honor
please as entirely immaterial.

MR. STRONG: I withdraw the question.

Q Now did you arrest the defendant? A Yes sir.

Q Whereabouts? A 137th Street and Broadway, in a
cafe.

Q And, when you arrested him, did you search him?

A Yes sir.

Q And did you have any conversation with him? A Yes
sir, I did.

Q Now state just what you found on the defendant,
what your conversation with him was? A I had a conversation
with regard to some shirts that had been stolen from 30
Howard Street, and the defendant denied all knowledge of
them.

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THE COURT: Now wait. Strike out the conversation, and the jury will disregard it, or what purports to be a conversation. 43

MR. MOORE: I have no objection to the conversation.

THE COURT: Well, on consent of counsel, he may give the conversation.

BY MR. STRONG:

Q Go on, officer. Tell what the defendant said? A And he denied all knowledge of it.

BY THE COURT:

Q What did he say? A He said that he didn't know Bunzelman, the person that had taken me up there and pointed out the defendant.

Q The defendant said he did not know Mr. Bunzelman? A Yes sir.

Q What else did he say? A In the station house we got a shirt on him.

Q On whom? A On the defendant Goldstein.

BY MR. STRONG:

Q And is this the shirt that you found on him?
(Indicating a shirt)?

MR. STRONG: I have taken it out of this package, officer?

A Yes sir.

Q And did you make those marks on this package? A No sir, the property clerk.

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Q And you say you recognize this shirt as being the one you took off this defendant? A Yes sir.

Q Was he wearing it? A Yes sir.

MR. STRONG: I offer that in evidence.

(It is admitted without objection, and marked People's Exhibit 2.)

BY THE COURT:

Q When did you arrest the defendant? A On April 18th.

BY MR. STRONG:

Q Now, go ahead and relate the conversation you had with the defendant when you arrested him? A I asked him where he got the shirt, and he said he bought it from somebody on Second Avenue, some man with a valise, that was selling them on the Avenue.

Q Yes. When, do you know? Did he say when he bought it? A He said that he had had it for almost two weeks

Q Anything else that he said? A Nothing else that I remember.

Q That is all he said to you? A Yes sir.

Q You placed him under arrest? A Yes sir.

Q Now, before you arrested the defendant did you see Mr. Bunzelman? A Yes sir, I did.

Q And did you go in his place with him, or did you have some conversation with Mr. Bunzelman? Just yes or no to that? A Yes, I did.

Q And after your conversation with him, where did you

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go? A To 137th Street and Broadway.

Q Is that where you found this defendant? A Yes sir.

CROSS EXAMINATION BY MR. MOORE:

Q Now you asked him in that conversation, did you not, if he knew John Mensching, the storage man, didn't you?

A I don't remember.

Q What is your best recollection? A (No answer)

Q Have you any recollection? A I asked him if he knew Mr. Bunzelman.

Q Now wasn't it Mensching, instead of Bunzelman? A I think it was Bunzelman.

Q Well that's what I am getting at. Aren't you a little mixed on the two names? A No. I think it was Bunzelman.

Q And that is as strong as you wish to put it? Is it not, officer? A Yes sir.

Q Well, did you ask him if he ever shipped any trunks upon the Knickerbocker Storage Warehouse, Hartman's place, at 8 and 10 First Street -- is it not? A Yes.

Q And what is the answer? A He told me he did not.

Q He told you that he had never shipped any trunks, and knew nothing about any trunks being shipped? A Yes sir. Being shipped to Savannah Georgia.

Q Now did you make any inquiry, officer, to find out whether it was a fact that a whole lot of silk shirts had been peddled around the East Side, about that time? A Yes sir

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there was a quantity of silk shirts peddled along the Avenue at that time, along Second Avenue.

Q Did you hunt up any of those shirts? A We recovered three dozen in the store of Baum & Medecas, on 14th Street, between Third and Fourth Avenues, Gents Furnishing goods.

Q Now look at that shirt, and say whether that is the label that was on the shirts that you recovered at that time, "Paragon"? A Well, some were labeled "Paragon" and some were labeled, "Franklin & Simons".

Q Well, at any rate, there were a number of those shirts being peddled around the East side at that time? A Yes sir.

Q As you learned? A Yes sir.

RE-DIRECT EXAMINATION BY MR. STRONG:

Q Did you see some trunks at police headquarters? A yes sir.

Q And did you take out certain shirts from each of those trunks? A Yes sir, from three trunks.

Q Now I show you People's Exhibit 1 for identification, and ask you whether you took those shirts out of one of the trunks? A Yes sir, I did.

Q Are those trunks still there? A I have no idea.

Q Do you know where they came from? A Yes, I do.

Q Where? A From Savannah Georgia.

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MR. MOORE: I object to that if your Honor please and move to strike out the answer.

THE COURT: Objection sustained. Strike out the answer.

BY MR. STRONG:

Q And did you take this package -- which I will have marked People's Exhibit 3 for identification -- out of one of those trunks, open it and look at the contents.

A Yes sir.

(It was marked People's Exhibit 3 for identification.)

Q Now look at this package. (Indicating another package) and see whether you took the shirts out of one of the trunks, the third trunk? A No sir, trunk #2.

(Marked People's Exhibit 4 for identification.)

Q You said that Bunzelman went with you, before you arrested this defendant? A Yes sir.

Q And when you had the conversation with the defendant was Bunzelman with you? A Yes sir.

Q And, as I understand it, this defendant said to you that he didn't know Bunzelman; is that it? A No sir, not at that time.

Q He said he didn't know Bunzelman? A Yes sir.

Q And Bunzelman was with you at the time? A Yes sir.

Q Now you didn't find anybody selling these shirts up at 137th Street and Broadway? A No sir, I didn't.

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RE-CROSS EXAMINATION BY MR. MOORE:

Q Did you go up there to make inquiry? A I only went up the night I placed this defendant under arrest.

Q I say, did you go up there to make any inquiry as to whether they had been sold up in that neighborhood or not?

A No sir.

MR. STRONG: If your Honor please, could we take a recess at this time until 2 o'clock?

THE COURT: Yes, until 2:10.

(The Court admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until 2:10 o'clock)

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AFTER RECESS

WILLIAM MENSCHING, of 209 Lee Avenue,
Brooklyn, called as a witness in behalf of the people
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q What is your business? A I work in the property
Department of the Shuberts.

Q Well were you in business with your father on or about
the 20th day of March 1914? A Yes sir.

Q Did you ever see this defendant? A Yes sir.

Q A little louder. Will you kindly talk up a little
louder, please? When was the first time you saw the defend
ant? A The day I got the trunk.

Q The day you got what trunk? A I picked up one in
front of our office and took it around to Second Avenue,
97 Second Avenue.

Q What did you do? Drive it around? A I was driving
a single truck.

BY THE COURT:

Q And you took it to where? A 97 Second Avenue.

BY MR. STRONG:

Q And did you see the defendant there at your of-
fice? A Yes.

Q And, later on, did you see him again? A No sir.

Q Did you see him again after you saw him at your
father's office? A I think I seen him at Second Avenue,
right as I was going away.

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MR. MOORE: I move to strike that out, if your Honor please, what he thinks.

THE COURT: Yes, motion granted.

BY MR. STRONG:

Q Go on? A I seen him at the office when I picked up the trunk.

Q And did you see him again? A I am not sure that I seen him again, because I was in a hurry, that day.

MR. MOORE: I object to that and move to strike that out, his reason.

THE COURT: Motion granted. Strike it out.

BY MR. STRONG:

Q Did you see him at the place you took the trunk to, or didn't you? A yes sir.

Q You did? A Yes sir.

Q Did you see him at the place where you took the trunk to. Yes or no?

MR. MOORE: I object to that as cross examination of his own witness. He says he don't think he saw him again.

THE COURT: Objection overruled.

MR. MOORE: Exception.

A I am not positive. I seen him once when I picked up the trunk.

BY MR. STRONG:

Q Did you see him at the place that you took the trunk to? yes or no?

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MR. MOORE: I submit he has answered that, if your Honor please.

THE COURT: He said that he did not.

MR. STRONG: I didn't get the answer one way or the other. What was the answer?

(The stenographer repeats the previous question to the witness.)

MR. STRONG: Now, I want him to answer that, yes or no.

MR. MOORE: I object to that, if your Honor please.

THE COURT: He says he is not positive.

MR. STRONG: Very well. That is sufficient.

CROSS EXAMINATION BY MR. MOORE:

Q Are you the son of the witness John Mensching? A Yes sir.

Q And you have got an interest in your father's case here, haven't you? A Yes sir.

Q You know that your father was charged with receiving these stolen goods, didn't you? A Yes sir.

Q And you are not influenced at all in saying that you saw the defendant at some time, in identifying him as having seen him at some time, because you want to save your father from prosecution for these stolen goods? A No sir.

Q And you wouldn't do that to save your father from

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going to State's Prison; would you? A No sir.

Q Not at all? A No sir; because I seen him.

Q And you wouldn't identify him, even if you wanted to save your father from going to State's Prison? A What's that?

Q I say you would not identify him, even to save your father from State's Prison? A No sir.

Q You wouldn't do that to save him? A No sir.

Q Were you working for your father -- for how long before this? A For three months, while the show business was closed.

Q And you handled considerable business didn't you?
A I done shipping every day of the week.

Q Well, about how many packages do you suppose you handled a day? A About fifty.

Q And you saw a good many different faces, didn't you?
A Well, most of the stuff I got --

Q (Question repeated) A Yes sir, I always do.

Q You were not so much interested in faces as in knowing where you were going to deliver goods; were you not? A No sir.

