START

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CASE

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Friday, Jany. 11, 1918.

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COURT OF GENERAL SESSIONS OF THE PEACE

IN AND FOR THE COUNTY OF NEW YORK

PART TWO.

2904

THE PEOPLE OF THE STATE OF NEW YORK : B e f o r e:-

-Against- :HON. CHARLES C. NOTT,JR J.,

W A L T E R B. S E V E R A N C E :

and a Jury.

New York, Friday, January 11, 1918.

THE DEFENDANT IS INDICTED FOR PERJURY.

INDICTMENT FILED NOVEMBER 19, 1917.

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

JAMES M. DONOHUE, ESQ., Assistant District Attorney,

For the People.

MESSRS. EMBREE & FABRICANT,

By MR. EMBREE,

For the Defendant.

Amos G. Russell,

Official Stenographer.

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(A jury is duly impanelled and sworn.)

THE PEOPLE'S CASE

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

SAMUEL WOLF, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q You are one of the Clerks of the Court of General Sessions, are you not? A Yes,sir.

THE COURT: Can't there be a comession made on the record embodying this technical evidence?

MR. EMBREE: Yes,sir.

THE COURT: Let me see if I state correctly what you are going to concede. It is conceded on the record that on the 29th day of October, 1917, there was on trial in the Court of General Sessions of the Peace in and for the County of New York, before the Honorable James T. Malone, one of the Justices of the said Court, an action pending between The People of the State of New York, plaintiff, and Walter B. Severance, Defendant, upon a certain indictment then pending in said Court charging the said defendant with the crime of grand larceny in the first degree. Is that correct?

MR. EMBREE: That is right, yes,sir.

THE COURT: I don't think it is necessary to spread on

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the record just what the indictment contained. The indictment can be put in evidence.

MR. EMBREE: Yes, sir; it should appear somewhere what the issues were.

THE COURT: The indictment can be put in evidence.

MR. EMBREE: Yes.

THE COURT: That a jury was then and there duly sworn; that the defendant then and there appeared as a witness in his own behalf, and was then and there duly sworn before the said Judge, that the evidence which he, the defendant, should give to the said Court and jury touching the matters then in question should be the truth, the whole truth and nothing but the truth, the said Judge at that time having sufficient and competent power and authority to administer the said oath. Is that conceded?

MR. EMBREE: That is correct.

THE COURT: Now, you can identify the indictment and put that in evidence.

MR. DONOHUE: All right.

THE COURT: It does not appear by that who administere d the oath.

MR. DONOHUE: Now, I offer the indictment in evidence, if your Honor pleases.

THE COURT: Received.

(Paper received in evidence and marked People's

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Exhibit No. 1, of this date.)

THE COURT: It is conceded that the paper produced is the indictment in question?

MR. EMBREE: Yes, sir.

THE COURT: Now, you might read such parts of that to the jury as you wish, so the jury may understand clearly what the issues are.

MR. DONOHUE: May I read the indictment we have just offered in evidence to the jury?

THE COURT: Yes.

MR. DONOHUE: "Court of General Sessions of the Peace, "in and For the County of New York. The People of the "State of New York, against Walter B. Severance. The Grand "Jury of the County of New York, by this indictment, "accuse Walter B. Severance of the crime of Grand Larceny in "the first degree, committed as follows:

"The said Walter B. Severance, late of the Borough "of Manhattan, of the City of New York, in the County of "New York aforesaid, on the 16th day of September, in the "year of our Lord One Thousand nine Hundred and Seventeen, "in the night time of the said day, at the borough and "county aforesaid, with force and arms, one finger ring of "the value of five hundred dollars, and one other finger "ring of the value of three hundred dollars, of the goods, "chattels and personal property of one Edward R. Richter,

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"on the person of the said Edward R. Richter then and there "being found, from the person of the said Edward R. Richter "then and there feloniously did steal, take and carry away, "against the form of the statute in such case made and pro- "vided, and against the peace of the People of the State of "New York and their dignity."

Second count of the indictment:

"And the Grand Jury aforesaid, by this indictment, "further accuse the said Walter B. Severance of the crime of "criminally receiving stolen property, in the first degree, "committed as follows:

"The said Walter B. Severance, late of the borough "and county aforesaid, on the day and in the year afore- "said, at the borough and county aforesaid, the same goods, "chattels and personal property mentioned, described and "set forth in the first count of this indictment, to which "reference is hereby made, of the value mentioned and set "forth therein, of the goods, chattels and personal Property "of One Edward R. Richter, by a certain person or persons "to the Grand Jury aforesaid unknown then lately before "feloniously stolen, taken and carried away from the said "Edward R. Richter, unlawfully and unjustly did feloniously "receive and have, the said Walter B. Severance then and "there well knowing the said goods, chattels and personal "property to have been feloniously stolen, taken and carried

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"away, against the form of the statute in such case made "and provided, and against the peace of the People of the "State of New York and their dignity.

"Edward Swann, District Attorney."

L U D W I G L U T Z, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Lutz, you are one of the stenographers of the Court of General Sessions? A Yes,sir.

Q And were you one of the stenographers in the month of October, 1917? A Yes,sir.

Q And did you take the stenographic notes in the case of the People against Walter Severance, tried in General Sessions, Part Two, on October 29, 1917? A Yes,sir.

Q And did you at my request make a transcript of that testimony of Walter B.Severance? A Yes,sir.

Q Andhave you produced it at my request? A Yes,sir.

Q Is that it? A Yes,sir (producing paper).

BY MR. EMBREE:

Q Have you looked it through, Mr. Lutz? A I compared this copy with my notes.

Q You did? A Yes,sir.

Q And that is a correct transcript, is it? A Yes,sir.

MR. DONOHUE: Now, if your Honor please, I offer this in evidence.

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THE COURT: You don't insist on his reading from his original notes?

MR. EMBREE: No, your Honor.

THE COURT: Very well. You waive any objection to this being secondary evidence?

MR. EMBREE: We waive that objection. I would like to reserve the right, however, if any contest comes up, to refer to the original notes. I don't anticipate there will be any such necessity.

THE COURT: All right.

MR. DONOHUE: Now, may I read?

THE COURT: Yes, you may read any parts that you wish.

MR. DONOHUE: With his Honor's consent, I am going to read the testimony of Walter B. Severance which was taken at the last trial, on which this perjury charge is based:

"COURT OF GENERAL SESSIONS OF THE PEACE
"City and County of New York, Part II.

"THE PEOPLE OF THE STATE OF NEW YORK

"-against-

"WALTER B. SEVERANCE.

"Before :

"HON. JAMES T. MALONE,

"Judge.

"New York, October 29, 1917.

"The defendant is indicted for grand larceny.

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"in the first degree and receiving in the

"first degree.

"Indictment filed October 3, 1917.

"A P P E A R A N C E S:

"For the People: ASSISTANT DISTRICT ATTORNEY DONOHUE, ESQ.

"For defendant: HERMAN H. LEVY, ESQ.

"The jury is duly impanelled and sworn.

- - - - - - - - - - - -

"New York, October 30, 1917.

"DEFENDANT'S CASE.

"W A L T E R B. S E V E R A N C E, of 805 Lafayette Avenue,

"Brooklyn, defendant called in his own behalf, being

"duly sworn, testified as follows:

"DIRECT EXAMINATION BY MR. LEVY:

"Q How old are you? A Sixteen, going on seventeen.

"Q Where do you live, in Brooklyn? A Yes, sir.

"Q With your father and mother? A Yes, sir.

"Q And brothers? A Yes, sir.

"Q And sisters? A Yes, sir.

"Q Are your father and mother both here in court?

"A Yes, sir.

"Q Do you know Frank Carroll? A Yes, sir.

"Q Do you remember Saturday evening September 15, 1917.

"A Yes, sir.

"Q Were you with Frank Carroll that evening? A Yes, sir.

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"Q You had come over from Brooklyn? A Yessir.

"Q What part of the city were you and Frank Carroll at?

"A Sixth Avenue and 47th Street.

"Q Where did you meet the complaining witness? A At

"Sixth Avenue and 47th Street.

"Q Was he going uptown or downtown? A Downtown.

"Q Which way were you going? A I was going uptown to

"50th Street, to take the subway, but I was going home. I

"was going two or three blocks to take the subway downtown.

"Q The complainant was coming your way? A Yes.

"Q With whom was the complaining witness with at that time?

"A With three gentlemen.

"Q Were they well dressed? A No,sir.

"Q Can you describe the clothes the three gentlemen had?

"A Two had soft hats on and one had a cap on.

"Q After yoy met these three gentlemen and Richter

"what happened? A Richter asked us to have a drink, He

"grabbed hold of my arm and would not let go, so we took him

"to the elevated.

"Q What did he say to you? A He said, 'Come on, join

"my gang, join my crowd.'

"Q Did he appear to be intoxicated? A Yes,sir.

"Q What were the three men doing? A Two had him by the

"arm. The other was walking onthe side towards the sidewalk.

"Q What did you say when he said join the party? A I

"said,'Let go my arm.' Frank Carroll said to me, 'What is the

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"matter with him anyway?' He said, 'Let go my friend's arm.' He "said, 'Oh, be a good sport, have a drink.' Then we walked "up as far as 48th Street and Richter said 'Come on, come have "a drink.' I said, 'I don't drink.' He wanted to pull me "in the saloon on the corner. I said No. He was talking "about 'Shimmie McCoo', I didn't understand him, and we took "the elevated.

"Q Where had the three men been at that time? A We had "gone to the drug store. I said, 'Get something to sober you "up'. I took him in the drugstore, and he gave him some kind "of mixture. When I came out of the drug store the three men "had gone.

"Q Do you know what the drug clerk had given him? A No,sir

"Q What did the substance look like? A Like a brownish "color, white.

"Q The three men had left when youbcome out? A Yes.

"Q Was Frank Carroll with you in the drug store? A Yes.

"Q Did you touch any of the glasses at that time? "A No,sir. There was only one glass on the counter.

"Q Did the drug clerk give it to him himself? A Yes.

"Q Coming out of the drug store what did you do with "him? A He said, 'Come on, we go uptown, take me home, I "don't feel good.' 'Take me home.'

"Q Was there anything about his clothes that you noticed? "A His trousers were torn here (indicating). He was dressed

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"very poorly. His suit was dirty.

"Q He said, 'Take me home?' A Yes. We went up the "elevated with Mr. Richter, Frank and I, and we rode up one "station, and he got sick. He was vomiting, in the car, so he "got out of the car at the next station. He said, 'Get me a "taxi cab'. So the first car came along I raised my hand. I "said, 'How much will you charge to take us up to 107 Street.' "We asked him what the address was. He told us. So we got into "the car. Well, we went up to the house.

"Q Tell the Court and jury what happened in the taxi-cab. "A Richter was sitting on the middle and Frabk on the righthand "side and I on the lefthand side. Richter lay his head down "on my lap and tried to open my trousers.

