

Q And the doorway is about two feet wide, isn't it, or about three feet wide? A About three feet, I guess.

Q It took you ten seconds to walk four feet and the three feet width of the door, it took ten seconds to walk four feet? ✓

MR. WELLER: I object to it, he says he does not know.

THE COURT: The jury cand raw whatever inferences they wish.

Q Did you stoop down and watch him lock that door?

A No.

Q Just walking by you saw him lock it? A Yes sir.

Q And he got about seven feet, you say? A Yes sir.

Q Passed his door. By that time you were entirely past his store, were you not? A Right by the shoemaker's, there.

Q The shoemaker's place is only separated from Goodmark by a little iron partition that wide, about six inches?

A Yes, sir.

Q Separates Goodmark's from the other fellow's place; is that right? A Yes, sir.

Q You always mind your own business? A Yes, sir.

Q You never want to get in trouble with anybody?

A No, sir.

Q And you walked by and there was nothing the matter

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with Goodmark's place at that time? A No, sir.

Q Then you turned around? A Yes, sir.

Q What made you turn around? A Just happened to turn, that is all.

Q It was a purely accidental matter that you turned around and you saw smoke coming out of Goodmark's place?

A Yes, sir.

Q And you ran up after Goodmark? A Yes, sir.

Q He had a package in his arms? A Yes, sir.

Q You said, "Goodmark"-- what did you say?

A I said, "~~Goodmark~~", your store is on fire.

Q Did you call him by his name? A No.

Q You tapped him on the shoulder and said, "your store is on fire", and did he think -- after, what did you do?

A After, I told him the first time he would not listen to me.

Q You didn't go on away? A No, sir.

Q You kept right next to Goodmark? A Yes, sir.

Q All the time? A Yes, sir.

Q And when he got fifty feet away you said, "your store is on fire", again, is that right? A Yes, sir.

Q You were next to him all the time; you were not going to let Goodmark away, were you? A No.

Q You got up to the corner? A Yes, sir.

Q You were next to Goodmark then? A Yes sir.

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Q Had Goodmark turned the corner? A Yes, sir.

Q And when he didn't come back after he turned the corner, you grabbed him by the shoulders and pushed him back?

A Yes, sir.

Q He had his bundle when he left the store? A Yes.

Q You were right behind Goodmark all the time? ✓

A Yes, sir.

Q What happened to the bundle? A I do not know.

Q You were within two feet of Goodmark all the time and you didn't know what happened to the bundle?

MR. WELLER: I object.

(No ruling)

RE DIRECT EXAMINATION BY MR. WELLER:

Q After Goodmark left the store and you told him the first time, your store is on fire, did you walk alongside of Goodmark all the time? A Back of him the first time.

MR. JOSEPHS: I object to that on the ground it is leading.

THE COURT: Objection overruled.

MR. JOSEPHS: Exception.

Q He continued to walk towards Lexington Avenue, were you walking alongside of him all the time? A Yes, sir, pretty near alongside of him.

Q Did you see whether or not he went into a saloon on the corner? A No, sir. ✓

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Q Did you see him all the time until the second time you spoke to him? A Yes, sir.

Q You never took your eyes off him at all?

A No, sir.

Q So you don't know what became of the package?

A No sir.

MR. WELLER: That is all.

BY MR. JOSEPHS:

Q Did he go into any saloon? A I didn't notice.

Q You would have noticed him if he had?

MR. WELLER: I object to that.

THE COURT: Sustained.

Q There are a lot of boys around that neighborhood?

A Yes, sir.

Q A good many boys? A Yes, sir.

Q And like all young boys they play around the street?

Q They are good boys around there, they are not bad ones?

MR. WELLER: I object to that.

THE COURT: Sustained.

Q Did you ever see these men annoy Goodmark in his store in any way? A No, sir, I never seen them in his store.

Q Have you ever heard of his being annoyed?

A No, sir.

Q Do you ever play around that neighborhood?

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A I don't play; I just come around to see a couple of friends.

Q You have friends in that neighborhood? A Yes sir.

Q And is that what you call your hangout, that is where you hang out on that block? A Yes, sir.

Q Have you ever been chased away from hanging around that street? A No, sir.

Q Anyway, you hang out on that block? A Right at the corner of 75th Street and Third Avenue, on the northwest corner.

Q What kind of a place of business is there?
A Liquor store on the corner.

Q You hang around the liquor store? A I don't hang out there. I am on the side of 75th Street.

Q That is right by the liquor store, by the private entrance? A Yes, sir.

Q And other boys of your age hang around there, this liquor store? A Yes, sir.

Q Have you ever been arrested? A No, sir, never have
BY THE COURT:

Q How old are you? A Seventeen years.

BY MR. JOSEPHS:

Q You live with your father and mother? A Yes, sir.

Q How long have you been working for Esche, for about a week? A Yes, sir.

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Q And you worked for Mr. Gittermann --

MR. WELLER: I object to this as not proper re
cross examination.

GERALD GRIFFIN, called as a witness and being
first duly sworn, testified as follows:-

(I reside at 212 East 72nd Street)

DIRECT EXAMINATION BY MR. WELLER:

Q Mr. Griffin, what is your business? A I am a
barkeeper.

Q Whereabouts? A 1057 Lexington Avenue.

Q Is that at the corner of 75th Street and Lexington
Avenue? A Yes, sir.

Q Northeast corner? A Northeast corner.

Q Do you know the defendant, Mr. Griffin? A Yes sir.

Q How long have you known him? A Since I have been
working there.

Q How long? A Almost four years.

Q He came into your place occasionally, did he?
A Occasionally, yes, sir.

Q Now on July 5th of this year, about half past six
in the evening where were you?

MR. JOSEPHS: 5th of July?

MR. WELLER: Thank you. The 5th of July.

THE WITNESS: I was behind the bar working.

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Q And did you see the defendant at that time? A Yes.

Q Do you know what time he came in? A Well, it was about half past six, somewhere in that neighborhood, the exact time I could not state.

Q And what, if anything did he say to you?

A Why, he had a bundle with him, he put it on the bar and asked me to keep it for him.

Q Is this the bundle (showing)? A I think that is the bundle; I could not be positive; I think it is.

Q Step down.

(The witness steps down)

THE WITNESS: It is a bundle such as that (indicating)

Q Similar to that? A Yes, sir.

Q A large bundle? A A bundle I could see, like a suit case, wrapped up.

Q And what did he say to you when he came in?

A He asked me to take care of the package for him.

Q Anything else? A No, that was all.

Q Just asked you to take care of the package?

A Put it on the bar and me to leave it for you.

Q Then what did he do? A He walked out.

Q Which entrance, do you remember? A Yes, sir, on the Lexington Avenue entrance.

Q This is what occurred when he came in first, he put

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the bundle on the bar. A Why there were some youngsters at the door and they hollered "chase him out", and as I saw he brought in the bundle, he gave it to me, and he walked out. I could hear noises. (He said, "I didn't know there was a fire. I could hear noises, excitement, so I walked to the front door, on 75th Street and I looked around and I saw the engine there and a big crowd of people.

Q The engines were already in front of the premises?

A Yes, sir.

Q That was after he left the package on the bar?

A A minute or two.

Q You took the package and put it under the bar and walked out the 75th Street side and the engines were there at that time? A Yes, sir.

Q And he went out of the Lexington Avenue side again?

A Yes, sir.

CROSS EXAMINATION BY MR. JOSEPHS:

Q He brought this package in to you, you say at half past six, it might have been twenty to seven? A I could not say the exact time.

Q It was around that time? A Yes, sir.

Q When he brought that package in to you, at the time he brought it in there was a lot of excitement? A Not at all.

Q At the time he brought it in? A Not at all.

Q How long after he brought it in there was there

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was there excitement? A Outside?

Q Yes. A I did not know there was any excitement when he brought it in. I didn't hear a word or a noise of any kind. These youngsters chased him in, but they hollered, "chase him out".

BY THE COURT:

Q In other words, the moment he had entered your place with the package, there were youngsters after him calling out to you, "chase him out"? A Yes, sir.

BY MR. JOSEPHS:

Q They were all after him at that time when he brought it in, you are sure of it? A As he came to the bar and put it in I could hear these boys outside the door, yes, sir.

Q And he went out Lexington Avenue? A He came in right in that door and went out that door immediately.

Q The Lexington Avenue side? A Yes, sir.

Q Now, Mr. Griffin, do you know whether the fire had already started when he brought that package into your store? ✓

A It must have been, because I went to the side door.

MR. WELLER: This is speculative, if your Honor please.

BY THE COURT:

Q You went immediately to the door? A Yes sir.

Q And looked out? A And the engines were already there.

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BY MR. JOSEPHS:

Q And the engines were already there? A Yes sir.

Q It was only the time it took you to walk to the door to see the engines was the time it took you to walk from your bar out of the side entrance to look? A Just about that time.

Q How long a distance is that?

BY THE COURT:

Q How far did you walk to your door? A About thirty-five or forty feet.

BY MR. JOSEPHS:

Q All you walked from was where you are sitting to that railing (indicating)? A About that distance.

Q And the fire engines were already there?

A Yes, sir.

MR. JOSEPHS: That is all.

MR. WELLER: Just one more question, Mr. Griffin.

BY MR. WELLER:

Q I neglected to ask you if he came back for that bundle? A Yes, sir.

Q About what time? A About five or ten minutes after he first brought it in. When I went to the side door and saw the excitement and I came in and stood behind the bar. I was there only a few minutes more when he came back and asked me for the bundle. I turned it over. He went out, came

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in the Lexington Avenue side.

Q Anything else said? A I said, "What is the matter? Is your place on fire?" He practically made no answer. He was excited.

BY MR. JOSEPHS:

Q He was very much excited.

MR. WELLER: One moment.

BY MR. WELLER:

Q Then he took the package and went away? A Then he took the package and went out again.

HARRY GORDON, called as a witness on behalf of the people, being first duly sworn, testified as follows:-
(I reside at 329 East 77th Street)

DIRECT EXAMINATION BY MR. WELLER:

Q Where do you live? A 329 East 77th Street.

Q Mr. Gordon, you live in East 77th Street? A Yes sir.

Q Between what Avenues? A Between First and Second.

Q And do you know the defendant Jacob Goodmark?

A Yes, sir.

Q How long have you known him? A About eight years.

Q Were you and he friends or just acquaintances?

A No, sir, he was about three years a tailor in the same building where I have my business.

Q You had business relations with him and you were also friendly with him? A No business relations, no.

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friend, only he was a tenant three years just about the third door of my store, in the same building, the same landlord.

Q On the 5th of July of this year did you see Jacob Goodmark? A Yes, sir.

Q And what time was it when you saw him? A I didn't pay attention what time, I knew it was late in the afternoon, very late.

Q About what time was it? A Because I was, I have a retail business, I was in my store, the boy was off, and I was waiting for customers; I didn't pay any attention to what time it was.

Q About what time was it? A I know it was very late, I could not tell you exactly.

Q I didn't ask you to tell me exactly, about what time? A I don't remember; I didn't take notice, if anybody asks me what time it is I have to look around to see the clock.

Q I understand. But can't you tell me about what time it was? A It was after -- that is later, it was pretty near to supper time.

Q And what did he say when he came to your store? A He brought in a suit case and he said, "Mr. Gordon, if I can leave it for a while, this suit case here."

THE COURT: Mr. Witness, those jurors there find it very difficult to hear what you have to say. Can you speak a little louder?

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THE WITNESS: (Continuing) He brought in a suit case and he asked me if he could leave the suit case here. I was there with customers and I said all right, put it there.

Q Now, Mr. Gordon will you step down here? A Yes sir.

(Witness steps down)

Q Is that the suit case he brought in that night?

A It was closed.

Q You didn't open it up to see what it had inside; does that look like the outside of the package, about that size? A It was about that size, just a suit case.

Q Was it about that size? A Yes, sir.

Q Did it look like that -- did you see him come back to get this package, Jacob Goodmark? A No, he came around a certain time you understand, and he told me there is a fire in his store.

Q What is that? A He came back in a short time and he heard it is a fire in his store.

Q Now the first time did he tell you there was a fire in the store when he left it, did he tell you there was a fire in the store when he left it? A I don't remember.

Q When he left this suit case in your place, did he tell you there was a fire at his store? A I don't remember that, because I was doing my trade, tending my customers.

Q Now how long after was it when he came back to

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get this bundle? A It was a short time after.

Q How many minutes or hours? A Maybe about fifteen minutes. ✓

Q Fifteen or fifty minutes? A Fifteen minutes.

Q And he came back after fifteen minutes, was anybody with you or him? A No, only himself.

Q What did he say to you then at that time?

A There is a fire in the store.

Q What did he tell you? A He said there is a fire in his store.

Q What else did he say? A I said you should go back to the store and see what the trouble was.

Q You told him to go back and see what the trouble was? A Yes, sir.

Q What did he say? A He went back to the store.

Q Did he leave that with you? A That was still left in the store.

Q Did you see him again that night? A No, sir.

Q Did the detective come to your store? A The next morning.

Q And did you give the bundle to the detectives?

A My boy gave it to them.

THE COURT: No, no.

Q Your boy?

MR. JOSEPHS: Your Honor, I withdraw my objection.

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CROSS EXAMINATION BY MR. JOSEPHS:

Q Now Jacob Goodmark brought that bundle around to your place, it was after half past six, wasn't it; it was nearer to seven o'clock? A It was about that time.

MR. WELLER: Mr. Witness I would like you to talk loud so that we who are down here could hear you.

Q Now you were busy with customers the first time he came in? A Yes, sir, I was serving customers.

Q And he didn't have much of an opportunity to talk to you, did he? A No, sir.

Q And he may have said that there was a fire in his place the first time, did he? A I don't remember that.

Q But you would not swear that he did not? A I can not swear yes or no.

Q But a few minutes later and he came back to you and said, "there is a fire in my store", and you said, "you had better go back and look after your property; is that the idea? ✓

A Yes, sir.

Q And he went back to look at this property?

A Yes, sir.

Q That is all you know about this? A Yes, sir.

MR. JOSEPHS: That is all.

MR. WELLER: You also know about this bundle--
addressing the defendant.

(No response)

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THE COURT: I think we will take a recess now until a quarter past two.

Gentlemen of the Jury you are admonished not to converse amongst yourselves on any subject connected with this trial, form or express no opinion until the case is finally submitted to you.

Whereupon the Court adjourned at one o'clock until a quarter after two P. M.

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

W I L L I A M J . M c C A F F E R T Y, called as a witness on behalf of the people, being first duly sworn, testifies as follows:- (Fourth Branch Detective Bureau)

DIRECT EXAMINATION BY MR. WELLER:

Q What is your name? A William J. McCafferty.

Q You are assigned to the detective bureau of the police department of the City of New York? A I am.

Q And were you so assigned on the 6th of July of this year? A I was on duty.

Q Were you assigned to this case? A I was.

Q Did you go to premises 155 East 75th Street?

A No, I did not.

Q Where did you see the defendant? A At the fire department, East 67th Street.

Q Did you have a talk with the defendant at that time?

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A Yes, sir.

MR. JOSEPHS: I object on the ground that the law strictly prohibits testimony as to an investigation whether done by fire insurance companies or other bodies as strictly a subterfuge to overcome that law.

THE COURT: It appears on decisions that the conversation is receivable. In other words if there is not some objection other than the one you name, the evidence is receivable.

MR. JOSEPHS: Exception.

Q Was the defendant then under arrest? A No.

Q What did you say to him and what did he say to you?

A I said, "Mr. Goodmark, do you know of the fire occurring there?" He said, "No." I said, "Did you have any business difficulties?" He said, "No business was good here, but I intended to open up a place in Asbury Park". I said, "Did you owe any money?" He said, "No, only for the help", and afterwards he said that he owed several gas bills.

Q What is that? A That he owed for several gas bills. I asked if he had any business in the premises recently. He said, "no". He didn't do any for two weeks previous. I asked if he ~~was~~ had a bundle, did he take a bundle out of the store with him. He said, "Yes, that he took that bundle over." I said "What did it contain?" He said, "One suit of clothes". The following morning--

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Q Wait a moment. Did you go to the defendant's house?

A No, I did not.

Q Do you know if one of the other detectives went there?

MR. JOSEPHS: I object to that. He was not there himself.

THE COURT: Sustained.

Q Where did you go the following morning? A I went to premises, I believe 1101, at 72nd Street and Lexington Avenue, northeast corner, a stationary store, conducted by a man named Gordon.

Q That is the one that testified here a short while ago? A He was not there at the time, his son was there.