Q And yet you are willing to say that this is the man you saw? A Yes sir.

Q You never saw him from that time until to-day, did you? A Yes sir.

Q Where? A Any time the case was called.

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Q Oh, yes. I mean until the case come up here, two or three months ago? A Well, I have only seen him when the case was called, that's all.

Q So that from the 19th of March until pretty near a year later, you didn't see this man, did you? A Yes.

Q Where? A I recognized him the night he was taken down to Mulberry Street.

Q Now were you a witness in the Magistrate's Court?

A No sir.

Q No. Do you say that you were in Court at the time that this man was arrested? A yes sir.

Q And yet you were not called? A (No answer)

Q Is that right? A I seen the man the night he was taken in about it.

Q Well do you mean the night he was arrested? A Yes sir

Q Do you know of any reason why you were not called in the Magistrate's Court -- withdrawn. Did you tell the police officers that you recognized him? A I told Mr. Castano, yes.

Q That you knew this man? A Yes sir.

Q At that time you knew your father was arrested, didn't you? A Yes sir.

Q At that time you knew it was necessary for your father to make some explanation as to where he got this stuff; didn't you? A Yes sir.

Q You knew that your father had been selling 8 or 10 dozen of these shirts, didn't you? A No sir.

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Q Didn't you know anything about that? A No sir.

Q Didn't you know that there was a man coming there pretty near every day, and getting money for shirts that he was selling? A No sir, because I was out with the truck.

Q No, never mind the because. Didn't you hear Castano say in Court that Beyer had said that he had got three dozen shirts from your father? A Yes sir.

Q Then you did know that your father was being charged with selling the shirts, didn't you? A Yes, afterwards.

Q No, not afterwards. Then? A When he was arrested I knew about it.

Q And Beyer was discharged, because he explained that he got the shirts from your father; wasn't he? A Yes sir.

Q And you never saw or heard of anybody coming and delivering shirts to your father? A No sir.

Q And I suppose that, if your father was guilty, you would rather have him go to State's Prison than this man; wouldn't you?

MR. STRONG: I object to that.

THE COURT: Objection sustained.

BY MR. MOORE:

Q Can you describe any other man that you delivered packages for, that day? A No sir.

Q Out of fifty, this is the only one that you can pick out? A Because I got all the packages from my office, every day when I came back from the docks, and then I went down and shipped them.

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Q And you got this package from your father's office, didn't you? A Yes.

Q And you got this package from your father's office two or three hours after it was taken from Hartman's place, didn't you? A yes sir.

Q And, if the defendant owned it, did you know of any reason why he didn't ship it from Hartman's, instead of transferring it around from Hartman's place?

MR. STRONG: I object to that?

THE COURT: Objection sustained.

BY MR. MOORE:

Q Well, as I understand it, you got the trunk from your father's place? A yes sir.

Q On a certain day in March? A yes sir.

Q And you saw the defendant in your father's place, you claim, on that day? A yes sir.

Q And that is all? A yes sir.

EDWARD CASTANO being recalled by the District Attorney, testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q Which bundle of shirts did you take out of this trunk? (Indicating a trunk) A There were four taken from each trunk.

Q Now can you tell me which bundle you took from this trunk? Have you got it marked in any way? A There is the mark right there, "5633".

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Q You say there was one package taken out of each trunk? Each of these trunks? A There were four shirts taken out of each trunk, out of three trunks.

Q There were four shirts taken out of each trunk? Out of three trunks? A Yes sir.

Q I see. And you did those up in bundles? A Yes sir.

Q The bundles which we have here in Court? A Yes sir.

Q These three bundles one of them was taken out of each trunk? A Yes sir.

Q And where are the other two trunks. A Down stairs in the corridor.

CROSS EXAMINATION: None.

JOHN J. MENSCHING being recalled by the District Attorney testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q Will you look in this trunk which I have here (Indicating a trunk) Do you recognize it? A Yes sir.

Q And is that one of the trunks that you have testified about here? A Yes sir.

Q How do you recognize it? A By the coloring, and by tying it up with a rope. And I also put a tag or card on it.

MR. MOORE: There is no rope on it now, is there?

MR. STRONG: No.

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Q But that is one of the trunks you say you tied up with a rope? A Yes sir.

CROSS EXAMINATION BY MR. MOORE:

Q You say that you recognize it by the color of it, and the rope that was tied on it? A Yes, but the rope isn't on it now, but in roping it, I handled it, and tossed it about

Q Well haven't you seen hundreds and hundreds of that kind of trunks? A I saw a few of them, but not hundreds of them.

Q And all that you can say is that it looks like one of the trunks that you handled? A When it came back from Savannah.

MR. MOORE: I object to that and move to strike that out.

THE COURT: Motion granted.

BY MR. MOORE:

Q No, this trunk looks like one that you saw in your place? A No, I'm not positive it was the trunks.

Q Well how can you be positive from handling a trunk when there are hundreds like it? How can you say that is the very one you handled? A I am sure that's the trunk.

Q No, but tell me why you are sure? A Well, I tagged a card on each one, when it went away.

Q Well, where is that card? A It isn't there now.

Q Well, that ought to make you hesitate oughtn't it?

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A Well I did hesitate when I looked at it first.

Q You tacked a card on the one you sent away? A Yes.

Q And that card isn't on it now? A No sir.

Q So that don't help you to identify it? A No sir.

Q Well, what does? A Well, there were four of them came in together.

Q Well that doesn't help you to identify it, does it? There are were four of them that looked all alike?

A Yes; and it very, very seldom I handle a trunk like that

Q Well, I don't care about that. (Question repeated)

A Yes.

Q Now, you can't tell whether this was trunk #1, 2, 3 or 4? A No.

Q And you know, of course, that that pattern of trunk is a very common trunk, is it not? A Yes.

Q And so that you can't say this is a trunk that you shipped away? A Well, I think I could, if you will let me examine it again. I will try to.

Q Well, go on and examine it again, and tell me what there is about it? A I was looking to see where I had tacked the card on it, but I don't see the holes.

Q You don't see the holes where you tacked the card? A No sir.

Q Then it can't be the trunk? A Oh yes it can be, and I think it is.

Q Well didn't the tacks that you put in leave holes?

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A They should have.

Q And they are not here now? A No sir.

Q And that kind of makes you hesitate? A Yes, I do hesitate.

RE-DIRECT EXAMINATION BY MR. STRONG:

Q Well will you kindly come down and take your time and examine the trunk? A I see the holes now (Indicating)

RE-CROSS EXAMINATION BY MR. MOORE:

Q But they are not where they ought to be? A Well, some I put on the top and some on the bottom, on account of the rope, on the trunks, I put one card, and I put four tacks in each one.

Q Now do you know where you put the tacks on this one?
A Yes, I do now.

Q You just see some holes? A Well it is the size of the card I put on.

Q Did you know where you put it on before? A No, not without examining.

Q Well, how do you know that you put those holes in with the tacks? A Well, my business card is rather small and that just fits my business card.

Q And that's the only way you can identify the trunk? By the holes that you say you put in with the tacks that you fastened your business card on with? A No sir; and the color, too.

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Q Well, you know that hundreds are made of that kind of trunk, don't you? A Well, the four holes are there that I was looking for all the time.

Q Well, but you didn't find them until just now? A Because I felt on the top, where I thought I put them in first, and then I felt it at the bottom, where I actually put them.

Q Now, as a matter of fact, you don't remember anything about it, do you? A I do.

Q What do you remember? A I remember putting the tag on it and shipping it.

Q But I mean where. Of course, you put the tag on to ship it in your own name? A From Curtin's Express, yes.

Q Well, but you don't know where you put the tags? A I do now. I see the place.

Q But that's the only reason, because you see some holes in that trunk? A And the size of the card I put on it.

Q And that's the only way in which you can identify this trunk? A Yes.

Q Of course, you never knew what was inside of the trunk, when you shipped it away? A No sir.

Q Or what was inside of either of the other trunks that you shipped away? A No sir.

Q Or the one that you sent over to Second Avenue? A Not when I sent it away; no sir.

BY MR. STRONG:

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Q Do you know what kind of tacks you used? A Well I couldn't describe the weight of them, but they were very small ones.

Q With large heads? A No sir, middle size heads.

Q See if there is one of them in the trunk now.
Take your time now? A Well, there is one (Indicating)
BY MR. MOORE:

Q One what? A One of the tacks.

MR. MOORE: Why, I object to his saying one of the tacks.

THE COURT: I will overruled the objection.
The probative value is for the jury.

THE WITNESS: There is one of the tacks (Indicating)

MR. STRONG: Well I think I better send for then other two trunks. I think we had better have them up here, your Honor.

BY MR. MOORE:

Q There is no doubt, of course, that when you ship these goods away you ship them with a notion that they could see who the shipper was? What was written on the card

A On my card, my name and address, and the card was reversed with the name on it, where they were going to.

BY THE COURT:

Q Who gave you the name and address? A The man that was with Mr. Goldstein. Mr. Goldstein told me to address

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for shipping from this man.

BY MR. MOORE:

Q Did you take it? A Yes sir.

Q In writing? A Yes sir.

Q Where is the writing? A I marked it on one card.

Q No. Where is the writing? A I had a book there with the address on it.

Q Well now didn't you tell me that he didn't give it to you in writing? A He didn't give it to me in writing. I wrote it.

Q You wrote the name of the man you shipped the stuff to? A Yes.

Q And, at the same time, you said you were the shipper, didn't you? A Yes.

Q And you didn't get a scrap of writing from this defendant as to who to ship it to? A No sir.