"Q What did he say or do? A I said to Frank, 'What the "h- is the matter with this fellow?' Then I pushed him over "towards Frank's side. Frank pushed him over to my side. I "said, 'Sit up there.'

"Q Were you laughing or joking? A Yes.

"Q What were you saying to Frank? A I said, to Frank, 'What the h- is the matter with this fellow?' He said,'He "'is a fairy.'

"Q You pushed him from side to side? A Yes/

"Q When you got up to the house who got out first? A I "got out first and helped Richter out, and Frank after.

"Q What did he talk about in the taxicab? A 'Shimie "McCoo.', laughing and rolling his head around.

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"Q You say you helped Richter out of the taxi-cab; he "fell coming out? A Yes.

"Q Did you and Frank help him upstairs? A Yes.

"Q When you got upstairs to the floor that he lived on, "what happened. A It took him quite a time to get upstairs. "He had a bunch of keys and tried to get in, and his sister "opened the door for us.

"Q When you got into the apartment what did his sister "say to you and what did you say to her, and what did com- "plainant say? A She said something to him about coming home. "She said it was very low. He said, 'I have two friends of mine. "So he went in the parlor and turned on the light, he said, "'Have a seat.' He took us by the shoulders and pushed us in "a chair. Then he placed a Victrola record. I asked him if "he had 'Tosca's Good-bye,' a piece we have home. So he "said he would look for it. He went around looking for it "and I was sitting on the davenport, then he said to Frank, 'Can you "play the piano?' Frank said Yes, and Frank played the piano. "Richter opened it.

"Q What time was this about? A When the record "was nearly finished it struck one o'clock.

"Q After Frank played the piano and ~~xx~~ the record was played, "what did Richter do? A He said, 'Come on, have a drink,' "he went into the kitchen. Then Mrs. Schoenemann came into the "room. At the time she came he said, 'Get the hell out of here.'

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"Q Did he speak in a gentle tone of voice to her? A No,
"rough.

"Q Did he say, 'Please go to bed?' A He said, 'You
"go to bed'.

"Q What did he do with his hands. A He closed the
"door, and all the doors, every one he closed, and she sat in
"the kitchen. He said, 'What do you want, why don't you go to
"bed?' And he closed all the doors.

"Q Did he pour out a drink into the tray? A He brought
"in the tray with some kind of a bottle of Scotch whiskey,
"and a syphon and three glasses.

"Q Do you drink whiskey? A No.

"Q Did you ever drink whiskey? A No.

"Q What happened when he pourmed the whiskey out? A He
"poured about that much whiskey in the glass (indicating) and
"the rest seltzer. I pourmed my glass, and I handed Frank my
"glass, and I took Richter's glass and filled it with seltzer.
"I said to Frank, 'He better not drink any more, he has had
"enough now.' He drank it. He made a funny motion with his
"face. He said it tasted rotten. Frank, he said, 'You have
"been drinking too much, that is why.'

"Q Then what happened? A We went into the parlor and
"played another song. He said, 'Have another drink.' I said,
"All right. I intended to pour it back into the tray again.
"It was nearly half full with the water and whiskey, the tray.

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"Frank did not say, 'All right.' He said, 'No, we don't want "any more.' He said, 'You are not a good sport, you get the "hell out.' He took Frank's coat and hat that was lying on the "chair and pushed him out. 'There is the door.' This was a "door going to the street. He put Frank out. He held his "hand against the door this way (indicating) and I tried to get "by but he would not let me by.

"Q Did you ask him for your money for the taxicab? A "Yes, downstairs I asked him. It was three dollars for the taxi-"can Fellow. Richter put his hand in his pocket. He said, 'I "got nothing, I lost everything.' I said, 'All right, I will "have to pay it.' So I Paid the bill. He said, 'I will give "it to you back.'

"Q After you had poured out the second drink on the tray "and after he had put Carroll out, what happened? A I sat "down in the parlor and his sister came into the room. He told "her to get out, and closed the door. Coming back he tripped "on a small piece of wood on the door, a raised small piece of "wood and he fell on his nose. His sister said to me, 'What is "the matter with him?' She came in again, I said, 'Ge is all "right.' I said, 'Go into the bathroom, I will fix your "nose.' They said all right. I put hot water on his nose "in the bathroom and told him to hold his hand up. I said, "'You better go to bed.' She said, 'You go in there with him "and afterhe falls asleep I will let you out,I have your coat

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"and hat.' He came into the bed. He said, 'Stay until "morning, why do you have to go home anyway.' I said, 'I "have to go to the country.' He said, 'Go home tomorrow.' "I said, 'I live in Scarsdale, New York.' He said, 'You go to "Scarsdale tomorrow.'

"Q Did you tell him you had to take the 3:26 train? "A No, I did not tell him that.

"Q After that what happened, A I did not want to get "undressed. I wanted to go home. I was going to sit on the "edge of the bed until he should fall asleep. He pulled me on the "bed, pulled my trousers off, and ripped them off with my "shoes. My shoes came off with my trousers. I had low shoes "on. He said, 'You better get undressed.' I left the room " a number of times, because he tried to do several things in "the room. He tried to get down on me in the room. I said, "'Wait a minute, I am going in the bathroom, I will be back.' He said, 'Come back again,' I went in the bathroom three or "four times. Mrs. Schoenemann stood in the hall all the time. "The door was open. I put the lights on and Richter turned "them off.

"Q Tell us about the incident with the bird? A I "said, 'I am going into the bathroom.' I went into the hall. "Mrs. Schoenemann's niece called me into the room, she said, "'Come in, there is something underneath my bed.'

"Q Did she come out and call you in? A She was stand-

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"ing there. The bathroom was about fifteen feet away from her "bedroom. She came in. I went over to Mrs. Schoenemann. I "said, 'I have to go home.' She said, 'Stay until he falls "asleep'. She told me about the bird. She said, 'It is a "bat'. I said, 'I will get it.' The niece was standing up. "She was standing in her night-gown, the niece. I had Mr. "Richter's bathrobe on, because I was not coming inth the hall "with nothing on. I went into the room and I grabbed hold "of some kind of a cloth and picked up the bird. It was a lit- "tle brown bird. I took it out and held it by the feet. I "said to the niece, 'Nice little bird.' She said, 'Pretty.' "I said, 'Do you want to keep it?' She said, 'No, I am afraid' "Then I heard Richter's voice, he said, 'Where are you?' 'Shimie "McCoo', and all that. I stood against the door. She said, 'Don't let him in.' 'He will be looking into my bedroom.' "I held my back against the door. Mrs. Schoenemann put out "the light. I said, 'Put up the light.' She turned it up. He "thought the door was open. He pushed against it and could "not open it. He thought it was locked and he turned the key., "and locked us in. I banged on the door and I said, 'Here I "am.' She said, 'That is all right, I closed the door quick "so that he would not see in the room'. After while he fell "asleep inside. Mrs. Schoenemann meanwhile came in and took "my trousers and shoes and left them in the next room. She "said, 'You can get dressed in this room.' A sort of a pantry.

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"I got dressed in there. She said, 'What is the trouble, he "comes home and he is always getting me excited; he is always "drinking.' I said, 'I suppose he wants to be a good fellow.' "I said, 'Mr. Richter has my money for the taxicab.' She said, ""If you 'phone tomorrow you will get your money. Mr. Richter "gets up early, about half past seven. You 'phone and you will "get your money.'

"Q How much was that, A I gave the taxicabman five "dollars, the bill was three dollars. He only had a dollar "ten cents in change, No stores were open so I had to give "him three dollars and ninety cents. Mrs. Schoenemann said, "'God bless you; thank you for all you did,' and kissed me on "the forehead and I left the house. I 'phoned that next day.

"Q What time did you leave the house? A A little after "two, about half past two.

"Q You say you 'phoned the next dayM A Yes.

"Q For what, A To get my money. I was going to try to "make an appointment to get my money.

"Q Did you look up the number in the book, A Yes.

"Q Did you speak to him on the telephone? A Yes.

"Q Did you recognize his voice? A No,sir.

"Q What did you say? A I said, 'Is Mr. Richter there' "and he said, 'This is Mr. Richter.' I said, 'This is the "young fellow helped you home last night.' He said, 'Oh, I "remember.' He said to me, 'You know, I lost quite a bit of

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"stuff.' I said, 'Yes, what did you lose?' He said, 'A
"lot of stuff, I would like to find it. I am going to see my
"friend in the Knickerbocker Hotel and talk things over with him.
"Probably we can make an investigation quietly and find the
"culprits.' I said, 'When you were with me you were with three
"fellows that did not look very well, not well dressed, not
"the company you ought to keep,' according to how his house
"was. Richter said, 'Can you come up tonight or meet me
"down town?' I said, 'I don't go out every night.'
"He said, 'When can you come up?' I said, 'Any time during
"the week.' He said, 'Come Wednesday night.' Frank 'phoned
"me Wednesday, he said, 'Are you going over to town?' I said,
"'No, I will stay home. I was going to Richter's house but
"I telpehoned and his sister told me he had gone out, to a dinner
"or something.'

"Q You wanted Frank to go with you? A Yes.

"Q For what? A He told me he thought my friend took
"the things. I told Frank and he said he is got a H-of a
"nerve to tell me that.

"Q So you 'phoned Frank? A Frank 'phoned me and I told
"him to come along. I telephoned Wednesday night. I said I am
"coming up. I said, 'Is Mr. Richter there?' She said, 'He
"has gone to a dinner.' I said, 'Will he be out tomorrow night?'
"She said, She is going to the theatre Thursday night. That
"is what the lady said.

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"Q Mrs. Schoenemann? A No, a much younger person., "the way the voice sounded. I said, 'What night shall I come "up?' She said, 'Friday or Saturday .' I said, 'Iwill tele- "phone Friday or Saturday just before I come up.' Satur- "day night I came to meet Frank in New York, and Mrs. Richter "stopped me on the street.

"Q What was the time the detective was with him? A He "was on the sidewalk. Richter stepped into the gutter, about "four or five steps, and took my arm. He said, 'Hello'. I "said, 'Hello'. He said, 'Are you the young fellow that took "me home?' I said, 'Step on the gutter, you will get run "over'. He stepped up. This detective was standing next. I "said, 'Be careful you are obstructing traffic.' So we walked "up to a haberdashery shop, towards Sixth Avenue. He kept "asking for his rings, I said I did not have them. He said, "'I am going to have you arrested for taking my rings.' I "said, 'After all I done for you, you know I did not take "your rings.' He said, 'I am not saying you took them, but "I will have you arrested.' I said, 'Do You know what hap- "pened in the night.' 'I was afraid to tell my mother. You "sprained my wrist,' and I was afraid to tell my brother what "he done to me. He had bit me in the arm and up here (indica- "ting.)

"Q What did Richter say to that? A He said, 'I was "intoxicated, that takes everything away.' 'That covers up

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"everything.'

"Q Did you see any rings on his fingers when you met him? "A No.