Q What did you get there? A I got a bundle.

Q Is this the bundle (showing) a paste board box?

A I believe that is the box.

MR. WELLS: I offer it in evidence.

MR. JOSEPHS: It was not in that condition then.

THE WITNESS: No, it didn't have the paper on.

Q What do you mean? A Just the ~~xxxxxx~~ card paper box.

Q Now where has this been ever since that time?

A In the fire marshal's office, I believe.

Q Did you open the bundle at that time? A I did.

Q Will you state what the bundle contained?

A The bundle contained three suits of clothes and I believe thirteen ties and an insurance policy on his house in 77th

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Street, the Germania Insurance Company, I believe.

MR. JOSEPHS: I object to that. I want to know what that bundle looked like when he got it.

Q Will you set down here--

(The witness does so)

Q Is this paste board box the one you refer to?

A Yes, sir.

Q Was it in that condition, detective, when you got it, was it torn or whole? A I am not positive whether it was torn or whole; it was tied up. I opened up the package and in the brown coat, inside pocket I found an insurance company policy of the Germania Fire Insurance Company.

Q Is that the policy (showing)? A Yes, sir.

Q Now, where are the neckties?

(Producing)

MR. WELLER: Now I offer the bag, the paste board box, three suits of clothes and the neckties and fire insurance policy in evidence.

MR. JOSEPHS: Were these pieces of cord around when you found it, or did you put them around?

THE WITNESS: I don't think they were around at that time.

(The above enumerated articles were received as one exhibit and marked people's exhibit No. 11 in evidence.)

MR. WELLER: The policy, three suits of clothes and a quantity of neckties, the insurance policy on the

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Germania Insurance Company of New York, Jacob Goodmark for \$1,000. for three years on all household furniture bed and bedding, carpets, wearing apparel, etc., situated at 243 East 78th Street.

MR. WELLER: I think you will concede that.

MR. JOSEPHS: That is where he lives?

MR. WELLER: Yes.

MR. JOSEPHS: Not the policy on his store?

MR. WELLER: Of course not.

MR. JOSEPHS: \$1,000. on his house and home.

Q You say that this was found in the package in the pocket of the brown coat? A The inside pocket.

Q Now, did you later have a talk with the defendant?

A Yes, sir, I brought that bundle down to fire headquarters and in the presence of the defendant and I believe the fire Marshals Finn and Cashman, I said--

MR. JOSEPHS: One moment. I object.

THE COURT: Something said to the defendant?

THE WITNESS: To the defendant.

MR. JOSEPHS: In the presence of the fire marshal?

MR. WELLER: Was it an examination by the fire marshal under oath?

THE WITNESS: No, I don't believe it was.

Q Was this something that was said to the defendant?

A It is just a question I asked the defendant.

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Q It was not a question that the fire marshal asked the defendant? A No, sir.

Q Well was the defendant at the time being examined by the fire marshal? A No, not at that time.

Q Had the examination of the defendant by that time by the fire marshal been begun? A Yes, sir, but not under oath.

THE COURT: I think there is some doubt.

A Very well, I was not asked a question.

CROSS EXAMINATION BY MR. JOSEPHS:

Q Now Mr. McCafferty, those suits were in a nice hand package, weren't they, when you saw it? A Yes, sir, a neat package.

Q And they fitted in the box nicely? A Yes sir.

Q And the box was not in such a condition as it is now?

A I don't think it was as far as I remember.

Q Now you asked the witnesses-- I will withdraw that.

Q The witness told you he was going to open a place in Asbury Park? A He did.

Q Did he tell you that he was going to settle there?

A He said the following day-- I am not positive of that.

Q The defendant said he was going the following day?

A Yes, sir, I believe that was what he said in the near future

Q He said the following day? A I am pretty sure that is what he said.

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Q Did he tell you that he was going? A I believe he said the following day; I am not positive of that.

THE COURT: You used the word Witness in place of defendant.

Q The defendant said he was going the following day?

A Yes, sir, I believe that was what he said in the near future.

Q He said the following day? A I am pretty sure that is what he said.

Q And he said the clothes were in his own room?

A He told me he took one suit home and hung it up.

Q And that is all he told you? A He said the bundle contained one suit. He had taken that home and hung it up.

Q Did he eventually tell you that the bundle was in Gordon's place? A No, sir, he didn't. He said he took it home.

Q What is that you said? A I said he took it home and hung the suit up. I don't --

Q You started to say something about "don't you remember", what were you going to say --

A It is a mistake on my part.

Q When you said you don't remember there was nothing to that remark at all? A No.

Q And you found a package yourself, did you?

A I did.

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Q And you saw the fire insurance company policy in the coat of the brown suit? A Yes, sir, in the brown coat.

Q You didn't find the policy of insurance? A No sir.

Q You didn't find any other policies there?

A No, sir.

Q He told you he had owed some gas bills, did he?

A Yes, sir.

Q You went into great details about his business conditions? A I just asked him a few questions.

Q You said about business? A Yes, sir.

Q He said business was good? A He said business was good.

Q But that he owed a few gas bills? A A few gas bills and his help.

Q Did he tell you how much he owed his help?

A No, he didn't.

Q Did he say he owed any rent? A No, I don't remember him saying that. I don't think I asked him that question.

Q But without any question he told you he owed a few gas bills? A I asked him if he owed any money.

Q You asked him if he owed any gas bills? A No, sir.

Q He volunteered the information that he owed the gas bills; do you know whose those suits are?

A According to the defendant he said they were his.

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Q The three of them? A Yes, sir.

Q When did he say that to you? A When I showed him the suits, the defendant said they were his suits when I showed him them at headquarters, at fire headquarters.

Q He admitted they were his suits at once? A Yes sir.

MR. JOSEPHS: That is all.

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THOMAS CONLON, called as a witness on behalf of
the People (not sworn), testifies as follows:

EXAMINED BY THE COURT:

Q What is your name? A Thomas Conlon.

Q Where do you live? A 1542 Second Avenue.

Q When was your birthday? A 12th of October; the coming
October I will be 13 years old.

Q The coming October you will be 13 years old? A Yes sir.

Q Who do you live with? A With my mother and aunt.

Q Do you go to school? A Yes sir.

Q What school do you go to? A 85th Street.

Q It is a public school? A Yes sir.

Q And what grade are you in? A 6-A.

Q Who is your teacher? A I have got my leg injured, and
for the last week or so could not go to school.

Q You have not been to school for how long? A Two weeks.

Q Do you go to Sunday school? A I go to church.

Q What school? A 76th and Lexington Avenue, St. Jean's.

Q You go to a Catholic church? A Yes, your Honor.

Q You are a witness in this case and will tell the truth and
nothing but the truth? A Yes, your Honor.

Q You know it is wrong to tell something that is not true?

A Yes, your Honor.

Q If you were asked a question and cannot answer it, and you
do not know how to do so, you will say so? A Yes, your Honor.

Q You understand what it means to take an oath? A Yes, your

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Honor.

Q To swear? A Yes, your Honor.

THE COURT: I believe after examining this boy he is possessed of sufficient intelligence to justify the reception of his evidence. I think that he understands the nature of an oath sufficiently to enable him to give the evidence under oath.

(The witness was now sworn).

THE WITNESS: I reside at 1542 Second Avenue.

DIRECT EXAMINATION BY MR. WELLER:

Q Now, I want you to speak up so all the gentlemen over there can hear you. A Yes sir.

Q How old are you? A Twelve.

Q Go to school? A Yes sir.

Q What school do you go to? A 85th Street and 86th Street and First Avenue.

Q Keep your voice up so we can hear you. Now, whereabouts do you live? A I live in No.80.

Q Whereabouts, between what avenues? A Second Avenue 1542.

Q Did you live there at the time of this fire? A No sir.

Q Where did you live then? A 314 82nd Street between First and Second Avenues.

MR. WELLER: Your Honor, one of the jurors would like to ask a question.

THE COURT: He may.

JUROR NO.4: I understand Mr. Weller to say the Germania

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Life Insurance Company.

MR. WELLER: It is the Germania Fire Insurance Company.

I made a mistake.

Q Now, were you down around 75th Street at the time of this fire, do you remember what time it was? A Yes sir; I know when it was, for it was about half past six.

Q What were you doing down there at that time? A Just standing across the street by myself.

THE COURT: Talk a little louder. We would all like to hear you. Don't be afraid.

Q You remember there was a fire down there? A Yes sir.

Q What do you know about it. Tell the jury what you know about it. A I was standing across the street, while this man came out in the street. He locked the store. Then he went up towards Lexington Avenue on the north side of the street, and then after he went up a fellow went by after him by the name of Joseph Connolly, and he told him to come back, and he went back like this, (illustrating). Then he went around the corner. I didn't see him any more. So when he came back I saw him open two locks on the door and that is all I saw.

Q That is all you saw? A Yes sir.

Q Did you know Connolly at that time? A Yes sir.

Q You know it was Connolly that ran after him? A Yes sir.

Q Did they come back together? A Yes sir.

Q You gave your name to the policeman that night, or the fire marshal? A I gave it to the fire marshal, the man with the

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eye glasses.

Q The fire marshal? A Yes sir.

CROSS-EXAMINATION: BY MR. JOSEPHS:

Q Now, Thomas, you are twelve years old, are you? A Yes sir.

Q What class are you in ⁱⁿ that school? A 6-A.

Q Do you go to school regularly? A Yes sir.

Q Have you had any trouble in school lately? A No sir.

Q Never had any trouble? A Yes sir, once in a while.

Q What? A Once in a while.

Q You have trouble in the school once in a while? A Last year I had trouble.

Q You had considerable trouble last year? A Yes sir.

Q What was that trouble in school? A I didn't obey the teachers.

Q You didn't obey the teachers? A No.

Q And then what happened to you? A And then I played truant. I was afraid of the teacher.

Q You played truant because you were afraid of the teacher; you were a boy of eleven years old. And what happened to you after you played truant? A I got put away.

Q You were put away? A Yes sir.

Q And how long were you away? A About seven and a half months.

Q You were in custody for seven and a half months for being a bad boy? A Yes sir.

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Q Now, you lived at that time on 82nd Street between First and Second Avenues; is that right? A Before I got up where I was I lived at 1298 Third Avenue.

Q You lived on 82nd Street between First and Second Avenues?
A Yes sir.

Q And this fire occurred on Lexington Avenue -- withdrawn.
On 75th Street, I mean, at the corner of Lexington Avenue?
A Yes sir.

Q Did you play with the bossaround that neighborhood?
A Yes sir.

Q And that is what you -- that, was what had brought you all
82nd Street
the way from ~~the station~~ down to 75th Street? A yes sir.

Q You used to come down there every day? A Not every day.

Q But pretty nearly every day? A I went down on July 5th; a couple of days there, on the Fourth of July I went down there.

Q You went down there on the 4th of July, the boys down there were having a pretty good time, were they? A I do not know.

Q Well, you were with the boys all afternoon? A No, I was by myself sitting over at 168th Street.

Q And how long had you been sitting there by yourself?

A An hour or an hour and a half.

Q You were sitting by yourself for an hour or an hour and a half? A Yes sir.

Q All by yourself? A Yes sir.

Q You didn't talk to anybody for an hour and a half? A No sir.

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Q And you were a very good boy that day? A Yes sir.

Q And didn't you play with the other boys that day at all? ✓

A No sir.

Q What time did you come around the block?

MR. WELLER: He has not finished testifying; give him a chance.

THE WITNESS: I don't know what time it was.

MR. WELLER: Do you want to say anything else?

MR. JOSEPHS: No. Would you like to have me say something else? ✓

MR. WELLER: I only want to tell you what is true.

Q Did you come right around after lunch, after dinner?

A No sir.

Q What time did you have your dinner that day? A Around 12 o'clock.

Q And where did you go after you ate your dinner? A I sat in the house, and then I came down.

Q How long did you stay in the house? A A pretty long time.

Q A pretty long time. Was it around 3 o'clock you came out?

A I do not know what time it was; I could not actually tell you.

Q When you came around to 75th Street did you go right to that stoop and sit down? A Yes sir.

Q That is the only thing you did? A I had a headache and sat down by myself.

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Q You didn't go home? A I was home before.

Q You came out, you had a headache and you sat down all by yourself? A Yes sir.

Q Now, Thomas, were there other boys around there that day?

A Yes sir.

Q Lots of boys, weren't there? A Only a few fellows.

Q You hang out there, don't you? A Yes sir.

Q There is a pretty nice gang around there, isn't there?

A There are not many fellows around there.

Q There is nice goings on? A What do you mean?

Q The 75th Street corner that gang hung around --

MR. WILLER: Objected to.

THE COURT: Sustained.

Q Is there a crowd of boys called the 75th Street gang?

A No sir.

Q What do they call them? A They don't call them nothing at all.

Q And did you watch these other boys playing that afternoon?

A No sir, I had my head down like this, (indicating).

Q And the whole time you sat on the stoop you sat with your head down like this, (indicating)? A It was not a stoop, it was a little step.

Q You sat there all the time holding your head in your hands that way? A After awhile I sat up straight.

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Q How long did you stay with your hands this way?

A For about fifteen minutes.

Q You stayed for an hour and a quarter sitting by the street? A Yes, sir.

Q Did you and other boys play together? A Yes sir down by the garage.

Q The garage is right opposite the store? A No, the last garage.

Q What were they playing? A They were standing there talking.

Q For a whole hour and a half there talking? A Yes sir.

Q Boys all as old as you are? A I don't know how old they are.

Q You know the boys around that block, don't you? A Yes, sir.

Q They are all about your size? A Yes, sir.

Q And do you remember one of the boys' fathers being to a picnic that afternoon? A No, sir.

Q And what were they playing that afternoon?

A They were just talking around there.

Q They stayed there the whole hour and a quarter talking, that you noticed them? A Yes, sir.

Q Didn't you notice the boys having any torpedoes or fire crackers, being the 4th of July? A No sir.

Q No boys had any torpedoes all afternoon?

A I didn't notice them.

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Q Did they have any fireworks or caps for the 4th of July celebration? A I noticed no caps or fireworks

Q Did you notice them having tiny batches of fire crackers that the boys father brought from the picnic, brought to him? A No, sir.

Q These little tiny Chinese fire crackers?

A No, sir.

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

Q You would have noticed them if they were there?

A Yes, sir.

Q Now let us see: You saw Connoally come on the block, didn't you, Joe, come down the block? A All that I saw of him was when he came out of the store, he went after them.

MR. JOSEPHS: I am talking about Joe.

MR. WELLER: He is telling you of them.

Q Did you see this man (indicating the defendant) locking his store? A Yes, sir.

Q You saw Jon then, didn't you? A No, I didn't see him yet. I saw Joe going after him telling him the first time, but he didn't come back; he went like this way (illustrating); I didn't hear him say anything to any one around Lexington Avenue.

Q When he saw Joe--

MR. WELLER: He is only a little fellow this witness.

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MR. JOSEPHS: I will try to control the examination, and get it out of him as I want.

Q You saw Jacob Goodmark the tailor looking in the store? A Yes, sir.

Q Did you see him turning two locks? A Yes sir.

Q Now which lock, Thomas, did he turn first, the upper or lower lock? A I think it was the upper lock.

Q You saw him close the upper lock first? A I know he closed the two locks; I don't know which one he closed first.

MR. WELLER: But--

MR. JOSEPHS: I will ask your Honor to suggest to Mr. Weller that it is advisable when a witness is about to commit some slight or immaterial error, he interrupts--

MR. WELLER: I object.

THE COURT: Sustained.

MR. WELLER: Read the record and you will find, sir, you are in error.

Q Now you saw him lock these locks, both of them?

A Yes, sir.

Q You are sure of that? A Yes sir.

Q And when you saw him lock them up you noticed you had to look across in his direction? A Yes sir.

Q You were sitting on the other side of the street?

A Yes, sir.

Q Up against the building? A Yes, sir.

Q In front of the garage, was it? A No, sir, right

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where the saloon is.

Q Then that must have been, as you looked at the store, as you see Jacob Goodmark looking, the store, it was nearer to go to Lexington Avenue than to Goodmark's store?

A No, it is right opposite it.

Q Is there a garage right opposite, is there, sir?

A Yes, sir.

Q Well, you were next to the garage? A I was up in the garage..

Q You were nearer to Lexington Avenue? A Yes sir. ✓

Q Now the garage is right opposite the Jacob Goodmark's store? A Yes, sir.

Q And therefore you were a little nearer Lexington Avenue than Jacob Goodmark's store? A Yes, sir. ✓

Q You were about opposite the saloon, weren't you?

