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

-----X
THE PEOPLE, :
vs. :
MORRIS KRAMER, indicted with :
SAMUEL ROSEN. :
-----X

Indictment filed May 13th, 1910.

Indicted for Burglary in the First Degree.

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

For the People:

ASST. DISTRICT ATTORNEY WASSERVOGEL.

For the Defendant:

MR. GONTERMAN.

Tried before HON. JAMES T. MALONE, Judge, and
a Jury, on the 20th day of May, 1910.

A jury duly impaneled and sworn.

Thomas W. Osborne,
Official Stenographer.

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MAX SALAT, called as a witness in behalf of the People, duly sworn and examined, testified through the Official Interpreter, Mr. Rosenthal, as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 24 Attorney street.

Q Do you live there with your family? A Yes.

Q What floor do you occupy? A Second floor.

Q You speak German, so the interpreter will translate --

24 Attorney street is in the county of New York? A Yes.

Q What time did your family retire on the night of the 29th of April? A After twelve.

Q Did you lock up yourself? A Yes.

Q Were all the windows locked at that time?

Objected to as leading.

Q Did you lock the windows? A I closed them, but did not lock them.

Q They were closed? A Yes.

Q Tell us what if anything happened at about three o'clock that morning? A I am sleeping in the last bed room and I heard my daughters who came from Brooklyn started to cry out "A thief is in the house." I went out and I did not see anybody, and in that time Nathan Gerson said, "Here he is," and I with him ran into the toilet and he was locked in there. Then Gerson pushed him in there and locked the door, and when I came there he opened the door and Nathan gerson said "Here he

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is."

MR. GONTERMAN: I object to what Gerson said.

MR. WASSERVOGEL: This is all part of the res gestae.

BY THE COURT:

Q Was it said in the presence of the defendant?

MR. GONTERMAN: Certainly not.

MR. WASSERVOGEL: The defendant is to be connected with this crime by this testimony.

MR. GONTERMAN: It is hearsay, pure and simple.

THE COURT: You may tell us what happened about three o'clock that morning.

A I heard people holler "A thief, a thief in the house." My daughters did cry out.

BY THE COURT:

Q You said that -- now come to something else? A I asked "Where is the thief?" And Nathan Gerson pointed to the toilet, and said "Here he is."

MR. GONTERMAN: I object to that.

THE COURT: That has been already testified to. What is the next thing?

THE WITNESS: I told the man to hold the door and not let him out until I would go and dress myself, because I was in my night clothes. When I passed through the dining-room I saw him going through a window and jump

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down to the yard, but not this one.

MR. GONTERMAN: I object as indefinite.

THE COURT: He saw somebody --he saw some person.

BY MR. WASSERVOGEL:

Q Did you see the person who jumped out of this window?

A Yes.

Q Could you recognize him now? A Yes, sir.

MR. WASSERVOGEL: I have sent for the other defendant.

BY MR. WASSERVOGEL:

Q Did you see this defendant there yourself? A This man I saw how the police led him down from upstairs, where he was I don't know.

Q Did you have any property in your apartments that night?

A Yes, sir, nothing was stolen.

Q Did you have any jewelry? A Yes.

Q Describe it? A I had very little. My daughter has.

Q You know what your daughter's jewelry is? A Earrings, diamond earrings and diamond rings.

Q Did you have any cash in the house that night? A Yes, sir.

Q How much? A About three hundred dollars. The money was not mine. It belongs to the landlord. I am only the janitor.

Q This was money you collected for the landlord? A Yes.

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Q After you saw this man jump out of the bath-room window, did you find your doors open or closed? A Closed.

Q How about the rear windows, were they open or closed?
A This I cannot say. I did not see.

Q You did not take notice?

(No answer).

CROSS-EXAMINATION BY MR. GONTERMAN:

Q You did not see this defendant in your house that night, did you? A No.

Q Did you see anybody in your house that night? A Yes, sir.

Q Where did you see this person? A In the toilet I saw him.

Q And did you see him anywhere else? A I saw him how he jumped down and then I saw him afterwards in the hall, how the policeman took him in there.

Q Were you the last person to bed that night? A No, my wife was the last one.

Q And when you went to bed the windows were open?

MR. WASSERVOGEL: He did not say that.

THE WITNESS: No, closed, not locked, but closed.

Q Where did you see this defendant? A This defendant I saw as the police took him downstairs.

Q Downstairs where? A From upstairs downstairs.

Q What house? A In the hall.

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Q Was it in the hall of your house? A It was a public hall for everybody.

Q It was the hall of another house, was it not? A No, of the same house.

Q Wasn't it a house on Grand street? A No, in Attorney street. The hall -- it is a corner house -- the hall is in Attorney street -- it is a corner building, Grand and Attorney.

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

BY MR. WASSERVOGEL:

Q Where do you live? A 24 Attorney street.

Q You are the daughter of the last witness? A Yes, sir.

Q And what time did you retire that night, the 29th day of April? A It must have been about eleven o'clock.

Q What time was it? A Eleven o'clock.

Q Do you know what the condition of the windows were in your apartment at that time? A The window in the dining room was shut.

Q About three o'clock in the morning, what if anything happened? A I saw a man going through the dining room and call for my cousin, Nathan Gerson, and when he got up he asked

me what was the matter -- the man just ran through the kitchen door and I thought he was running out of the hall but he did not-- he got into the bath-room, and I did not know he got in there until my cousin got there, and he said he is here and he shut the door. In the meantime I went back and told my father he was in the bath-room. I went to the front extension and called for police -- a few police came. I went in and they were upstairs, and then they went downstairs to the cellar to see where he went to. He jumped down from the extension back roof to the yard. He ran right in the cellar and there is where the police discovered him.

Q Did you see this defendant there at that time? A I only saw him when they brought him down from the roof.

Q Did you see this defendant there at that time? A I only saw him when they brought him down from the roof.

Q That was what time? A Well, about a quarter of an hour later when the other one was found.

Q About half past three in the morning? A About half past three.

Q Do you know what the condition of the windows in the dining-room were at that time? A It was open at that time when I went back from the front extension, after I called for police.

Q Were those the windows which you say were closed at the time you retired? A yes, sir, it was closed when I went

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to bed.

Q Were you the last one to go to bed that night? A No, my father.

Q Could you recognize the other man if you saw him? A I could.

CROSS-EXAMINATION:

Q You say you retired about eleven o'clock? A About eleven o'clock. I just couldn't tell you the moment.

Q Whereabouts is your room? A My room is through the dining room.

Q Off the dining room? A Room right off the dining-room.

Q Did you have to go through the dining-room to get into your room? A Yes, sir.

Q Had your father gone to bed before you went to bed? A No, sir, I went to bed before my father.

Q Who else was up besides your father? A I couldn't tell you. They were all up, I suppose.

Q How many members are there of your family? A Two sisters -- a married sister came for that night -- three sisters, one brother and my cousin.

Q How many people were sleeping in your apartment that night? A Me and my married sister that came for that night.

Q And your father? A My father.

Q And your mother? A Yes.

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Q And who is Nathan Gerson, doesn't he sleep there? A I don't think he seen him in the dining room, but in the bath room.

Q I asked you where does Nathan Gerson sleep, was he sleeping in your apartment? A Yes.

Q What room was he occupying? A He slept in the dining-room.

Q Had he gone to bed when you went to bed? A No, I went to bed before that time. I couldn't tell you when he went to bed.

Q You don't know what the condition of the windows were at the time your father and the rest of them went to bed? A When my father went to bed -- I know I shut the window myself --

Q You don't know anything about the condition after eleven o'clock? A After eleven, no. I know when I went to bed the window was shut.

Q What windows are you talking about? A The dining-room window and my bed room window.

Q Did you shut them? A I shut them.

Q How long has this Nathan Gerson been sleeping in the dining-room? A He went to bed after me.

Q You don't know if he opened the windows to let air in or not? A I do not know.

Q You only know at the time you went to bed, the condition? A At the time I went to bed I shut the window.

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Q You did not notice the condition when you got up?

A What?

Q When did you next notice the dining room windows?

A When I saw that man through the dining room.

Q You saw him in the dining room? A Yes.

Q You did not see him enter the dining room? A No.

Q Did you examine the door of the apartment at all?