"Q Did you see any rings on his fingers when he was "up at the apartment? A No,sir.

"Q At any time that evening did you see any rings on his "fingers, A No,sir.

"Q Is there anything you forgot to tell? A Not that I "can remember.

"Q How many times in all did you call Richter up after "you left that apartment? A Once.

"Q After this Saturday night how many times did you call "Richter up? A Once, on a Sunday, once on a Wednesday, and "I was going to call him on a Saturday night, and just before "I was crossing the street, to telephone they arrested me.

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

"Q Have you ever been in any court in your life? A No.

"Q You never had any trouble? A No.

"Q Who do you work for? A I was taking a new position "with Frederick Pierce Company, 18 Rose Street, New York.

"Q Just before that who were you working for? A "With my brother. He is a chauffeur on automobiles.

"Q Does your brother have charge of several cars in the DeKelb Avenue garage? A Yes, I helped my brother around "the cars, washing them. My brother gave me money, some

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"money, whatever he gave me, one or two dollars every week
"to spend.

"Q Before that did you work for Mr. Ball who is in court?
"A Yes.

"Q How long? A A year and a half.

"MR. LEVY: That is all.

"CROSS-EXAMINATION BY MR. DONOHUE:

"Q What did you do for your brother? A Helping washing
"cars for him.

"Q Were you working on this day you went to New York?
"A Which day?

"Q The day you met Mr. Richter? A That was Saturday,
"I did not work.
"I did not work.

"Q Did you work for him Friday ? A Yes.

"Q Washing cars? A Yes.

"Q Washing and cleaning around cars, A Yes.

"Q How long have you been working there? A About six
"months or so.

"Q Washing cars and generally fixing automobiles?
"A Yes.

"Q Let me see your hands (witness showing hands to coun-
sel) A Yes.

"Q Show your hands

"(Witness showing his hands to the jury.)

"Q How long did you work for your brother? A Six months
"or so.

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"Q Which brother? A Frederick.

"Q What is his business? A He takes care of a few cars around the garage.

"Q Does he own them? A They are private cars.

"Q Is he the owner of a garage? A No. I don't under-"stabd his business around there but he had his cars around "there.

"Q What does he do? A Keeps them in shape, washes "and cleans them, to see if there is any trouble, and adjusts "the engines. I help wash the cars.

"Q On some of them? A Yes.

"Q What does your brother do with the cars? A He gets "paid by the men around there for the cars.

"Q He takes care of them in this particular garage? "A Yes.

"Q And you help him washing and cleaning them? A Yes.

"Q How much does he give you for that? A One or two "dollars a week, spending money.

"Q Do you do anything else? A Polish them.

"Q Just two cars? A There are three or four cars.

"Q How many cars do you take care of? A Three or four "cars. I took care of three, and I used to do a little extra "work for the other chauffeurs and they used to give me a quarter "or half a dollar; whatever money they made.

"Q Who is Mr. Ball? A My former employer. He is in

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"the drug business, 607 DeKalb Avenue, Brooklyn.

"Q Is that a drug store? A Yes.

"Q What did you do for him? A I attended the store, "waited on people, rung up cash. Filled different little "things, salts, and the like.

"Q You first met Mr. Richter at 47th Street and Sixth "Avenue? A Yes.

"Q You were with Carroll? A Yes,sir.

"Q And Richter was with three other men? A Yes.

"Q And dressed very poorly? A Yes.

"Q Richter was dressed poorly? A His cloths were "dirty and his trousers torn.

"Q You said before that he was dressed poorly? A Ac- "cording to my estimation yes,sir.

"Q He was dressed very poorly? A Yes.

"Q There is nothing about him to indicate he was a man " of refinement ? A Yes,sir, you could see the quality of "his clothes were all right. He had a nice tie and that, but "he was dirty.

"Q You came along on the same side of the street with "him? A He was coming down, I was going up.

"Q As you came along he grabbed you by the hand? A As "I was going down the gutter he was going up. He said, 'Join "my gang, my crowd, have a drink.'

"Q What time was that? A Around towards eleven o'clock.

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"Q Where were you going? A I was going to take the "subway at 50th Street and Broadway. I had been out with "Carroll to the Rialto Theatre.

"Q How did you heppen to get to 47th Street and Sixth "Avenue? A Because Frank Carroll and I had taken a young "lady Helen, to the car. We walked with her as far as Sixth "Avenue and 42nd Street.

"Q Well, you got to 47th Street then? A Yes.

"Q Why didn't you take the subway in 42nd Street? "A We were going to take a walk up Sixth Avenue, looking in "the stores.

"Q Did you ever see any other fairies on Sixth Avenue?

"MR. LEVY: Objected to as improper.

"Question withdrawn.

"Q Did you say the complaining witness was a fairy? A No

"Q Do you say so now? A No,sir.

"Q You had been to the Rialto Theatre with Frank Car- "roll? A Yes, and a young lady.

"Q And the young lady wanted to take the 42nd Street "car? A Sixth Avenue car.

"Q You walked to 42nd Street and Sixth Avenue and put the "young lady on the car? A Yes.

"Q Then you and Frank wanted to take the subway? A Yes.

"Q Instead of walking over to Times Square subway sta- "tion you decided to walk to 50th Street, and Broadway? A Yes.

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"Q And you decided to go up Sixth Avenue? A Yes,
"to look in the shop windows. I was going to buy a pair of shoes
"that night.

"Q At eleven o'clock at night? A Yes.

"Q And you had just five dollars in your pocket you saved
"up for that purpose? A Yes.

"Q And as you were walking along you met the complaining
"witness and these three men? A Yes, sir.

"Q The complaining witness grabbed you by the arm?
"A Yes.

"Q Did that strike you as being peculiar? A No, because
"he was intoxicated.

"Q Did you know at that time what he wanted with you?
"A No.

"Q Did you have any idea what he wanted? A No.

"Q You took him into a drug store then? A Yes.

"Q What happened to the other three men? A They had
"gone when we came out. They did not go into the drug store.
"They stayed outside.

"Q Did they talk to him at all there while you were present?
"A They were talking about this stuff and that.

"Q What stuff? A About drinking, and about him being
"such a good sport and they had a good time, - on that order.

"Q You had this drink in the drug store with him? A
"Yes.

"Q You came out in the street and you found yourself alone

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"with Carroll? A And Richter.

"Q Why didn't you go home? A Because Richter asked "me to take him home, he was not feeling good.

"Q Was he able to walk? A Fairly well. He was "staggering.

"Q He could walk? A He really did not talk. He talked "about "Shimie McCoo.'

"Q How did you know where he lived? A I asked him "where he lived and he said, 472 Central Park West. He gave "the address.

"Q And you decided to take him in the train? A Yes.

"Q Why didn't you go home then? A He asked us to "accompany him home. He said he don't feel good.

"Q Where did you get on the station for the train? "A 50th Street.

"Q How far did you go? A One station.

"Q During this time the complaining witness was intoxi- "cated? A He vomited in the car.

"Q You made no attempt to get a policeman and place him "under arrest? A No, because I did not want to have the "man arrested.

"Q You never knew him before? A No.

"Q Then you got off the elevated? A Yes, at 58th Street, "or 59th Street, whatever the station is.

"Q Then you got into the taxi-cab? A Yes.

"Q While you were in the taxicab he attempted to as-

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"sault you? A Yes,sir.

"Q What did he try to do? A He laid his head in my "lap and was opening my trousers. I said, 'What in the hell "is the matter with you?'.

"Q Didn't that strike you as funny? A Yes, I pushed "him over to Carroll.

"Q Did you call a policeman? A No.

"Q Did you make an outcry? A No.

"Q Did you tell the chauffeur? A No,sir. I told Carroll. "I asked him what was the matter with him.

"Q Despite the fact he tried to assault you in a taxicab, "you went into his apartment? A I had to get my money. I "asked him for the money down on the street.

"Q Did you make any outcry when you got out of the taxi- "cab? A There was nobody there.

"Q Did you tell anybody? A Carroll knew it.

"Q You knew what his purpose was in bringing you home? "A He did noy intend to bring me home. I wanted my money.

"Q When you went home into his apartment you knew he was a "degenerate, you say? A Yes.

"Q You knew what he would do to you? A I did not "expect that.

"Q He tried to do it in the taxicab? A I thought "he would stop after that. I said, 'Keep to yourself'.

"Q Wasn't that your very purpose in going to the apart- "ment with him? A No,sir.

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"Q Despite the fact that this man had attempted to "get down on you as you say, you went up to his own apartment "is that so? A Yes, I went upto get my money.

"Q Did you go up in the elevator? A No.

"Q How did you get up? A The stairs.

"Q Did you meet anybody going up? A No.

"Q Did he drag you up? A No, I helped him up.

"Q You went up of your own accord? A Yes.

"Q What time was this? A After twelve, it must have "been. It struck one o'clock by the clock in the parlor.

"Q You and Carrolls went up together? A Yes.

"Q How old is Carroll? A Around 18.

"Q Had you and Carroll been travelling together for some "time before this? A Not long.

"Q Hadn't you been out before with Carroll and picked up "drunks? A No.

"Q Isn't that all you do for a living? A No.

"Q Had any man tried to do this to you before? A No.

"Q Then you were very much surprised when this man tried it? A Yes.

"Q You told us before you were not surprised? A I pushed him up. I did not understand the man. I said, 'What "the hell is the matter with him,' to Carroll.

"Q When he tried to open your trousers you did not know "what he was trying to do? A I did know.

"Q Then it did not surprise you? A I had heard of those

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"people before.

"Q You had never seen one before? A Yes, I did.

"Q Did anybody ever try to do that to you before? A No.

"Q That was the first time? A Yes,sir.

"Q Of course, you were very indignant? A You could "not be indignant in a taxicab.

"Q Were you? A In a way. In one way I was and in one "way I was not.

"Q You thought he was a bad man. A Yes.

"Q And despite that fact you went up to his own apart- "ment with him? A Yes, to get my money.

"Q When you got into the apartment you had a drink and "you played the Victrola? A I had no drink.

"Q He attempted to give you a drink? A He played the "Victrola.

"Q How long were you in before Carroll left? A Carroll "must have been there over half an hour.

"Q So Carroll left about half past twelve, is that right? "A It struck one o'clock by the clock.

"Q And you stayed on with him? A I tried toget away "with Carroll. I had picked up my hat.

"Q Did you tell Carroll when he was leaving you what to "do when he got on the street? A I said to Frank,'He will "not let me out.' I pushed with my hand. Richter had his "hand on the door and would not let me out. I tried to push "his hand away. He seemed to have superhuman strength. I

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"could not push him.

"Q Did Carroll come back after that? A No.

"Q Did you tell him you wanted a policeman or anybody "else to take you out of that apartment? A No. Richter "closed the door too quick, clammed it in Carroll's face, and "put on the bolt.

"Q After Carroll left you say Richter brought you into the bedroom and pulled off your trousers? A I was in there "and I took him into the bathroom.