A No, sir.

Q Opposite the saloon across to where --

A No, sir.

Q Is that where the private house is? A It is just about.

BY THE COURT:

Q Now, my boy, if you had looked right across the street from where you were sitting, what would have been directly opposite you? A His store.

Q Jacob Goodmark's store? A Yes, sir.

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Q And would you have been opposite the window of that store or the door? A I would have been opposite the window of the store.

Q Opposite the window of the store? A Yes, your Honor
BY MR JOSEPHS:

Q Thomas, you could not look right in the door of this store from where you sat? A No, sir. ✓

Q The lock was at the extreme left hand of the store to the door way? A Yes, sir.

THE COURT: Gentlemen of the jury you are admonished not to converse among yourselves on any subject connected with this trial, form or express any opinion thereon until the case is finally submitted to you. ✓

We will meet on Monday at a quarter past ten instead of half past ten.

Whereupon an adjournment was taken until Monday September 27th, 1915, at 10:15.

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New York, September 27th, 1915.

Court met pursuant to adjournment.

Appearances same as before.

THOMAS CONLON resumes the stand.

CROSS-EXAMINATION (continued) BY MR. JOSEPHS:

Q Now, Thomas, since you left this court room on Friday did you talk about this case to anybody? A No sir.

Q Not a word to anybody? A No sir.

Q Now, did you talk before you came in this court at any time to anybody about this case? A No sir.

Q You never heard Joe Connolly describe what he saw, did you? A No sir.

Q You never heard Joe Connolly tell the story when I asked him if he saw a fire, he made this gesture (indicating by extending the arms)? A No sir.

Q And the first time you ever told your story was in court to-day? A Yes sir.

Q Last Friday, I mean? A Yes sir.

Q Now, you say that you were sitting on a little low step? A Yes sir.

Q Now, where is that low step, Thomas, in front of what building? A 168.

Q What kind of a building is 168? A A garage.

Q It is a garage? A Yes sir.

Q And then next to the saloon is the garage? A Yes sir, on the right hand side of the saloon there is a garage.

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Q On the right hand side? A Yes sir.

Q And then there is another garage after that, isn't there?

A Yes sir.

Q And the other garage in front of Goodmark's place?

MR. WELLER: Which way?

Q The second garage from the saloon is in front of Goodmark's place? A No sir.

Q It isn't? A No sir.

Q Which garage is in front of Goodmark's, the first one?

A The first one.

Q That is the one you sat in front of? A Yes sir.

Q Now, first comes the saloon on the corner on the opposite side of Goodmark's place? A Yes sir.

Q And then comes the garage that you are talking about?

A Yes sir.

Q Now, you said on Friday you could not look right in the door of this store from where you sat, that was right, wasn't it?

A Yes sir.

Q On which side of the garage did you sit at, the side nearest the saloon, or the side nearer Goodmark's place? A The side nearer to the saloon.

Q Now, what kind of a step is that? A It is a little piece of cement like.

Q And you sat on that cement for an hour and a half? A Yes sir.

Q Now, right next to the saloon, right next to the garage is

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the saloon and that is a sort of family entrance and extends out?

A Yes sir.

Q And you sat back against the wall? A No, I sat against the wall of the saloon. There is a door coming out like this (indicating), and here (indicating) is the garage, while I sat up against the family entrance (indicating).

Q Then you did sit up against the saloon? A Yes sir.

Q And you didn't sit up against the garage? A No sir.

Q Because there is nothing to sit down in front of the garage?

A No sir.

Q Then when you said you sat in front of the garage you were mistaken? A I was in front of the garage when I was sitting there.

Q And in front of the saloon also. Now, as a matter of fact, Thomas, did you sit out in front of the door of the saloon or up against the back wall of the garage? A Here (indicating) is the garage, and here (indicating) is the saloon. I sat down there (indicating).

Q Right next to that private entrance to the saloon that comes out about four or five feet, out on the street, doesn't it?

A The door is on the other side.

Q But that private entrance you know, and the swing door is by the private entrance to that saloon? A Yes sir.

Q That private entrance comes out about five feet into the saloon, out further to the wall than the garage? A Yes sir.

Q And you sat right in the corner where this private entrance

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meets the garage? A Yes sir.

Q Now, you saw Joe Connolly come out with this man the first time? A Yes sir.

Q And then you saw him walk up towards the corner? A Yes sir.

Q And you saw Goodmark turn the corner with Connolly? A Yes.

Q Don't you know, Thomas, from the position you sat, sitting away up against the wall and the saloon extension comes out, that you could not see the corner? A I stand up.

Q Even if you stood up, that private entrance is 10 or 12 feet high. A I stood up and looked like that, (indicating).

Q Did you walk out then? A Yes sir.

Q Then you were not sitting still all the time, ^{as} you said?

A No sir.

Q Then we have got you, walking out to the sidewalk and then looking to the corner? A I just went out to the edge of that place.

Q That is about five feet out from the wall and you got up? A yes sir.

Q When you said you kept sitting there all the time and you saw all this exhibition without getting up, you were mistaken?

MR. WELLER: I object.

THE COURT: Sustained.

Q Have you been around that neighborhood since the 5th of July? A Yes sir.

Q How many times? A I could not exactly tell you.

Q A good many times? A Yes sir.

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Q Add you looked at Goodmark's store? A Yes sir.

Q You looked at the door he opened? A Yes sir.

Q Now, Thomas, pay close attention; you were sitting over in that corner when you looked over to see Goodmark lock the door, you had to look through the main window, the side show window? A Yes sir.

Q Did you take the trouble to look at that side show window lately? A No sir.

Q Did you take the trouble to look at that side show window at the time of the fire? A I don't understand what you mean.

Q That side show window when you looked through to see him lock the door? A I don't understand what the side show window is.

THE COURT: If you don't understand the question, just say so.

Q You understand me so far? A No sir.

Q If you don't, say so right away and I will try to make it clear to you. I said, Thomas, when you looked over to see Goodmark lock the store for the first time you could not look directly at the store, you had to look sideways? A Yes sir.

Q In order to look sideways, assuming this (indicating) to be the store, here (indicating) he was locking the door, you were over there? A Yes sir.

Q You had to look through the window, this say (indicating)? A Yes sir.

Q You looked through the main window of the store and then

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the side window of the store, didn't you; you had to look through both windows?

THE COURT: What store are you speaking of?

MR. JOSEPH: The store where the man locked the door.

THE COURT: What you mean is he had to look through the front pane of glass and also the pane of glass forming the side of the show window.

Q You understand that, Thomas? A Yes sir.

Q Did you notice that side pane of glass since the fire?

A No sir.

Q Did you ever notice it before the fire? A Before the fire I seen it many a time, before the fire.

THE COURT: A little louder.

Q You saw it many times? A Yes sir.

Q Did you ever take special notice of it? A No sir.

Q You don't know what is in that window? A I cannot remember what was in it.

Q Now, wasn't there a sign in that window? A I cannot remember what was in the window.

Q Is it not a fact, Thomas, that there is a sign in the window on that side of the pane of glass which reaches as high as the extension, as high as the partition?

MR. WELLER: I object.

THE COURT: Sustained.

MR. JOSEPH: I have not finished my question.

Q (Continued) -- which says, has Goodmark's name on, and all

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his price list, that he charges?

MR. WELLER: Objected to as incompetent.

THE COURT: Sustained. It is competent if you contend that that was the condition at the time of the fire.

MR. WELLER: He said he saw it before, not since.

Q Do you remember seeing that sign, now think? A No sir.

Q Now, Thomas, I want you to think carefully; is it not a fact that you could not look through that side window, that side pane of glass because there is a great big sign there, "Jacob Goodmark", and says, "Suits pressed 40 cents".

MR. WELLER: I take it that Counsel says there was a sign there at the time of the fire.

MR. JOSEPH: Yes, and was there four years before and is still there to-day. Just one of those broad signs, setting forth "Suits 40 cents", and the prices, and that sign has been there for four years.

MR. WELLER: I object to that.

THE COURT: Sustained.

Q You don't remember that sign? A No sir.

Q How long is it since you have been to school? A I don't go since school opened.

THE COURT: Keep your voice up.

Q Why have you not been to school? A I got my leg operated on.

Q You have a sore leg? A I had an operation on it the first week, and the second week also I got pain. I have not been to

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school.

BY MR. WELLER:

Q You had a subpoena for about two weeks on this case? A No, last week.

BY MR. JOSEPH:

Q Now, when you were sitting over in your little corner, over there, you saw Joe go up and speak to the defendant? A Yes.

Q And what did he say to him? A I do not know what he said to him.

Q You did not hear? A No sir.

Q You testified on direct examination you heard him say there is a fire in the place? A No sir.

Q You didn't know what he said? A No sir.

Q All you saw him do was this (indicating by extending the arms)? A Yes sir.

RE-DIRECT EXAMINATION BY MR. WELLER:

Q Did you use to play with Joe before this occurred? A Yes sir, I used to chop wood down in the alley with him. I used to live in the same house with him.

Q So you knew who Joe was at that time? A Yes sir.

JOHN Mc CARTHEY, called as a witness for the People, testified as follows:

BY THE COURT:

Q How old are you? A Going on 13 years.

Q When will you be 13? A In October.

Q What day in October? A The 15th.

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Q Where do you live? A 199 East 76th Street.

Q Who do you live with? A My mother.

Q Father living? A No sir.

Q Go to school? A Yes sir.

Q What school do you go to? A P-70.

Q What grade? A 6-A.

Q Who is your teacher? A Miss Bach.

Q Go to church? A Yes sir.

Q What church do you go to? A 76th Street church.

Q What is the name of it? A St. John the Baptist.

Q Do you go to Sunday school? A No sir.

Q You know it would be wrong to say anything that is not true? If you were asked a question you have to answer truthfully, you understand that? A Yes sir.

Q You know if you say what is not true you will be punished for it? A Yes sir.

Q You know what it means to swear, to testify? A Yes sir.

THE COURT: He can be sworn.

(Whereupon the witness was sworn).

DIRECT EXAMINATION BY MR. WALLER:

Q Where do you live? A 199 East 76th Street.

Q John, how old are you? A Going on 13.

Q Look at the jury here and speak so that this gentleman over here can hear you. Going on 13? A Yes sir.

Q When was your birthday? A Last year.

Q Now, you go to school, do you? A Yes sir.

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Q Public school? A Yes sir.

Q What class are you in? A 6-A.

Q Where did you live on the 5th of July of this year? A 1791 Park Avenue.

Q And what is 1791, what Street is it near? A Near 74th Street.

Q Did you occasionally stop around 75th Street and Lexington Avenue? A Yes sir.

Q Do you know Joseph Connolly? A Yes sir.

Q And did you know Thomas Conlon? A Yes sir.

Q And where were you on the 5th of July, about half past six in the evening? A I was across the street.

Q Do you know Goodmark the defendant? A Yes sir.

Q And where were you with reference to Goodmark's store?

A I was like that, on a curve (indicating).

Q A curve, you were not straight in front of the store? A No sir.

Q And were you towards Lexington Avenue or Third Avenue?
A Towards Third Avenue.

Q What were you doing there at that time? A We were playing.

Q Do you know there is a garage in front of this store?
A Yes sir.

Q Where were you with reference to that garage? A I was down below it.

Q Towards Third Avenue? A Yes sir.

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Q And how far down that way? A About two houses.

Q Were you with any other boys at that time? A Yes sir.

Q Were you with Thomas Conlon who was just in here? A No sir.

Q Were not with him? A No sir.

Q How many boys were there there at that time? A About eight or ten.

Q And what were you all doing? A Playing.

Q Were you shooting firecrackers that evening? A No sir.

Q Were there any firecrackers on the street? A No sir.

Q Now, what first attracted your attention to this case?

A A boy hollered fire.

Q Do you know who the boy was that hollered fire? A His name is John.

Q And when he hollered fire what did you see? A I saw Goodmark come out and he looked the door, he had a parcel under his arm.

Q He had a parcel under his arm? A Yes sir.

Q And what did you see after that? A Then he walked up towards Lexington Avenue and Joe Connolly was following him.

Q Wait a minute. Speak slowly. Don't try to speak too fast. Take your time and speak as distinctly as you can. You saw him come out and look the door and where did he go? A He went towards Lexington Avenue.

Q Towards Lexington Avenue? A Yes sir.

Q And then what next did you see? A I saw Joe Connolly hit him on the shoulder and he said something to him.

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Q Could you hear what was said? A No sir.

Q Then what occurred? A Then he shook his shoulder and he kept on walking.

Q Go ahead. A And then he went around the corner and then he came back, and Joe Connolly came back with him and he didn't have the parcel.

Q When Joe came back with him he didn't have the parcel?

A No sir.

Q What did they do? A Then Goodmark opened the door, then he went away again.

Q When he went away the next time in which direction did he go? A The same way.

Q Towards Bexington Avenue? A Yes sir.

Q Did you stay around there? A I stayed by the store.

Q Did you see the fire? A Yes sir.

Q And did you see the engines come? A Yes sir.

Q Did you see Goodmark there at all? A Not then.

Q When did you see Goodmark next? A After the fire.

Q And where did he come from, did you notice? A No sir.

MR. WELLER: You may cross-examine.

CROSS-EXAMINATION BY MR. JOSEPH:

MRx Q Now, Thomas, you go to school regularly, don't you?

A Yes sir.

Q Weren't you down at the last garage? A No sir.

MR. WELLER: What do you mean by the last?

Q How many garages are there in the line opposite Goodmark's

place? A Four.

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Q Are there not six? A There is a horse shoer and a painter.

Q And then the four garages? A Yes sir.

Q Then there are six buildings ~~with~~ that looked alike?

A Yes sir.

Q Now, what is the first one nearest Lexington Avenue?

A A garage.

Q And then four garages in a row, are there? A No sir.

Q What is next? A Then another garage, then a painter's shop, then another garage, and then a horseshoer, and then another garage.

Q Now, which garage were you standing in front of then?

A None of them.

Q In front of what were you standing? A In front of the horseshoer's.

Q That is the fourth building? A The fifth building.

Q The fifth? A Yes sir.

Q That is the fifth building from Lexington Avenue? A Yes sir.

Q Now, which garage building, the first or second building is opposite Goodmark's store, it is the second, isn't it? A No sir.

Q Which one? A The third.

Q Then you were down at the fifth store, the fifth building?

A Yes sir.

Q Which was four buildings away from Goodmark's place? A Yes

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sir.

MR. JOSEPH: You will agree that is about 100 feet, won't you?

MR. WELLER: The jury knows as much as I do.

MR. JOSEPH: It is about 150 feet from Goodmark's store.

MR. WELLER: I don't think it is.

Q Now, Thomas, if you don't understand me, say so and don't answer any question that you don't understand, will you? A Yes sir.

Q Now, what attracted your attention to this store was the fact that somebody, John, had yelled fire? A Yes sir.

Q After John yelled fire you saw Goodmark locking the store? A Yes sir.

Q You are sure of that? A Yes sir.

Q And did Goodmark run away? A No sir.

Q You are sure that Goodmark had the package in his arm at that night~~xxx~~ time? A Yes sir.

Q There was a lot of excitement, wasn't there? A No sir.

Q No excitement when the boy yelled fire? A We all ran over.

Q A fire was not a daily occurrence, was it, a fire is not a daily occurrence, is it? A At night.

Q I mean a fire does not occur every day around that neighborhood? A No sir.

Q And you were not excited when they yelled fire? A Yes sir.

Q You were excited? A Yes sir.

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Q You saw Goodmark locking that store? A Yes sir.

Q Which lock did he lock first, the top or bottom? A The bottom one.

Q You saw Goodmark take the key out of his pocket and lock the bottom lock and then you saw him lock the top lock? A Yes sir.

Q And then you saw Goodmark with a package under his arm, what color was that package? A I think it was white.

Q Did you see a string tied around it? A Yes sir.

Q Did you notice how Goodmark carried the package? A He had it under his arm.

Q Which arm, right or left? A I do not know.

Q Did he have it under his arm while locking the door? A No sir.

Q He had it lying on the ground? A Yes sir.

Q After he locked it, you saw Goodmark pick it up? A Yes sir.

Q Put it under his arm? A Yes sir.

Q And you saw him go away? A Yes sir.

Q Did he walk or run? A Walked.

Q And this time the smoke was coming out of the place? A Out of the top of the window.

Q Then you saw Connolly go up to him? A Yes sir.

Q And you saw Connolly touch him on the shoulder? A Yes sir.

Q Which shoulder did he touch, the right or left shoulder?