A When I went to sleep they were awake.

Q You don't know if the door was closed or open?

A No.

Q Where is the fire-escape? A On our floor there is no fire-escape. There is only the extension both sides. The fire-escape comes down as a stairway to that extension.

Q What floor of the building do you live on? A The second floor.

Q There is a public hall? A Yes.

Q How many apartments on that floor? A Four.

Q So when you went to bed there were how many other people to go to bed after you that night? A How many?

Q Yes? A All besides me -- I was the first one.

Q You did not hear anything from the time you went to bed until this noise about three o'clock? A No, I don't know what time they went to bed.

Q You never saw the defendant in your house? A I never

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saw this man, but that one there I saw (indicating).

Q I talk about this man, the defendant? A I saw him in the hall, come down from the roof, when two or three policemen took him down from the roof.

Q In the building? A In the building I live.

Q Came down the hall of your building? A Of our building.

Q He was accompanied by an officer at the time? A Yes, he was.

Q Where did the officer find this other man that you refer to? A Where?

Q Yes? A Down the cellar -- the other man.

Q Down in the cellar? A Down in the cellar.

Q You never saw this defendant in the cellar? A No, I hadn't seen him no place but coming down from the roof.

RE-DIRECT EXAMINATION:

Q Do you recognize the other man now in court? A Yes.

Q Point him out? A That man over there (indicating).

Q When you saw him in your apartment, did he carry a crutch? A No.

Q He was not lame then ? A No.

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NATHAN GERSON, called as a witness in behalf of the People, duly sworn and examined, testified through the official interpreter, Mr. Rosenthal, as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 24 Attorney street.

Q You live with the family of Max Salat? A Yes.

Q Try to talk English -- did you live with this family on the 29th day of July? A Yes.

Q Try to talk up, what time did you go to bed that night? A It was about half past eleven.

Q In what room did you sleep? A The dining-room.

Q Did you open the windows of the dining-room? A No, sir.

Q What if anything happened about three o'clock? A I am sleeping in my bed and I saw my cousin, Jennie Salat, ask me "Nathan, somebody is walking in the house, but I do not see."

Q What if anything after that happened? A After, I am going looking -- I was in the kitchen and I saw the bath-room, and I opened the door of the bath-room and saw somebody was inside.

Q Do you recognize the person you saw in the bath-room, is he in this room now? A Yes, sir.

Q Is he in this room now? A That is the next room.

Q Do you recognize the person you saw in the bath room, is he here now, look around this room and see if you can see

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the man you saw in the bath room? A That man there (indicating the co-defendant).

Q Where was he? A He was in the bath-room.

Q What did you see him do? A I saw him standing there-- in the bath-room.

THE COURT: We better have the interpreter.

(The witness now testified through the official interpreter).

THE WITNESS: I was going to look where the man was and I opened the door of the bath-room and I saw the man there and I closed the door. Then I said "Here is the thief inside, and the people in the house cried out for police and I was holding the door. He was trying to open the door to get out, but I did not let him do that. I held the door. I was afraid he may have some weapon and would kill me if I let him out.

BY MR. WASSERVOGEL:

Q What was done, that is the question? A When the police came they asked where he was and I said "He is inside," and I opened the door and I saw him just jumping out of the window from the roof into the cellar.

Q At the time you saw this other man Rosen in this bath-room, did he carry a crutch? A No.

Q Did you ever see this defendant Kramer? A I saw him on the roof.

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Q This was about what time? A It was about quarter after three or half past three.

BY THE COURT:

Q What time did you go to bed that night? A Half past eleven.

Q Any windows in your room? A Yes, sir.

CROSS-EXAMINATION:

Q Don't you open your windows when you go to bed? A That night I did not.

Q Do you do it every other night? A I don't open the windows when I go to bed.

Q Do you really remember anything about it, whether you opened the windows or not? A I did not open the windows. Perhaps another one did.

MR. WASSERVOGEL: I ask to strike out the last part of the answer.

THE COURT: Strike it out.

BY MR. GONTERMAN:

Q Did any one come in your room after you went to bed? A No, nobody.

Q You did not notice the windows when you awakened? A I did not notice.

Q There were other people up when you went to bed, were there not? A I was awake with Mr. Salat and we both went to

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bed.

Q Did you go to bed at the same time Mr. Salat did?

A Yes.

Q Was there anybody else up then, had everybody gone to bed then? A Yes, sir, all had gone to bed.

Q Did you see anybody go in the bath-room or toilet?

A No, I did not see.

Q You just heard some one in the toilet, is that it?

A When Jennie Salat said a thief, then I was looking for the thief and I opened the door and I saw him in the bath-room.

Q Was not the door locked? A No.

Q Was it lighted, the bath-room? A No, not in the bath-room -- in the kitchen it was light.

Q Where is the kitchen with reference to the bath-room?

A From the kitchen one enters into the bath-room.

Q Did you see the face of the man who was in the bath-room? A The first time I did not see, but the second time when he wanted to push the door open, then I saw his face.

Q After the door opened -- I thought you said the door was open? A Yes, sir, but I had closed that door and could not open it.

Q Was he trying to open the door? A Yes.

Q Did he pull the door open? A No, I had locked the door.

Q Then he did not pull the door open? A He was pushing

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the door open.

Q The first time you saw the face of this man was down on the ground in the back?

THE INTERPRETER:.. I don't believe I can translate it.

BY MR. GONTERMAN:

Q Did you see the man jump? A Yes, I saw him just as he was jumping down.

Q What window did he jump from? A From the bath-room window.

Q Where were you at the time you saw him jump? A A policeman came and asked where the thief was, and I said "He is inside," and opened the door, and at that time I saw him jump out of the window.

Q The policeman opened the door? A Yes.

Q He was jumping out of the window then? A Yes.

Q His back was to you then? A Yes, his back.

Q You did not see his face then? A Before the policeman had come I had seen the face. When I saw him then I locked the door. I was afraid of him.

Q Where did he jump to? A Into the cellar. There is an extension there and from there he jumped into the cellar.

Q To the cellar? A Yes.

Q Inside of the house or outside of the house? A It was in the yard.

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Q Then he jumped into the yard, that is what you mean?

A Yes, there is the yard, the cellar is in the yard.

Q Could he walk after he jumped? A This I do not know. The policeman came and found him in the cellar.

Q Did he limp at that time? A Yes.

Q You saw this defendant with the police officer, did you? A Yes.

Q That was the first time you saw him, was it not?

A That was the first time.

Q That was coming down the stairs? A I was also on the roof with the policeman and he was under the water tank.

Q What building was that, where was the water tank? A It was on the next -- the building next adjoining ours.

Q It was not on the house where you live? A Both houses are even -- are alike, even, so you could go over to the next house.

Q But how far away is it from the roof of your house?

A Not far -- the two houses are together.

Q You don't know whether anybody came into your room after you went to bed or not, do you? A I do not know that.

Q You said some one might have opened the windows, what did you mean?

MR. WASSERVOGEL: I object to what some one might have done.

MR. GONTERMAN: He said that. I ask what he meant.

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Objection sustained. Excaption.

Q Is it customary for any one to come in after you have gone to bed and open the windows? A No, I cannot say. I don't know.

Q Don't remember anything about that? A No.

Q You only saw one man in the house? A Yes, the man in the house and the other on the roof.

Q The roof of the adjoining house? A Yes, adjoining.

FREDERICK C. MUTTER, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 145 Hull street, Brooklyn.

Q You are a police officer of the City of New York, attached to the 13th Precinct? A Yes, sir.

Q Did you make the arrest in this case? A I arrested one of the prisoners, Rosen.

Q Where did you arrest him? A I arrested him in the cellar of the building, 24 Attorney street, crouched in the cellar, away back.

Q When was this? A That was about 3:25 a.m., April 29th.

Q What was his condition at that time, physical condition? A Well, when I got hold of him, subdued him and placed him un-

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der arrest I dragged him out. Looked around and saw the other officer right behind me, Officer Donovan. The two of us dragged him out of the cellar and took him into the hallway, and there had been great excitement and confusion in that hallway, and we had all we could do to save him from getting a good beating on the part of the tenants? and while I had hold of this prison a citizen told me and the other officer --

Objected to. Sustained.