"Q He tore your trousers? A Took them off.

"Q And pulled your shoes off with them? A Yes.

"Q Did you make any outcry? A I grabbed hold of my trousers.

"Q Did you make any outcry? A No,sir, it would not have done me any good.

"Q After that you left the apartment about three-twenty? A No,sir; about half past two.

"Q You fully realized what Richter attempted to do to you? A Yes.

"Q Did you make any complaints to any policemen at that "time? A There was no policeman around.

"Q Did you go to the station house? A No, I took the "car home.

"Q Did you complain to anybody? A No,sir.

"Q What name did you give that night? A No name.

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"Q Didn't you tell us before, you gave the name of "Carroll? A No.

"Q What name did you give? A Which night?

"Q The night you were at Richter's apartment? A He "did not ask me my name.

"Q Did he give you anything at all? A No, he said, 'Come "over here.'

"Q When you called up the apartment the next day what name "did you give? A I said, 'This is the boy that took you "home last night.' I did not give any name.

"Q Did you at any time give any name to Mr. Richter? "A No, sir.

"Q You say you and Frank were laughing in the taxicab "when Richter was trying to open your trousers? A I laughed "at that time, I said, 'What the hell is the matter with him?'

"Q Did I understand you to say that Mr. Richter attempt- "ed to go into his niece's room? A Yes.

"Q And you protected her? A I held the door.

"Q And she appealed to you for protection? A No, sir, but she said, 'Don't let him in.' Mrs. Schoenemann said, that.

"Q He threw Frank out? A He pushed him out, took him "by the hand and said, 'You are no good sport, get the hell "out,' and slammed the door. I was going to say something to "Frank then.

"Q Had you ever been on Sixth Avenue in the neighborhood

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"of 47th Street before this? A No,sir.

"Q Never in your life? A I bought things in a store towards that way, shoes.

"Q You had been there, however? A Very seldom.

"Q Did you know these men you met with Richter, "on Sixth Avehue? A No,sir, I never saw them before.

"Q Were you in the Knickerbocker Hotel that night? "A No,sir.

"Q You were the night you were arrested? A No,sir.

"Q You were outside of it? A I came out of the "subway.

"Q It happened to be a mere coincidence that you were "there? A The subway is on the corner of the Knickerbocker.

"Q Did I understand you to say before that you were "never arrested? A Yes,sir.

"Q Is that true? A Yes,sir.

"Q Sure? A Yes,sir.

"Q Mrs. Schoenemann was around the apartment most of the time you were there, wasn't she? A Yes,sir.

"Q Did she say anything about what Mr. Richter attempt- "ed to do to you? A No,sir, not that I know of.

"Q Did you make any complaint to her? A No.

"Q Did you tell her anything about it? A No,sir.

"Q Did you see these rings on Mr. Richter's fingers at "all? A No,sir.

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"Q You never saw them? A No.

"Q What was your idea in saying you lived at Scarsdale? why
"A Because Richter said to me/I had to go home I said
"I had to go to the country.

"Q Did you tell Mr. Richter your name was Bobby Carroll,
"of Carroll Cliff, Scarsdale, New York? A No.

"Q When you called up next day didn't you tell him your name was Bobby Carroll? A No, sir.

"Q You never gave him any name at all? A No, he did not know my name, until he asked me that night.

"Q Were you ever out at three o'clock in the morning
"before this morning? A No, sir.

"Q What was the latest you ever were out? A A little
"after twelve.

"Q That is the latest? A Yes.

"MR. DONOHUE: That is all.

"REDIRECT EXAMINATION BY MR. LEVY:

"Q Are these the trousers that were ripped (showing the
"trousers to the witness). A Yes.

"Q Look at them. A Yes, sir, those are mine.

"THE COURT: What are you doing with those trousers?

"MR. LEVY: Just showing them to the jury.

"THE COURT: You know that is not proper.

"MR. LEVY: Well, I offer them in evidence.

"MR. DONOHUE: I object and I also ask that the jury

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"be instructed to disregard that.

"THE COURT: Yes, the jury will disregard that.

"MR. LEVY: Exception, please.

"BY MR. DONOHUE:

"Q What train did you take? A I took the subway.

"BY JUROR NO. 6:

"Q What elevated train, A The elevated.

"Q What train, the harlem train? A I did not "notice the train, I was on. I had never gone on the Sixth "Avenue line before. I got on at 50th Street. He said, "'Take the elevated here.'

"Q Did you get off at 58th Street; did you all have to "get off the train? A I got off at the next station.

"BY MR. LEVY:

"Q You live in Brooklyn? A Yes.

"Q Do you know very much about New York? A No.

"Q How long have you lived in Brooklyn? A About twelve "years.

"BY THE COURT:

"Q Did you go from Brooklyn to New York with Carroll "that night? A I met Carroll at the Atlantic Avenue sub- "way station in Brooklyn.

"Q Is he a Brooklyn man? A Yes.

"Q You knew him in Brooklyn? A Yes.

"Q How long have you known him? A A few months.

"He used to telephone up to the corner.

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"Q Then you started out for New York that night? A Yes.

"Q When did you quit work? A I had no work Saturdays. "The bad cars had been cleaned Friday.

"Q When did you start for New York? A Around, going "on seven o'clock.

"Q What brought you over to New York from Brooklyn? "A I went to meet this girl. Frank was going to introduce "me to a lady friend that had been working downtown with him.

"Q You did not go over there to buy shoes? A I had "that in my mind, too. Frank said the young lady will leave "us early and I was to buy my shoes.

"Q The main reason was to meet this girl? A Yes.

"Q When you reached Manhattan where did you go? A We "Went to the Rialto Theatre.

"Q With the girl? A Yes,sir.

"Q Did you know her before? A No,sir. I just got "introduced to her that evening.

"Q When did you leave the theatre? A About eleven "o'clock.

"Q Where did you go then? A We walked over to Sixth "Avenue With this young lady and Mr. Carroll, across 42nd "Street, so that the young lady could take the car home.

"Q You didn't go home with this young lady? A She "said, 'You go ahead and buy your shoes; no use of your "coming all the way with me.' I said, 'Frank, you go and

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"take her home.' She said, 'No, Frank, I will see you Monday "downtown.'

"Q So you left her? A Yes.

"Q What time was that? A A little after eleven.

"Q At what point did you leave her? A On 42nd Street, "near the park there.

"Q Then what did you do? A We walked up Sixth Avenue "looking in the windows.

"Q To buy shoes? A Yes,sir.

"Q Did you go into one of the stores? A I looked on "the outside, into one store, I think near 44th Street. I did "not like the shoes from the outside.

"Q Well, you did not buy any shoes? A No,sir.

"Q After you made your inspection of the windows where "did you go? A We crossed over to the Hippodrome, looking at "the bill-boards there.

"Q How long did you stay there? A About five minutes "or so, then we walked up again until we struck 47th Street. "We were going to take the subway at 50th Street.

"Q At the corner of Sixth Avenue and 47th Street you met "these men? A Yes.

"Q Did you know any of them? A No,sir.

"Q Did Carroll apparently know any of them? A No.

"Q And you picked up a conversation with them? A Richter "grabbed hold of my arm, he said, 'Come on.' He lurched for-

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"ward as he was coming up the gutter, so I helped him up with "one step on the gutter. He said, 'Have a drink.' I said, "'I don't drink.'

"Q You don't drink? A No,sir.

"Q Does Carroll? A No,sir.

"Q Why didn't you go away then? A He held on to my arm.

"Q Could you not leave? A Yes, but if I had left go "his arm he would have fallen in the gutter.

"Q At that time of the night ~~xxx~~ were there others on the "avenue? A There were a few people on the avenue.

"Q It was Saturday night? A Yes.

"Q At 47th Street and Sixth Avenue? A Yes.

"Q You did not want to drink? A No.

"Q And you did not like the company very much? A No.

"Q It did not appeal to you very much? A No.

"Q They were dirty looking and apparently had been drink- "ing, and you were on your way home to Brooklyn? A Yes,sir.

"Q Did you stay with them; did you go into the same place? "A No,sir. They wanted me to go into a saloon on a corner "and I would not. I don't think I would be allowed in a saloon.

"Q When you lifted this man up why didn't you go homr "then? What further attraction did this company have for you? "A He said, 'Help me home, will you?' One of the other fel- "lows left his arm. He had me by the left arm and by my coat "and I could not leave go. He had ripped my coat.

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"Q Did you say to your friends, 'I am going home to "Brooklyn?' A I said, 'am on my way home.' He said, "'Oh, Schimie McGoo.'

"Q But you did go along with him? A I brought him in "the drug store.

"Q When you came out of the drug store why didn't you "then go home? A There was nobody to help him along.

"Q Nobody on the street? A His friends had gone.

"Q Wasn't there anyone you could have turned him over "to? A There was no one in sight.

"Q What interest didyou have in this man? A I "thought I would help him home and do something good. I "thought I was doing good. I did not think I would get into all "this trouble by helping him home.

"Q Did you suggest the taxicab? A No,sir. Richter "suggested it.

"Q And you went in with Richter into the taxicab? "A Yes.

"Q You say he made some effort to assault you in the "taxicab? A Yes,sir.

"Q Did you try to attract the attention of the man "driving the car? A No, the man driving the car had his "attention on the car. It seemed to be a limousine.

"Q Did you make any effort to attract his attemtion, "that you were being assaulted, or about to be assaulted?

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"A I took it as a joke and I laughed and Carroll laughed.

"BY MR. DONOHUE:

"Q What is the girl's name? A Helen something. I "don't remember the last name.

"Q She is a friend of Carroll's? A Yes.

"Q What picture was playing at the Rialto? A Taylor Holmes, if I am sure. I think it is in 'Fishing the Sea.' "or something.

"MR. DONOHUE: That is all."

MR. EMBREE: May the witnesses be excluded?

THE COURT: Yes.

(All witnesses are excluded from the court room.)

F R A N K C A R R O L L of No. 1140 East Thirty-fifth Street, Brooklyn, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Carroll, how old are you? A I will be twenty in February.

Q Talk up so everybody can hear you. A Twenty in February.

Q And where are you working now? A Fire Department.

Q Of the City of New York? A Yes, sir.

Q As what? A Telephone operator.

Q And during the months of October and September of 1917 where did you work? A Baker, Carruthers & Pell.

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Q What kind of business are they in? A Brokers.

Q What was your position there? A Order clerk.

Q How long were you there? A I was there three years.

Q Do you know this defendant, Walter B. Severance? A Yes.

Q About how long do you know him? A About three months.

Q And do you recall the first time you met him? A I was introduced to him on Broadway.

Q You were introduced to him on Broadway? A Yes, sir.

BY THE COURT:

Q Do you mean you know him three months from now, or three months before this thing happened? A Three months before this thing happened.

BY MR. DONOHUE:

Q About when was the first time you met him? A It was in the summer some time, in the latter part, around July.