Q So that, from start to finish, you hadn't a scrap of writing from the defendant, either the order from Hartman to your place, or to another place; have you? A No sir.

Q And you haven't his name entered in your books at all, have you in regard to this transaction? A No sir.

Q And he wasn't entered in your books until after you were arrested? A I don't quite understand the question.

Q Well, the first time his name appeared in this transaction was after you were arrested; wasn't it? A Yes.

MR. STRONG: Well now you must just look over the other trunks and see whether they are the other two

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that you sent to Savannah Georgia?

THE WITNESS: Yes, this is one of them (Indicating) And here is two tacks over here (Indicating) and two holes where the other two tacks were (Indicating)

MR. STRONG: Now look at the third trunk there (Indicating) You find a place where a card was tacked on the third trunk?

THE WITNESS: Yes sir.

MR. STRONG: Is there a portion of that card tacked on to that trunk now?

THE WITNESS: Yes sir. (Indicating)

BY MR. STRONG:

Q Will you remove it and see whether it is your card, on the reverse? Now don't tear it. Have you got a knife? Here is a pair of scissors one of the jurors lends me. All right, take it out. Is that your card? A Yes, a portion of it.

Q And it was face downward on the trunk, was it?

A yes sir.

MR. STRONG: I offer that in evidence?

(It is admitted in evidence without objection and marked People's Exhibit 4.)

BY MR. MOORE:

Q The best you can say is that you think it is your card; do you? A No, I know the printing.

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Q You don't know the printing, do you? A Yes, I do/
I saw it often enough.

Q Yes, I know you saw it often enough. What sized printing is it? A I never measured it of course, but I know it by sight.

Q Of course there is no doubt in anybody's mind that you shipped these trunks down to Savannah, Georgia. You did that, didn't you? A Yes.

Q But what I am getting at is when these trunks came back, you identified them by the holes on them? A I identified them by the cards when they came back. My cards were on the trunks then, when I saw them at police headquarters.

Q Did the police tear them off? A I don't know who tore them off.

Q Do you mean to say that your cards were on the trunks when they got to police headquarters? A Yes, I do. I saw them.

Q Do you know what was done with them when they came back? A I didn't see them opened.

Q When did you see them at Police Headquarters? A I don't recollect the date.

Q Well, about when? A Well, possibly some time in April.

Q Where did you buy the trunks? A I didn't buy them.

Q Who did buy them? A I don't know anything about who did buy them.

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Q Did Bunzelman buy them? A I don't know who bought them.

MR. MOORE: That's all.

MR. STRONG: I don't want to offer these trunks in evidence but I suppose I will have to have a mark for identification. Is that satisfactory?

MR. MOORE: Well, I don't suppose they need be marked. As far as that is concerned, these trunks, they identify themselves.

(They are marks People's Exhibit 5, 6 and 7 for identification.)

MR. STRONG: I offer People's Exhibit 1 for identification in evidence.

MR. MOORE: I object if the court please.

THE COURT: What is the exhibit offered?

MR. STRONG: It is a bundle of four shirts, which the witnesses for the People identified as having been manufactured by them, and sent to the laundryman, and which the laundryman identified, and which was subsequently identified as having been taken from one of the three trunks.

THE COURT: I overruled your objection.

MR. MOORE: Well, if your Honor please the point I am making is this, that this was taken from a trunk, along time after it is claimed we delivered the trunks, and after the same had been shipped to Savannah, and shipped back here again; and there is no proof

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as to the contents of the trunk had not been disturbed in the meantime; and I submit to the Court that there is no presumption that the trunks were shipped to Savannah, and came back in the same condition.

THE COURT: I understand your objection. Objection overruled.

MR. MOORE: Exception.

LOUIS ROSENBERG, being recalled by the District Attorney testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q I show you People's Exhibit 2 and ask you to look at that? A Yes.

Q That is one of your shirts? A Yes.

Q Do you see the lot number on that? A Yes.

BY THE COURT:

Q What is the lot number? A "4244,N.Y."

BY MR. STRONG:

Q Is that one of the shirts that you sent to Turco?
A Yes.

MR. STRONG: That's all.

CROSS EXAMINATION BY MR. MOORE:

Q Now you don't know that that is even one of the shirts that you sent to Turco, do you? A It is one of a lot that I sent to Turco.

Q But you don't know that it is, do you? Have you got

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any mark on that that designates that from the others? A No sir. 67

Q And of this lot, only two shirts of that lot were sent to Turco? A With that mark, yes.

BY THE COURT:

Q You don't know of any customer that your firm has down in Savannah, Georgia? A No sir.

Q Did you give any of that lot number to a laundryman other than Turco? A Not after -- After March 20th we did.

Q But you said that after March 20th you put a monogram on the shirts? A Yes sir, that stamp there (Indicating)

MR. STRONG: The People rest.

MR. MOORE: Now, if your Honor please I ask not your Honor to direct a verdict of guilty, upon the ground that the People have failed to establish the defendant's guilt beyond a reasonable doubt.

And I put it upon two grounds. The evidence is that of an accomplice, anyhow, in the person of Mensching; and second, there is absolutely no evidence even taking Mensching's testimony, that these shirts were in the trunk at the time they were shipped from his place.

Your Honor will observe -- I can't conceive that we would not hold Mensching to be an accomplice, assuming that this crime was perpetrated, because he is the man who was found with all the goods.

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Of course, he can make a denial, and we would expect him to, but the only man that is handling or selling any of these shirts is Mr. Mensching. The only man that goes over to Hartman's for these shirts is Mensching; and the other man is brought in here, Bunzelman, is going over to Hartman's for the shirts, and is told he can't have them, and he finally comes back with an order for their transfer and he takes them to Mensching's place, and he is there with Mensching ^{are} and they in Mensching's possession.

And your Honor knows that men will deny a charge of crime, but isn't the evidence overwhelming that Bunzelman and Mensching were the perpetrators of this crime, if anybody?

Now, if the evidence had been given by the thief we would be in a different position, of course.

In receiving stolen goods, everybody who has a part in the crime is an accomplice and a principal, and even from their possession; it must be a conspiracy, at least, the Court has got to hold that, if there was any crime, it is a conspiracy on the part of the three.

And there is no corroboration of Mensching in any sense. Now, there being no corroboration of Mensching or Bunzelman, I submit that the Court should not send this case to the jury.

But, assuming all that to be true, there is

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still a failure in the evidence here, and the failure is almost the same as in the case that I tried with my learned friend, in the case of the People against Savinsky, where a case of goods were shipped from England, and after the trunks were found in a certain loft and there was no proof as to what was in the trunks. It was proven that they were taken from a North River Pier;

THE COURT: The trunks were never recovered.

MR. MOORE: The box was recovered, in the other case. When they were recovered, there was what they call the selvage ends of the stuff that was brought from England.

Now, there is no evidence when these trunks were shipped from Savannah, if they were shipped back, and there is absolutely no proof as to what was in the trunks when they were sent to Savannah.

We can speculate and conclude that their contents was not changed, but there is no proof of that; and they haven't been traced on their route, and there is absolutely no evidence when they came back, a month, or two months, or three months.

These three certain trunks were shipped to Savannah and are shipped back, later, and with these shirts in them, or trunks similar to these.

Now I submit, on both propositions -- first, Mensching and Funzelman had something to do with this

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crime -- I don't think that the Court or Jury or anybody else will say different from that, that they are accomplices; and, wiping out their testimony, there is nothing to show that we had anything to do with it.

It is a remarkable situation. We didn't do any of the writing or ordering. We didn't appear in Hartman's. We didn't make any of the orders or give any directions, and they are shipped in the name of --

THE COURT: How about the sons of the expressman being sent by this defendant there? That is a question for the jury.

MR. MOORE: But I submit that isn't quite sufficient. He says that, upon that day, he probably saw at least fifty different people, and this is the only one he could recognize, and his interest to save his father from the situation here is all powerful.

THE COURT: It is a question of fact for the jury.

MR. MOORE: But would your Honor be satisfied under the circumstances, in leaving that question to the jury?

THE COURT: The Court of Appeals held that Mrs. Walsh, the wife of Captain Walsh, was not an accomplice, and the probative value of her testimony is a matter for the jury, and I cannot hold that Bunzelman was an accomplice.

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MR. MOORE: It seems to me that you should.

THE COURT: No.

MR. MOORE: Why he is stronger in this proposition than we are.

THE COURT: If the jury should find that he was concerned with the defendant in the criminal receipt of the property, he would be an accomplice; but in his evidence he states that he was a friend of the defendant, and the defendant came to him, and then he went over to Hartman, and that he saw the defendant get a writing from this man Gold. I will deny your motion.

MR. MOORE: Exception, if your Honor please.

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THE DEFENSE

DAVID GOLDSTEIN, of 26 Eldridge Street, the
defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGE:

Q Where were you engaged in business in March, 1914?

A 3 Hamilton Place.

Q Where is that? A 137th Street and Broadway.

Q And what was your business there? A A cafe.

Q A liquor saloon or just a coffee place? A Just a coffee place.

Q Now did you ever take any trunks, or order any trunks taken from Hartman's at First Street, to Mensching's place?

A No sir.

Q Did you ever know John J. Mensching? A No sir.

Q When did you first meet him? A Mensching? That time when that officer arrested me and took me over to Mulberry Street, or Elizabeth Street station house.

Q And Mensching was there under arrest also? A Yes.

Q And that's the first time you ever saw him? A Yes.

Q Now how long have you known Bunzelman? A About three or four years.

Q Did you go to his place on First Street in the month of March, and ask him who his truckman was? A No sir.

Q Did you ask him to go with you to Hartman's to get some trunks that were there? A No sir.