A I do not know.

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Q And you saw Goodmark do this, (indicating)? A Yes sir.

Q Show me exactly, like that? A (The witness illustrated).

Q And you are sure of that, you saw Joe Connolly follow him up to the corner? A Yes sir.

Q You watched it carefully? A Yes sir.

Q Then you saw Goodmark turn the corner with Joe Connolly after him? A Yes sir.

Q Are you sure of that? A Yes sir.

Q Did you talk to anybody about this case at all? A No sir.

Q Did you discuss it with Joe Connolly? A No sir.

Q Did you discuss it with Thomas Conlon? A No sir.

Q Did you discuss it with the Fire Marshal? A Yes sir.

Q You did discuss it with the Fire Marshal? A Yes sir.

Q Which Fire Marshal did you discuss it with? A I do not know.

Q Well, the fellow with the glasses? (At this point on the request of Mr. Joseph Fire Marshals Wade and Cashman were brought into the court room). Was it either of those gentlemen, (indicating Fire Marshals Wade and Cashman)? A The first one. (Indicating Mr. Wade).

Q You told him what you knew about the case? A Yes sir.

Q Did he go into details about this package with you? A Sir?

Q Did he ask you any questions about this package? A Yes sir.

Q And how long did he talk to you about this case? A About half an hour.

Q Where did he talk to you? A He talked to me down in his

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office.

Q And did you see him since? A Yes sir.

Q And how many times since did you see Wade? A About three times.

Q And each time he talked about this case? A No sir.

Q What did he say about it when he saw you all these times?

A Nothing.

Q Just looked at you and didn't say a word? A No sir.

Q You are sure of that? A Yes sir.

BY THE COURT:

Q Did you see Thomas Conlon there that night? A No sir.

Q Did you see him on the night of the fire? A I saw him before the fire.

Q About how long before the fire did you see Thomas? A About half an hour.

Q And at that time where was Thomas? A He was sitting by the first garage.

Q When you say the first garage, boy, which one do you mean?
A Across the street from Goodmark's.

MR. WALLER: That is where Thomas Conlon was sitting.

THE WITNESS: Yes sir.

BY THE COURT:

Q Was he sitting there alone or with anybody? A He was sitting alone.

MR. JOSEPH: That is all.

MR. WALLER: That is all.

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JOSEPH WARREN, (recalled)

BY MR. WELLER:

Q Now, Mr. Warren, you have already testified? A Yes.

Q You were duly sworn? A Yes, sir.

Q Now, on the 6th of July, the day after the fire, did you relieve patrolman Bolek? A Bolek

Q What time? A Five fifty.

Q Five fifty P. M. on July 6th? A Bolek relieved me at five fifty that evening.

Q Bolek has testified that he was there at five fifty on the evening of July 6th. Now, when did you go there afterward? A I left the house-- I left the quarters to go there, I watch at night.

Q What time did you get to the premises where the fire was? A Five fifty.

Q On July 6th? A Yes, sir.

Q How long did you remain there the second night?

A Until 7:45 next morning.

Q Did you see anybody disturb the premises?

A No, sir.

Q Or change things about? A No, sir.

MR. WELLER: That is all.

MR. JOSEPH: No cross examination.

(Witness excused)

MR. JOSEPH: I would like to ask the last witness one question.

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THE COURT: He may come back.

JOSEPH WARREN, resumes the stand.

BY MR. JOSEPH:

Q Mr. Warren, did you notice the ceiling of that store?

A No, sir.

Q You didn't take the trouble to look up at all?

A I didn't take much notice of it to give you any description.

MR. WELLER: I object to it, if your Honor please.

The witness has already testified that he never went inside the premises.

MR. JOSEPH: He was there another day.

WILLIAM SCHAEFER, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

(I reside at 1496 Vyse Avenue, Bronx)

DIRECT EXAMINATION BY MR. WELLER:

Q You are a patrolman of the New York Board of Fire Underwriters? A Yes, sir.

Q Did you go to premises 155 East 75th Street?

A I did.

Q When did you go there? A On the evening of July 5th, last.

Q Did you go there after that, did you relieve patrolman Warren? A I did.

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Q When did you go there? A Why I relieved Patrolman Warren about 7:45.

Q When? A On the 8th of July, 7th, I believe.

Q Two days after the fire? A Two days after the fire.

Q And what time did you go on duty? A That morning?

Q Yes. A To relieve Patrolman Warren at that time.

Q What time? A Seven forty-five.

Q In the morning? A Yes, sir.

Q And how long were you there? A Until three P. M. that afternoon.

Q Did anybody disturb any part of the premises while you were there? A While I was -- Patrolman Warren told me not to let anybody disturb anything at the time.

Q Just answer. Did anybody disturb any part of the premises while you were there? A Yes, sir, the appraisers from the fire marshal's office.

Q What was his name? A Mr. Gaynor.

Q Patrick Gaynor made an appraisal of this property?

A Yes, sir.

Q Did anybody else disturb anything besides the appraiser? A No, the fire marshals later--

Q What do you mean by "the fire marshals later?"

A They had been there and taken some of the things away from there.

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Q When did they do that; when did they take the property away? A About lunch time.

Q And what time did Mr. Gaynor come? A I judge about 9:30. A. M.

Q Then nobody disturbed anything except the appraisers who handled the property up to the time that the appraiser made the examination? A Yes, sir.

Q After the appraiser made the examination then the fire marshal came? A Yes, sir.

Q And that was about what time?

MR. JOSEPH: I don't mind his leading on this kind of testimony, but he has just got so far I cannot stand it. All this witness has done is "yes", and Mr. Weller is testifying through the whole trial and the witness is saying "yes".

THE COURT: Pardon me. That comment is all uncalled for.

(The stenographer read the last question)

Q What time? A 11:30.

MR. WELLER: That is all.

CROSS EXAMINATION BY MR. JOSEPH:

Q Mr. Schaefer, did you look at the ceiling?

MR. WELLER: Which ceiling?

MR. JOSEPH: There is only one ceiling. You don't think I am talking about the Metropolitan Opera House ceiling?

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MR. WELLER: What part of the store?

MR. JOSEPH: The store is so small he could not help but see it.

MR. WELLER: Ask a question.

Q Did you look at the ceiling? A I didn't pay any attention to the ceiling.

Q Can you describe the condition of the ceiling?

A No, I didn't pay any attention to the ceiling.

Q Did you walk into the store? A Yes, sir.

Q Walked all of the way back? A I sat at the door most of the time.

Q I mean any time you walked to the rear of the store?

A At the time the appraiser was present I did, yes, sir.

Q Did you walk there when you first came there to look around and see the place? A I didn't really step back there.

Q Did you walk around the partition when you first came? A No.

Q How long were you there before the appraiser came?

A From 7:45 to about 9:30.

Q Well, approximately two hours? A Yes, sir.

Q And how far from the front door is the partition, about how many feet?

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

We have it in evidence a number of times; we have a diagram.

MR. JOSEPH: Tell me the number of feet and I will agree with you.

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MR. WELLER: About sevenfeet seven inches from the show window of the store to the partition.

Q And how far into the store did you go that morning when you first arrived? A Well, I should judge about it might have been ten feet or so.

Q Then you did go behind the partition when you first arrived? A I didn't.

Q Well, the partition is only sevenfeet from the door? A I am not exact about the length from the door to the partition.

Q You went about half way into the partition? A Yes, sir.

Q About three and a half or fourfeet? A Yes sir.

Q You walked about four feet, turned around and walked right back again? A Towards the door.

BY MR. WELLER:

Q Your duty is to stand at the door and prevent people, not officials of the fire department from going in there and disturbing things? A Yes, sir.

BY MR. JOSEPH:

Q Your duty is to visit the premises and see it is not disturbed?

MR. WELLER: I object, that is not his duty.

(No ruling)

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B E R T H A B L A N K, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

(I reside at 155 East 75th street)

DIRECT EXAMINATION BY MR. WELLER:

Q Mrs. Blank, what is your business? A I am janitress of 155 East 75th Street.

Q Keep up your voice. You are janitress of these premises? A Yes, sir.

Q You know Jacob Goodmark? A Yes, sir.

Q Know his wife and family? A Yes, sir.

Q How long have you been janitress of these rooms?

A Fourteen years.

Q What kind of a building is it? A A flat house with eight families and three stores.

Q These families, do they live in those apartments?

A Living altogether there.

Q They sleep there? A Yes, sir.

Q Do they? A Yes, sir.

Q Cook there? A Yes, sir.

Q Eat there? A Yes, sir.

Q Did you live there on the 5th of July of this year?

A Yes, sir.

Q Those premises are in the County of New York, are they not? A Yes, sir.

Q And these people lived there at that time? A Yes, sir.

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Q How many families ~~xxx~~ there on the 5th of July?

A Seven.

Q Now about half past six that evening where were you that evening? A I was on the corner of Lexington Avenue on 75th Street on the other side of the corner, the southwest corner.

Q The southwest corner of Lexington Avenue and 75th Street? A Yes, sir.

Q And the flat is on what corner? A That is the southeast corner.

Q You mean the northeast, don't you? A Northeast.

Q What were you doing there? A I was speaking to a gentleman there.

Q Who? A Mr. O'Rourke.

Q This man who has been a witness here? A Yes sir.

Q What did you notice? A I was speaking to Mr. O'Rourke and we noticed the smoke coming from the house.

Q Whereabouts from the house? A I do not know if it came from the basement where I lived or came from the store so when Mr. O'Rourke called my attention to it I went over quick to see where the smoke came from, from the other basement or the store.

Q When you were over there on the corner, did you notice the smoke when you were over on the southwest corner, did you see Goodmark? A No, sir, I did not see him right

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Q When you came over to your steps, down into the basement where you lived? A Yes, sir.

Q How close is that to Goodmark's store? A yes sir.

Q How close? A Well, like I never measured it, about fifteen or some feet.

Q It is right next door? A No, there is the main door and the middle between.

Q The main door of the house is between Goodmark's store and this area way where you have to go to your house?

A Yes, sir.

Q Now where were you when you first saw Goodmark?

A Just wanted to go down in the basement to turn around and saw Mr. Goodmark.

BY THE COURT:

Q In other words, you are away, the steps, you can go down nearer to Lexington Avenue than Goodmark's store?

A Yes, sir.

(At this point the Jury examined a photograph handed to them by Mr. Weller)

Q Now when you got to the stairway as you said before, you saw Goodmark? A Yes, sir.

Q Did you see any smoke when you got to the stairway?

A I saw smoke and I went down and it smoked all along.

Q Before you went down did you see any smoke?

A I saw the smoke when I came from Lexington Avenue, so it

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smoked all along until I went down.

Q Did you see the smoke before you went down the stairway? A I saw it on Lexington Avenue already.

Q Did you see it before you went down the stairway?

A Yes, sir.

Q Goodmark, how close was he to you at that time?

A Just behind me on the sidewalk.

Q That was the first time you saw Goodmark? A Yes.

Q What did you say to him? A I swore-- excuse me-- I said, "Damn it; go and see what is the matter with your place."

Q What did he say? A He said, "I don't think it is much".

Q He said, "I don't think it is much." What did you do? A I went down. I was anxious to go down and see if it was in my place.

Q You were in a hurry to get downstairs? A Yes sir.

CROSS EXAMINATION BY MR. JOSEPH:

Q Now Mrs. Blank, as a matter of fact you came running over from where you had been talking to Mr. O'Rourke?

A Yes, sir.

Q Didn't you see Goodmark near the corner, now think?

A I didn't see around the corner.

Q Not around the corner, near the corner?

A It is not so far away where the store is.

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Q You saw him before you reached the store?

A I was just on the sidewalk going down-- excuse me-- I had my dog with me.-- I went to see if he came with me-- I turned around and looked for the dog-- I saw Mr. Goodmark coming along. I was so excited I didn't know whether he was near to me or behind me.

Q You saw Goodmark? A Yes, sir.

Q Did you see anybody grab Goodmark or push him?

A No, I didn't see him; nobody around me.

Q He came along by himself? A Yes, sir.

Q You are sure of that? A I am quite sure of that-- what I have seen.

Q Did you see a boy that day? A No, sir.

Q Did you see Joseph Connolly have him by the shoulders?

A I have not seen that boy at all.

Q You swear positively? A I didn't see him. I came near I didn't see anybody around him; he was alone when I saw him.

Q That was quite a distance from his store?

A The distance between his store and my basement.

BY THE COURT:

Q You ran from the southwest corner over towards the stairs going down into your basement? A Yes, sir.

Q You ran? A Yes, sir.

Q While you were running, as I understand you, while

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you were running you didn't see Goodmark? A No.

Q When you got to your stairs you turned to go down?

A Yes, sir.

Q You had with you a dog? A Yes, sir-- two.

Q You turned around to see whether the animals, both of the dogs-- you had two dogs,-- were following you?

A Yes, sir.

Q And as you turned around you saw Goodmark, is that so? A Yes, sir.

Q Goodmark then was on the sidewalk, is that so?

A Yes, sir.

Q He was facing in what way? A Towards his store from the Avenue, going to the store, the same way as me.

Q In other words, Goodmark was walking towards his store? A Yes, sir.

Q He faced towards the store? A Going to the store.

Q His back was towards what street? A Towards Lexington Avenue.

Q Goodmark's back was towards Lexington Avenue?

A Yes, sir.

Q He was facing towards his store? A Yes, sir, to go down to his store.

Q Did you notice whether he had anything in his hand?

A I cannot say; I have not seen nothing; I cannot remember; I was excited.

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Q You went right down the stairs? A Yes, sir.

THE COURT: Go ahead, counsel.

BY MR. JOSEPH:

Q You got a good clear view of Goodmark and spoke to him? A I saw Mr. Goodmark. I even swore; I was so excited.

Q If anybody had been pushing him this way (indicating) you would have seen it?

MR. WELLER: I object.

THE COURT: Allowed.

Q You would have seen it? A I was so excited I didn't see anybody with him.

Q But if somebody had been pushing him you would have seen him. You would have seen it? A I suppose so.

Q You saw Mr. Goodmark? A Just as I turned around I saw Mr. Goodmark.

Q You didn't see Joe Connolly with him? A I did not.

Q Was he walking? A When I turned around I saw him there.

Q He was going pretty fast? A He would have gone without me telling him.

Q You are the janitress of this house? A Yes sir.

Q You collect the rent, don't you? A Yes, sir.

Q How many years has Goodmark lived in that house?

A Four years.

Q He paid the rent? A Yes, sir.

Q Does he pay his rent promptly? A Yes sir.

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Q He has paid his rent promptly all those four years?

A All the time.

Q He has been a pretty good tenant in that house?

A Yes, sir, nothing to complain about him.

Q Did he owe you any money at the time of the fire?

A Excuse me --it was my fault. Last month's money he gave
over
me nine dollars, and ~~for~~ that he wanted to give me a check
\$35.00. I had no money to change it after that accident.

Q Since then he has paid? A Yes, sir.

Q And he paid his rent for the month after? A Yes sir.

MR. JOSEPH: That is all.

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HARRY GOLDNER, called as a witness on behalf of

the People, having been duly sworn, through Mr. Fisher,
one of the Official Interpreters, testified as follows:-

(The witness states that he resides at 185 Chrystie street).

DIRECT EXAMINATION BY MR. WELLER:

Q We will talk in English as far as you can. Then if
there is anything you don't understand you ask Mr. Fisher. How
long have you been in this country, Goldner? A Two years.

Q What is your trade, what is your business? A A
tailor.

Q You are now confined to the House of Detention, are
you? A (Through Interpreter) Yes, sir.

Q You have been up there in the House of Detention since
the day of the fire? A Yes, sir.

Q When you were arrested? A Yes, sir.

Q Now, do you know the defendant Goodmark? A I worked
there.

Q How long did you work for Goodmark? A Three months.

Q You will have to keep up your voice or we will have to
repeat everything that is said. What did you do there? A I
worked there as a tailor.

Q Were you the only employee that he had? A Yes, sir.
(Through Interpreter).

Q And did you work there on the 5th of July on the day
of the fire? A Yes, sir.

Q Were you on a salary or piece work? A By the week
(through interpreter).

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Q How much? A Nine dollars.

Q Now, before the fire had the defendant ever said anything to you about going to Asbury Park? A Yes, sir.

Q When did he say that? A Two weeks ago.

Q Two weeks before the fire? A Yes, sir.

Q And what did he say to you about Asbury Park? A He was to go to Asbury Park and I was there and I take care of the store.

Q He wanted you to take care of the store? A Yes, sir.