Q I ask you what his physical condition was at that time? A It was very good except that when I had him upstairs he said, "Officer I hurt my foot."

MR. GONTERMAN: I object as not binding on this defendant and not in his presence.

MR. WASSERVOGEL: It will be connected with him.

Objection sustained.

BY MR. WASSERVOGEL:

Q Did you see this defendant there at all? A Kramer I did not see until he was brought down by Officer Donovan from the roof.

Q Did you have a talk with Kramer, this man? A After we placed him under arrest.

Q What talk did you have with him?

Objected to.

THE COURT: With the defendant?

MR. WASSERVOGEL: Yes, sir, with this defendant.

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Objection overruled. Exception.

A He frankly admitted he was guilty and that he was the look-out.

Q I want you to tell me the words he used, what you said to him and what he said to you? A We said, "What were you doing up there?" He said, "Well, I am hard up and he hired me for a dollar to watch --"

Q Who hired him, who did he refer to? A Rosen.

Q To do what? A So he could do his work, plundering flats.

Q What else did he say? A He said he was with him in Philadelphia where Rosen done a job.

Q What did he say about his presence on the roof at that time? A He said he tried to get away but the roof doors were all locked and he was caught like a rat in a trap on the next house -- not the house in which the attempted burglary or burglary occurred, but the next house.

Q The very next house? A Yes. He went as far as he could go and could not get any further, because the doors were locked from the inside.

BY THE COURT:

Q Is that what he said? A Yes, sir.

BY MR. WASSERVOGEL:

Q Did you have any other conversation with him on the way to the station house? A Not that I remember.

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Q Or police court? A He repeated that to the lieutenant in the station house that he was hired by the other man.

Q To assist him? A Yes, sir.

CROSS-EXAMINATION BY MR. GONTERMAN:

Q When you told the District Attorney what he said, did you use his exact words? A To the best of my belief, yes.

Q You mean to say that this man told you he was up there to assist this man in his business of plundering flats -- do you mean to say he used those words -- as matter of fact, haven't you finished it up a little bit? A He told me that he was hired by this man Rosen for a dollar, and watching for him, so that he could do his work.

Q That was all he said? A That was about all.

Q What did you mean by saying that he said he was up there to assist him up his work of plundering flats -- that was what you said a minute ago, is that true or not? A Yes, he did say that.

Q He did say that? A Yes.

Q Give the words he used? A He said --

Q Do not add anything to it, but just give us the exact words? A He was hired by Rosen for a dollar to do the watching. He said he was hard up and that was the reason he done it, and that Rosen told him that he was going to plunder the

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flat on the second floor.

Q Did he use the word plunder? A Well, rob, if you will have it that way.

Q I ask you for his word? A He said rob.

Q He said rob? A Yes.

Q What else? A I asked him what floor; he said the second floor. And I said "How do you know?" He said Rosen was there the day before to see this man Salat on the pretence of making inquiry --

Q Did he tell you that? A Yes.

Q Where did he tell you that? A On the way to the station house.

Q Anybody else present? A Officer Donovan heard the same thing.

Q Have you told us all he said? A All that I can remember, yes.

Q You did not tell the District Attorney this last statement? A What do you mean, last statement?

Q You did not tell the District Attorney about what he said about Rosen's going around there the day before -- did he say that? A Yes, sir, I told the District Attorney that.

Q He asked you to tell everything, did you forget it? A I did not forget it. I did not get a chance. I could relate the story from beginning to end. I would rather do it that way, and maybe bring out everything I do know. I am trying to

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answer the question as put to me .

Q Have you now told all he said, or is there anything else you want to add? A I think I have told all I know.

Q Told it all? A Yes.

Q You say this defendant told you where? A Immediately after he was brought down from the roof, he started to tell us this story, and on the way to the station house and in the station house.

Q You did not see him on the roof? A I did not. I was not on the roof myself. I had all I could do to keep that fellow.

Q Did he talk to you in English or some other language?
A This man?

Q Yes? A Spoke a broken English with foreign accent.

Q Do you speak Jewish? A Yes, I do -- not a Jew, but I have picked it up.

Q Did you speak Jewish to him at all?

BY THE COURT:

Q Did you or not? A No, I spoke English to him.

BY MR. GONTHERMAN:

Q Did you know he spoke Jewish? A I could tell by his accent, yes.

Q You did not try to speak to him in Jewish at all?

A No, I don't think so.

Q Did anybody else speak to him in Jewish? A Not that

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I know of.

Q You spoke English? A Yes, sir.

BY THE THIRD JUROR:

Q Was anybody with you at the time you had this conversation with the defendant Kramer, about being hired? A Officer Donovan was with me at the time we made the arrest, and another policeman with us, three of us.

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

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 432 East 148th.

Q You are connected with what precinct? A The 13th.

Q And did you make the arrest in this case? A Yes.

Q Where did you find the defendant? A Underneath a water tank on the roof of 430 Grand street, I believe the number is, next door to the roof 24 or 26 Attorney street, two adjoining houses.

Q Where was he at that particular moment when you found him? A Underneath the water-tank on these two iron bars about two inches wide that the tank sets on top of, and he was away inside and had to get a light or torch to see if there was anybody in there.

Q Did you have to drag him out? A Yes, had to drag

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him out by the foot.

Q Did you have a talk with him then? A Yes.

Q Did you ask him what he was doing? A Yes.

Q Tell us what you said and what he said? A I asked him what he was doing there and he said "Watching". The other defendant was in the cellar, and he denied all knowledge of this man.

BY THE COURT:

Q Who are you talking about?

CROSS-EXAMINATION BY MR. GONTERMAN:

Q Which one are you talking about now? A Kramer. When I searched the roof and found him under the water tank. I asked him was there anybody else in his company only the two, and he said "No."

Q Who did you ask that? A Kramer. I said "How did you get up here?" And he said "Up the fire-escape." I took him downstairs and showed him to all the tenants in the house going downstairs -- got his hat off and told them to look so they could see him, and no one seemed to identify him or know anything at all about him. On the way into the station house I asked him what did he know his partner or his pal. And he said "Yes," he knew him a few weeks in New York, and also had known him in Philadelphia." I said "Where did you see him last?" He said "The other night in a coffee saloon." A few more questions I asked him but he could not very well speak very good

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English, and quite a few people was interpreting to him and I could not get much out of him.

BY MR. GONTERMAN:

Q You have related all he said to you? A Well, partly -- I don't think he said any more touching on the subject.

Q You heard what he said? A Yes.

Q You did not hear a great many things the other officer testified to? A The other officer was speaking to him in German and I could not understand what they were saying.

Q He was speaking to him in German? A Yes, he was.

Q Did you hear him testify that he did not -- that he spoke to him in English? A He spoke English and German. What he could not understand in English.

Q You have testified all you heard him say, that was all he said in English? A That was all, might have said a few things that I don't recollect.

Q You did not hear him say anything about plundering? A He said in the court to me the following morning --

Q I talk about when you were going to the station house -- you did not hear anything about that? A About robbing the flat?

Q Yes, did you hear him use the word plundering? A No.

Q Did you hear him say anything about robbing the flat?

A Yes.

Q You did not say that? A He said Rosen hired him

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for a dollar to rob this flat or rob the janitor, that was the words he used, as he had a lot of money.

Q You did not say that a moment ago. A Well?

Q You forgot it? A I forgot it.

Q When the District Attorney was asking you? A That was about all.

Q Is there anything else you have forgotten? A No.

Q You don't want to add anything more to it? A No, I don't want to add any more to it.

Q You found him on the adjoining premises on the roof?

A Yes.

Q Did you talk to him much on the way to the station house? A Not much.

Q Did the other officer talk to him very much? A Yes.

Q Did you say he told you how he got on the roof?

A Through the fire-escape.

Q Through the fire-escape? A Yes, up the fire-escape.

Q Do you know where the fire-escape is? A Yes.

Q Where? A On the side of 24 Attorney street, on the Attorney street side leading to the extension.

Q There is a passageway that runs right to the roof on that building, 24 Attorney street? A What do you mean passageway -- hallway?

Q Did you go right up ^{to} the roof by the stairs? A Yes, sir, hallway.

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Q Nothing to prevent, there is a hall that leads to the roof? A Yes, from the hall.

Q In the next house the same way? A Yes, that door was locked.