Q Did you ask him to help him get some trunks trans-

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ferred from Mensching's to Hartman's place? A No sir.

Q Did you ever go to Hartman's or Mensching's with Bunzelman? A No sir.

Q Did Bunzelman ever introduce you to Mensching as a friend of his? A No sir.

Q Did you ever see those trunks that you see here to-day? A No sir, I never seen them.

Q When was the first time you ever saw them? A At no time at all. I never saw them. This is the first time I ever seen them.

Q This is the first time, to-day, that you ever seen these trunks? A Yes.

Q And did you ever have Mensching send a trunk from Mensching's place, over from First Street and Third Avenue to any place over on Second Avenue? A No sir.

Q Did you ever give any directions to Mensching's son as to where to take a trunk? A No sir.

Q Had you ever seen Mensching's son before? A No sir, not until now, in this court.

Q In this Court room, to-day? A Yes.

Q And Mensching you saw the night you were arrested?

A Exactly.

Q Now about this shirt that you had on at the time you were arrested. Where did you get this shirt from?

A Why I bought it in my own place of business.

Q At 137th Street and Broadway? A yes sir.

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Q Who sold you that shirt? A There was several men used to come in my place, selling like socks and shirts and ties, every day, three or four times a day.

Q And how much did you pay for this shirt? A I paid \$2 for it.

Q Was there anybody else in your place, that day, when you bought the shirt? A Well, there must have been a dozen people in my place.

Q And you knew others who bought shirts there? A Yes sir.

Q And some of them are here, to-day? A Yes, but I can't get them all.

Q But you have several of them here? A Yes sir.

Q Now did you ever know a man by the name of Kaplan?
A No sir.

Q Did you ever go with a man named Kaplan to Mensching's and direct that certain trunks be shipped to Savannah Georgia?
A No sir.

Q Did you ever get anybody, any written order for any property at Mensching's or Hartman's? A No sir, I never did, I never knew of anything like that.

Q Have you ever been convicted in your life of any crime? A No sir, never in my life.

MR. SPIEGEL: That's all.

CROSS EXAMINATION BY MR. STRONG:

Q How many shirts did you buy from the peddler? A I

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just bought one, but he offered to sell me half a dozen, and, if I will buy them he will sell them a little cheaper.

Q Well, who was the peddler? A Well, there are several people used to come in my place, and I used to have a chess club upstairs, and several people used to buy stuff from him, every day, such as ties, socks and shirts and things like that, and it was kind of cold that morning, and I only bought one, and I said, "If you come in a little later, when it is warmer, I will buy half a dozen, if you will sell them a little cheaper."

Q Well you knew the fellow pretty well, didn't you?

A Well, not exactly. If I seen him, I might know him. I never paid much attention to him. I had enough to do with my own business, not to attend to somebody else's business.

Q Did you see him since? A I haven't seen him since my arrest was.

Q You never saw the man since you bought the shirts?

A No sir.

Q You often saw him before? A I saw several people and there were different people after that selling different articles.

Q Well, now, suppose you give me an accurate description of the man that sold you the shirt, so as we can find out about him? A Well, there were people selling shirts there; there was two

Q Well give me an accurate description of the man who sold you this shirt, so that we will know him again if we see

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him? A Well, it is some time ago, probably a little over a year.

Q Will you give me a description of the man who sold you the shirt? A Exactly. I'll try to.

Q Well, go ahead and do it? A He must have been about five foot, two.

Q Yes? A The fellow must have weighed about 140 pounds.

Q Yes? A He wore a black derby hat.

Q Yes? A That's about all I can give you.

Q What sort of a suit did he have on, a sack suit?

A Well, I can't recollect what clothes he had on.

Q Or overalls? A Overalls?

Q Yes. He didn't have on overalls? A No, I am positive he never had on overalls.

Q Did he have these things in a little box that was hanging around his shoulders by a strap? A He had it in a valise.

Q In a valise? A Yes, at the time I met him.

Q That was a dress suit case wasn't it? A Well, he must have been in my place two or three different times before that.

Q No, I want to know about the time he was in there, when a lot of people were in there. He had them in a valise then? A Yes.

Q You mean by that a dress suit case? A Yes.

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Q Are you sure of that? A Well, I am not exactly sure of it, but he had them in a kind of a valise, a telescope, or a valise, or something like that.

Q Oh yes. And was it black or brown? A Well that I can't recollect; I can't tell.

Q Try and see if you can remember that? A No, that's a hard thing for me to tell, because I haven't paid much attention to it. I was very busy that day myself, and I hadn't paid much attention to it, because there were at least a dozen people around that bought shirts from him.

Q And you have got those people here, haven't you? A Well, I have got a few.

Q And you paid him \$2? A Yes, he offered to sell me half a dozen and he would give it to me cheaper.

Q Did you give him a five dollar bill and he gave you the change? A Why have I to give him a five dollar bill?

Q (Question repeated) A I gave him \$2.

Q Was it in bills or change? A Two single dollar bills I give him for it.

Q I see. Now were the other people that you saw buying the shirts standing all around you? A Yes.

Q And did they look over the shirts too? A Yes. And I don't know how many bought them, but there must have been a dozen or two.

Q And at the time you bought them, they had the

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word "Paragon" on them? A I haven't looked at no labels at all at the time.

BY THE COURT:

Q Well, do you recognize this shirt that is produced? A Yes, your Honor. This is the shirt I bought of the man.

BY MR. STRONG:

Q Then you bought only one? A Yes.

Q Where did you get the shirt that you are wearing now? A I bought it on 5th Avenue and 28th Street.

Q What is his name? A The man's name on the shirt that I have got on now?

Q Yes? A I don't know. I'll take off the shirt, if you want me to.

Q How much did you pay for it? A Three shirts I bought for \$8.50, \$2.95 each, but, if you buy three you pay \$8.50

Q And you got this shirt in evidence for \$2? A Yes; the man told me that he buys them in job lots. The way people used to come in my place two or three times a day.

Q Your place is up in 137th Street? A Yes.

Q And that's where you bought these shirts? A Yes.

Q Now, when you spoke to the police officer, when the police officer came up and spoke to you, you knew he was a police officer, didn't you? A No sir.

Q Well, didn't he tell you so? A No, not until

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after a while. He opened up his coat and said, "I'm an officer."

Q Bunzelman was along with him, wasn't he? A Yes sir.

Q And you told the policeman that you didn't know Bunzelman, didn't you? A Who, Bunzelman?

Q Yes? A No. He asked me if I knew a man named Mensching.

Q No, did you tell the policeman that you didn't know Bunzelman? A No. He asked me if I knew a man by the name of Mensching.

Q No. I want to ask you this. Did the policeman ask you if you knew Bunzelman, who was standing right there with him? A Yes, I did know Bunzelman.

Q Well, but you told the policeman that you didn't know him, didn't you? A Well, there must be some mistake, because I know the man for four or five years. Mr. Bunzelman used to come up in my place of business quite often.

Q I know you knew him, but you told the policeman that you didn't know him, didn't you? A No sir, I did know Bunzelman.

Q But did you tell the policeman that you didn't know him? A Well, I don't recollect, your Honor. I think I did.

Q You understand the English Language, don't you?
A Yes.

Q And you know what I mean when I ask you that ques-

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tion? A Yes.

Q Well, then, why don't you answer? Did you or did you not?

MR. SPIEGEL: It seems to me that he has explained that, that he was asked by the officer if he knew a man by the name of Mensching.

THE WITNESS: Yes, I said I knew Bunzelman.

BY MR. STRONG:

Q Did Bunzelman have anything against you at the time?

A No sir.

Q Mensching didn't come up with the police officer to point you out did he? A I don't know such a man. The first time I saw him was in the police court, or police station.

Q Mensching didn't come up and point you out to the officer? A No sir.

Q With Bunzelman? A Yes sir.

Q And he didn't have anything against you and you didn't have anything against him? A No sir.

RE-DIRECT EXAMINATION BY MR. MOORE:

Q But the police had something against Mensching and Bunzelman at that time, didn't they?

MR. STRONG: I object. Not against Bunzelman.

MR. MOORE: Oh, well, I will withdraw the question.

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BY THE COURT:

Q Where were you on the 31st of March 1914? Do you remember? A At the 31st of March?

Q Yes? A I must have been in my place of business. I don't remember if I was in any otherplace.

Q A little louder please. Where were you that day? A The 31st of March?

Q Yes? A I hadn't stepped out of my place of business for two or three months, as I recollect, at that time.

Q Do you remember when you were arrested? A That was on a Saturday night, as I remember.

Q What month? A It must have been the month of March?

THE COURT: What was the day of the arrest?

MR. SPIEGEL: Saturday night, the 18th of March.

THE WITNESS: It was Saturday night and my place of business was full of customers when the officer came up.

THE COURT: That is all.

A B R A H A M K O P P E L of 63 St. Marks Place,

a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGEL:

Q Mr. Koppel, what is your business? A Printing business.

Q And where are you engaged in business? A 81 First

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Street.

Q And you know the defendant M. Goldstein? A Yes sir.

Q About a year ago, in March were you -- Did you frequent or occasionally visit the cafe that he conducted at 137th Street and Broadway? A Yes sir.

Q How often did you go there? A Oh, quite often. I have been canvassing around there.

Q Oh, you canvassed up in that neighborhood? A Yes sir.

Q In the month of March, did you buy anything in his cafe? A Yes sir.

Q What did you buy there? A Two shirts.

Q And what kind of shirts were they? A Silk shirts.