Q And did you see him very often after that? A Yes, sir.

Q And were you with him on September 16th, 1917? A Yes.

Q Do you mind telling us where were you about 10:00, 11:00 or 12:00 o'clock that night, just describe the places? A We had been to the Hotel York, and we had gone to Drake's for something to eat, and we had taken a walk on Broadway, and we had gone back to the hotel and come back again, and we were around the Knickerbocker Hotel about that time.

Q And did you meet a man whom you subsequently identified as Mr. Edward R. Richter that night? A Yes, sir.

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Q Where did you meet him? A In front of the Knickerbocker Hotel, on Broadway.

Q And where did you go with him from there? A We walked - he went over as far as Sixth Avenue, and we followed him over as far as Sixth Avenue and Forty-second Street.

Q When you say, "we" who do you mean? A Walter Severance and myself.

Q You were a witness for Mr. Severance at the trial in which he was charged with grand larceny of some rings from Mr. Richter? A Yes, sir.

Q Will you tell us how you happened to be a witness for Mr. Severance upon that trial? A I had gone down to the Tombs to get my overcoat that I had loaned Walter, and I couldn't get the coat, and I went away, to make him a visit the day after.

Q The day after what? A I had gone down on Saturday, in the afternoon, and I couldn't get my coat, and there was no visits that day, or they were over, and I went down a couple of days later and saw him.

Q Where was he when you saw him? A In the Tombs.

Q The City Prison? A Yes, sir.

Q And you had some talk with him? A Yes, sir.

Q And did he tell you what he was being detained there for? A He told me Mr. Richter had accused him of taking some rings.

Q And did he tell you who Mr. Richter was at that time,

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or did you know who Mr. Richter was? A I didn't know who he was, no,sir.

Q Did he tell you it was a man you and he had been out with the night before? A Yes,sir, I knew it was the gentleman we had been out with; I knew it was Mr. Richter.

Q You had some talk at that time about his trial, did you not? A Yes,sir.

Q Did he ask you to be a witness for him? A He said his lawyer would call me as a witness, yes,sir.

Q Did he ask you what you were going to say when you took the stand? A He told me what he was going to say, and wanted me to corroborate him.

Q Tell what he said about your testimony that you were to give at that trial? A He said that we were to tell the story that we had met in the subway at Brooklyn, that we had come to New York together, that we met this girl, and that we had gone to the Rialto, that we had left there early and had taken the girl as far as Sixth Avenue and Forty-second Street and left her there; that we had walked a little way on Sixth Avenue, when Mr. Richter came towards us with three men, and that Mr. Richter said something to us, and after a while the three men left us, and we took Mr. Richter in a drug store, and that he suggested taking an elevator; we were supposed to take the elevator; I don't know what station it was at, and rode up one station and got out and went downstairs, and we were supposed to

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have seen a machine coming along Sixth Avenue, and we were supposed to have stopped it and taken this gentleman home to his house, in One Hundred and Seventh Street and Central Park West; and he said I was to say that Mr. Richter had attempted to put his head down on his trousers, and that we were pushing him from side to side, and that we had got out at his house, that he paid the bill, and we went upstairs, and that I was to say we had gone upstairs for the purpose of getting the money back, and we got upstairs.

Q What did he say you were to say happened in the apartment? A When we got upstairs he said I was to say Mr. Richter had attempted to go down on him once while he was on the Davenport, and he also said Mr. Richter had gone down on him after I had left, and that is about all.

Q And did he say what you were supposed to say about the payment of the taxicab at the door? A About what?

Q About the taxicab bill? Did he say anything about what you were to say about the taxicab bill? A That we had gone up there to get the money.

Q What else did he ask you to do, anything else - asked you to say when you took the stand? A To say I had met him the first time in the subway, that I had picked up a paper for him, and that is the way we had become acquainted.

Q Did he tell you to say that you had been to the Rialto Theatre? A Yes, sir.

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Q Did he also ask you to say what happened in the taxicab?

THE COURT: He has testified to that.

Q Now, tell us about what happened the next day, the next day after you had been to Mr. Richter&s apartment? A I was at the Hotel York, and he came in, in the afternoon.

THE COURT: I don't know whether he is testifying about what really happened, or what he has been told to say.

MR. DONOHUE: Up to now he is testifying to what he was told to say.

THE COURT: You better go back to his meeting Richter, and let him testify to what he says happened.

Q Go back and tell us what really did happen from the very first time you met Mr. Severance? A I had met him in the afternoon.

Q Where? A In the Hotel York, in the neighborhood. I had been down to business with this girl who works as a telephone operator where I am working, and we had lunch up around Fiftieth Street. Then we went up to the Hotel York, and I introduced Walter Severance to this girl, Miss Handybolt, in the lobby of the hotel. We walked up as far as Forty-fourth Street, to some apartment house, where he went in and got some money; that is the place where he worked; and then we went to Churchill's, and we had a couple of dances, and I believe we had some port wine. Then we left this girl. We walked down from Churchill's down to Forty-second Street, and she took the subway home.

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Q Subway where? A At Forty-second Street and Broadway.

Q Times Square station? A Yes,sir.

Q And what did Severance do? A (No answer).

BY THE FOREMAN OF THE JURY:

Q You didn't go to a show at all that night? A No,sir.

BY THE COURT:

Q Was that the time you saw Richter, after you left the girl at Forty-second Street and Broadway? A After we left this girl we went back to the Hotel York, and we stayed there a little while; I think we had a little sleep; and then we got washed and we came out and went up to Drake's and had something to eat, and we went back to the hotel again, and we came out and met Mr. Richter, about eleven o'clock, in front of the Knickerbocker Hotel.

Q What time did you leave the girl? A It was early, about half past five.

BY MR. DONOHUE:

Q And where did you leave her? A Forty-second Street subway.

Q And you went back to the hotel and had something to eat? A Not there. We went back to the hotel and came back and went to Drake's restaurant.

BY THE COURT:

Q Did you sleep at the Hotel York? A Yes, for a while.

Q Did you engage a room there? A I had a room there from

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the day previous.

Q You had a room? A Yes,sir, had a room there.

BY MR. DONOHUE:

Q What time was it you met Mr. Richter that night? A It was about eleven o'clock.

Q And where did you meet him? A In front of the Hotel Knickerbocker.

Q Tell us what happened after that? A Mr. Richter walked along Forty-second Street as far as Sixth Avenue, and we walked over and stood in front of the park. Mr. Richter was on the opposite side of the street, with a couple of soldiers then, and then he walked over to where we were standing, and he fell, and we picked him up, with a couple of others, and Mr. Richter went up one side of the elevated, and we went up the other side, and we paid our fare and got on the same train, and I think we rode two stations. In the meanwhile we had been talking to Mr. Richter on the station. We rode two stations with him, and we went downstairs and went in the drug store, and we walked a little ways and came to a private garage and got a machine there and took Mr. Richter home.

Q Did he at any time while in that taxicab attempt to open your trousers or Severance's trousers? A No,sir.

Q Did he make any attempt to assault you in any way at all? A No,sir.

Q What happened after that? A We got home, and Walter

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Severance paid the taxi bill, paid about three dollars.

Q Where did he pay that? A At Mr. Richter's door, and we went upstairs, we helped Mr. Richter upstairs; we got inside and sat down in the parlor, and his sister came in, and he told her to go outside, and then he played one Victrola record for us, and I played the piano, and he had asked us to have something to drink previously, and I refused. He set up the drinks. I think he had one himself. And after I had played the piano he asked me to have some more, and I refused, and he told me I was a bum sport and said I would have to go.

Q Who said that? A Mr. Richter; and I asked for my hat and coat, and went.

Q Leaving Mr. Severance in the apartment with Mr.Richter and who else? A Mr. Richter, and, as far as I know, his sister.

Q Did you see Mr. Richter make any attempt to assault Severance at any time? A No,sir.

Q Did he make any attempt to assault you? A No,sir.

Q Did you notice whether Mr. Richter had any rings on his fingers at that time? A Yes,sir.

Q Describe those rings? A He had one ring, I believe a Gypsy setting, with one stone, and platinum, and one ring which had the appearance of two, a double ring.

Q Did you see those rings on Mr. Richter's hands when you left the apartment? A I had seen them when Mr. Richter was opening the door, when he was putting the key in the latch, and

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I noticed them in the apartment also.

Q When was the last time you saw them in the apartment? A I believe when he was trying to get a record out of an album, a Victrola record.

Q When was the next time you saw those rings? A I saw them the day after.

Q Who had them? A Walter Severance.

Q And what did he say about them? A He said he had stayed with Mr. Richter for a while and had sucked them off his fingers.

Q Did he say at that time anything about Mr. Richter having assaulted him or gone down on him? A He said that Mr. Richter had bit him, I think he said he had biy him up on the shoulder somewhere, and he had bit him on the hand, and had torn his pants, and if Mr. Richter made any trouble for him he would say that he had done this to him, and that he would make this charge against him.

Q Tell us what happened after that with reference to those rings, what Walter Severance said about them, or did with them? A What he told that same day? We went home that night, and a couple of days after I met him down at Brooklyn Bridge, I believe, and he told me that he had been trying to sell them, first to a saloonkeeper that he knew out his way, and that some woman whose house he had been to had wanted to buy one of them off him, but he said he wasn't going to sell them, he was going to wait until all the trouble passed away, and that

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he had hidden them somewhere.

Q How far - where did you walk that night from the time you met Mr. Richter? You say you met him outside the Knickerbocker Hotel, you saw him outside the Knickerbocker? A Yes,sir.

Q And he was intoxcated at that time? A Yes.

Q Staggering around? A Yes,sir.

Q And you saw him walk down to Sixth Avenue? A Yes,sir.

Q And he got on an elevated station? A At Sixth Avenue and Forty-second Street.

Q Did you at any time that night walk up Sixth Avenue with the defendant, Severance? A No,sir.

Q As far as Forty-seventh Street? A No,sir.

Q And did you have an appointment with him that night to meet this young lady? A I had been in the hotel with him in the morning that I had gone down to work, but I had told him that I would stop in in the afternoon.

Q Did you tell him that you were going to bring this girl up with you? A Not at the time, nosir.

Q During all the time Mr. Richter was in the taxicab, will you tell us what he was doing and what you two were doing? A He kept repeating some expressions about Jimmie Becue; I don't know the name; we were laughing and carrying on, and Mr. Richter wasn't saying much; he couldn't; he was half off the street and we were talking among ourselves, I don't know exactly what about.

Q You didn't meet Severance at the Atlantic Avenue sub-

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way station that night, did you? A No,sir.

Q And did you and Walter Severance walk from Broadway and Forty-seventh Street and Sixth Avenue with this girl named Helen? A No,sir.

BY THE COURT:

Q Was anything said between you and the defendant before you took the taxicab as to any purpose you had in taking the man Richter home? A I believe at the Forty-second Street station we noticed that Mr. Richter - we saw that he had the rings, and Walter Severance said that we would go home with him. At first I didn't want to go and he said, "Let's go home with him, anyway".