Q You could get to the roofs by the hallway? A The door was locked to the roof.

Q You can get to the roofs of any of those buildings by going up the public hallway? A Yes.

Q Did he point out to you the fire-escape he came up? A Yes, Attorney street side, at 24 Attorney street.

Q That is the back? A Yes, the back of the house.

Q Did you take him down into the cellar, or where the other man was? A No. Took him in the main hallway, up the stoop. The other man was out on the street by that time.

Q The other man was out on the street when you got down? A Yes.

BY THE FIFTH JUROR:

Q Did you walk with Kramer to the station house? A Yes.

Q You did? A Yes.

BY THE FOURTH JUROR:

Q Did you put any questions to this defendant? A Yes.

Q Did he answer you? A Yes.

Q Did he seem to understand your questions? A Yes, sir, certainly he did.

Q Did you have to have any of the tenants help you put

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questions to him? A I not alone questions him, but the lieutenant in the station house questioned him.

Q I mean the tenants? A Yes.

Q Did they help you? A I asked if they knew this man, and they said "No."

Q I asked you if you had to have any of the tenants help to interpret your questions to this defendant? A No, sir.

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Q He seemed to understand your questions? A He understood.

Q And he answered you? A Yes.

BY THE NINTH JUROR:

Q In going up the stairway to get to the roof, how would you get ~~out~~ to that stairway? A It is a corner house. The entrance to the house is on Attorney street. It is a six story house. The stairway on the way up to the roof and on the side of the roof is a ladder that comes over down on the extension.

Q I mean if the man was in an adjoining room, how would he get out of the apartment to get to the stairs to go upstairs, not by the fire-escape? A From the extension, from the fire-escape.

Q There is a hallway there with stairs going to the roof? A Yes.

Q How would he get from that room, where would he have to go to get out into the hallway to go upstairs? A Had to go by the fire-escape and all the way to the roof.

Q Couldn't he get to those stairs from that apartment?
A No, except he go through the tenants room.

Q Did not that apartment open on that hallway at all?
A No. These windows all lead to an extension, two story extension right around the second floor.

Q He could not get out of that apartment and get into

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that hallway to go up to the roof, is that right? A No, sir.

Q He could not? A Not without going up the fire-escape.

Q The only way he could get to the roof was by the fire-escape? A Yes.

BY MR. GONTERMAN:

Q Couldn't he walk up the public hallway and go to the roof? A Yes.

Q You came down the public hallway? A Yes.

Q You took him down the public hallway of 24? A Yes.

Q You could have taken him down the public hallway of the adjoining rooms? A No, because the roof door of the adjoining rooms was locked.

Q You said that you could get to the roof of any of those buildings? A No, not if the door is locked. The door of 24 Attorney street was the only door open.

Q Did you examine to see if the door to the roof of the adjoining premises--if the door of the public hallway was open or closed? A Yes.

Q You were going to take him down there first? A No.

Q What did you examine it for? A I examined that before I searched under the water tank.

Q How did you get on the roof? A Some citizens said they saw a man on the fire-escape going to the roof.

Q How did you get upon the roof? A By the hallway.

Q Of what premises? A 24 Attorney street.

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Q When you found this defendant he was on the roof of the adjoining premises? A Yes, sir.

Q And there is a public hall from those adjoining premises to the street? A Yes, sir.

Q Did you examine that to see if it was locked? A I searched that roof before I searched underneath the water tank.

Q You had to walk back some distance to get--how far away is that, that water tank from the other stairway? A In my estimation about as far as I saw it that night, two or three feet--just a coping about 18 inches separates the two houses. The water tank is on two iron beams. I searched the whole roof, behind the chimneys and all over, and searched the door leading to Grand street and the door was locked, and looked underneath the water tank and pulled this man out.

Q You have told substantially all that you heard the defendant say about it? A Yes.

Q You were going along with him, you talked to him on the roof and you talked to him down there in the street, you walked along with him to the station house, didn't you? A Yes.

Q You were there in front of the Sergeant? A Yes.

Q You have substantially related all he said? A About all.

REDIRECT:

Q You found him on the roof? A Yes.

Q You did not see him on the fire-escape at all? A No,

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I did not see him on the fire-escape. That is how I came to get to the roof.

The Court admonishes the jury in accordance with section 415 of the Code of Criminal Procedure and takes a recess until two o'clock.

AFTER RECESS.

SAMUEL ROSEN, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 37 1/2 Allen street.

Q Where did you live on the 29th day of April this year?

A 29th of April of this year?

Q Where did you live then? A New York.

Q Where in New York? A The same house.

Q Where? A 37 1/2.

Q What street? A Allen street.

Q Do you know this defendant Kramer, do you know Kramer?

A Yes.

Q How long have you known him? A I couldn't tell you exactly.

Q Is it a year or more than a year? A No, not a year, about a month or so, or more than a month.

Q Did you see Kramer on the 29th of April of this year?

A No, I don't think I did.

Q Did you meet him anywhere?--Do you know what I am ask-

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ing you? A Yes.

Q Did you see him? A No, I did not see him.

Q Do you know what I mean by did you see him? A Yes, you mean if I saw him then. I did not see him then.

Q Did he come to your house that day? A The 29th of April?

Q Yes. A The day I got arrested?

Q Yes. A Certainly.

Q That is what I am talking about, that day did you see him, on that day? A Yes, I seen him.

Q What time did you first see him on that day? A I saw him about two o'clock.

Q In the afternoon? A In the afternoon.

Q Did you have any talk with him then? A I was talking with him and he asked me where I lived, and I told him I lived right at the corner of Hester street, 37 1/2 is right on the corner there, and he went up to my house.

Q Did he come up to your house that evening? A Yes.

Q What time did he come up to your house that evening?

A He came up to my house, it was about--it was about two o'clock and he said he had to take some money off somebody and he got up again about 8 o'clock in the evening.

Q How long did he stay there? A He was sleeping on the lounge until two o'clock.

Q Two o'clock in the morning? A Two o'clock in the

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morning.

Q Did you have any talk with him then at 2 o'clock in the morning? A No.

Q Did you say anything to him or he to you? A He said he is down and out and ain't got no money and he hocked his umbrella for 25 cents I remember, and he said, I want to try if I can see to make some money.

Q What else? A The same night I was a little intoxicated. I never drink, and it happened on a holiday, and I was sitting--

Q Louder? A I was laying down in my house, laying down, and he woke me up at 2 o'clock and he walked down.

Q Before you walked out of your house did he say anything to you? A Yes, certainly.

Q What did he say? A He was going to go up--he was going to see if he could make some money.

Q What did he say, & how was he going to make this money? A He said he will try to go up some place and see if we could find something.

Q Where did he say he was going to find something? A He said, We will try to go in any house.

Q For what purpose? A To see if he could make some money, to see if he could.

Q Take something? A Take something. I was a little intoxicated.

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Q Never mind that--I only ask for what he said--after he said that did you go out with him? A Certainly.

Q Where did you go? A On Grand street.

Q After you went into Grand street where did you go?

A I walked up into the house corner of Attorney street.

Q Was it 24 Attorney street? A I couldn't say exactly.

Q Was it in the house in which you were arrested? A Yes, sir.

Q Was the defendant Kramer with you? A Yes.

Q Did you enter into the main hall? A Yes, sir, right through the hall.

Q When you got into the hall where did you go? A I walked up right on the roof.

Q Where was he? A He was right after me.

Q On the roof? A On the roof.

Q After you were both on the roof what did you do and what did he do? A I walked down.

Q Walked down where? A He told me to walk down, there is a stepladder that goes down on the fire-escape.

Q From the roof? A Yes.

Q To the first fire-escape? A Yes; so I walked down.

Q Where was he? A He walked down right after me.

Q How many fire-escapes did you go down? A I think about three, because it was on the third--

Q Was he after you all the time? A Yes.

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Q When you finally stopped, what did you and what did he do? A The window was locked but it was not locked inside.

Q You mean that the window was closed but not locked? A Closed but not locked.

Q What did you do? A I pulled the window down.

Q After you pulled the window down what did you do? A I went inside.

Q Where was he at the time you went in? A He was right after me.

Q Go on? A As soon as I turned around, before I turned around in the house, some lady got up and said, Who is it, and I did not have my right mind then I suppose, so I thought I am on the first floor and I jumped down.