Q From whom did you buy them? A Two gentlemen. I was sitting at the table, drinking coffee, and I turned, and saw two gentlemen come in and open up their boxes, and I got up at the table and looked at them, and I seen they were very well worth \$2 a piece and I said "Have you got my size?" And he said, "What is your size", and so I told him, and I bought two.

Q And how many persons were in there? A Oh, quite a few.

Q And did anybody else besides you buy any shirts?

A Oh, yes, quite a few.

Q Have you got one of those shirts on now? A Yes; and one I have here in this package. (Indicating)

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Q Well, just open up the package? A There is a little ink on it, because my business is printing.

Q This is one of the shirts that you bought at that time (Indicating)? A Yes sir.

Q This is one of the shirts you bought that day?
A Yes sir.

Q And that's the other one that you have on? A Yes sir.

THE COURT: Now is there any dispute that these shirts were manufactured by Liebowitz & Sons?

MR. MOORE: No sir, I haven't questioned that they were part of the stolen shirts.

MR. SPIEGEL: I will offer in evidence this shirt that the witness has produced, and which he is not wearing, showing the stock number, "4244,N.Y."

(It is marked without objection, Defendant's Exhibit A.)

Q And you say you paid \$2 a piece for the shirts?
A Yes sir.

Q \$4 for the two of them? A Yes sir.

CROSS EXAMINATION BY MR. STRONG:

Q What date was that? A The early part of March, some time in March. I couldn't tell you the date exactly, you know.

Q What was the name of the man who sold them to you?
A I don't know.

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Q Two men, A Yes. There was two men, I believe, there. I spoke to one man, but I believe there was two men there that sold the shirts.

Q Peddlers? A I couldn't say what they were; Peddlers, or something; but I know a lot of people bought them, and I got up and bought them myself. I could see very well they were worth \$2.

Q Now will you just describe one of the men to me-- the man to me -- that sold you the shirts, just as near as you can? A Well, if I could see him, I could.

Q No, go right ahead and do it right now? A Well, a man bigger than I am.

Q Bigger than you are? A Yes sir.

Q Stand up, and we will see how big you are. About as big as I am? A Well, I think about your build, about.

Q Five foot ten and a half, 160 pounds? A Oh, I couldn't swear to that. That's just about the idea of it.

Q All right. I just wanted to get your idea. He would weigh about as much as I would, would he? A I couldn't say really. Your looks and appearance any way.

Q Well, I didn't sell them, of course? A Oh no, I don't say that you sold them, but you look the same anyway.

Q Did he have a mustache? A No, I don't think he did.

Q He was clean shaven? A Yes sir.

Q Can you remember what sort of a hat he had on? A No.

Q Can you tell me whether he had a derby or soft hat or cap? A No, I really couldn't say that. I didn't pay

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any attention to that at all, because I bought and paid for the shirts, and went back to drink my coffee.

Q Did he have them in one of these little boxes that you hang around your neck? A No sir, he had them in paper boxes.

Q In paper boxes? A Yes.

Q You are sure of that? A Yes.

Q Now do you know whether he was a man dressed in a sack suit, in overalls or what? A I couldn't say that, because I didn't pay no attention to it.

Q Buy you are sure they were in paper boxes, and he was a man about my size who sold them to you? A Yes.

Q And you are sure the defendant didn't give you those two shirts? A Well, I am sure of it. I bought them from two gentlemen. While I was sitting at the table, they walked right in, and opened the boxes, and a lot of fellows sat around looking at the shirts, and one fellow opened up one of the shirts and looked on it and I got up and asked how much they were, and if they had my size.

Q Well, you have seen these boxes that they keep shirts in? A Yes, but they are different colors. In fact I print a lot of labels for their boxes.

Q You do? A Yes sir.

Q And did these boxes that the two men had have labels on them? A I didn't notice that.

Q And the boxes were made out of card board were they?
A Yes.

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WILLIAM HARRIS, of 354 Third Avenue, a witness called on behalf of the defendant being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGEL:

Q What is your business, sir? A Jewelry business.

Q Retail or wholesale? A Retail.

Q And you know this defendant, David Goldstein? A Yes.

Q How long have you known him? A Well, say, about three years.

Q Were you ever in his cafe in 137th Street and Broadway

A Yes sir.

Q Did you go there often while he conducted it? A Well, about three or four times a week.

Q You had business up in that neighborhood? A Yes.

Q Were you ever in his place about a year ago, and buy any merchandise from anybody that came in? A I did.

Q What did you buy? A Two shirts.

Q What kind of shirts were they? A Well, I've got one of them on me. Silk shirts.

Q And have you got the other one in your pocket? A Yes.

Q Let me have it, will you? A Yes.

Q And when did you buy those shirts? A Well, it's my recollection that it was the latter part of March.

Q And how much did you pay for the shirts? A \$2. a piece.

Q Did you know the men from whom you bought them?

A No sir.

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Q And did anybody else there buy shirts? A Yes, quite a number of people.

Q Look at the shirts which you have produced here. It bears the number "4244, N.Y."? A Yes.

Q And this is one of the shirts you bought in Mr. Goldstein's cafe, in the latter part of March 1914? A Yes sir.

Q Now just pull up the front of your shirt, so that we can get the number.

(The witness does so)

MR. SPIEGEL: It is " 4245 N. Y." Mr. Strong.

MR. STRONG: Yes, I suppose so.

MR. SPIEGEL: I offer this in evidence.

(It is marked, without objection, Defendant's Exhibit B.)

CROSS EXAMINATION BY MR. STRONG:

Q Now you remember distinctly this occurrence of buying two shirts? A yes sir.

Q I suppose you paid more than you usually do for these shirts? A Oh, no, I generally pay \$2.50 or \$3 for shirts.

Q And where do you usually get them? A King Brothers

Q And you only bought two this time? A Yes. Well it happened that it looked like it was worth the money and I bought them.

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Q How many others were standing around while you bought those? A About four or five people.

Q And you talked to the man about the price, and everything? - A Well, I seen the way they paid for them and I thought it looked good, and I thought I would take the two shirts myself.

Q Well, didn't you try to get a better price for them?

A Well, I seen they paid \$2 a piece.

Q And how many shirts did he have there altogether?

A Quite an assortment; I couldn't say exactly; about ten or twelve shirts.

Q Did he have them in a trunk? A No sir, just a box.

Q A valise? A No, I didn't see no valise there.

Q Was it a paper package? A A package. He laid the paper underneath the shirts and displayed them, and every man took his pick.

Q Did he have them rolled up in papers? A No only one paper.

Q They were not in a box? A No sir, I didn't see no box.

Q You didn't see any box, only a paper? A Yes.

Q He had those shirts spread out with paper on the table? A Well, everybody took his pick, picking them out, first come first served, I suppose.

Q But they were in a paper and not in a box? A Well at the time I took them, what I saw was the paper box.

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Q You were there when your friend Mr. Goldstein was there? A Yes.

Q You were all there together weren't you? A Sir?

Q (Question repeated) A Well as many as was at the table; I couldn't say how many, but four or five to the best of my recollection.

Q Now perhaps you can give a description of the men who sold you the shirts? A Well, to tell you the truth, I didn't pay much attention, but he was a young fellow, about thirty or thirtytwo, something like that.

Q Yes? A Clean shaven.

Q Yes. And how tall? A Well about five foot six or something like that.

Q About how much would he weigh? A I couldn't say; about 140.

Q 140? A yes sir.

Q Yes. And you say he was clean shaven? A yes sir.

Q You are sure of that? A yes sir.

Q Do you know what sort of a hat or cap he had on? A That I couldn't say.

Q Don't you know whether he had a derby on? A I couldn't recollect that.

Q Well, how long was he there? A Well, I don't know how long he was there. I left him there, but I was there about ten or fifteen minutes.

Q What else did he have besides shirts? A I didn't see anything else.

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Q These shirts all had the mark on when you bought them didn't they? A Well, all that I looked for was the size.

Q But this one hasn't got a mark on it has it? When did you take the marks off. A Well, I don't know.

MR. SPIEGEL: I object to that.

BY MR. STRONG:

Q Or did you take them off? A I never took them off.

Q Who did? Do you know? A No sir.

Q It was off when you bought it, wasn't it? A I'll tell you. I didn't notice whether it was on or off.

Q Did you have a mark on it -- Oh. All right. Did your shirt have a mark on it like that? (Indicating the other shirt in evidence) A Not that I noticed.

Q You never noticed any mark there did you? A No sir.

BY MR. SPIEGEL:

Q Has the other shirt any mark on it?

MR. STRONG: No, neither of them.

MR. SPIEGEL: Well, I would like to have some marks put on them.

MR. STRONG: They are in evidence, and you can comment on them when you sum up and so can I.

Q How long have you known the defendant? A About three years.

Q And you have known Abraham Koppel for some time haven't you? A Well, I know him a little longer than three years, through business principally.

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Q When was the first time that you talked to anybody about buying this shirt, after you bought it? A After I bought the shirts?

Q Yes? A I didn't think it was necessary to tell anybody about buying the shirts.

Q No. You understand my question? A Yes sir.

Q Well, will you just answer it? I suppose you understand my question, don't you? A Yes asked me whether -- what is the first time I ever spoke to anybody about buying any shirts?

Q Yes, after you bought them. A I can't recollect mentioning it to anybody.

Q Not until you mentioned it on the witness stand, to-day? A Yes sir.

Q You just happened to come down here to testify to that fact here, to-day; is that right? A Well, Mr. Goldstein said he is in a little trouble through them shirts that were bought up there, and whether I could prove that I bought them.

Q Well now I ask you when it was you had that conversation with Mr. Goldstein? A Well, I should think about a year ago.

Q About how long after you bought the shirts did you have that talk with him?