Q Did he say why?

MR. DONOHUE: If your Honor will let me proceed along other lines I can bring that part of the situation out.

BY MR. DONOHUE:

Q Mr. Carroll, how long do you know this man? A Walter Severance?

Q Yes. A I knew him about three months before this happened, before September.

Q And how often would you meet him in that three months? A About three or four nights a week.

Q And where would you meet him? A Broadway and Forty-Second Street.

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Q And about whatvtime of the night would you meet him? A About half past eight or nine o'clock.

Q And how would you make arrangements to meet him at that particular place at that time? A Sometimes he was up there around that section and other times I would call him up at some "Bedford" number.

Q And you would make arrangements to meet there? A Yes.

Q And you met there about three nights a week? A Yes, sir, about that.

Q After you arrived there, what would you do?

MR. EMBREE: Now, I object to that, your Honor. I don't see how that can have any relevancy to this perjury charge. There are seven distinct allegations in the perjury charge. I don't see what this has to do with it.

MR. DONOHUE: I will show why they took this man home this night, the reason for Severance getting into the cab with this man.

THE COURT: You may ask that. I don't think a general course of conduct would prove that. That might be material on the larceny transaction.

Q You had gotten into cabs other times with this defendant, had you not?

MR. EMBREE: I object to that.

THE COURT: Yes, objection sustained.

Q Well, you and this defendant had picked up people in

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the street that you didn't know?

MR. EMBREE: I certainly object to that, your Honor.

THE COURT: The same ruling.

BY THE COURT:

Q Was anything said between you and this defendant on the night in question as to the purpose in taking this man home, or was anything said about these rings between you and him before you got to the apartment? A He said he liked the man, that the man, Mr. Richter, was taking to him all the time, and he wasn't paying attention to me, and Walter Severance said he would go home with him, that he liked him.

BY MR. DONOHUE:

Q Who said that? A Walter Severance.

Q Said that he liked who? A Mr. Richter.

Q And why did you go home with him? A I was with Walter Severance at the time.

Q Did that ever happen before between you and Walter Severance?

MR. EMBREE: I object to that.

THE COURT: Objection sustained.

MR. DONOHUE: Your witness.

CROSS-EXAMINATION BY MR. EMBREE:

Q How old are you, Carroll? A I will be twenty in February.

Q And Severance is sixteen, isn't he? A Yes,sir, to my knowledge.

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Q You have only known him for about three months?

A About that, yes,sir.

Q About three months before this happened? A Yes,sir.

Q And this happened in September? A Yes,sir.

Q Will you tell us again where you are working now?

A For the Fire Department, for the City.

Q In what capacity? A Temporarily, as a telephone operator.

Q How long have you been there? A About a little over a month.

Q Where did you work before that? A Baker, Carruthers & Pell, brokers.

Q How long did you work for Mr. Baker? A Three years.

Q Three years? A Yes,sir.

Q In what capacity? A As an order clerk.

Q As what? A Order clerk.

Q Now, you told us that you did have a room at the York Hotel on one occasion? A Yes,sir.

Q What was that date? A I believe it was the 15th of September.

Q The day you met Richter? A That I had the room there?

Q The day you met Richter. A Yes,sir.

Q And you had a room at the York before, had you,occassionally?n A Yes,sir, a couple of times.

Q How many times? A I don't remember exactly; once or twice, when I had been out late and I didn't want to get down

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too late to business, I would take a room there.

Q And occasionally in the course of your work had you had rooms at other hotels? A No,sir.

Q You stopped once at the Biltmore, didn't you? A At one time, yes, for one night.

Q About when was that, Mr. Carroll? A That was in the early part of September, I believe.

Q Did you occupy room 208 there? A I don't remember the room number.

Q It may have been that number? A It may have been, yes.

Q The young lady that you mentioned had been employed at Mr. Baker's firm, had she? A Yes,sir.

Q And her first name is Helen, is it? A Helen, yes,sir.

Q And you saw her then on the day that you met Mr. Richter? A At business, yes,sir.

Q And it is true, is it not, then, at the time that Walter was tried, in the month of October, you appeared as a witness? A Yes,sir.

Q And you now say that that testimony which you gave there was false; is that true? A Yes,sir.

Q Now, I want to ask you about two or three things that you gave in your testimony there. A Yes,sir.

Q For the stenographer to take down; it is a matter of record; and I am not asking you what is the truth, but I am asking you what you said at that time? A Yes,sir.

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Q Now, at that trial, you did say, did you not, that you did not see the rings at all? A Yes,sir.

Q And that was false? A Yes,sir.

Q They asked you about that, didn't they? A Yes,sir.

Q And you said you didn't see any rings on this man's hands? A Yes,sir.

Q And they asked you if you knew whether Severance had taken any rings, and you said as far as you knew he had not. A Yes,sir.

Q You testified to that? A Yes,sir.

Q They also asked you, did they not, the circumstances under which you met Walter? A Yes,sir.

Q And you said you met him in the subway? A Yes,sir, I told that at his brother's suggestion.

Q At any rate you told it? A Yes,sir, that I had met him in the subway, that I had picked up a paper for him.

Q And you testified to that? A Yes,sir.

Q But you now say you met him on Broadway? A Yes,sir, I was introduced to him.

Q Do you live home with your parents? A Yes,sir.

Q Where is that? A 1140 East Thirty-fifth Street, Brooklyn.

Q That is - A In Flatbush.

Q And in the month of September, this year, what salary were you receiving? A Seventeen dollars.

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Q Seventeen dollars a week? A Yes,sir.

Q And have you always resided home with your parents? A Yes,sir.

THE COURT: I think this will be a good place to stop and take a recess.

MR. EMBREE: Yes, I will be glad to stop here.

THE COURT: (To the jury) Gentlemen, please do not form or express any opinion as to the defendant's guilt or innocence until the case is finally submitted to you. Please do not discuss the case among yourselves, or allow others to discuss it in your presence. We will take a recess until two o'clock.

(The Court then accordingly took a recess until two o'clock P. M.).

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A F T E R R E C E S S.

F R A N K C A R R O L L, resumes the stand.

CROSS EXAMINATION (Continued) BY MR. EMBREE:

Q Carroll, do you know Mr. Donohue, the Assistant District Attorney? A Yes, sir.

Q And you visited him on several occasions in his office, didn't you? A Yes, sir.

Q And did you there make some statements to him? A Yes, sir.

Q About this case? A Yes, sir.

Q Can you give us the date on which you first saw Mr. Donohue? A I don't remember the date.

Q Give it to us as nearly as you can? A I believe I saw Mr. Donohue for the first time on the night that I was arrested.

Q On the night you were arrested? A Yes, sir; I don't remember the date.

Q That was the night after Severance had been tried and acquitted, was it not? A Yes, sir; yes, sir.

Q On that night you were arrested? A Yes, sir.

Q And charged with that larceny? A Yes, sir. No, I was not charged with the larceny. I was committed for perjury.

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

Q Do you know whether or not the records show that you were committed for grand larceny? A I believe the papers

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were twisted and I believe they were straightened out at the time that I was bailed. At the time I was bailed the papers were twisted, and they straightened them out.

Q At the time you were bailed out they did read grand larceny? A What say?

Q At the time you were bailed out they did read grand larceny? A Yes, sir.

Q Then you were arrested the night after the trial? A I was arrested the same day.

Q The same day? A Yes, sir.

Q And you remained in the City prison until the 17th day of November? A Yes, sir.

Q And then you were bailed out by Mr. Baker? A Yes.

Q Well, now, perhaps we can get at the date this way: How soon after the trial, which occurred on October 30th, I believe, how soon after the trial did you have a talk with Mr. Donohue? A I was arrested the day that Walter Severance was acquitted. I saw Mr. Donohue that evening, and I believe I had a talk with him the following day, if I am not mistaken, I believe it was the following day or the day after.

Q That evening did you talk to him in his office? A No, sir.

Q Where? A Down stairs, in the office of the tombs.

Q In the office of the city prison? A Yes, sir.

Q And who was present? A Mr. Baker and Mr. Donohue

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and a friend of Mr. Baker's, I believe.

Q Do you remember his name? A Mr. -- I believe it is McDermott. No, I don't remember the name. He is with Harriman and Company. He is a friend of Mr. Baker's.

Q How soon after that did you see Mr. Donohue? A I saw him the next day, I believe.

Q The next day? A Yes, sir.

Q When he talked with you in the city prison, was there a stenographer there and took down what you said, or did he just talk to you informally? A Just informally, the night.

Q Now, the next day you saw him in his own office, did you? A Yes, sir, I believe it was the next day.

Q One of the keepers brought you over? A Yes, sir.

Q And who was present at that time? A Mr. Baker and I believe Detective Baron, Mr. Donohue, and I believe there was a stenographer there at the time.

BY THE COURT:

Q Who is Mr. Baker? A Mr. Baker, my employer, former employer.

BY MR. EMBREE:

Q And about what hour was that, can you recall?

A I believe it was around lunch time, around eleven o'clock, if I remember correctly.

Q Did you see Mr. Donohue again after that? A Yes, sir, I saw him in the afternoon, I believe.

Q Who were present then? A The same people.

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Q The same people? A Yes, sir.

Q And did you see him again after that? A Yes, sir.

Q When? A I believe I saw him a couple of days after that, when I made a statement.

Q When you made a statement? A Yes, sir.

Q And a stenographer was present and took it down? A Yes, sir.

Q Were you brought over from the city prison that time by a keeper? A Yes, sir.

Q And do you recall who were present on that occasion? A I believe Mr. Baker and a detective by the name of Von Twisten, and Mr. Donohue and the stenographer and myself, and my mother was outside.

Q On the last occasion, did you tell Mr. Donohue substantially the same as you have told us here? A Yes, sir.

Q That is, on the last occasion? A Yes, sir.

Q On the first occasion you didn't tell him at all, did you? A I didn't say anything on the first occasion.

Q On the second occasion you didn't make a full statement, did you? I am trying to bring out for these gentlemen here why it was necessary for you to appear several times? A I started to, but I believe I started to cry, or something like, and I didn't make any statement at all.

Q Well, at any rate, you didn't tell Mr. Donohue on the first occasion when you were in his office all that you told us now? A I told Mr. Donohue the first evening that

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Walter Severance had taken the rings. I told him that in the office of the city tombs, but I didn't make any statement. I told him that Walter Severance was the one that had taken the rings on the day I was arrested, and I told him that in front of Mr. Baker and this other gentleman and Mr. Donohue, down stairs, that Walter Severance had taken them and had shown them to me.

Q That was the night after the trial? A That was the same night.

Q It is true, is it not, then, that on the night of September 15th, the day alleged in this indictment, you did meet Severance? A The ninth?

Q I am speaking of the 15th day of September? A The day that I met Severance, the night we met Mr. Richter?