Q And what was he going to do in Asbury Park? A For business.

Q Tailoring business? A Yes, sir.

Q What were you to do in the store? A I was working there.

Q Yes; but if he went to Asbury Park what would you do?

A I was to take care of the store.

Q For you or for him? A For him.

Q And you agreed about this? A (Through Interpreter) Yes, sir.

Q Have him state what was the agreement, Mr. Interpreter?

A (In English) He told me he was going to Asbury Park and he leaves me the store and I take care of the store - partner.

Q You were to be partners? A Yes, sir.

Q Did he from time to time go down to Asbury Park before the fire? A (Through Interpreter) Yes, sir.

Q To make the arrangements? A Yes, sir (Through Interpreter)

Q This was all within about two weeks of the fire? A Yes,

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sir (through the Interpreter).

Q Now, do you remember any benzine or gasoline being in the store? A Yes, sir.

Q When was that purchased? A He sent the colored fellow, Thursday or Friday for half a gallon of Benzine to clean the clothes, Thursday or Friday; I don't remember the right date.

Q You don't remember which day? A Thursday or Friday.

Q You don't remember which day? A No.

Q But you know it was one of those days? A Yes, sir.

Q And did he get the benzine? A Yes, sir.

Q Did he get it in this demijohn? A Yes, sir.

Q And did Goodmark say anything about the benzine that the negro purchased? A He told him benzine no good for the clothes. He can't take out spots from the clothes.

Q When did he tell you that? A He told me Friday.

Q Did you work on Friday of that week? A No, sir.

Q What did he do with the benzine that he said was no good? A He put it in three milk bottles.

Q What were they, regular milk bottles? A Yes, sir.

Q Where did he put the milk bottles? A Under the sink.

Q What did he do with the demijohn? A What demijohn? (Through the Interpreter) He put them down through the sink and together.

Q Now, did he say anything to you on Saturday about coming to work on Monday? A Yes, sir.

Q Did he pay you off on Saturday? A No, pay day was Monday.

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Q Pay day was Monday? A Yes, sir.

Q What did he say on Saturday, come Monday? A He told me come Monday seven o'clock in the morning cause he wanted to go in the country, to Asbury Park.

Q Now, in the morning of the 5th of July what was the weather? A I came Monday at eleven o'clock.

Q What was the weather? A It rained.

Q Rained hard? A Rained hard.

Q What time did you get to the shop? A Eleven o'clock.

Q I say what time did you get to the shop on Monday?

A Eleven o'clock on Monday.

Q And what did the defendant say when you got to the shop?

A What for I came so late. I bring my dinner there and I wanted to go back with the dinner; I wait there until twelve o'clock; I eat dinner in the store.

Q You brought your dinner up there so you wouldn't have to go back up there to get it? A Yes, sir.

Q You didn't work during dinnerhour? A No.

Q What did he say? A Go home, no work for me two o'clock.

Q What time did he tell you to go home? A Two o'clock.

Q Now, as amatter of fact was he doing very much business that day?

MR. JOSEPH: I object to that as calling for a conclusion.

THE COURT: It is objectionable, but not as a conclusion.

Q What did you do that day? A Go home.

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Q Were you busy that morning after you got there? A A little work.

Q Now, did he go home at two o'clock? A Who?

Q Goodmark. A No.

Q Did you leave him in the store? A Yes, sir.

Q And anything said about gasoline that day? A No, sir.

Q Did you have any cleaning that day? A Have a little.

Q Did you use the gasoline that was in the bottle? A Yes.

Q And you went away about two o'clock? A Yes, sir; about two o'clock.

Q Did he pay you before you went? A No, sir.

Q Now, he didn't pay you on Monday? A No.

Q Anything said about paying you on Monday? A I asked him for pay. He said I will give it to you tomorrow.

Q That would be Tuesday? A Yes, sir.

Q Now, when did you next come back to the premises? A Through Interpreter) Wednesday in the morning.

Q Wednesday morning? A No, I mean Tuesday morning.

Q And you saw that there had been a fire there, I suppose?
A Yes, sir.

BY THE COURT:

Q What time did you get there Tuesday morning? A Half past seven.

Q Half past ten? A Half past seven.

BY MR. WILLEN:

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Q That is the time you usually got there? A (Through Interpreter) Yes, sir.

Q Now, how many suits of clothes did the defendant have in the place on Monday? A I don't know how many but there was a couple of suits there.

Q And was there any clothing in the place? Any rolls of cloth? A Yes, sir.

Q How many rolls of cloth were there in the place? A I don't know how many. I know there was a couple of pieces of goods.

Q Only a couple of pieces of goods? A Yes, sir.

Q Now, did the defendant ever have any canary birds in the places? A Yes, sir.

Q How many canary birds did he have in there? A He had 10 or 12 young ones.

Q He is a bird fancier in a measure, he likes birds? A Yes.

Q He takes care of birds for people and sells them? A Yes, sir; all the time.

Q And how many birds has he owned at any one time? A About 10 or 12. He would take them home because the young ones was too hard in the store and he took them home.

Q And when did he take the last birds home? A Two weeks ago before the fire.

Q And was there any birds in the store? A One.

Q And what was the matter with that? A He had a broken foot.

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Q A broken leg? A Yes, sir.

Q Now, did he ever keep any insurance policies in the drawer of his table? A Yes, sir.

Q Do you know what policies he kept there? A I don't know what policies he did tell me that he got no money for the business and he would take the \$125. from the policy.

Q And what policy was that? A I don't know what, I forgot - on Twenty-third street.

Q Metropolitan Life Insurance Company? A Yes, sir.

Q Did he say what he had to have the money for? A For business.

Q Did he explain to you what kind of business? A For business in Asbury Park.

Q That was a life insurance policy? A I don't know; I cannot tell you.

Q Don't tell then, if you can't remember. Now, step down here! (The witness steps down) Did you ever see that wooden box before (indicating)? A Yes, sir.

Q Where did you see that? A In the corner in the store.

Q Did you ever see this pasteboard box? A Yes, sir.

THE COURT: Referring now to People's Exhibit No. 11?

Q Now, did you ever see that bundle of neckties in there?

A Yes, sir.

Q Whose neckties were those? A Goldmark's.

Q Did you ever see those two suits of clothes before?

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A Yes, sir.

Q Whose suits of clothes were they? A Goodmark's.

Q Now, were these suits of Goodmark's old clothes, the clothes he wore, or customer's? A No, his clothes.

Q His clothes? A Yes, sir.

Q That suit, too? A Yes, sir.

Q The milk bottles, you saw those before, did you? A Yes.

Q Now, stand right here (the witness did so). Did you have clippings there in the store? Do you know what I mean by clippings? A Yes, sir.

Q Of pieces of goods like this? A Yes, sir, clippings.

Q Clippings like this here? A Yes, sir.

Q Rags? A Yes, sir.

Q Did you ever see a woman's white skirt in there? A Yes.

Q Whose was that? A A customer's.

Q Cleaning? A Yes, sir.

MR. WELLER: All right. Step down.

(The witness now resumes the stand.)

Q Now, the next morning when you got to the store for work, that is Tuesday morning? A Yes, sir.

Q Did you see a fire marshal? A Yes, sir.

MR. WELLER: Is Mr. Cashman in court?

(Mr. Cashman came in.)

Q Did you see Mr. Cashman there, the Fire Marshal? A Yes.

Q Did you see the defendant Goodmark there, was he talking

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with Goodmark? A The janitress?

Q The Fire Marshal. A Next morning?

Q Yes, sir. A I didn't see Goodmark there.

Q You didn't see Goodmark there on the next morning? A No.

Q Were you taken to Headquarters? A Yes, sir.

CROSS-EXAMINATION BY MR. JOSEPH:

Q Mr. Goldner, you have been in the House of Detention, haven't you since the 6th of July? A Since the 7th of July.

Q And you are getting three dollars a day while you are there? A Two dollars a day.

Q You have been treated pretty well?

MR. WELLER: I object to that. One moment. That is provided for by law.

THE COURT: Sustained.

MR. WELLER: He is in prison. That is what it amounts to.

THE COURT: Go ahead. Now, another question.

BY MR. JOSEPH:

Q Now, Goldner, you say that on Thursday and Friday he bought half a gallon of benzine? A Yes, sir.

Q And that was bought in a paint store, wasn't it? A Yes, sir.

Q And he told you that the benzine was no good? A That the benzine was no good.

Q By "no good" he meant that he could not clean with it?

A Yes, sir.

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Q It was dirty. Now you have always had benzine in your store? A No, sir.

Q Don't you keep benzine to clean with? A Yes, sir, all the time.

Q All the time? A Yes, sir.

Q And how much does he usually buy? A Twenty cents' worth.

Q And how much is that? A Half a gallon for the whole week (through Interpreter).

Q And this was the same amount that he usually bought, half a gallon? A Yes. (Through Interpreter).

Q Now, how long have you seen those milk bottles in Goodmark's? A All the time since I have been there.

Q They have been there for three months? A Yes, sir.

Q He used these milk bottles before? A No, never.

Q never did? A No.

Q When benzine gets dirty - now, when you see benzine when you use benzine you pour it in a little plate, don't you? A Yes, sir.

Q And you take a piece of rag, don't you? A Yes, sir.

Q And you dip the rag in benzine? A Yes, sir.

Q And after you dip the rag in benzine you rub it on the garment? A Yes, sir.

Q And the garment would smell of benzine and you use it as a rag after you get through? A Yes, sir.

Q And this benzine gets dirty and dusty? A Yes, sir.

Q And after you dip in the cloth back again there is dirt

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settles on the bottom of the benzine? A Yes,sir.

Q It is the practice with alltailors you see when they get dirty benzine they pour it in a bottle so that the dirt may go to the bottom? A Yes,sir.

Q All tailors do that? A Yes,sir.

Q And after the dirt goes to the bottom they put clean benzine into the plate? A Yes,sir.

Q And then when that gets dirty again they pour it back? A Yes,sir.

Q And that is how you use benzine, and that is how Goodmark did and that is why the benzine was dirty, he poured it into the milk bottle? A He didn't tell me that but he told me the benzine was not strong enough.

Q Was the benzine yellow? A No - white.

Q I mean, wasit clean benzine? A He told me it was not strong enough and he cannot take out the spots from the clothes.

Q The tailors pour it so that the dirt would be on the bottom of the benzine? A Yes,sir.

Q And then they take the clean benzine again? A Yes,sir.

Q Now, he told you to come there at seven o'clock in the morning? A Yes,sir.

Q because he wanted to go to Asbury Park that morning?

A Yes,sir.

Q But you didn't show up? A Yes,sir, I was there in time

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(through interpreter).

Q And when he came there at eleven o'clock he was angry?

A He was in the store and he told me "What for I come so late?".

Q And then at two o'clock what did he tell you about going to Asbury Park next day? A Yes, sir.

Q What did he say? A He told me "You go home and tomorrow come seven o'clock in the morning, because tomorrow I want to go into the country, to Asbury Park.

Q That is, he intended going to Asbury Park next day?

A Yes, sir.

Q You see that brown suit there? A Yes, sir.

Q Do you remember the trousers on that were very big? A They were very wide, the trousers of the brown suit, the pants (through interpreter).

THE COURT: Show him the brown trousers.

Q Did you fix Goodmark's trousers? A Yes, sir.

Q So he could go away to Asbury Park, is that right, so he should be able to wear them? A Yes, sir.

Q That was the brown pants, wasn't it? A Yes, sir.

Q Now, when you went away at one o'clock or two o'clock - A Two o'clock.

Q Goodmark gave you a pair of scissors to have sharpened?

A Yes, sir.

Q He wanted to take those scissors to Asbury Park? A No, he didn't tell me that; he gave me scissors.

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Q To have sharpened? A Yes, sir.

Q Now, what were your duties in that store, what kind of duties? A He clean some clothes.

Q You were the bushelman like? A Yes, sir.

Q And he was the presser? A Yes, sir.

Q After you rub the spot out on the suit with benzine, do you throw it in that box? A No, sir.

Q Where did you throw it? A On the table.

Q Now, how long was that wooden box in his place? A The whole time I worked there.

Q Three months? A Yes, sir.

Q Did you see that brown box? A Yes, sir.

Q How long was that brown box? A The same thing.

Q And the gray box how long? A The same thing.

Q These three boxes were there for three months? A Yes.

Q And were they always in the same position? A Yes, sir.

Q That is, these boxes were in this position paying up against each other three months? A Yes, sir.

MR. JOSEPH: That is all.

MR. WELLER: That is all.

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PATRICK A. GAYNOR, called as a witness on behalf of the People, being first duly sworn, testified as follows:

(I reside at 414 West 120th Street, New York City).

DIRECT EXAMINATION BY MR. WELLER:

Q What is your business? A An appraiser.

Q And how many years have you been appraiser in the City of New York? A Over ten years.

Q And are you familiar with the clothing business? A Yes sir.

MR. JOSEPH: I object to that as calling for a conclusion.

Q What has been your experience in the clothing business?

A I have made a great number of appraisals along those lines, large clothing places, both for fire insurance and for burglary insurance.

Q Are you familiar with the prices of woolen garments in the City of New York? A Yes sir.

MR. JOSEPH: I object and move to strike out the answer.

THE COURT: Sustained. You may ask him what his experience has been.

Q What has been your experience in investigating the price of woolen garments and fabrics in the City of New York? A I have investigated several large concerns here in the city and various losses, seen their purchases, the amounts paid for them and their retail prices.

Q Are you familiar with the market value --

MR. JOSEPH: I object. He has not as yet proven that he is

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an expert.

BY THE COURT:

Q Have you ever bought woolen goods? Have you ever yourself, Mr. Appraiser, purchased woolen goods? A No, I have never purchased or sold any woollens.

Q Have you ever been present at sales? A Frequently.

BY MR. WELLER:

Q And do you know the market value of goods in the County of New York? *

MR. JOSEPH: I renew my objection. A man can be at sales and not be an expert; never sold, never was in the business.

BY THE COURT:

Q When you were present at those sales did you hear the prices at which the articles were sold?

MR. JOSEPH: I renew my objection that he is not qualified as an expert unless he is shown the fabric, examines the fabric and knows the nature of the fabric.

MR. WELLER: I cannot qualify him in one question.

MR. JOSEPH: You asked the question, did you know the value. You are trying to qualify him in one question.

THE COURT: I will let it remain.

MR. JOSEPH: Let me get my exception on the record.

THE COURT: It will be a matter for cross-examination for you. He has sufficiently qualified.

MR. WELLER: JOSEPH: Not qualified as an expert.

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THE COURT: Now, your objection is overruled.

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MR. JOSEPH: Now, I take the exception.

THE WITNESS: I heard the prices for the material and saw the purchases made.

Q And have you examined fabrics from time to time? A Yes sir.

Q And woolens? A Yes sir.

Q And do you know the price of fabrics and woolens in the County of New York? A Yes sir.

MR. JOSEPH: I renew my objection.

THE COURT: Overruled.

MR. JOSEPH: Exception.

Q Have you made ~~xx~~ examinations for the Fire Department as an appraiser from time to time? A Yes sir.

Q And testified in cases? A Quite a number of cases.

Q Now, did you make an examination of 155 East 75th Street? A Yes sir.

Q When and where? A I think on July 7th.

Q And did you make an examination of the contents of these premises? A Yes sir.

Q At whose request did you make that examination? A The Fire Marshal's office.

Q Now, will you state first generally what kind of examination you made, just generally, first.

MR. JOSEPH: I object on the ground that it was testified that before he got there that the Fire Department had pushed everything away from the burning spot.

MR. WELER: So is not true.

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MR. JOSEPH: I object to it.

MR. WELLER: We think it is a question of veracity.

MR. JOSEPH: We will determine. We will see who is telling the truth and see if the Fire Department didn't push everything away from the wall.

MR. WELLER: It was testified that some table was removed.

MR. JOSEPH: We will see if all the rags ---

THE COURT: I recall the testimony. I will let him testify as to what he saw.

Q (Continued) Now, first, generally, will you explain what kind of examination you made? A I first looked over the place. Then I took an inventory of each and every article that was in it.

Q Now, in taking the inventory of the articles did you also take an inventory of articles that had been burned? A No, I did not.

Q Of partially burned? A I viewed the condition of those things that were burned, partially burned.

BY THE COURT:

Q In other words, you merely took an inventory of property that you found was damaged, was that so, while you viewed all, you took an inventory of that which you found to be undamaged?

A No. Some property I took an inventory of what was damaged. Any property that I didn't take an inventory of had no commercial value.