MR. MOORE: If your Honor please, he said about a year ago. I think that is definite enough.

THE COURT: Allowed.

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MR. MOORE: Exception.

BY MR. STRONG:

Q How long after you bought these shirts did you have this talk with Mr. Goldstein? A Well, about two or three months ago.

Q About two or three months ago? A Yes sir.

Q Well will you tell us just what that talk was that you had with Mr. Goldstein? A Well, he said he was in trouble about that party that went up there to sell shirts, and, if I would do him a favor to prove that I bought shirts at the time.

Q Yes. And I don't suppose, at the time he came up to ask you about buying those shirts, that you remembered the exact date you bought them on? A No, not exactly the date.

Q And I don't suppose you could tell me now whether it was the first or 31st of March? A No, but I knew it was the latter part of March.

Q Well how do you know that? A Well, according to my own business.

Q According to your own business? A Yes.

Q Do you know whether it was as late as March 15th? A It was later than that.

Q March 20th? A Between the 20th and 25th.

Q Between the 20th and 25th of March you bought those shirts? A Yes sir.

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Q It couldn't have been the first part of March?

A No sir.

RE-DIRECT EXAMINATION BY MR. SPIEGEL:

Q And you have also been down to my office with Mr. Goldstein, and you told me about this? A Yes sir.

MR. STRONG: I admit that.

BY MR. SPIEGEL:

Q And, in consequence of that you were subpoenaed?

A Yes sir.

BY THE FOREMAN:

Q You say you are in the retail jewelry business? at 364 Third Avenue? A No, no; that's my private residence.

BY MR. SPIEGEL:

Q You buy at the auction sales do you not? A Yes sir

Q And you sell around to dealers and private people?

A Yes sir.

Q And sell some on the installment plan? A Yes sir.

NATHAN GERSENFELD, of 114 East 7th Street
a witness called on behalf of the defense being duly
sworn, testified as follows;

DIRECT EXAMINATION BY MR. SPIEGEL:

Q Mr. Gersensfeld what is your business? A Collector

Q And for whom are you a collector? A Buckley & Newhall Furniture Company.

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Q And how long have you been employed by them? A Four years.

Q Do you know the defendant Mr. Goldstein? A Yes sir.

Q In connection with your business as collector, did you, in the year 1914, have occasion to go to 3 Hamilton Place, or in that neighborhood, of 137th Street and Broadway? A Yes, very often.

Q And did you go into Mr. Goldstein's cafe there? A Yes sir.

Q And did you go in there often? A Yes, because that was my territory, where I used to collect.

Q And were you ever in there in the latter part of March 1914? A Yes sir.

Q And did you ever buy anything from men coming in there? A Yes some shirts.

Q Now when did you buy some shirts? A In the latter part of March.

Q And how many shirts did you buy? A Two shirts.

Q And how much did you pay for them? A \$4.

Q \$2 each? A Yes sir.

Q Have you got the shirts with you? A One I've got with me, and the other was in the laundry, and I couldn't get it out.

Q One is in the laundry now? A Yes sir.

MR. SPIEGEL: This one has the one "Paragon"

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on it, Mr. Strong.

MR. STRONG: Yes, I'm glad he left that on.

MR. SPIEGEL: "4244, N. Y."

MR. STRONG: I have no doubt of it.

BY MR. SPIEGEL:

Q And this is one of the shirts that you bought? A Yes sir.

Q And paid \$2 for? A Yes sir.

Q And this shirt has the word "Paragon" on it? A Yes.

MR. SPIEGEL: I offer this in evidence.

MR. STRONG: No objection.

(Marked Defendant's Exhibit C)

CROSS EXAMINATION BY MR. STRONG:

Q Where did you first have a talk about this shirt, after you bought it? A Some time in the middle of the Summer I met Mr. Goldstein, and he told me he was in trouble on account of the shirts, and I told him what a lemon I bought, because they weren't any good, and they were tearing too fast, and he said, "You better hold them to show where you bought them, because I'm under arrest", and so of course, I held them.

Q And so you kept them? A Yes sir.

Q And one is in the wash now and you can't get it?

A Well, I wanted to bring it here clean. I gave it to the laundry and I couldn't get it out in time.

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Q And how long have you known Mr. Goldstein? A I knew him from that place. I used to go up there.

Q And you know Mr. Koppel, don't you? A No, I don't know him.

Q Mr. Abraham Koppel, who was here? A No, I don't know Mr. Koppel at all.

Q Or Mr. Harris? A I don't know Mr. Harris either.

Q Those were two more gentlemen who were buying shirts, at the same time? A Probably I must have seen them, and if I seen them, maybe I would know them.

Q Well, you say you don't know them? A Well there is a lot of people bought shirts there.

Q Well, do you know them or not? A No sir, I don't; I don't think so.

Q Well, you don't know their names anyhow? A No sir.

Q How many men were selling shirts? A One man that I bought it from.

Q Then he came over to you alone to sell the shirts to you? A No, he was on a table, with a valise.

Q Well, he had a valise, did he? A Positively.

Q You are absolutely sure he had a valise, the man that was selling shirts? A Yé s sir.

Q And how many shirts did he have there? A A valise full of them.

Q Well what kind of a hat did he have on? A Well, I didn't pay any attention to what hat he wore, or his clothes.

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Q Well you remember the incident very well, don't you?

A Well, I do remember he was a tall, slim looking fellow.
A kind of dark looking fellow. That's all I can remember of him.

Q Tall and slim? A Yes.

Q And how much would you say he weighed? A About 135 or 140.

Q Yes. About how tall? A I should judge over 5 feet.

Q Well a man who is over 5 feet isn't very tall, is he? A Well, I didn't measure him at all. I don't know how tall he was. He was pretty near as tall as me.

Q Now then will you stand up and let us see for ourselves how tall you are? A Well, I figure he was about as tall as me.

Q Well, how tall are you? A Well, I never measured myself, to tell you the truth.

Q Do you know how much you weigh? A Yes, about 175.

Q And he was about your weight, too? A No sir, he was more slimmer than me. He was very slim.

Q And can you tell me how he was dressed? A No, I couldn't recollect that. I couldn't even tell the color of his suit, because I didn't pay no attention to it.

Q Was he clean shaven or did he have a mustache? A Clean shaven.

Q Are you sure of that? A Positive.

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Q And what was the man with him doing? What was the other man with him doing? A I don't know of any other man.

Q Oh, there was only one selling? A That's all I seen. One man took the money from me and one man sold me shirts; and if there was any other man I didn't know it. There may have been three there for all I know about it. There was a lot of men around the table when they bought the stuff.

Q He had them in a valise? A Yes.

Q Sure of that? A Yes, yes, of course. Everybody took a shirt and looked at it, which I done myself, and picked out two shirts, and paid for them.

Q You are sure he didn't have the shirts just laid on on a piece of paper? A Well, I didn't notice that of course. Everybody wrapped up the shirts for themselves in newspaper, after they bought them.

Q And when was this? Do you remember? A Well, it was some time between the 25th of March and the 1st of April, I believe.

Q You are sure it wasn't between the 20th and 25th of March? A Well, I wouldn't swear to that. It was the latter part of March.

Q And you wouldn't swear -- Well, why did you answer me just now it was between the 25th and the 1st of April? A Well, I figured it was late in March, but I couldn't say

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the date.

Q Well, how do you fix the date when you talked it over with Mr. Goldstein; how did you happen to fix the date?

A Well, you know it better than I do. What are you asking me that question for?

Q Well, did you fix the date, or did Mr. Goldstein fix it for you? A Well, I don't fix no dates, with nobody. I say what I know.

Q Well, how do you know it was the latter part of March? A Well, because I know that was the day I bought the shirts.

Q And the only time that you talked that over with anybody was, a few months ago, with Mr. Goldstein? A Well, that's the time he told me about keeping the shirts.

Q Well, when was that? A Sometime in August, I believe it was. I happened to meet him, he said "You had better keep those shirts. You will have to use them in evidence."

Q And that is the reason you remembered that you bought them in the latter part of March? A Yes sir.

RE-DIRECT EXAMINATION BY MR. SPEIGEL:

Q And you also came down to my office and told me about buying those shirts didn't you? A Yes sir.

Q Several months ago? A Yes sir.

Q And you have a better recollection of buying the

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shirts then you have of the man that you bought them from?

A Yes sir.

Q You didn't take a photograph of the men that you bought them from? A No sir.

RE-CROSS EXAMINATION BY MR. STRONG:

Q And you took special note of the date when you bought them? A No sir, I didn't.

Q When did you buy the shirts that you have got on now? A That I don't remember either.

MR. SPIEGEL: Now, if the Court please, we anticipated that the prosecutions case would take more than one day, because, at various times when this case was on the calendar, it has been answered that there were ten or twelve witnesses for the people, and we procured these three witnesses during recess, and we have number of witnesses which we intend to call as character witnesses, business men. And, while we knew that we were going to start this case, to-day, we thought the prosecution would take more than the day in putting in its case. We have done the best we could in getting through with the case.

THE COURT: Have you any rebuttal evidence?

MR. STRONG: I don't know what the evidence is going to be, your Honor.

MR. SPIEGEL: Only four character witnesses.

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MR. STRONG: I haven't thought of it. Let me just think. I don't see how there can be any rebuttal evidence. There is a simple denial on the part of the defense, and nothing that I can rebut, as far as I can see now.

THE COURT: Don't you want to recall this man Bunzelman?

MR. STRONG: As to the conversation?

THE COURT: As to what occurred at the defendant's place of business when he accompanied the police man there.

MR. STRONG: I think that's the only thing, and that will only take a second.