Q Yes. A Yes, sir.

Q It is true you did meet Severance that afternoon? A Yes, sir.

Q And while you and Walter were together you did see Richter, didn't you? A Yes, sir.

Q And that was the first time that you and Walter had seen Richter, wasn't it? A Yes, sir.

Q And you told us a while ago, as I recall it, that when you first saw Richter he was with some other men? A That was the statement that I made at Walter Severance's trial.

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Q At the trial? A Yes, sir; when we saw Mr. Richter he was alone; when we met Mr. Richter he was alone; he was coming out of the Knickerbocker Hotel.

BY THE COURT:

Q You didn't meet him then, did you? You said nothing to him? A Oh, when we met Mr. Richter, Mr. Richter came out of the Knickerbocker, and he walked over to Sixth Avenue and 42nd Street, and we followed him over there.

BY MR. EMBREE:

Q You told us a while ago, did you not, that before he went up the Elevated steps he was with some other men?

A Mr. Richter fell, and two men picked him up, along with Walter Severance and myself.

Q Two men? A Yes, sir.

Q Was it two, or three? A Two men.

BY THE COURT:

Q Were they the soldiers you speak of? A No, the two soldiers were standing on this side of the street, and Mr. Richter left them and crossed over.

Q You did see him with two soldiers? A Yes, sir, he had been talking to two soldiers on this side of the street, and he walked over, and he fell right where we were standing, and two fellows picked him up.

BY MR. EMBREE:

Q After he left the soldiers, as you say, did the two fellows walk across with him? A Mr. Richter went up the stairs on one side, and we went up on the other side.

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Q After he left the soldiers, did he walk across the street with these other two? A No, sir, Mr. Richter walked across the street himself, he walked across the car-track, and he fell about where we were standing,and these other two fellows must have been standing around the machines that were there, and they picked him up, and we were standing there, and with the two of them we helped pick him up also.

Q What did the other fellows do after they picked him up? A We went up one side; Mr. Richter had gone up this side, and we crossed over and went up the other stairs, and these two men came up the same stairway as Mr. Richter did,and the five of us were up on the same platform.

Q That was at the corner of 42nd Street and Sixth Avenue? A Yes, sir.

Q Now, after you had ridden up on the L. for a ways you got off the L, is that right? A Yes, sir.

Q And you and Walter and Richter all got in a taxicab? A After we had gone into a drug store, yes, sir.

Q Yes, after you had gone into a drug store? A Yes, sir.

Q And then you and Walter and Richter rode from there to Richter's home? A No, sir; we walked to a garage, we walked on, I don't know what Avenue it was along-- I don't know whether along Seventh or Eighth Avenue, in the colored section, we walked and we walked up as far as Sixty some odd street to a private garage, and we got a machine there.

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Q After you got in the machine you rode, the three of you together, in the machine up to Richter's home? A Yes sir.

Q And Richter was very drunk at the time, wasn't he? A Yes, sir.

Q And while he sat in the cab didn't he roll about somewhat? A Yes, sir.

Q As a drunken man would? A Yes, sir.

Q And on the trial you testified-- I am not asking for the fact, but what you testified-- on the trial you testified that Richter did make an attempt to open Severance's pants? A Yes, sir.

Q He did put his head in Severance's lap? A That is what I testified, yes, sir.

Q Now, I am not asking for the fact again, but I am asking for what you testified to. On the trial you did testify that you didn't see the rings? A Yes, sir.

Q And you also testified that you didn't see any rings in the apartment, did you not? A Yes, sir.

Q And you have told us that on that afternoon, at any rate, you and Walter had been in the company of a young woman? A Yes, sir.

Q That was the same afternoon, was it? A Yes, sir.

Q And wasn,t her first name Helen? A Helen, yes,sir.

Q Did you on the trial way that you and Walter and Helen had been to the Rialto Theatre? A No, sir, I said that we had not.

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Q On the trial? A Yes, sir.

Q Did you on the trial say that you had walked with the girl Helen and Severance over as far as 42nd Street? A Yes, sir.

Q And Sixth Avenue? A Yes, sir.

Q Now, you told us a while ago that you talked this matter of what you would say on the trial of Walter, that you talked that matter over on one day when you visited Walter in the city prison? A Yes, sir.

Q And I understood you to say that is the only time you talked to him about it; is that true? A When he called up-- he called up Mr. Richter that time, and he gave my name, and at that time he said that if he ever got in any trouble that he would say that we had been out with this girl and we had left her and we had been walking along Sixth Avenue, or whatever it was, and we had met Mr. Richter with these men, and then when he went down to the tombs to get my coat he told me that he was going to tell that story, that was the story he had told his lawyer and he wanted me to corroborate it.

Q When was it he first told you this, over the telephone? A The night he called up Mr. Richter, he was in Gray's drug store. He was talking with Mr. Richter, and after he telephoned he told me that.

Q Do you recall that was Sunday night? A I don't remember.

Q Do you recall whether it was Sunday night, the next

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night after you had met Richter? A No, sir, I don't believe it was.

Q Well, give us your best recollection of when it was, then? A Yes, sir, I think it was the next night that he called up Mr. Richter and said that he wanted to come up and see him, or something like that.

Q And it was right after he had been talking to Mr. Richter on the telephone that he told you that he would tell this story if any trouble came up? A That he thought he would. He was not sure about it, but that is what he said, he would say some story like that.

Q Did you hear what he said to Mr. Richter over the telephone? A I did not. I heard some of what he said, yes, but I didn't hear anything of what Mr. Richter said.

Q When Walter came from from away from the telephone he didn't tell you that Mr. Richter had intimated that there would be any trouble, did he? A He said Mr. Richter had accused his friend, he said, of taking the rings.

Q His friend? A He meant me. Walter told me Mr. Richter said he thought Walter's friend had taken them. That is what he told me.

Q So Walter told you then that Richter had suspected you? A Yes, that is what he said, yes, sir.

Q And he said that if he, Walter, got in any trouble, he would tell this story? A Yes, sir, that is what he said.

Q Did he suggest to you at that time any story that you

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had better tell if you got into trouble? A No, sir.

Q He did not? A He said that if he got into any trouble he would tell this story, and he said I was there with him at the time, and I had better stick to the story, if he got in any trouble, and then he told me he had told this story to his lawyer the day I went down to the prison, he told me he had told this story to his lawyer.

Q I am talking about this first visit. I haven't come down to that yet. Now, will you just tell us again what story he told you he would tell this night after he had finished telephoning to Mr. Richter? A That we had been-- first he said to say that he had met me at the Atlantic Avenue station, and that we had come over to New York together, and that I was to meet this girl and was to introduce him to her, that we were to go to the Rialto Theatre, and that after we had come out from the Rialto, that we had left early, we had walked along Broadway over as far as Sixth Avenue, and that we had left the girl there somewhere, and that we had walked up towards 47th Street; that he had some money in his pocket, and he was going to buy a pair of shoes at some store, and when we got up there that I was to say that Mr. Richter had been coming along with three men, and one of them had a cap on and two had slouch hats, and that Mr. Richter had grabbed hold of him and asked him to join the party and be a good sport and come and have some drinks with him, but we did, as a matter of fact, take him in the drug store, but he said to say we had

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taken him in the drug store and got him something to drink, and got in the L. and rode one or two stations, and we had come down and had taken a machine that was passing along the street and brought him up to his house, and that when we got up there Mr. Richter fumbled around for his money down stairs, and that Walter had paid the bill, and that he was going up to the house to get the money.

Q Let us not have any misunderstanding about it. He told you all this immediately after he had telephoned to Mr. Richter on that Sunday night? A No, sir, he didn't tell me all this at all, then.

Q That was my question. I want you to tell me just what he told you on this particular Sunday night after he had finished talking to Mr. Richter? A I understand now. I misunderstood you at first.

Q Tell us what he did tell you on that Sunday night? A He said he would tell some story like this: That we had been out with this girl, that we had gone to the Theatre and had left her at 42nd Street, and were walking up Sixth Avenue, and he was goingto buy some shoes, and this man had come up to us and asked us to go home with him.

Q Is that as far as the story went on this Sunday night? A He said if Mr. Richter made any trouble for him he would make this charge against him of having gotten down on him.

Q Is that all that he said Sunday night

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A And that he would produce the marks, he said, that Mr. Richter had made on him.

Q He said that Sunday night? A Yes, sir, to the best of my knowledge.

Q Now, you didn't see Walter during the seventeen days that youwere in the city prison, did you? A No, sir.

Q And you didn't see him until after he had been arrested in November, later? A I didn't see him at all.

Q Well, you saw him in the city prison after he had been arrested? A Just that once, one visit.

Q You recall, don't you, that Walter was arrested about November 23rd? A I don't remember the date.

MR. DONOHUE: Which arrest?

MR. EMBREE: I am speaking about the arrest on this perjury charge.

Q About November23rd he was arrested? A About that. I don't remember.

Q What? A I don't remember the date, but it must have been around then.

Q And how soon after that was it that you saw Walter in the City prison? A Since he has been arrested again? I haven't seen him.

Q Well, didn't you go down and see him about your coat? A No, sir, not the second time.

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

THE COURT: That was before the trial for larceny.

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MR. EMBREE: Yes, that is my impression.

Q How soon after his first arrest did you see him? A About a week after, I believe.

Q About a week after his first arrest? A Yes, sir. I went in under the name of Ralph Severance, I believe, at his brother's instructions. He told me they wouldn't let me in--

Q Never mind, I didn't ask you that. Now, when you went to see him where did you visit him, I mean in the City prison? A Where the visitors go in.

Q What floor is that? A I believe it was box 17, something like that.

Q Up-stainrs? A It was one of the tiers, anyway.

Q On one of the tiers? A Yes, sir.

Q And visitors there-- between the visitor and the man who is locked up there are two screens, are tthere not? A Yes, sir.

Q Eighteen inches or two feet apart? A No, sir, not as much as that.

Q Tell us how far apart they are? A About this far apart (indicating).

Q About that far apart? A Yes, sir.

Q And you have to talk through those two screens? A Yes, sir.

Q And you talked to Walter then? A Yes, sir.

Q And you say it was then that he told you the kind of

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a story he was going to tell and what he wanted you to tell?
A Yes, sir.

Q Now, I want you tomtell these gentlemen in great detail everything that Walter told you ? A That day?