BY MR. WELLER:

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Q That is to say, you took an inventory of everything in sight? A Yes sir, in sight.

Q And you also took an inventory of that property in sight, no matter what its condition was, as long as you could see it?

A Irrespective of its condition.

Q And you appraised its value or loss --

MR. JOSEPH: I object.

THE COURT: I note your objection.

MR. JOSEPH: That is highly leading.

MR. WELLEN: I object to these stump speeches. I want this man to testify.

THE COURT: We will have order.

Q What did you do? A I appraised the value of the goods as the value of them existed just before the fire.

Q The value that you gave these goods was the value that existed just before the fire?

MR. JOSEPH: I object on the ground it is leading.

THE COURT: No, because it is merely a repetition of the answer that was given before.

MR. JOSEPH: I except.

Q When you spoke of the value just before the fire, are you speaking of the market value, the cost value, or what value?

A I am speaking of the value of the goods as their condition at that ~~time~~ particular time was.

Q But the point is, is it what the goods cost a man to go out in the open market and buy them, or ~~what~~ was the value that

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had been enhanced for work done -- just what do you mean, sir, by value? A The value of the goods as I took them would not represent cost value.

Q What would it represent? A It would represent the depreciated value.

Q An appreciated value? A A depreciated value.

Q Owing to what? A Owing to wear and the long time it had been on hand.

BY THE COURT:

Q Not owing to conditions produced by the fire? A Not fire conditions.

BY MR. WELLER:

Q So you made an estimate of the property and the value of the property irrespective of the damages done to it by fire?

A By fire.

Q And your estimate, as I understand it, then, Mr. Gaynor, includes the market value if there had been no fire in those premises, am I correct? A Precisely.

Q Go ahead and tell us what you found and what is the value that you give? A Do you wish to have it in detail?

MR. WELLER: I was going to ask in detail or in toto.

MR. JOSEPH: Let me look at it.

(Mr. Joseph examined the paper).

Q Have you compiled a statement, Mr. Gaynor? A Yes sir.

Q And is this the statement that you compiled? A Yes sir.

Q And this includes every article in sight on the 7th of July? A Yes sir.

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MR. JOSEPH: The fixtures.

THE WITNESS: And fixtures.

MR. JOSEPH: Includes stock and fixtures?

THE WITNESS: Yes sir.

MR. JOSEPH: I respectfully submit he is not an expert on fixtures.

EX MR. WELLER: I have not attempted to qualify him yet as an ~~xxxxxxx~~ expert on fixtures.

MR. JOSEPH: You have his estimate here.

BY MR. WELLER:

Q. Now, I think for the purpose of the record this had better be read or testified to by the gentleman himself.

THE COURT: Yes, we will omit for the present the item of fixtures.

MR. WELLER: I have not gone into that at all.

THE COURT: He can read from that if there is no objection, all the items other than fixtures.

MR. JOSEPH: Of course this is all subject to my objection, not a qualified expert?

THE COURT: I understand. That has been disposed of.

MR. JOSEPH: I renew my exception.

THE WITNESS: 3-1/2 yards at 65 cents, \$2.17.

Q. What does the \$2.17 represent, sir? A. The value previous to the fire.

Q. The value of the goods previous to the fire? A. Yes sir. 3-1/2 yards at \$1.50, \$5.25.

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Q All these values are the same? A Yes sir, on the same basis. 6-2/3 at \$1, that is \$6.67. 6-2/3 at 85 cents, \$5.67. 6-2/3 at \$1.10, \$7.34. 5 at 75 cents, \$3.75. 6 at \$1.25, \$7.50. 1-2/3 at \$1.25. 7 yards at 95 -- \$6.65. 6-1/3 yards at 50 cents, \$3.17.

Q Yards of what? A Cloth. This is all cloth. 13-1/2 at 60 cents, \$8.10; remnants of linings, \$1.50, a lot of ~~xxxxxx~~ bindings, \$3.50; 3 boxes of card samples, no value. 1 box of remnants, no value. A lot of card samples, no value; 2 fashion plates, no value; one coat, what is called a try-on coat, that is with one sleeve in it, that is partially made, \$6.50; a pair of shoes \$1.50; coat and vest, \$13.50; pair of shoes \$2; one overcoat \$8.50, a lot of coats \$36.

MR. JOSEPH: I didn't get that.

THE WITNESS: One overcoat, a lot of coats \$36.

BY THE COURT:

Q You say a lot of coats? A Yes sir.

Q What do you mean by a lot? A All that was there at the time..

Q How many? A I should judge in the neighborhood of six or seven.

Q Did you count them? A I counted them at the time. A lot of pants.

Q How many? A 27, about an equal amount of coats and pants. Seven vests, \$7; lady's skirt, \$1.50. 3 boys' pants, \$2.70; a lot of pins, needles, thread and other sundries, \$4.; two tennis

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9 pants \$1.80, one lady's jacket \$3., two boys' coats \$1.75, and 274
one hat, \$1, making a total of \$180.27.

Q Now, was any of this property new, or what you call second hand? A The only new article I could see in the store was the try-on that I spoke of.

BY MR. WELLER:

Q Now, that represents, all that property represents a value before the fire? A Yes sir.

Q Some of it had marks of fire on it, did it? A Yes sir.

Q Does not include anything that was burnt, out of sight?

A No.

Q Now, Mr. Gaynor, does that include all of the stock and all of the coats that he had for cleaning or repair, or what-not, in those premises at that time? A Yes sir.

Q Now, will you state without giving any figure, what fixtures you found in those premises, just say what the fixtures are, not what the value is. A That is -- can I consult --

MR. WELLER: You may, if it is necessary.

THE WITNESS: There was a screen across the window, there was a partition dividing the store.

Q What do you mean by window screen? A A window screen.

Q Those are the big windows? A No, I am speaking now of the front windows. Then there was that partition dividing the store.

Q You call a partition a fixture? A A fixture; there were several tables.

Q How many tables were there? A I should think there were

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about three; there might have been more; I have got them here of course.

Q Refresh your recollection, if you care to. A I have one, two, three tables; I have got here.

Q And were these polished tables? A No, they were old tables.

Q And ordinary tables? A Ordinary tables.

Q Now, were they large tables or small? A I think the extreme length of any of them was about six feet.

Q Now, what other fixtures did you find there? A I found several chairs there.

Q How many chairs, refresh your recollection if you care to? A I think four chairs.

Q Go ahead, what else did you find? A A looking glass, an ironing board, some bird cages, a hanging glass, a partition, sewing machine, a lot of envelopes, five signs.

Q How many envelopes were there? A I think there were about seven or eight boxes.

Q Were they stamped? A Yes sir, with his name on them.

Q Stamped envelopes? A Not postage stamps, that is printed envelopes.

Q With his name on? A Yes sir, folding screen, a shelving, gas meter, pressing irons.

Q How many pressing irons? A Three I think, a pressing machine, hammer and a clock.

Q Any other fixtures? A No other fixtures.

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CROSS-EXAMINATION BY MR. JOSEPH:

Q Did you get the sign in the window, you examined the front part of the window? A I saw the sign in the front window.

Q There is a sign there? A Yes sir.

Q That is on the side of the pane, do you remember? A Well, I would not be positive as to my recollection on that point at the present time.

Q You recollect there is a sign there which states, "Jacob Goodmark, Merchant Tailor"? A Yes sir, there is a sign of that kind.

Q And about how high is that sign, if you can recollect?

A That I would not be positive of at the present time.

Q It is about three feet? A Yes sir.

Q Just about as high as the partition? A I should guess so.

Q You cannot look through that, that is right, isn't it?

A Yes sir.

Q Now, Mr. Gaynor, all the damage was done at the west wall, wasn't it? A On the rear.

Q On the side of the wall, on the west? A Yes sir.

Q And did you notice there ~~xxx~~ the remains/projected out of the remnants from the wall where there used to be a long pole? A There was a pole there at some time.

Q That pole was pretty well burned up? A I hardly think so; it was scorched; I would say more scorched than burned.

Q All those poles had clothes on? A Not when I got there.

Q This was a clothes pole and the main fire took place where

these clothes were hanging? A I didn't see any hangers.

Q They were broken down by the firemen. A But the hangers would remain.

Q Did you notice x brackets out from the wall where the pole had been attached on either side? A I think you are correct.

Q That is where the cloth was hanging originally? A I did not see it there; I could not testify to it.

Q Under where this pole was, Mr. Gaynor, the main fire?
A Yes sir.

Q Now, of course, any garments that were hopelessly burnt, you didn't take down on your list? A I examined all the debris very carefully.

Q I said hopelessly burned? A If it was not there I could not take it. ~~XXXXX~~

Q If they had no commercial value you didn't take it. A Certainly not.

Q And there may have been considerable garments burned up there? A I don't think so.

BY THE COURT:

Q If you had seen an article in that place, that by reason of the fire destruction had no value at the time you saw it, would you nevertheless have taken it up and looked at it with a view to appraising its value before the fire? A If I saw a remnant of any article there, I would take it and appraise it there as it existed before the fire.

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BY MR. JOSEPH:

Q Now, how many ladies' skirts have you got on your list?

A One, I think.

Q You are sure it is only one. Let me have that blue skirt there, which is lying on the floor. (Same given to Mr. Joseph).

Now, anything that was burned as much as this (indicating), you took that value off? A Yes sir.

Q You examined the place very carefully, didn't you? A Yes sir.

Q Is this the skirt that you took up? A That I could not tell you now; this would be a question of memory on my part.

Q You took up everything that was within the place? A Yes sir.

Q Was this the skirt? A If it was taken out of there I assume it was; I cannot identify it now.

MR. WELLER: He cannot tell it from that distance.
(The witness was then handed the skirt).

Q Is that the skirt? A (After examining) I cannot say positively.

Q What was the value of that skirt before it was burned. Examine it and tell me. A That skirt has been worn; I would not consider that worth over 75 cents.

Q What is the value you have got? A \$1.50.

Q Therefore you didn't take that skirt up? A I do not say I did not.

Q There is one skirt you didn't take up?

MR. WELLER: I object to that. It is a misinterpretation.

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He said \$1.50.

THE COURT: He says he does not know whether he took the skirt up.

Q Look at your list and see if you took it up.

MR. WELLER: Objected to as incompetent, irrelevant and immaterial, and as already having been testified to.

THE COURT: He may look at his list and determine if he can.

Q Look at your list, and see if you ~~xxx took~~ up any skirt at 75¢. A None at 75.

Q What is the value of this skirt, white? (Showing). A (After examining). Not any more than the other.

Q That is 75 cents? A Yes sir.

Q You didn't take that skirt up either? A I would not say.

Q Describe the skirt you took up at \$1.50? A It would be a physical impossibility for me to do that; I have taken since that time forty or fifty appraisals.

Q You are quite sure your list does not show these two skirts?

A I could not say.

BY THE COURT:

Q Does the list you have in your hand show that you appraised two separate skirts without regard to what skirts they were; does your list show that you appraised two skirts or does it show that you appraised one skirt? A The list that I have made up does not show whether it was one or two skirts.

Q In other words, you can't tell. Did you have that item of?

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\$1.50? A Yes sir.

Q You have an item of \$1.50 opposite that item on your list, have you the word "skirt" or "skirts"? A Skirt.

Q Now; that indicates you appraised this skirt at \$1.50; is that so? A Well, if I was pinned technically down to what I wrote it would, your Honor.

BY MR. JOSEPH:

Q Now, M^r. Gaynor, just read that item as you have it? A Lady's skirt.

Q \$1.50. A Yes sir.

Q You don't recognize these skirts, do you? A I could not do it.

Q Are you employed by insurance companies as appraiser on many occasions? A I am employed by insurance companies, Surrogate's Court, Transfer Tax Department --

Q I said, you are employed by insurance companies? A No.

Q Never by an insurance company? A The insurance company may engage me; I am not employed by insurance companies.

Q I mean you receive engagements from insurance companies?

A Yes sir.

Q Quite often? A Very frequently.

MR. JOSEPH: That is all.

THE COURT: Very much obliged to you, M^r. Gaynor.

MR. WELLER: The People rest.

THE COURT: I would like to ask M^r. Weller for information:

Is there any evidence of an insurance company's policy on the

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property in this place, that is in addition to the policy on his house?

MR. WELLER: Yes, your Honor.

THE COURT: Now, I will hear you, Mr. Joseph.

MR. JOSEPH: May it please your Honor, I move to dismiss the indictment and ask that the Court direct the jury to acquit the defendant.

First. On the ground that the indictment does not state facts sufficient to constitute any crime.

Second. On the ground that the testimony fails to show the commission of any crime by the defendant.

Third. On the ground that the evidence is equally consistent with the hypothesis of the innocence of the accused, on the ground the evidence fails to show the defendant guilty beyond a reasonable doubt, and on that latter ground I am very serious.

THE COURT: I think as the evidence stands it is a question for the jury. I deny your motion.

MR. JOSEPH: Exception.

(Mr. Josephs opens for defendant).

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J A C O B G O O D M A R K, called as a witness in his own behalf, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. JOSEPH:

Q What is your name? A Jacob Goodmark.

Q Where do you live? A 243 East 78th Street.

Q Goodmark talk up loud so that everybody in the place can hear you. A I will.

Q Just answer questions and we will get along so much better. How old are you, Goodmark? A Thirty-three.

Q And how long have you been in this country?

A Ten years.

Q Are you a married man? A Yes, sir.

Q Have you any children? A Four children.

Q And do you live with your wife and children? A Yes.

Q Now Goodmark, how long have you been in your present place of business? A Nine years.

Q Where you are at present? A I was down at--

Q I am asking you as to 74th -- 75th Street, how long have you been there? A 75th Street.

Q That store? A Four years.

Q Four years past, that you have been there?

A Yes, sir.

Q And where were you in business before? A 144 East 77th Street.

Q How long were you in business there? A Four years, about.

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Q And before that? A On 77th Street.

Q Yes. A No, that was the first place 77th Street.

Q Now, Goodmark have you ever been arrested in your life? A Never in my life.

Q Have you ever been convicted of any crime?

A Never.

Q Never have? A No, sir.

Q Now Goodmark, let me bring you down to the 5th of July. A Yes, sir.

Q What time of the morning did you get to that store?

A Quarter to eight.

Q When you got there was Goldner there yet?

A No, sir.

Q And what did you do then on arriving at that store?

A Well on the 5th of July, Monday morning it was a quarter to eight when I left my house, my wife told me, so I bring up a pound a tea. I said I will go to the store first and after I will bring up the tea. When I came down in the store I found many calls, so I called for the clothes.

Q What do you mean calls, postal cards?

A Well, there was a couple of addresses, people throwed down by the door, there is a door. They throw down many people's addresses, so I come down to take care of them, and after they put what time they wanted, and I did my duty at the time just when I found out. I was down in the store, I could not go

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at eight o'clock, people were asleep, it was a holiday, and after that it was about half past eight and a man brings in, you know, just not one man, a couple of men, bring in some clothes; I didn't notice it, the people with a store.

Q They brought in some clothes? A Yes, sir, to press them, and about half past eight I closed up the store for a couple of minutes; I went up to 78th Street at the corner of Second Avenue. There is a tea and coffee place and I bought a pound of tea and I delivered it to my house and after that I left the tea and I went back to my store. About half past nine my wife came down in the store for the newspapers -- I am getting every day two newspapers-- one morning Journal and one Vorwarts.

Q A Jewish newspaper? A And she came down for these papers. I asked my wife, "will you so kind as to sit here, I have got some places to go, to get orders for clothes. She said I will. I have got there mens clothes to press and clean, one ladies suit to press, and one which was on the second floor by the name of Mars, I brought another order.

Q You went and got some orders? A Yes, sir.

Q And you brought them back to your store? A Yes sir.

Q What time did you get back to your store? A Near ten o'clock.

Q And what did you do from then on? A After that my wife left the store, I did that work; I had a little repair first; after that I cleaned out clothes and hung up, got dry,

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and after I pressed them up --

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Q Did you clean those clothes with benzene? A Yes sir.

Q Now, Mr. Goodmark, just describe your store, your store is about sixteen feet deep and about thirteen feet wide?

A Yes, sir.

Q And the store, the front part of the store is divided with a partition? A Yes, sir.

Q A glass partition? A Yes, sir.

Q And you have got a glass partition in the show window?

A Yes, sir.

Q And you have got a sign?

MR. WELLER: I object to that as leading.

THE COURT: It is leading.

MR. WELLER: You ask him to describe the premises and you proceed to describe them yourself.

MR. JOSEPH: You don't like this leading when it is against you.

THE COURT: Will you ask him another question?