MR. MOORE: The officer was interrogated as to that I believe.

THE COURT: Is Bunzelman here?

MR. STRONG: I will recall him now.

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REBUTTAL

MICHAEL BUNZELMAN being recalled by the
District Attorney testified as follows:

DIRECT EXAMINATION BY MR. STRONG:

Q Do you remember the officer that testified in this
case? A Yes sir.

Q When was the first time you saw him? A When he come
down to my store.

Q And did you have some conversation with him? Just
yes or no?

MR. MOORE: I object to that as not in rebuttal.
He has been all over that?

THE COURT: Overruled.

MR. MOORE: Exception.

BY MR. STRONG:

Q Yes, or no. Did you have a conversation with him?
A Yes sir.

Q And, after having a conversation with the officer,
where did you go?

MR. MOORE: I object to that, on the ground
that that is not proper rebuttal.

THE COURT: Allowed.

MR. MOORE: Exception.

A #3 Hamilton Place. 137th Street and Broadway, a cafe.

Q And who did you see there? A Mr. Goldstein was up-
stairs, Mr. Castano was upstairs, and he showed him his

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authority and told him he was under arrest.

Q And was there anything said about you? A He asked him if he knows me.

Q Asked whom? A Asked Mr. Goldstein if he knows me.

Q Yes. And what does Goldstein say? A Mr. Goldstein denied it.

MR. MOORE: I object to that and move to strike that out.

THE COURT: Objection sustained. Strike that out.

BY THE COURT:

Q What did he say?

BY MR. STRONG:

Q What did he say to you? A He said he don't know me.

BY THE COURT:

Q Now, Mr. Bunzelman, how long have you known the defendant? A About two or three years.

Q And what time did he call to see you on this date?

A About half past 9 in the morning, 9 or halfpast 9.

Q Why did you not ask him to go over to Hartman's Knickerbocker Storage Place. A For a minute I didn't think it was any out of the way. I had to go that way, and he said he had to do and see a certain party, and would stop there for a few minutes.

Q Did you ever have any transactions with the defend-

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ant prior to that, requiring you to go to any storage warehouse?

A No sir.

Q This is the first time in your life? A Yes sir.

Q Well, weren't your suspicions at all aroused? A No sir.

Q Did you ask what business he had to have goods in storage? A No sir, I asked him no questions at all.

Q You knew he was in the cafe business? A Yes sir.

Q And what business were you in? A Leaf tobacco.

Q Were you arrested by the policeman? A No sir.

Q Were you taken into custody at any time? A No sir.

Q And did you inquire of the defendant, the character of the goods contained in the trunks? A No sir.

Q Did you know that your name had been used by the expressman? A No sir.

Q What did you say to the expressman when you went over there with the defendant? A I introduced him. I said "Here is Mr. Goldstein, Mr. Mensching, a friend of mine, and Mr. Goldstein has some expressage to give you."

Q What did Mr. Goldstein say, if anything? A I don't know. I introduced them and went back to my place of business.

Q And then you went over to the storage warehouse? When did you go to Hartman? A That was before I introduced Mr. Goldstein to Mr. Mensching.

Q Did Hartman conduct any express business with the

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storage warehouse? A No, only just a moving van, moving household furniture.

Q Did you see the trunks? A No sir.

Q Did you visit Mensching--how many times did you visit Mensching that day? A Just that once, when I introduced Goldstein to Mr. Mensching.

Q When did you learn for the first time that Mensching had in his possession silk shirts? A Some time after that Mr. Mensching told me that he has got some trouble

Q When was that? A Well, about two or three weeks after I introduced Mr. Goldstein to him.

Q Was he then under arrest? A I don't know.

Q Were you a witness in the Magistrate's Court?

A No sir.

Q Did you ever appear as a witness in this case, prior to to-day? A No sir.

Q Well, what did Mensching say to you? A He said he was in trouble on account of Mr. Goldstein; that I introduced Mr. Goldstein, and now he is in trouble.

THE COURT: No, strike that out. And the jury will disregard it.

Q Did he say anything about having any trouble on your account? A No sir.

Q Did you know that Mensching had taken your name, and entered it upon his books? A No sir.

Q Where is this delicatessen store that you visited?

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A #10 Second Avenue.

Q Whom keeps that place? A I don't know who keeps that place.

Q Do you remember the party who had charge of the store that morning? A Well, I don't know whether it was the workman or the proprietor of the place.

Q How many persons were in that store? A There was two people behind the counter and there was another man in the store.

Q And you and the defendant and another man went into the store? A No sir, me and Mr. Goldstein, and there was another man waiting for him there.

Q And this other man did some writing, didn't he?
A Yes sir.

Q Had you ever visited the delicatessen store before that day? A No sir.

Q Where is this delicatessen store located? A Between Houston and First Street.

Q On Second Avenue? A Yes sir.

Q How far away from your place of business? A A block and a half.

Q And you keep a place of business on First Street?
A Yes sir.

Q Between what Avenues? A First Avenue and Avenue A.

Q And this place was on Second Avenue? A Yes sir on

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Second Avenue.

Q How far is this from the Knickerbocker Storage House? A Half a block.

THE COURT: That is all. Now, you might try to get some more evidence, Mr. District Attorney, because if the jury should find that Bunzelman was concerned in the receipt of the property, then the case of the People would fall unless the testimony of Mensching and Bunzelman was corroborated.

MR. STRONG: I understand that perfectly Your Honor. This is all the evidence furnished to the District Attorney's office by the police department, and I think they did a very good job in this case, and I have no complaint to offer.

THE COURT: Why not try to get these people on Second Avenue? This defendant denied that he was in the company of Bunzelman.

MR. STRONG: Well, why, it is a year after this occurrence, and how could a proprietor of a restaurant remember that he saw three men, three particular men, in his place of business?

THE COURT: I don't know. Perhaps he might be able to do so.

MR. STRONG: And there is no evidence that either Mensching or Bunzelman is an accomplice.

MR. MOORE: No. I think that there is, and that

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the Court should hold as a matter of law, that they were accomplices.

THE COURT: No, I will not hold that. It is a question for the jury to pass upon.

MR. MOORE: Why, Bunzelman has had more than the defendant to do with the matter.

MR. STRONG: I have no interest in the case one way or the other. I have submitted the evidence secured by the police, and I believe there is evidence enough to take the case to the jury and to warrant a conviction. I am ready to submit my evidence, and leave it with them, and I will be satisfied with their verdict whether it is guilty or not, because I have no concern in the case.

MR. MOORE: Well, I should think that the court should hold, as an absolute matter of law, that if Mensching was an accomplice, the case should be dismissed.

THE COURT: Well there I shall hold that Mensching was an accomplice. He was in the receipt of property and he sold property, and he was an expressman.

MR. MOORE: And shipped the goods in his own name, and the goods were delivered to the Storage Warehouse under the name of Bunzelman, and he was the man who procured them to be shipped from Hartman's, and Goldstein's name was never mentioned by Bunzelman even

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when he introduced him to Mensching.

MR. STRONG: Oh yes, he did.

MR. MOORE: Well, Mensching said he didn't know Goldstein's name, and didn't get it at any time, and, therefore, he shipped the goods in his own name. And Bunzelman said, in response to your Honor's question that he only learned that Mensching was in trouble that he told him, a few weeks afterwards, when he told him he was in trouble, because he was introduced Goldstein to him.

THE COURT: Well, I struck out that testimony, because it was a conversation in the absence of the defendant.

MR. MOORE: Well, I would rather have had it stand.

THE COURT: Then, if you desire to do so, you may recall Bunzelman, and ask him the question.

M I C H A E L B U N Z E L M A N being recalled by counsel for the defendant for further cross examination, testified as follows:

CROSS EXAMINATION CONTINUED BY MR. MOORE:

Q. At the time that you say you had the conversation with Mensching, several weeks after this affair, did he say he got in trouble on account of your having introduced Goldstein to him? A. Yes sir.

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BY THE COURT:

Q And was Goldstein under arrest at that time? A Yes sir.

MR. MOORE: That is all.

THE COURT: Now call back Mensching.

JOHN J. MENSCHING being recalled by counsel for the defendant, for further cross examination testified as follows:

CROSS EXAMINATION CONTINUED BY MR. MOORE:

Q I believe you testified that Bunselman introduced you to Goldstein? A Yes.

Q I think you so testified? A Yes.

Q And he didn't tell you his name? A No sir.

Q And that was your excuse for shipping the goods in your own name; is that right? A Yes sir.

Q First, that was your excuse for entering it in the name of Bunzelman in your books? A Yes sir.

Q And, also, for expressing them or shipping them under the name of your express company? A Yes.

Q And you didn't know Goldstein's name until after you were arrested? A No sir.

BY THE COURT:

Q Did you ever mention to Bunzelman the name of the defendant? A Not until after he was arrested.

Q Did you tell Bunzelman that you got into trouble on

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account of Goldstein? A I told Mr. Bunzelman I got in trouble on account of the friend which he had brought around. After ~~for~~ Mr. Castano had come to the place, and I had gone to Mr. Hartman's 6 8 and 10 First Street, and Mr. Hartman looked up the name and it was marked H. Gold, and that's the only name I knew until Mr. Goldstein was arrested.

BY MR. MOORE:

Q. And so you never mentioned the name of Goldstein until after Goldstein's arrest? A After my arrest.

MR. MOORE: That's all I think, if your Honor please. On the whole evidence, and contradictory statements, I submit that the Court ought to hold as a matter of law, that Bunzelman is an accomplice; certainly there is much more evidence to go to the jury as to Bunzelman than as to the defendant. There is not a single thing against the defendant, except that he wore a shirt, and that's all.