Q That day? A He told me that-- this was the story that he had told his lawyer: That we had -- that I had --that I was goingto bring this girl up-town to introduce him; that I had met him in the subway at Atlantic Avenue, and that we had met the girl; that we had gone to the Rialto, and that we had left there early and that we had walked along 42nd Street as far as Sixth avenue and had left the girl there; that she had taken some car there; and that we had walked to 47th Street, up around Sixth Avenue, and that we had met Mr. Richter coming along towards us with three other fellows, and Mr. Richter had grabbed hold of Walter's arm and had said, "Hello there, Kid", or something, "Join us, join the gang and have a drink", and at first he had refused, but that we had finally gone with them, and that we had taken him into a drug store or something, into a drug store to get him something to drink to sober him up, and that when we came out the three men were gone, and that we had taken him up in the Elevated, that we had ridden a couple of stations, and that Mr. Richter had got sick, and that we had gone down, and that we had taken a taxicab that was passing by, and that while we were in the cab that Mr. Richter had attempted to go down on him, had pushed his head down in his lap and tried to open his trousers, and he said

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for me to tell the same thing, that he had tried to open my own also, and that we were pushing him from side to side, and that he kept repeating "Jimmy McGrue" all the time, and that we had got out at 107th Street, and that Mr. Richter had no money, and he paid the bill, and we had gone up stairs, and Mr. Richter asked us to have something to drink, and that he had refused after we had one drink -- after we had the drink we had refused the rest, and that Mr. Richter had made attempts to go down on him once or twice while he was on the davenport, and he said to say that Mr. Richter didn't like me because I wasn't fooling around him as much as he was.

Q Speak up louder? A That after he asked me to drink that he put me out, and that I was to say that I hadn't seen any rings while I was up there at all, that I had never seen them, and also I was to say that Mr. Richter had got down on him in the taxicab, and he also told me that Mr. Richter had got down on him while he was up in the house. That is about all I can remember.

Q About how long were you up there? A About three quarters of an hour, I believe.

Q In the city prison? A Oh, no.

Q I mean in the city prison? A How long was I in the city prison?

Q Yes, while you were talking to Walter? A About half an hour.

Q You were there about half an hour? A Yes, sir.

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Q He told you on this occasion then, did he, in the city prison, that this was the story that he had talked over with his lawyer? A Yes, sir.

Q It is just the same story he told you that Sunday night, isn't it? A Yes, sir, practically.

Q I understood you to say that you had seen the rings in Severance's possession? A I did see the rings.

Q You say that now, do you? A Yes, sir.

Q How? A I saw them the day after in the hotel, yes, sir.

Q You say that was at the hotel where you had a room? A At the hotel York, yes, sir.

Q Where you had a room? A Yes, sir.

Q How much money did you have in your pocket that day? A I think I had about fifty cents, if I remember right.

Q Fifty cents? A I had some change anyway; I don't know what it was.

Q And do you know how much money Walter had? A He had about five dollars, I believe. I believe he had a five dollar bill.

Q Do you think he had that much money? A Yes, sir.

Q Did you ever tell anybody that you had about ten cents that day, and, so far as you knew, Walter didn't have any money, either? A No, sir, not to my knowledge. He paid the taxi bill out of his five dollars, paid a three dollar taxi bill.

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Q I am talking about the day you say you saw the rings. Did you see the rings in Walter's possession before he paid the taxi bill? A You mean the day I saw the rings in the hotel York?

Q The day you say you saw them, yes, sir? A I had no money them. I think I had some change in my pocket, and I don't think Walter had anything.

Q How much do you say you had in your pocket that day? A I don't know exactly; I had some change; not much.

Q And you think Walter didn't have any money? A I don't think he did, no, sir.

Q Did you or Walter, either of you, say anything about realizing any money on these rings, pawning them, or anything of that sort? A He said he thought-- first he said he thought he would pawn them.

Q He said that? A He said he thought he would.

Q Did you ever tell anybody that Walter said he thought he would pawn the rings before just now? A I don't believe so, no, sir.

Q Think about that pretty carefully. You don't think you ever did? A No, sir, I don't think I did.

Q Did Walter let you look at those rings there in the hotel where you had the room? A Yes, sir, I saw them.

Q You had them in your hand? A Yes, sir.

Q Well, now, how long did you have them in your hands? A For a little while. I had them on for a few minutes, and

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gave them back to him.

Q Well, about how long do you think you had them all together? A I don't know. About -- a couple of minutes. I had them on while I was in the room, and I gave them back to him.

Q This was in your room in the Hotel York, was it? A Yes, sir.

Q About what hour was it? A It was in the afternoon that he came up; it was about half past four, I believe, or around five o'clock, that he came to the room there.

Q Half past four or five o'clock? A Yes, sir, if I remember right.

Q And what day of the week? A I believe it was a Sunday.

Q I understood you to tell these gentlemen a while ago that you occasionally took a room in New York when you were detained here late? A Yes, sir.

Q If you are living with your father and mother in Brooklyn, why did you get a room here in the middle of the afternoon in the hotel York? A The room was there from the previous day. The time was not up on that. I think the time was up that evening.

Q You didn't go home? A Not that day, no, sir. The time was not up on the room.

Q You stayed in this hotel room during the day? A Yes, sir, during the day

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Q You didn't have an appointment to meet Walter that sunday afternoon, did you? A An appointment to meet him?

Q Yes? A No, sir.

Q He had not told you that he was going to come down to your room to see you that afternoon, had he? A No, sir.

Q He just happened in? A He just came in, yes, sir.

Q How much did you pay for your room in the Biltmore? A I didn't pay for the room.

Q Oh, I see. You were there with some one else? A Yes, sir. I was alone in the room, but the room was paid for by some one else.

Q Can you give us the name of the gentleman who paid for it? A Yes, sir; his name is Mr. W. R. Morris.

Q W. R. Morris? A Yes, sir.

Q Do you happen to know how much Mr. Morris paid for that room in the Biltmore?

MR. DONOHUE: Oh, I object to that, if your Honor pleases

A Yes, THE COURT: How is that material?

MR. EMBREE: Well, I think it will affect this man's character.

THE COURT: I don't see how the price of the room would affect his character.

Q Didn't you have this room in the Biltmore paid for by this man in order that you might have immoral relations with this man? A No, sir

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Q Then, will you tell these gentlemen here why you did have a room in the Biltmore paid for by Mr. Morris?

A Well, I told you that several times I had been detained in New York late, and I wanted to get down to business early in the morning. I had been getting in late. I knew this gentleman, Mr. Morris. He comes from Cleveland, and he was stopping at the Biltmore at the time. I wouldn't have a room at the Biltmore. I would take a room somewhere else. And he suggested my taking a room there, because he was stopping there. Mr. Morris was on the seventh or eighth floor, I believe, and he had a single room. Otherwise I would have shared his room.

Q How did you happen to know Mr. Morris so well?

A I was introduced to him by a friend of mine.

Q Just a casual acquaintance? A I have known him for quite some time.

Q Never worked for him, or anything like that?

A No, sir.

Q Now, when you arrived at Mr. Richter's house, you say a piece was played on the Victrola? A Yes, sir.

Q And you played the piano? A Yes, sir.

Q And did you see a woman who was said to be Mr. Richter's sister? A Yes, sir.

Q She was there? A Yes, sir.

Q Did you learn her name? A No, sir.

Q Didn't learn it? A I didn't know her name, no.

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Q Did you see a younger woman there also? A No sir.

Q Just saw this lady who is said to be the sister?

A Yes, sir.

Q And then you afterwards left? A Yes, sir.

Q Ahead of Walter? A Yes, sir.

Q That part of it is true, is it? A Yes, sir.

Q You have not been indicted for swearing falsely on the other trial, have you? A Not to my knowledge, no, sir.

Q You understand, do you, that what you are doing now, testifying here, is what is called turning state's evidence, testifying against the man that is charged with the same crime you are? A Yes, sir.

Q When you appeared before the grand jury, I presume you told the same story there that you finally told to Mr. Donohue, didn't you? A Yes, sir.

Q Do you remember how soon after you had told the story to Mr. Donohue you went before the grand jury? A I believe it was about ten or eleven days after; I don't remember; I know it was some time after; it was more than a week.

Q You were still im the city prison at the time?

A Yes, sir.

Q So that you came from the city prison to the grand jury to give your testimony? A Yes, sir.

Q And after you had testified before the grand jury do you recall how long it was before you were released on bail?

A I believe it was two or three days.

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Q Yes. A Something like that.

Q And as you understand it you are still on bail on that charge? A Yes, sir.

MR. EMBREE: That is all.

RE DIRECT EXAMINATION BY MR. DONOHUE:

Q You are out on bail now, are you not? A Yes,sir.

Q How long did you work for the broker's firm?

A More than three years.

Q Three years? A A little over three years.

Q Up to when? A Up until the day that I was arrested.

Q And what is the name of that firm? A Baker Caruthers & Pell.

Q And what was your occupation there? A An order clerk

Q And what did you do before you went there? A I worked for Boothby Baldwin and Hardy, lawyers.

Q Is this the lady you speak of as Mr. Richter's sister (indicating Mrs. Schoenneman)? A Yes, sir.

MR. DONOHUE: That is all.

E D W A R D R. R I C H T E R, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DONOHUE;

Q Where do you live? A 472 Central Park West.

Q Mr. Richter, what is your business? A Travelling salesman.

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Q Traveling salesman? A Yes, sir.

Q For whom? A For Devlin, Gardner & Company, 15 West 34th Street.

Q How long have you been employed by that firm?

A Over six years.

Q And who were you employed by before that?

A A firm by the name of K. L. Carey & Company.

Q How long were you employed by them? A Eight years.

Q Do you remember the night of September 15th, 1917?

A Yes, sir.

Q Do you remember going into the Knickerbocker Hotel?

A Yes, sir.

Q Will you tell us what happened to you in the Knickerbocker Hotel, what you did, and the events that happened after that? A I was going down to a Turkish bath, about a quarter of eight, and I went into the Knickerbocker Hotel for a drink; I had a cold, and I was going over to the Turkish bath, and I met while I was there two gentlemen in the Knickerbocker hotel, and they finally got into conversation with me, and they asked me if I would have another drink. I said, "No, gentlemen; I have an appointment; I am going on my way". Well, one of the fellows came over to me, and he insisted upon my having a drink. There were three of them, in fact. One man was a little bit under the weather, and this fellow says, "Well, now, you better join us and have a drink, otherwise this fellow will be offended", so I took another drink with

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him, and I finally had them take a drink with me, which was the third drink, and after that I don't remember anything until I was rolling along in this taxicab, going up home.

Q You had three drinks in the Knickerbocker Hotel that night? A That is all I remember.

Q And what were they? A Scotch highballs.

Q And had you had any drinks before you went to the Knickerbocker Hotel that day? A No, sir, I just came down from a hearty dinner.

Q That is all you had to drink that day? A Absolutely.

Q While you were drinking, did you see any one of those men you were talking to do anything?

MR. EMBREE: Well, I object to this. I don't see how this has any bearing on my client's case.

THE COURT: These men, are they supposed to be the defendants and Carroll?

MR. EMBREE: I don't understand so.

MR. DONOHUE: No, sir, I do not. At least, we don't know them as such at this time.

THE COURT: What is this addressed to? As to whether they took any property from him?

(Mr. Donohue and Mr. Embree confer with the Court)

Q (Question read by the stenographer as follows: "While you were drinking, did you see any one of those men you were talking to do anything?")

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