BY MR. JOSEPH:

Q Describe this sign in that window? A Yes sir.

Q Where it says, "price list", is that the sign?

A Yes. Right in the window just as you go up Third Avenue; it is right in the side; it is so big and so high (indicating) right from the partition of the window.

Q Then on the wall nearest Lexington Avenue, describe what you had there? A What do you mean?

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Q Tell us what that wall was like? A A dead wall, what do you mean.

Q What did you have on the wall? A On the wall, that is in the side I had two big lines, wooden poles, they are 'fixed up as long as I was in the store and those lines go down, I can use nearly two hundred suits, hang them out on them.

Q Now Mr. Goodmark, this show case, these fixtures, you described them, how long have they been in your store?

A These fixtures?

Q Yes. A Well, in the beginning when I opened that store there was a store, no tailor in that store.

Q I said how long have they been there? A Just when I opened that store, only a pressing machine, I bought, that is just one year.

Q But these fixtures as you have described have been there about four years? A Yes, sir, four years.

Q Now your wife went away about ten in the morning? A Ten in the morning.

Q And what did you do after that? A Well, I was working; I had my work; what I have to deliver to the customers.

Q And did you do some work? A Certainly.

Q Cleaning and repairing? A Yes, sir.

Q And what time did you see Harry Goldner that morning? A Harry Goldner, it was half past eleven. There was a man by the name of Levy, he came down and he asked me for a couple

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of samples, so I gave it to him. I answered that man, I was very busy, because my man don't show up to work just at the time I was talking to Mr. Levy the man came down and Sam Levy left the store and said he would be down a little later.

Q Now how long did Harry Goldner remain there?

A About half an hour.

Q And did he do any work? A No, sir.

Q Did you have some words with Harry Goldner?

A Well I did the work -- if I work for myself I can do the work in two hours, but it would take him two or three hours to do; I have to show him everything.

Q Did you have a quarrel with Harry Goldner for not coming in on time? A Certainly I told him, "what for he don't come down in the morning?"

Q Now you owed Harry Goldner some wages, salary, how much did you owe him? A \$3.75.

Q Did you tell him, Harry Goldner, why you could not pay him, on the Monday? A I generally pay him Sunday evening before he leaves to go home on that day he disappointed me and I told him to come down to work; he disappointed me and I should write him to come down the other morning; I told him I could not pay. Now I told him I would pay him the other morning.

Q You wanted him to come to work shrely on Tuesday so you held his salary up? A Yes, sir.

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Q Did you say anything about going to Asbury Park?

A Yes, sir. I told him I have to leave at eight o'clock from my store.

Q What train were you going to take? A Courtland Street, the nine o'clock train.

Q And you told him to be there what time? A Seven in the morning, I have to show him what to do.

Q Then Harry Goldner went away? A Yes, sir.

Q Did you give Harry Goldner anything to get fixed for you? A Yes, sir, to have my scissors sharpened, to bring them back, I need those scissors.

Q Then Harry Goldner went out of the store? A Yes sir.

Q And how long were you in that store that day?

A When Harry Goldner left that was half past one.

BY MR. WELLER:

Q What time did he leave? A Half past one.

BY MR. JOSEPH:

Q You went to lunch and went home? A Yes, sir.

Q And then you came back what time? A I could not state exactly, I took thirty or twenty-five minutes; I was busy doing work.

Q You came back about two o'clock? A About that time.

BY MR. WELLER:

Q What time? A I took twenty-five or thirty minutes.

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BY MR. JOSEPH:

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Q You came back around two o'clock? A Yes sir.

Q Did your wife come with you? A My wife came back at half past two, she brought back my boy's clothes, so I fixed them up before I left for Asbury Park, so I attended to that work, to dress up the children so the clothes would not be spoiled.

Q So you fixed up the children's clothes? A I had work-- pardon me -- for customers, after four o'clock I fixed many clothes and my children's clothes.

Q What time did your wife go away? A She leaves four o'clock.

Q Your childrens suits was still in the place?
A Yes, sir.

Q And your childrens suits were part of the clothes which were burned? A Yes, sir.

Q And when you said boys' pants those were your own children's clothes which were burned in the fire? A Yes, sir, mine own children.

Q Now did you see Mr. Meany that afternoon?
A Meany was down in the same time my wife was.

Q What happened while Mr. Meany was there? A While Meany was there the boys bothered me, and took some fire crackers put a match to them and threw them in my place and nearly burned his eye.

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Q They were playing with fire crackers that day?

A Yes, sir.

Q What did Meany do? A Meany, it struck in his hand. He said, "come out and help me". I go and catch some boys and get them arrested. I said, "I have not time to bother with the boys, I have to attend to my work".

Q Well, you attended to your work and then Meany went away? A Yes, sir.

Q You were in the store alone? A Yes, sir.

Q Did your sister come to see you that day?

A Yes, sir.

Q What time? A I cannot say, about fifteen minutes to six.

Q Now before that was there a colored man to see you about a suit, that afternoon? A Yes, sir, there waa a colored man; I don't remember his name just so exactly.

Q He will be in court here? A Yes, sir, he came down and he had a suit of clothes bought off me for seven dollars, He paid \$4.50, he had to pay \$2.50 more, and he says he will be down about six or half past six, so I wait for him. He wants to take his suit of clothes before I leave for Asbury Park. I said I will wait for you so you show up.

Q You sister came at a quarter to six, and how long did she remain? A She was down there fifteen or twenty minutes.

After

Q What did you do with your sister? A I closed up my

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place and took my sister out, she says she don't know what car to take her home, she lived in Ninth Street. I showed her the car to go to Broadway so as to change at Tenth Street car to go up the East side; she lives at 626 East Ninth Street.

Q You put her on the car, did you? A Yes, sir.

Q At that time did you have any bundle with you?

A No, sir.

Q Where was the bundle? A The bundle was right on the front table.

Q All packed up? A Yes, sir.

Q Already to go to Asbury Park the next day? A Yes sir.

Q Now what happened next? A I was standing on the corner, I could not say exactly how many times they took, I seen Mrs. Blank, she was running; she seen me coming behind, my back. She said, "Mr. Goodmark, run quick there is a fire in the house; I am going down in the basement, you go to the store, you will see what place the fire is coming from". I ran up to my place; I opened my place and seen a fire in my place, smoke in the place; I ran right in; I was trying to stop that smoking; I seen it impossible to stop that smoke and I grabbed that bundle and I went out. When I went out a bunch of boys fell down on me; they grabbed me. They said, "Here, you did that fire".

Q After you grabbed your bundle out, where did you go?

A I went out just in the street.

Q Where did you take that bundle? A I took that

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bundle right up to the saloon.

Q That was after the fire had already taken place and you had opened the door that the boys were yelling "chase him boys"? A The boys started to hold me up on the neck.

Q And that is where they started in to chase you?

A Yes, sir.

Q After you put the bundle in the liquor store, what did you do? A I told the man, "mind my bundle". He said he could not be responsible, that is a liquor store, maybe some one come around and take it away. I was studying, maybe, about a plan and the firemen came and they jumped in and chased everybody away; there was many police, I could not do anything; I went out to the liquor store and took that bundle; I was trying to go home, telling my wife sometime I was thinking over why should I go and tell my wife for she will get very excited.

Q Now take your time? A (Continued) And I went out to Mr. Gordon's. I told Mr. Gordon, "will you be so kind to take care of my bundle". He had a couple of customers in the store; he could not talk to me. He said, "All right, leave it". I went back to the store. The crowd was very big, and I was standing there, I could not come out; I was standing there fifteen minutes; I went back to Mr. Gordon; I told Mr. Gordon shall he give me, or what shall I do; He told me, "leave that bundle; don't go home and tell your wife;

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just leave that bundle and go back to the store, you will see to watch your own property. And after the firemen get through you will watch it. I listened to the man and I went up to the store and was standing down near a stoop. After that the fire marshal came out and said Goodmark, here. That took me about half an hour. I said, "Come right in". When I went in a couple of boys started to go in, they ~~asked~~ asked me, what do you know about it -- what do I know about it.

Q Now then you were taken to fire headquarters, that night? A After they took me down in the store and they just held me for half a minutes, for a few minutes. They said, "Here, you Goodmark," they said, come to fire headquarters.

Q You went to fire headquarters? A Yes, sir.

Q Did you see Detective McCafferty there? A Yes sir.

Q Did you tell McCafferty you owed any money for gas?

A I didn't tell him; I owed for gas; he didn't ask me that question at the same time.

Q You afterwards told him about the gas. What did McCafferty say to you? A McCafferty took me; he held of mine hands, he stepped on my leg. He said, "You son-of-a-bitch, why don't you tell the truth now?" He gave me a smash in my face, he gave me a smash on my hat; he didn't give me a chance. I want to lay down my hands just ~~on the~~ ground and he didn't give me a chance; he held up my hands.

THE COURT: We will take a recess now. Gentlemen

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of the Jury you are admonished not to converse among yourselves on any subject connected with this trial nor form or express any opinion thereon until the case is finally submitted to you.

The Court will take a recess until half past one.

Whereupon at one o'clock an adjournment was taken until 1:30 P. M.

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AFTER RECESS

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JACOB GOODMARK, resumes the stand:

DIRECT EXAMINATION (CONTINUED) BY MR. JOSEPH:

Q Now, Mr. Goodmark, the stock of goods both of yours and customers varies at different times of the year? A Yes, sir.

Q Sometimes you have more goods and sometimes less goods; that is right, isn't it? A Yes, sir.

Q That is sometimes when you were ^{very} busy in the Winter time the customers had more goods there than they do around the Summer time? A Yes, sir.

Q Now, Mr. Goodmark, when did you buy benzine for the last time before the fire? A Well, there was Tuesday afternoon.

Q On Tuesday afternoon? A Tuesday afternoon.

Q And what did you do? A On Tuesday afternoon I was a little busy; I have to attend to customers; he give me some work for a certain man; I promised him to deliver it.

Q What did you do? A I had a colored man working for me.

Q What is his name? A John Harris. I was very busy and I told that man would he so kindly bring me in a ~~few~~ half a gallon of benzine. He says: "All right; I will do that."

Q Now, when you bought that benzine, Goldner was also in the store? A Yes, sir.

Q And you got the benzine? A Yes, sir.

Q He got it from the paint store? A Yes, sir; I always buy it in the paint store.

Q Now, will you just explain to the jury how you clean

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clothes with benzine? A Well, in the time a man brings in his suit of clothes and it is a little spotted; it is not necessary to have them dry-cleaned; people don't want to spend so much; so they say: "Take out my spots from the clothes, and there is many spots on the pants. I take it just; I clean it; I have a little plate and I have a brush, and I clean with that brush, put a little benzine in that plate, and after taking that brush clean it out. If the cloth is very soft or thin I could not use any brush to that. I take a rag and put on the benzine and clean it out.

Q And you rub the spot out with the benzine? A Yes, sir.

Q Now, you say you pour it in a little saucer? A No, a little plate, a tin plate as high, like that, always generally have a covering to that, too.

Q Now, what do you do with the benzine after you use it?

A Well, if it is used out for that clothes, that is dark clothes and we take the dead ones in and put it in another bottle.

Q What other bottle? A Them bottles I always used them (indicating some milk bottles); I take a little benzine for light clothes; I see the benzine is clean enough so I shall clean it for light clothes.

Q What do you mean you pour benzine in the bottle? A I put a little benzine in the bottle; if the benzine is not clean it stops up the dirt on the bottom.

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Q You mean the dirt settles to the bottom? A Yes, sir.

Q Then you pour off the clean benzine and use it? A Yes.

Q And that is what you used in these bottles? A Yes, sir.

Q Did you use this bottle for benzine? A Yes, sir.

Q These two bottles you used for benzine? A Yes, sir.

Q This bottle you used for what? A I have no water closet to my store. I have a little boy nearly seven years old. He comes down in the store and I don't want him to go down in the street to make water I don't want my little children in the street to do that and that boy comes down in the store and he takes the bottle out and makes water in it instead of in the street, and after he does that we wash it out.

Q And this is what this particular bottle was used for?

A Yes, sir.

Q And that bottle never was used for benzine at all? A No.

Q And that accounts for the odor in this particular bottle, the smell of that bottle?

MR. WELLS: I object to that.

THE COURT: Objection sustained.

Q Now, what do you do with all the clippings of cloth that you get? A Them clippings of cloth I am always saving up from one year to the other and after that it comes January and a man comes down and I sell them smooth clippings; I turn from the samples many times I do. And them boxes lie down near the end of the cutting table and I push them little clippings

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into the boxes and it fills up them boxes. I save up thirty sometimes thirty-five that brings me in six dollars a year. the bigger clippings I sell to cap-makers, the smaller clippings go to be worked into wool again.

Q That is, you sell out to people who buy woolen clippings or rags? A Yes, sir.

Q And that is, you get a certain amount of money for them? A If they are clean enough I get fifteen cents a pound and the bigger clippings I get twenty-five cents a pound.

Q That is the reason you save them for the purpose of putting them away? A Yes, sir.

Q Now, Mr. Goodmark, that wooden box, how long have you had that wooden box? A I can say nearly about three and a half years.

Q And that other box, that gray box? A That gray box comes with the samples of the company that sends me them down. I always save that box to keep them clippings in.

Q How long have you had that gray box? A That gray box is marked inside from what year I had it; it is inside the box what year that come.

Q This is from the fall season of 1913 and 1914? A Yes, sir.

Q Then you had it about a year? A Yes, sir; I sewed it up in the sides to keep those clippings especially.

Q You sewed that on this side (indicating)? A No; on the corners.

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Q You sewed it up yourself to put those clippings in it?

A Yes, sir.

Q And you had this box since the fall of 1913? A Yes, sir.

Q Close on two years? A Yes, sir.

Q How long did you have this box? A I don't remember; I think last season (referring to pasteboard box) just what they send me.

Q That is Spring samples on the side? A Yes, sir.

Q Mr. Goodmark, how long did you keep it in the corner just as it is now? A How long I am around in that store; I always keep a box and I always keep them boxes like that.

Q Now, Mr. Goodmark, the arrangements were these boxes are fixed there, was that done a short time before the fire?

A No, sir.

Q How long has it been laying just that way? A It always stands just like that.

Q You don't know how long it stayed like that? A No; I could not say.

Q You say your children's clothing was in the store that was burned? A Yes, sir.

Q And this skirt, whose skirt is that? A That is my wife's skirt.

Q And also your wife's skirt in the place? A That was dry-cleaned - there was a mark there that comes back from the dry-cleaner's, 17203.

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Q That had just come back from the dry-cleaner's where you had that cleaned just prior to your going away? A Yes, sir.

Q And she had never worn it since it was dry cleaned? A It was still in the store.

Q Now, when you left the store how did you fix the windows in the back of the store? A The windows closed up.

Q And the transom was closed also? A I cannot remember that; I generally lift up the transom every night; I don't remember whether it was closed or not.

Q You closed the windows in the rear? A I closed the windows in the back. The cats sometimes come in and I don't want them to make dirt and for that I closed them.

Q Now, Mr. Goodmark, you say you had made arrangements to go to Asbury Park on that Tuesday? A Yes, sir.

Q And did you tell John Harris, the colored man to meet you there on Tuesday? A Yes, sir.

Q Now, this policy insurance on your house - A Yes, sir.

Q That was found in the brown suit. Did you know that was in the pocket at the time? A No, I did not know it. I didn't have that suit from March up.

Q And you didn't know it was in the pocket or not - you didn't know it was in the pocket or not? A No, sir.

Q Did you purposely put it in the pocket to take it out? A No. Just when the man who delivered me the insurance policy he bring it in and just as I was in a hurry to go away I paid him for the policy and I put it in my pocket and I wanted to

wait on a customer and that man brings me policies for the last nine years.

Q And you put it in that coat and when you took it out and picked that coat out - A No, I didn't notice it - what for shall I notice? I have no one who will steal that from my pocket.

Q Now, Mr. Goodmark, after you locked the door did you see Joseph Connolly? A No.

Q Did Joseph Connolly follow you when you went away from the store and say, "Come back, your store is on fire"? A No.

Q Did Joseph Connolly grab you by the shoulder at or about ~~the~~ Seventy-fifth street and Lexington avenue and force you back? A No, sir.

Q Did you speak to Joseph Connolly that day? A No, I did not speak to anybody.

Q Did you speak to Joseph Connolly on that day? A No, sir.

Q These boys have been troubling you off and on? A No; I went out to get a telephone to the corner of Third avenue and they followed me, they stand by the blacksmith and they followed up, a bunch, just about fifteen, they started to throw stones, they broke my own hat.