THE COURT: Mr. Hartman, will you come back here?

(The Court conferred with the witness Hartman)

(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, May 18th, 1915, at 10:30 O'clock.)

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TRIAL RESUMED

New York May 18th, 1915.

WILLIAM AVIDAM, of 540 West 136th Street, a witness called in behalf of the defendant, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGEL:

Q Mr. Averdam what business are you in? A Cafe business.

Q Where is your place of business? A 135th Street and Broadway.

Q Have you any other place of business? A Not at the present time.

Q How long do you know Goldstein? A About 9 or 10 years.

Q And do you know other people that know him? A Yes.

Q Do you know his reputation for honesty and fair dealing? A I do.

Q Is it good or bad? A Good.

CROSS EXAMINATION BY MR. STRONG:

Q Are you connected with him in business in any way?
A No.

Q Have you ever been? A Well, you want me to answer anyway at all? Lending him money or something like that?

Q Yes? A Well, I did lend him money many times.

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He has been a customer of mine.

Q He has been a customer of yours? A Yes.

Q And still is? A Yes sir.

A L E X A N D E R J. A B R A M S, of 600 West 138th Street, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGEL:

Q What business are you engaged in Mr. Abrams? A In the cigar business.

Q Where is your place of business? A 600 West 128th Street.

Q Do you know the defendant David Goldstein? A I do.

Q How long have you known him? A About seven or eight years.

Q Do you know other people in the City of New York who know him? A Yes sir.

Q Do you know his reputation for honesty and fair dealing? A Yes.

Q Is it good or bad? A Good.

CROSS EXAMINATION BY MR. STRONG:

Q Are you a customer of his too? A Why no.

Q Is he a customer of yours? A Why, he had a place in 137th Street, and I sold him goods. I sold him cigars.

Q And then he is a customer of yours? A Well, he was.

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Q What is your business? A Cigar business.

Q For yourself? A Yes.

SAMUEL FRISCH, of 3128 Fulton Street, Brooklyn

a witness called on behalf of the defense, being duly

sworn, testified as follows:

DIRECT EXAMINATION BY MR. SPIEGEL:

Q Mr. Frisch are you engaged in business at the present time? A Not now, no sir.

Q In what business were you engaged? A Jobber of men's hats.

Q Do you know the defendant Goldstein? A I do.

Q How long have you known him? A About twelve years.

Q Do you know other people who know him? A I do.

Q And do you know his reputation for honesty and fair-dealing in the community? A I do.

Q Is it good or bad? A Good.

CROSS EXAMINATION BY MR. STRONG:

Q Was he a customer of yours or were you a customer of his? A No I used to deal where he used to be a clerk, in a clothing store.

Q And how many people have you talked to about his reputation? A Well the last year, he kept a place

Q (Question repeated) A Well, a good many of them.

Q How many? Mention the name of one person with

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whom you talked about this man's reputation? A Well there is a gentlemen, his name is Mr. Abrams, and Paul Evidence.

Q And what did you say to him about this man's reputation. A Well, just spoke that he is a nice boy, that he is a nice man, and I always like to have him wait on me, and I always waited for him.

Q But he was a courteous salesman, is that what you mean? A Yes.

MR. MOORE: The defendant rests if your Honor please.

MR. STRONG: The people rest.

MR. MOORE: Now if your Honor please I desire to renew the motion made at the close of the People's case for the direction of a verdict of not guilty on the ground that the case rests entirely on the unsupported evidence of accomplices; that Mensching is an accomplice, I think even the District Attorney will concede.

THE COURT: What do you think of the proposition of law about Mensching, Mr. District Attorney?

MR. STRONG: I think it is a matter for the jury to determine whether he is an accomplice or not.

THE COURT: Now supposing Mensching had no knowledge of the character of the property, and did not act of a character or tendency to assist in the

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reception and the disposition of the property, would he be an accomplice?

MR. STRONG: Well, the defendant hasn't given any testimony that Mensching was an accomplice; there is no testimony in the case of that kind, except an inference.

THE COURT: Mensching was originally hired, according to the testimony as an expressman to ship or deliver these goods. There after he was observed selling property for whom we don't know, the proceeds of which he delivered to an unknown man. Now Mensching might have gotten this property in many ways. He might have opened the trunks, and stolen the property from the trunks, and disposed of it. That would not make him an accomplice, but, of course, it would impair his credibility as a witness.

MR. MOORE: But what I am getting at is this, if your Honor please: Mensching connection with the trunks was such that it seems as though he was bound to have something to do with the secreting and disposition of the goods.

Now a portion of the goods were sold by him, and traced to his possession; and, even though we have his denial that he didn't know anything about it, it doesn't alter the situation at all, because we would expect him to deny it, when he was arrested.

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THE COURT: He said that he bought the goods, that a man came there with a suit case, and sold them to him.

But, suppose that the jury take the view that he had taken charge of the merchandise, and being strongly of the belief that the property was stolen, he proceeded himself to steal and dispose of it. He would not be an accomplice in the eye of the law of the person who delivered the property to him, but his credibility as a witness might be impaired.

MR. MOORE: Well, wouldn't that be idle speculation on the part of the jury? They must dispose of it on the evidence as presented, either the evidence of Mensching, or that of the defendant. Now Mensching said that these goods that he got were brought there by the defendant.

THE COURT: But the jury must have freedom in determining whether they will accept or reject testimony, and the inference must be a logical inference following from the facts.

MR. MOORE: Well then, I say isn't the logical inference this, that Mensching, through his truckman goes to Hartman and gets the goods out, and takes them to his place, and, that same afternoon delivers one trunk on the East side? Now, wouldn't it be a natural inference, if they were out property,

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why would we take them to Mensching's from Hartman's, and then deliver some of it, the same afternoon, on Second Avenue? Why wouldn't we have taken it direct to that place?

THE COURT: When was the alleged burglary committed?

MR. MOORE: The burglary was committed on the night of the 18th.

THE COURT: And the morning of the 19th? Between the 18th and 19th?

MR. MOORE: Yes sir.

THE COURT: When were they stored with Hartman?

MR. STRONG: On the 20th, the day before.

MR. MOORE: In fact, they were stored with Hartman on the 20th, and were taken from his place on the 21st, and, instead of delivering them direct from Hartman's, they say we delivered from Mensching's, and making a double trucking of it, and an additional means of tracing the property.

And, on the next working day, we find Mensching shipping the other three trunks from his own place to Savannah Georgia, he, declaring himself to be the shipper, and they were received and recorded in books under the name of Bunzelman.

And we find a peddler hawking these shirts on the street, several weeks after, and he says he got them from Mensching as I understand, or they are traced to

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Mensching.

THE COURT: I prefer not to epitimize the people's evidence, because it may create an impression with the jury unfavorable to the defendant.

It is for the jury to say why Bunzelman, who is not under arrest, or charged by the police, or any one else, with the commission of the crime, should notify the police that the man whom he represented in going over to Hartman and introducing the defendant to Mensching was Goldstein the man whom he had known for many years.

MR. MOORE: Well only for about a year, he said?

THE COURT: No, I think it was longer.

But the point is this: If the jury should find that Bunzelman's connection ~~wikh~~ was criminal, that is to say, if Bunzelman intentionally aided and assisted this defendant in the commission of the crime, the crime of criminally receiving stolen property, then he is an accomplice.

It is not every act which a person does in connection with another that makes him an accomplice. A man might commit an innocent act, and thereby he cannot be demominated as an accomplice. It must be a participation animated by a criminal design.

Now if Bunzelman's intention was to criminally assist him in the commission of the crime, then he is

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an accomplice? But, if Bunzelman's act was in no wise a part of a scheme on his part to aid the defendant as to criminally receive and dispose of the property, he is not an accomplice, and it will be for the jury to determine whether, upon the proofs, the defendant committed the crime of criminally receiving stolen property.

MR. MOORE: Our claim is we didn't have anything to do with the commission of the crime, or the receipt of the goods, and that they were the real receivers and that they had tried to push it over on the defendant, and that there would be sufficient evidence to convict Bunzelman, because he goes to Hartman's and orders the goods sent, and in his name the goods were stored in Mensching's place.

But there is not a single thing in connecting my client with it, except the declaration, as we say, of who the men were caught red-handed.

THE COURT: Well, I will deny your motion.

MR. MOORE: I will take an exception.

(Mr. Moore summed up for the defense, and Mr. Strong closes the case for the People)

After the summing up of the District Attorney,

MR. MOORE: I desire to correct two statements of fact made by counsel for the People in Summing up. He said, that, when Mr Bunzelman brought the officer

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to him, he denied he knew Bunzelman.

The officer said he was uncertain whether he denied knowing Mensching or Bunzelman.

THE COURT: I think you are in error about that. He said he thought it was Bunzelman. But the jury will recollect the testimony.

MR. MOORE: But he wouldn't say but what it might be Mensching; he wasn't certain.

THE COURT: Well, the jury will recollect the evidence.

MR. STRONG: On redirect examination, I asked him, "Was Bunzelman with you when you went to see the defendant"? And he said, "Yes". And Bunzelman also testified that the defendant denied his acquaintance

MR. MOORE: Yes, but the officer said he was uncertain whether or not it was Bunzelman on cross examination.

THE COURT: Well, whatever took place, the jury will recollect, or you can have the testimony on the subject read.

MR. MOORE: And I desire to correct another statement, that one of the purchasers of the shirts said that he thought that it was in the early part of March, but didn't say so positively.

THE COURT: You will recollect the evidence on that point, gentlemen, and it is your recollection

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that will determine as to what the evidence was, in
point of fact.

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