Q You ran into the bathroom? A No, I did not.

Q What room were you in when you jumped out of the window? A I was in the front room, but after I got out from the front room right through a window and then jumped down.

Q Which room was that window in from which you jumped? A Couldn't tell you exactly.

Q Where was he all this time? A When he heard the woman--you could see I suppose through the window if the woman was up or not, and I suppose if he saw, he went right back.

MR. GONTERMAN: I object to what he supposed.

THE COURT: Strike it out.

BY MR. WASSERVOGEL:

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Q What did he do, he did not go into the room right after you? A No, he did not come right after me, because she got up right away, before I turned around, and then he went right up on the roof.

Q How long were you in the room before this woman's voice was heard by you, about a minute? A About a second, because, you know, before I turned around she got up right away.

Q You jumped from that floor downstairs? A Yes, sir, downstairs.

Q And did you meet with any injury? A I broke my ankle.

Q You were arrested downstairs? A Downstairs.

Q In the cellar? A Yes.

Q You were taken to Gouverneur Hospital? A Yes, sir.

Q How long were you there? A I was there about seven or eight o'clock in the morning.

Q How long did you remain in the hospital under treatment?

A About--

Q How many weeks? A In that only about three hours, and after that I was taken to Bellevue.

Q Bellevue, and how long did you stay there? A I
Bellevue I was laying there for five days I think.
CROSS-EXAMINATION BY MR. GONTERMAN:

Q You pleaded guilty to this crime? A Yes.

Q I suppose you expect to get some consideration for testifying?

MR. WASSERVOGEL: I object to the form of the ques-

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Q After you saw this man jump out of the bath-room window, did you find your doors open or closed? A Closed.

Q How about the rear windows, were they open or closed?
A This I cannot say. I did not see.

Q You did not take notice?

(No answer).

CROSS-EXAMINATION BY MR. GONTERMAN:

Q You did not see this defendant in your house that night, did you? A No.

Q Did you see anybody in your house that night? A Yes, sir.

Q Where did you see this person? A In the toilet I saw him.

Q And did you see him anywhere else? A I saw him how he jumped down and then I saw him afterwards in the hall, how the policeman took him in there.

Q Were you the last person to bed that night? A No, my wife was the last one.

Q And when you went to bed the windows were open?

MR. WASSERVOGEL: He did not say that.

THE WITNESS: No, closed, not locked, but closed.

Q Where did you see this defendant? A This defendant I saw as the police took him downstairs.

Q Downstairs where? A From upstairs downstairs.

Q What house? A In the hall.

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Q Was it in the hall of your house? A It was a public hall for everybody.

Q It was the hall of another house, was it not? A No, of the same house.

Q Wasn't it a house on Grand street? A No, in Attorney street. The hall -- it is a corner house -- the hall is in Attorney street -- it is a corner building, Grand and Attorney.

JENNIE SALAT, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

BY MR. WASSERVOGEL:

Q Where do you live? A 24 Attorney street.

Q You are the daughter of the last witness? A Yes, sir.

Q And what time did you retire that night, the 29th day of April? A It must have been about eleven o'clock.

Q What time was it? A Eleven o'clock.

Q Do you know what the condition of the windows were in your apartment at that time? A The window in the dining room was shut.

Q About three o'clock in the morning, what if anything happened? A I saw a man going through the dining room and call for my cousin, Nathan Gerson, and when he got up he asked

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me what was the matter -- the man just ran through the kitchen door and I thought he was running out of the hall but he did not-- he got into the bath-room, and I did not know he got in there until my cousin got there, and he said he is here and he shut the door. In the meantime I went back and told my father he was in the bath-room. I went to the front extension and called for police -- a few police came. I went in and they were upstairs, and then they went downstairs to the cellar to see where he went to. He jumped down from the extension back roof to the yard. He ran right in the cellar and there is where the police discovered him.

Q Did you see this defendant there at that time? A I only saw him when they brought him down from the roof.

Q Did you see this defendant there at that time? A I only saw him when they brought him down from the roof.

Q That was what time? A Well, about a quarter of an hour later when the other one was found.

Q About half past three in the morning? A About half past three.

Q Do you know what the condition of the windows in the dining-room were at that time? A It was open at that time when I went back from the front extension, after I called for police.

Q Were those the windows which you say were closed at the time you retired? A yes, sir, it was closed when I went

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to bed.

Q Were you the last one to go to bed that night? A No, my father.

Q Could you recognize the other man if you saw him? A I could.

CROSS-EXAMINATION:

Q You say you retired about eleven o'clock? A About eleven o'clock. I just couldn't tell you the moment.

Q Whereabouts is your room? A My room is through the dining room.

Q Off the dining room? A Room right off the dining-room.

Q Did you have to go through the dining-room to get into your room? A Yes, sir.

Q Had your father gone to bed before you went to bed? A No, sir, I went to bed before my father.

Q Who else was up besides your father? A I couldn't tell you. They were all up, I suppose.

Q How many members are there of your family? A Two sisters -- a married sister came for that night -- three sisters, one brother and my cousin.

Q How many people were sleeping in your apartment that night? A Me and my married sister that came for that night.

Q And your father? A My father.

Q And your mother? A Yes.

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Q And who is Nathan Gerson, doesn't he sleep there? A I don't think he seen him in the dining room, but in the bath room.

Q I asked you where does Nathan Gerson sleep, was he sleeping in your apartment? A Yes.

Q What room was he occupying? A He slept in the dining-room.

Q Had he gone to bed when you went to bed? A No, I went to bed before that time. I couldn't tell you when he went to bed.

Q You don't know what the condition of the windows were at the time your father and the rest of them went to bed? A When my father went to bed -- I know I shut the window myself --

Q You don't know anything about the condition after eleven o'clock? A After eleven, no. I know when I went to bed the window was shut.

Q What windows are you talking about? A The dining-room window and my bed room window.

Q Did you shut them? A I shut them.

Q How long has this Nathan Gerson been sleeping in the dining-room? A He went to bed after me.

Q You don't know if he opened the windows to let air in or not? A I do not know.

Q You only know at the time you went to bed, the condition? A At the time I went to bed I shut the window.

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Q You did not notice the condition when you got up?

A What?

Q When did you next notice the dining room windows?

A When I saw that man through the dining room.

Q You saw him in the dining room? A Yes.

Q You did not see him enter the dining room? A No.

Q Did you examine the door of the apartment at all?

A When I went to sleep they were awake.

Q You don't know if the door was closed or open?

A No.

Q Where is the fire-escape? A On our floor there is no fire-escape. There is only the extension both sides. The fire-escape comes down as a stairway to that extension.

Q What floor of the building do you live on? A The second floor.

Q There is a public hall? A Yes.

Q How many apartments on that floor? A Four.

Q So when you went to bed there were how many other people to go to bed after you that night? A How many?

Q Yes? A All besides me -- I was the first one.

Q You did not hear anything from the time you went to bed until this noise about three o'clock? A No, I don't know what time they went to bed.

Q You never saw the defendant in your house? A I never

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saw this man, but that one there I saw (indicating).

Q I talk about this man, the defendant? A I saw him in the hall, come down from the roof, when two or three policemen took him down from the roof.

Q In the building? A In the building I live.

Q Came down the hall of your building? A Of our building.

Q He was accompanied by an officer at the time? A Yes, he was.

Q Where did the officer find this other man that you refer to? A Where?

Q Yes? A Down the cellar -- the other man.

Q Down in the cellar? A Down in the cellar.

Q You never saw this defendant in the cellar? A No, I hadn't seen him no place but coming down from the roof.

RE-DIRECT EXAMINATION:

Q Do you recognize the other man now in court? A Yes.

Q Point him out? A That man over there (indicating).

Q When you saw him in your apartment, did he carry a crutch? A No.

Q He was not lame then ? A No.

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NATHAN GERSON, called as a witness in behalf of the People, duly sworn and examined, testified through the official interpreter, Mr. Rosenthal, as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 24 Attorney street.

Q You live with the family of Max Salat? A Yes.

Q Try to talk English -- did you live with this family on the 29th day of July? A Yes.

Q Try to talk up, what time did you go to bed that night? A It was about half past eleven.

Q In what room did you sleep? A The dining-room.

Q Did you open the windows of the dining-room? A No, sir.

Q What if anything happened about three o'clock? A I am sleeping in my bed and I saw my cousin, Jennie Salat, ask me "Nathan, somebody is walking in the house, but I do not see."

Q What if anything after that happened? A After, I am going looking -- I was in the kitchen and I saw the bath-room, and I opened the door of the bath-room and saw somebody was inside.

Q Do you recognize the person you saw in the bath-room, is he in this room now? A Yes, sir.

Q Is he in this room now? A That is the next room.

Q Do you recognize the person you saw in the bath room, is he here now, look around this room and see if you can see

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the man you saw in the bath room? A That man there (indicating the co-defendant).

Q Where was he? A He was in the bath-room.

Q What did you see him do? A I saw him standing there-- in the bath-room.

THE COURT: We better have the interpreter.

(The witness now testified through the official interpreter).

THE WITNESS: I was going to look where the man was and I opened the door of the bath-room and I saw the man there and I closed the door. Then I said "Here is the thief inside, and the people in the house cried out for police and I was holding the door. He was trying to open the door to get out, but I did not let him do that. I held the door. I was afraid he may have some weapon and would kill me if I let him out.

BY MR. WASSERVOGEL:

Q What was done, that is the question? A When the police came they asked where he was and I said "He is inside," and I opened the door and I saw him just jumping out of the window from the roof into the cellar.

Q At the time you saw this other man Rosen in this bath-room, did he carry a crutch? A No.

Q Did you ever see this defendant Kramer? A I saw him on the roof.

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Q This was about what time? A It was about quarter after three or half past three.

BY THE COURT:

Q What time did you go to bed that night? A Half past eleven.

Q Any windows in your room? A Yes, sir.

CROSS-EXAMINATION:

Q Don't you open your windows when you go to bed? A That night I did not.

Q Do you do it every other night? A I don't open the windows when I go to bed.

Q Do you really remember anything about it, whether you opened the windows or not? A I did not open the windows. Perhaps another one did.

MR. WASSERVOGEL: I ask to strike out the last part of the answer.

THE COURT: Strike it out.

BY MR. GONTERMAN:

Q Did any one come in your room after you went to bed? A No, nobody.

Q You did not notice the windows when you awakened? A I did not notice.

Q There were other people up when you went to bed, were there not? A I was awake with Mr. Salat and we both went to

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bed.

Q Did you go to bed at the same time Mr. Salat did?

A Yes.

Q Was there anybody else up then, had everybody gone to bed then? A Yes, sir, all had gone to bed.

Q Did you see anybody go in the bath-room or toilet?

A No, I did not see.

Q You just heard some one in the toilet, is that it?

A When Jennie Salat said a thief, then I was looking for the thief and I opened the door and I saw him in the bath-room.

Q Was not the door locked? A No.

Q Was it lighted, the bath-room? A No, not in the bath-room -- in the kitchen it was light.

Q Where is the kitchen with reference to the bath-room?

A From the kitchen one enters into the bath-room.

Q Did you see the face of the man who was in the bath-room? A The first time I did not see, but the second time when he wanted to push the door open, then I saw his face.

Q After the door opened -- I thought you said the door was open? A Yes, sir, but I had closed that door and could not open it.

Q Was he trying to open the door? A Yes.

Q Did he pull the door open? A No, I had locked the door.

Q Then he did not pull the door open? A He was pushing

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the door open.

Q The first time you saw the face of this man was down on the ground in the back?

THE INTERPRETER:.. I don't believe I can translate it.

BY MR. GONTERMAN:

Q Did you see the man jump? A Yes, I saw him just as he was jumping down.

Q What window did he jump from? A From the bath-room window.

Q Where were you at the time you saw him jump? A A policeman came and asked where the thief was, and I said "He is inside," and opened the door, and at that time I saw him jump out of the window.

Q The policeman opened the door? A Yes.

Q He was jumping out of the window then? A Yes.

Q His back was to you then? A Yes, his back.

Q You did not see his face then? A Before the policeman had come I had seen the face. When I saw him then I locked the door. I was afraid of him.

Q Where did he jump to? A Into the cellar. There is an extension there and from there he jumped into the cellar.

Q To the cellar? A Yes.

Q Inside of the house or outside of the house? A It was in the yard.

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Q Then he jumped into the yard, that is what you mean?

A Yes, there is the yard, the cellar is in the yard.

Q Could he walk after he jumped? A This I do not know. The policeman came and found him in the cellar.

Q Did he limp at that time? A Yes.

Q You saw this defendant with the police officer, did you? A Yes.

Q That was the first time you saw him, was it not?

A That was the first time.

Q That was coming down the stairs? A I was also on the roof with the policeman and he was under the water tank.

Q What building was that, where was the water tank? A It was on the next -- the building next adjoining ours.

Q It was not on the house where you live? A Both houses are even -- are alike, even, so you could go over to the next house.

Q But how far away is it from the roof of your house? A Not far -- the two houses are together.

Q You don't know whether anybody came into your room after you went to bed or not, do you? A I do not know that.

Q You said some one might have opened the windows, what did you mean?

MR. WASSERVOGEL: I object to what some one might have done.

MR. GONTERMAN: He said that. I ask what he meant.

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Objection sustained. Exception.

Q Is it customary for any one to come in after you have gone to bed and open the windows? A No, I cannot say. I don't know.

Q Don't remember anything about that? A No.

Q You only saw one man in the house? A Yes, the man in the house and the other on the roof.

Q The roof of the adjoining house? A Yes, adjoining.

FREDERICK C. MUTTER, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 145 Hull street, Brooklyn.

Q You are a police officer of the City of New York, attached to the 13th Precinct? A Yes, sir.

Q Did you make the arrest in this case? A I arrested one of the prisoners, Rosen.

Q Where did you arrest him? A I arrested him in the cellar of the building, 24 Attorney street, crouched in the cellar, away back.

Q When was this? A That was about 3:25 a.m., April 29th.

Q What was his condition at that time, physical condition? A Well, when I got hold of him, subdued him and placed him un-

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der arrest I dragged him out. Looked around and saw the other officer right behind me, Officer Donovan. The two of us dragged him out of the cellar and took him into the hallway, and there had been great excitement and confusion in that hallway, and we had all we could do to save him from getting a good beating on the part of the tenants; and while I had hold of this prison a citizen told me and the other officer --

Objected to. Sustained.

Q I ask you what his physical condition was at that time? A It was very good except that when I had him upstairs he said, "Officer I hurt my foot."

MR. GONTERMAN: I object as not binding on this defendant and not in his presence.

MR. WASSERVOGEL: It will be connected with him.

Objection sustained.

BY MR. WASSERVOGEL:

Q Did you see this defendant there at all? A Kramer I did not see until he was brought down by Officer Donovan from the roof.

Q Did you have a talk with Kramer, this man? A After we placed him under arrest.

Q What talk did you have with him?

Objected to.

THE COURT: With the defendant?

MR. WASSERVOGEL: Yes, sir, with this defendant.

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Objection overruled. Exception.

A He frankly admitted he was guilty and that he was the lookout.

Q I want you to tell me the words he used, what you said to him and what he said to you? A We said, "What were you doing up there?" He said, "Well, I am hard up and he hired me for a dollar to watch --"

Q Who hired him, who did he refer to? A Rosen.

Q To do what? A So he could do his work, plundering flats.

Q What else did he say? A He said he was with him in Philadelphia where Rosen done a job.

Q What did he say about his presence on the roof at that time? A He said he tried to get away but the roof doors were all locked and he was caught like a rat in a trap on the next house -- not the house in which the attempted burglary or burglary occurred, but the next house.

Q The very next house? A Yes. He went as far as he could go and could not get any further, because the doors were locked from the inside.

BY THE COURT:

Q Is that what he said? A Yes, sir.

BY MR. WASSERVOGEL:

Q Did you have any other conversation with him on the way to the station house? A Not that I remember.

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Q Or police court? A He repeated that to the lieutenant in the station house that he was hired by the other man.

Q To assist him? A Yes, sir.

CROSS-EXAMINATION BY MR. GONTERMAN:

Q When you told the District Attorney what he said, did you use his exact words? A To the best of my belief, yes.

Q You mean to say that this man told you he was up there to assist this man in his business of plundering flats -- do you mean to say he used those words -- as matter of fact, haven't you finished it up a little bit? A He told me that he was hired by this man Rosen for a dollar, and watching for him, so that he could do his work.

Q That was all he said? A That was about all.

Q What did you mean by saying that he said he was up there to assist him up his work of plundering flats -- that was what you said a minute ago, is that true or not? A Yes, he did say that.

Q He did say that? A Yes.

Q Give the words he used? A He said --

Q Do not add anything to it, but just give us the exact words? A He was hired by Rosen for a dollar to do the watching. He said he was hard up and that was the reason he done it, and that Rosen told him that he was going to plunder the

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flat on the second floor.

Q Did he use the word plunder? A Well, rob, if you will have it that way.

Q I ask you for his word? A He said rob.

Q He said rob? A Yes.

Q What else? A I asked him what floor; he said the second floor. And I said "How do you know?" He said Rosen was there the day before to see this man Salat on the pretence of making inquiry --

Q Did he tell you that? A Yes.

Q Where did he tell you that? A On the way to the station house.

Q Anybody else present? A Officer Donovan heard the same thing.

Q Have you told us all he said? A All that I can remember, yes.

Q You did not tell the District Attorney this last statement? A What do you mean, last statement?

Q You did not tell the District Attorney about what he said about Rosen's going around there the day before -- did he say that? A Yes, sir, I told the District Attorney that.

Q He asked you to tell everything, did you forget it? A I did not forget it. I did not get a chance. I could relate the story from beginning to end. I would rather do it that way, and maybe bring out everything I do know. I am trying to

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answer the question as put to me .

Q Have you now told all he said, or is there anything else you want to add? A I think I have told all I know.

Q Told it all? A Yes.

Q You say this defendant told you where? A Immediately after he was brought down from the roof, he started to tell us this story, and on the way to the station house and in the station house.

Q You did not see him on the roof? A I did not. I was not on the roof myself. I had all I could do to keep that fellow.

Q Did he talk to you in English or some other language?

A This man?

Q Yes? A Spoke a broken English with foreign accent.

Q Do you speak Jewish? A Yes, I do -- not a Jew, but I have picked it up.

Q Did you speak Jewish to him at all?

BY THE COURT:

Q Did you or not? A No, I spoke English to him.

BY MR. GONTERMAN:

Q Did you know he spoke Jewish? A I could tell by his accent, yes.

Q You did not try to speak to him in Jewish at all?

A No, I don't think so.

Q Did anybody else speak to him in Jewish? A Not that

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I know of.

Q You spoke English? A Yes, sir.

BY THE THIRD JUROR:

Q Was anybody with you at the time you had this conversation with the defendant Kramer, about being hired? A Officer Donovan was with me at the time we made the arrest, and another policeman with us, three of us.

DENNIS J. DONOVAN, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 432 East 148th.

Q You are connected with what precinct? A The 13th.

Q And did you make the arrest in this case? A Yes.

Q Where did you find the defendant? A Underneath a water tank on the roof of 430 Grand street, I believe the number is, next door to the roof 24 or 26 Attorney street, two adjoining houses.

Q Where was he at that particular moment when you found him? A Underneath the water-tank on these two iron bars about two inches wide that the tank sets on top of, and he was away inside and had to get a light or torch to see if there was anybody in there.

Q Did you have to drag him out? A Yes, had to drag

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him out by the foot.

Q Did you have a talk with him then? A Yes.

Q Did you ask him what he was doing? A Yes.

Q Tell us what you said and what he said? A I asked him what he was doing there and he said "Watching". The other defendant was in the cellar, and he denied all knowledge of this man.

BY THE COURT:

Q Who are you talking about?

CROSS-EXAMINATION BY MR. GONTERMAN:

Q Which one are you talking about now? A Kramer. When I searched the roof and found him under the water tank. I asked him was there anybody else in his company only the two, and he said "No."

Q Who did you ask that? A Kramer. I said "How did you get up here?" And he said "Up the fire-escape." I took him downstairs and showed him to all the tenants in the house going downstairs -- got his hat off and told them to look so they could see him, and no one seemed to identify him or know anything at all about him. On the way into the station house I asked him what did he know his partner or his pal. And he said "Yes," he knew him a few weeks in New York, and also had known him in Philadelphia." I said "Where did you see him last?" He said "The other night in a coffee saloon." A few more questions I asked him but he could not very well speak very good

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English, and quite a few people was interpreting to him and I could not get much out of him.

BY MR. GONTERMAN:

Q You have related all he said to you? A Well, partly -- I don't think he said any more touching on the subject.

Q You heard what he said? A Yes.

Q You did not hear a great many things the other officer testified to? A The other officer was speaking to him in German and I could not understand what they were saying.

Q He was speaking to him in German? A Yes, he was.

Q Did you hear him testify that he did not -- that he spoke to him in English? A He spoke English and German. What he could not understand in English.

Q You have testified all you heard him say, that was all he said in English? A That was all, might have said a few things that I don't recollect.

Q You did not hear him say anything about plundering? A He said in the court to me the following morning --

Q I talk about when you were going to the station house -- you did not hear anything about that? A About robbing the flat?

Q Yes, did you hear him use the word plundering? A No.

Q Did you hear him say anything about robbing the flat?

A Yes.

Q You did not say that? A He said Rosen hired him

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for a dollar to rob this flat or rob the janitor, that was the words he used, as he had a lot of money.

Q You did not say that a moment ago. A Well?

Q You forgot it? A I forgot it.

Q When the District Attorney was asking you? A That was about all.

Q Is there anything else you have forgotten? A No.

Q You don't want to add anything more to it? A No, I don't want to add any more to it.

Q You found him on the adjoining premises on the roof?
A Yes.

Q Did you talk to him much on the way to the station house? A Not much.

Q Did the other officer talk to him very much? A Yes.

Q Did you say he told you how he got on the roof?
A Through the fire-escape.

Q Through the fire-escape? A Yes, up the fire-escape.

Q Do you know where the fire-escape is? A Yes.

Q Where? A On the side of 24 Attorney street, on the Attorney street side leading to the extension.

Q There is a passageway that runs right to the roof on that building, 24 Attorney street? A What do you mean passageway -- hallway?

Q Did you go right up ^{to} the roof by the stairs? A Yes, sir, hallway.

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Q Nothing to prevent, there is a hall that leads to the roof? A Yes, from the hall.

Q In the next house the same way? A Yes, that door was locked.

Q You could get to the roofs by the hallway? A The door was locked to the roof.

Q You can get to the roofs of any of those buildings by going up the public hallway? A Yes.

Q Did he point out to you the fire-escape he came up? A Yes, Attorney street side, at 24 Attorney street.

Q That is the back? A Yes, the back of the house.

Q Did you take him down into the cellar, or where the other man was? A No. Took him in the main hallway, up the stoop. The other man was out on the street by that time.

Q The other man was out on the street when you got down? A Yes.

BY THE FIFTH JUROR:

Q Did you walk with Kramer to the station house? A Yes.

Q You did? A Yes.

BY THE FOURTH JUROR:

Q Did you put any questions to this defendant? A Yes.

Q Did he answer you? A Yes.

Q Did he seem to understand your questions? A Yes, sir, certainly he did.

Q Did you have to have any of the tenants help you put

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questions to him? A I not alone questions him, but the lieutenant in the station house questioned him.

Q I mean the tenants? A Yes.

Q Did they help you? A I asked if they knew this man, and they said "No."

Q I asked you if you had to have any of the tenants help to interpret your questions to this defendant? A No, sir.

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Q He seemed to understand your questions? A He understood.

Q And he answered you? A Yes.

BY THE NINTH JUROR:

Q In going up the stairway to get to the roof, how would you get ~~xxx~~ to that stairway? A It is a corner house. The entrance to the house is on Attorney street. It is a six story house. The stairway on the way up to the roof and on the side of the roof is a ladder that comes over down on the extension.

Q I mean if the man was in an adjoining room, how would he get out of the apartment to get to the stairs to go upstairs, not by the fire-escape? A From the extension, from the fire-escape.

Q There is a hallway there with stairs going to the roof? A Yes.

Q How would he get from that room, where would he have to go to get out into the hallway to go upstairs? A Had to go by the fire-escape and all the way to the roof.

Q Couldn't he get to those stairs from that apartment? A No, except he go through the tenants room.

Q Did not that apartment open on that hallway at all? A No. These windows all lead to an extension, two story extension right around the second floor.

Q He could not get out of that apartment and get into

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that hallway to go up to the roof, is that right? A No, sir.

Q He could not? A Not without going up the fire-escape.

Q The only way he could get to the roof was by the fire-escape? A Yes.

BY MR. GONTERMAN:

Q Couldn't he walk up the public hallway and go to the roof? A Yes.

Q You came down the public hallway? A Yes.

Q You took him down the public hallway of 24? A Yes.

Q You could have taken him down the public hallway of the adjoining rooms? A No, because the roof door of the adjoining rooms was locked.

Q You said that you could get to the roof of any of those buildings? A No, not if the door is locked. The door of 24 Attorney street was the only door open.

Q Did you examine to see if the door to the roof of the adjoining premises--if the door of the public hallway was open or closed? A Yes.

Q You were going to take him down there first? A No.

Q What did you examine it for? A I examined that before I searched under the water tank.

Q How did you get on the roof? A Some citizens said they saw a man on the fire-escape going to the roof.

Q How did you get upon the roof? A By the hallway.

Q Of what premises? A 24 Attorney street.

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Q When you found this defendant he was on the roof of the adjoining premises? A Yes, sir.

Q And there is a public hall from those adjoining premises to the street? A Yes, sir.

Q Did you examine that to see if it was locked? A I searched that roof before I searched underneath the water tank.

Q You had to walk back some distance to get--how far away is that, that water tank from the other stairway? A In my estimation about as far as I saw it that night, two or three feet--just a coping about 18 inches separates the two houses. The water tank is on two iron beams. I searched the whole roof, behind the chimneys and all over, and searched the door leading to Grand street and the door was locked, and looked underneath the water tank and pulled this man out.

Q You have told substantially all that you heard the defendant say about it? A Yes.

Q You were going along with him, you talked to him on the roof and you talked to him down there in the street, you walked along with him to the station house, didn't you? A Yes.

Q You were there in front of the Sergeant? A Yes.

Q You have substantially related all he said? A About all.

REDIRECT:

Q You found him on the roof? A Yes.

Q You did not see him on the fire-escape at all? A No,

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I did not see him on the fire-escape. That is how I came to get to the roof.

The Court admonishes the jury in accordance with section 415 of the Code of Criminal Procedure and takes a recess until two o'clock.

AFTER RECESS.

SAMUEL ROSEN, called as a witness in behalf of the People, duly sworn and examined, testified as follows:

DIRECT-EXAMINATION BY MR. WASSERVOGEL:

Q Where do you live? A 37 1/2 Allen street.

Q Where did you live on the 29th day of April this year?

A 29th of April of this year?

Q Where did you live then? A New York.

Q Where in New York? A The same house.

Q Where? A 37 1/2.

Q What street? A Allen street.

Q Do you know this defendant Kramer, do you know Kramer?

A Yes.

Q How long have you known him? A I couldn't tell you exactly.

Q Is it a year or more than a year? A No, not a year, about a month or so, or more than a month.

Q Did you see Kramer on the 29th of April of this year?

A No, I don't think I did.

Q Did you meet him anywhere?--Do you know what I am ask-

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ing you? A Yes.

Q Did you see him? A No, I did not see him.

Q Do you know what I mean by did you see him? A Yes, you mean if I saw him then. I did not see him then.

Q Did he come to your house that day? A The 29th of April?

Q Yes. A The day I got arrested?

Q Yes. A Certainly.

Q That is what I am talking about, that day did you see him, on that day? A Yes, I seen him.

Q What time did you first see him on that day? A I saw him about two o'clock.

Q In the afternoon? A In the afternoon.

Q Did you have any talk with him then? A I was talking with him and he asked me where I lived, and I told him I lived right at the corner of Hester street, 37 1/2 is right on the corner there, and he went up to my house.

Q Did he come up to your house that evening? A Yes.

Q What time did he come up to your house that evening?

A He came up to my house, it was about--it was about two o'clock and he said he had to take some money off somebody and he got up again about 8 o'clock in the evening.

Q How long did he stay there? A He was sleeping on the lounge until two o'clock.

Q Two o'clock in the morning? A Two o'clock in the

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morning.

Q Did you have any talk with him then at 2 o'clock in the morning? A No.

Q Did you say anything to him or he to you? A He said he is down and out and ain't got no money and he hocked his umbrella for 25 cents I remember, and he said, I want to try if I can see to make some money.

Q What else? A The same night I was a little intoxicated. I never drink, and it happened on a holiday, and I was sitting--

Q Louder? A I was laying down in my house, laying down, and he woke me up at 2 o'clock and he walked down.

Q Before you walked out of your house did he say anything to you? A Yes, certainly.

Q What did he say? A He was going to go up--he was going to see if he could make some money.

Q What did he say, & how was he going to make this money? A He said he will try to go up some place and see if we could find something.

Q Where did he say he was going to find something? A He said, We will try to go in any house.

Q For what purpose? A To see if he could make some money, to see if he could.

Q Take something? A Take something. I was a little intoxicated.

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Q Never mind that--I only ask for what he said--after he said that did you go out with him? A Certainly.

Q Where did you go? A On Grand street.

Q After you went into Grand street where did you go?

A I walked up into the house corner of Attorney street.

Q Was it 24 Attorney street? A I couldn't say exactly.

Q Was it in the house in which you were arrested? A Yes, sir.

Q Was the defendant Kramer with you? A Yes.

Q Did you enter into the main hall? A Yes, sir, right through the hall.

Q When you got into the hall where did you go? A I walked up right on the roof.

Q Where was he? A He was right after me.

Q On the roof? A On the roof.

Q After you were both on the roof what did you do and what did he do? A I walked down.

Q Walked down where? A He told me to walk down, there is a stepladder that goes down on the fire-escape.

Q From the roof? A Yes.

Q To the first fire-escape? A Yes; so I walked down.

Q Where was he? A He walked down right after me.

Q How many fire-escapes did you go down? A I think about three, because it was on the third--

Q Was he after you all the time? A Yes.

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Q When you finally stopped, what did you and what did he do? A The window was locked but it was not locked inside.

Q You mean that the window was closed but not locked? A Closed but not locked.

Q What did you do? A I pulled the window down.

Q After you pulled the window down what did you do? A I went inside.

Q Where was he at the time you went in? A He was right after me.

Q Go on? A As soon as I turned around, before I turned around in the house, some lady got up and said, Who is it, and I did not have my right mind then I suppose, so I thought I am on the first floor and I jumped down.

Q You ran into the bathroom? A No, I did not.

Q What room were you in when you jumped out of the window? A I was in the front room, but after I got out from the front room right through a window and then jumped down.

Q Which room was that window in from which you jumped? A Couldn't tell you exactly.

Q Where was he all this time? A When he heard the woman--you could see I suppose through the window if the woman was up or not, and I suppose if he saw, he went right back.

MR. GONTERMAN: I object to what he supposed.

THE COURT: Strike it out.

BY MR. WASSERVOGEL:

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Q What did he do, he did not go into the room right after you? A No, he did not come right after me, because she got up right away, before I turned around, and then he went right up on the roof.

Q How long were you in the room before this woman's voice was heard by you, about a minute? A About a second, because, you know, before I turned around she got up right away.

Q You jumped from that floor downstairs? A Yes, sir, downstairs.

Q And did you meet with any injury? A I broke my ankle.

Q You were arrested downstairs? A Downstairs.

Q In the cellar? A Yes.

Q You were taken to Gouverneur Hospital? A Yes, sir.

Q How long were you there? A I was there about seven or eight o'clock in the morning.

Q How long did you remain in the hospital under treatment?

A About--

Q How many weeks? A In that only about three hours, and after that I was taken to Bellevue.

Q Bellevue, and how long did you stay there? A I

Bellevue I was laying there for five days I think.
CROSS-EXAMINATION BY MR. GONTERMAN:

Q You pleaded guilty to this crime? A Yes.

Q I suppose you expect to get some consideration for testifying?

MR. WASSERVOGEL: I object to the form of the ques-

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