Q That was April Fool's Day, the first of April.

MR. WELLER: I object to what happened on the first of April. I suppose we all have tricks played on us on that day.

THE COURT: Sustained.

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Q And these boys annoyed you quite a good deal?

MR. WELLER: I object.

THE COURT: Never mind that. We have got that.

Q Now, Goodmark, I want you to be careful with this answer: Did you at any time, directly or indirectly do anything towards making a fire in that store? A No, sir, never had this in my mind to burn things.

Q Did you do anything towards making that fire? A No, sir.

Q Do you know how that fire occurred? A What do you say?

Q Do you know how that fire occurred? A I don't know myself how it came. I am not a man who do that. I always attend my business; everybody knows - I have four children and I am strictly living in a house three and a half years; I paid my rent and I can prove it by my landlord where I live, all places; where I lived no one can say a word about me; I don't touch even a cat in the street; you can go around Seventy-eighth street to Seventy-fourth street and everybody knows me and see there what kind of a man I am.

CROSS-EXAMINATION BY MR. WELLER:

Q Well, Goodmark, you have not been doing very much business in Seventy-fifth street? A I always did business in Seventy-fifth street.

Q Your business was not very good in the month of June? A No, I didn't have bad business.

Q Good business in the month of June? A Always good.

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business.

Q In the month of June you did a good business? A Yes, sir.

Q Well, you went down and borrowed \$125. on your life insurance policy in the month of June, the 22nd of June you borrowed \$125. on your life insurance policy? A Yes, I borrowed that.

Q And you did that to help to start to work down in Asbury Park, didn't you? A Yes, sir.

Q In spite of the business being good you went and drew on your life insurance, did you, yes or no? A Well, my business -

Q You drew on your life insurance? A I drew on my life insurance but my business was not bad, business always good.

Q On the day that the fire happened you sent Harry Goldner away because business was bad? A No, sir, I didn't send him away against that.

Q Did you send him home about two o'clock because there was nothing to do, yes or no? A No, sir, I had a lot of work to do, he could not do any pressing.

Q Didn't you tell him there was nothing more to do and he could go home and come back tomorrow morning? A I didn't tell him for that to go away. I told him I wish he would come down in the morning at seven o'clock.

THE COURT: You have answered the question.

A (Continued) I made an appointment with him. I have to go away.

Q Keep quiet? A I have to go away.

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Q You are not in the habit of closing your store at two o'clock in the afternoon? A I had a lot of work to do.

Q You opened your shop at a quarter to seven or a quarter to eight in the morning? A Yes, sir.

Q And what time do you close at night? A generally I close at nine.

Q Nine, ten or eleven? A Never eleven o'clock at night except if I am too busy I work all night.

Q You paid a man nine dollars a week? A I keep two men.

Q Who is the other man that was working for you during the month of June? A John Harris.

Q Was Harris working for you in the month of June? A Yes, sir, always come down in the afternoon and do pressings.

Q What? A Hand-pressings.

Q By piece work or by the week? A He used to work by the week.

Q How much did you give him a week? A He used to get nine dollars.

Q Harry Goldner who worked from Quarter to eight in the morning until ten o'clock at night he worked all day along from seven in the morning? A He only got -

Q Nine dollars a week? A He is not working; he never did my work.

Q Did he get nine dollars a week? A Yes, sir.

Q And he is a tailor, is he not? A He is not -

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Q Is he a tailor, yes or no? A He is only a helper.

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Q Did not you do the pressing and he do the tailoring? A
I do the -

Q Did not you do the pressing and he do the tailoring?
Yes or no? Answer the question; I don't want a speech
every time I ask a question. A At the time when the other
man -

Q yes or no. Don't go into any other subject - didn't
he do the tailoring and you do the pressing? A You see you
have to give me a chance to talk too.

Q Is not that true? A Give me a chance and I will talk
to everybody.

Q Answer the question, sir? A I cannot answer the question

Q Didn't Harry Goldner do the tailoring and you do the
pressing? A I would like to answer -

MR. WELLER: I ask your Honor to direct the witness to
answer the question.

THE COURT: If you are able to answer the question
answer it.

THE WITNESS: I am able to answer the question. I
am doing pressing many times myself and many times that man
is working for me, John Harris, for I can say how long he
works in that store.

MR. WELLER: I move to strike out the answer as not re-
sponsive.

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(Question read by stenographer).

THE WITNESS: I am not a general presser I am doing cutting and generally I am making a coat myself, too.

Q Is not Harry Goldner your tailor, yes or no? A He is not a full tailor; he is only a helper.

Q Does not he do your tailor work and you do the pressing work on the machine? A He is not a full tailor.

MR. JOSEPH: He said he is a helper.

BY THE COURT:

Q Mr. Goodmark, do you do any tailoring yourself, that is the cutting out of garments, do you do that yourself? A Yes.

Q Do you? A Yes, sir.

Q You do sewing on garments yourself? A Yes, sir.

Q What kind of work did the other man do? A If I cut out the garment he takes and makes me the basting. After that I am taking it and I just straighten it out I baste it on the top; he sews up the top of the garment; I am pressing it after I sew it up he bastes it I give it to him so he bastes it out again, and if the garment is nearly finished, he sews up the lining; he makes a pair of sleeves, he sews up the collar, and makes the button holes.

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Q Well, isn't he a tailor? A He is not a full tailor.

Q Now, you say that you did some cleaning in the place?

A Yes sir.

Q You took a rag and benzene and cleaned up the clothes?

A Yes sir.

Q And do you always use the same rag, or do you use different rags? A One rag when it gets missing I take another rag.

Q How many rags did you have on the 5th of July which you used with benzene on? A I could not tell you; I never noticed it.

Q Did you have one, two or a dozen? A I could not say how many.

Q A hundred, a thousand, how many? A Well, I could not say how many. If one rag is missing, I take another; if the other is missing I take another rag.

Q Did you throw the rags with gasoline on them in that wooden box here? A Yes sir.

Q You threw the gasoline rags in that wooden box?

A It is not gasoline; it is cleaned out, the rags is dry.

Q What is that? A I threw it away.

Q And these rags you used for ~~rags you~~ cleaning? A These are rags from the dirt.

Q Yes or no. A ~~Yes~~ Yes sir.

Q And a piece of rag like this you put benzene on for the purpose of cleaning? A Yes sir, not for the purpose of cleaning—let me explain.

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Q For what purpose? A At the time I have a pair of pants to clean and the pants is spotted down here (indicating). I don't want the spot to go over on the other side; I am taking that rag pushed in, and cleaning out, and after I take out the rag and put it away --

Q So all these rags you have had benzene on? A Yes sir.

Q And then you put all these rags in that box? A Yes sir, I always threw them in that box.

Q And if those rags were all wet with benzene on the evening of your fire, or the morning after your fire, that was because you had used those rags to clean clothes, wasn't it?

MR. JOSEPH: I object. It assumes a state of facts not in evidence.

MR. WELLER: Pardon me, "saturated with benzene" are the words.

THE COURT: Read the question.

(Question read by stenographer).

THE WITNESS: Yes sir.

Q This white skirt was in this box, the box was in like this, the white skirt in the box, did you put any gasoline or benzene on that white skirt? A No sir.

Q Now, the rags that were in this box here, did you put any gasoline or benzene on those rags? A Well, I didn't put it on; I am taking out some rags, have to use it for cleaning.

Q Now, pick out the rags that you put gasoline on. A Pardon me, I don't know; I could not tell, I could not remember so many

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months.

Q Well, you say that every rag that has been in this box here is a rag on which you have put either gasoline or benzene?

A Not every rag, just generally; I am taking different rags and using, and put them in a box.

Q Don't you usually use some white linen when you are cleaning? A That is not linen, that is silk.

Q Don't you use a white cloth to clean them? A Just according to what kind of cleaing, if I got dry rags -

Q Don't you usually use a piece of rag which is half way clean, at least a white rag, without color in it? A I cannot use white rags on things like that except if I got white clothes.

Q You use the white rags ~~to~~ on clean clothes? A If I have white rags -

Q Do you use dirty rags to do cleaning with? A I am generally using rags -

Q Do you use dirty rags for cleaning? A I cannot use dirty rags. If the rags were dirty I never use them for cleaning.

Q Now, on the 5th day of July how many suits of men's clothing did you have in your tailor store? A Well, I could not say; I never counted them over.

Q Do you keep any books? A I am keeping -

Q Do you keep any books? A I keep a book not with my clothes.

Q Do you keep any books that shows any suits of clothes that you got or number of suits that you clean and press? A

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No, I don't.

Q Do you keep any books showing how much stock you have on hand in your premises from time to time? A No, sir; I never keep books on that; I am not got the time.

Q Now, you want me to understand and the jury to understand that every rag that is that box, wooden box and every rag that is in that other tall box was a rag used by you for cleaning?

MR. JOSEPH: I object to that; he never so testified.

Q Well, you understand that - I will amend that question: Do you want us to understand that those rags were used by you for cleaning? A Many used and many not.

Q Now, how many suits of clothes did you clean on the morning of July 5th? A Well, I cannot say - you know I got about six or eight.

Q Six or eight? A Yes, sir.

Q Now who were the people, give me the names of people to whom these six or eight suits belonged? A Two suits I had from 103 East Seventy-fifth street.

Q 103 East Seventy-fifth street, that is next door to where you live? A No, sir, that is an apartment near Park avenue.

Q What is the name? A Muhrs.

Q That is two suits? A And I had another suit No. 40 East Eightieth street by the name of Smith.

Q What floor? A Well, that is a private building, they

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lived by themselves.

Q What is that? A It is a building where they lived by themselves.

Q They live in the whole house? A Yes, sir.

Q Now, you have given us the names of the owners of three of the suits? A Yes, sir.

Q Now, what other suits did you have there that day? A There was a couple of suits came in - the street people - I could not notice them; they come in, bring them in; I didn't notice the names.

Q How many suits of clothes all told did you have in that day, the day of the fire? A Eight suits from customers.

Q Now, how many women's suits if any? A The number of suits in that day are taken in all together?

Q How many suits did you have in that day? On the day of the fire how many suits did you have in that store? A Of my own?

BY THE COURT:

Q At the time the fire began to burn how many men's suits were there inside of your shop? A I had a lot of stock; I had a big stock -

BY MR. WELLER:

Q How many suits did you have? A Well, I didn't count them over; I had suits that belonged to many people; I had my own stock I generally carried -

Q How many suits did you have in that day? A Two ladies'

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suits.

Q And six or seven men's suits; that is right; what you said before.

MR. JOSEPH: You didn't ask him, Mr. Weller.

MR. WELLER: I object, if your Honor please, to interruptions. I cannot get this witness to answer my questions.

Q Now, how many men's suits did you have in those premises that day? A What? Of mine own? or customers?

Q How many of your customers' suits did you have that day? A Well, customers I would say over 8 or about 6.

Q How many? A About eight.

Q Now, how many of your own? A I had a big stock of clothes which was hanging on the line.

Q How many suits did you have in those premises that day?

THE COURT: Of your own?

THE WITNESS: I could not say, over a hundred.

Q A hundred suits of clothes? A Yes, sir.

Q Where did you get those hundred suits of clothes? A I generally buy them in auction.

Q What auction did you buy in clothes in the month of June - have you any bills? A I have.

Q Have you any bills? A No, sir.

Q Have you anything in writing to show you had a hundred suits of clothes? A The man that worked for me -

Q Have you anything in writing to show that you got one hundred suits of clothes at that time?

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A I didn't save the bills.

Q Any bills of any kind, any book? A I have got a book I took orders from customers.

Q Does the book show you got a hundred suits of clothes of the day of the fire? A The man that works for me he knows.

Q Does the book show? A No.

Q Where is the book? A The Marshal took it away, the book.

Q Describe the book; what does it look like? A The book - as large as this style (indicating).

Q About 10 inches long and 8 inches wide? A I could not say how many.

Q You say the Fire Marshal got the book? A Yes, sir.

Q Where did they take it ~~and~~ from? A Out of the store.

Q Where? A I do not know.

Q That book does not show the purchase of a hundred suits by you? A No; in that book I never put them down. I carry new clothes for sale and I carry clothes slightly used for sale.

Q Where did you get those hundred suits? A A lot of clothes was hanging on the line and a lot on the shairs.

Q You take this photograph of this room and show me where the hundred suits of clothes hung in that room; where did you hang them, on the easterly wall? A On the side where the fire was.

Q On the westerly wall? A Yes, sir.

MR. JOSEPH: I must object. The wall is photographed

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and there is a picture of it. There is only one-third of the wall shown on the photograph.

MR. WELLER: Your Honor, interruptions of this kind are not only highly unprofessional and they deserve to receive the severe condemnation of the Court.

THE COURT: Now, except you take objection --

Q Do I understand you to say, sir, that you had one hundred suits of clothes on the westerly wall, a part of which is indicated by People's Exhibit 9, that photograph? A I could not understand much of that photograph; I know on the westerly walls I had two big lines, a lot of clothes and a lot laid down on the chairs.

Q Now, I want to show you People's Exhibit 6, the easterly wall and I ask you if you have not got a number of clippings on those tables - look at it? Are there not clippings all over that tables and shelves? A Well, there was clippings laid down on the shelf.

Q Now, the clippings you put on the shelf you didn't put in the book? A Well, a lot of clippings I have to use; generally I need them for patching; I have them down on the shelf.

Q Did you put gasoline on those clippings which you left around in the shelves? A No gasoline on them.

Q The only ones that has gasoline on were the ones in the box
A I used them for cleaning.

Q They were the only ones that had gasoline on? A Yes.

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Q Now, the clippings you have on the shelf here, all these rags and clippings, did any of those have gasoline on? A No, sir.

Q Did you use any of those in cleaning? A Sometimes I took off a piece to clean with.

Q Now, Mr. Goodmark, as a matter of fact, is it not a fact that you had a table there in which there was a drawer? A Yes.

Q And that you kept your clean rags in that table? A No, I never kept them there.

Q Didn't you keep clean rags in the drawer of that table?

A No, sir.

Q You are sure? A Yes, sir.

Q Were they not the only rags that you used with benzine and gasoline? A What?

Q The ones in the drawers of the table? A No, sir; I have clippings laid down all over.

Q Isn't that the table where you kept your clean rags?

A Well, that is the table. You know I have -

Q Didn't you keep your clean rags in that drawer as a matter of fact? A No, never.

Q What did you use that for? A To cover canvas.

Q Did you ever use that as a cleaning rag? A No, sir.

Q How came that to have gasoline on the day of the fire (referring to cheesecloth)? A Well, I do not know.

Q Now, this man Harris is a colored man? A Yes, sir.

Q And he used to work for you? A Yes, sir.

Q And he is a presser? A Yes, sir.

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Q Belonging to the Pressers' Union? A No, he don't belong to no union.

MR. JOSEPH: I object to that.

Q And what hours did he used to come to work? A Generally about half past one, one o'clock, and he used to work until six.

Q And you paid him nine dollars a week for that? A He generally got nine dollars a week and if he worked only half a day he got paid for only a half a day.

Q I thought you said he got only nine dollars a week? A Yes, when he works half a week he gets paid for half a week.

Q Did you pay him nine dollars a week?

(At this point Mr. Joseph interrupted, the stenographer not being able to hear what he said.)

MR. WELLER: If your Honor please, we are going to carry on this case in an orderly fashion. I object to this counsel in his objection stated to this witness evidence which will give him a cue to fit the question. He has done it more than once.

MR. JOSEPH: I object on the ground already gone over; this counsel has asked a question, how do you pay and the witness answered the counsel nine dollars a week. If he will only give the man a square chance and do his duty as a district attorney and present nothing but the evidence before the Court -

THE COURT: Proceed. Yes or no to that question.

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THE WITNESS: Well, I paid him nine dollars a week. If he works a half a day he gets half a day's pay. If he works a full day he gets a full day's pay.

Q Can you give this jury the beginning of one week commencing Monday, or Tuesday or Wednesday or Thursday or Friday or Saturday? A Sometimes he makes three days, some times four days and sometimes he makes a full week. In the same week he was working a full week he left Saturday night, too, but he called to get his pay.

Q Did you ever pay him nine dollars a week? A I paid him more than nine dollars a week.

Q Did you ever pay him more than nine dollars a week in your life? A Many times more.

Q Was he working on the day this fire occurred? A No.

Q You didn't have any work that day? A That day he did not work. I worked myself all the time; I am a presser.

Q Did he work that week before the fire? A Yes, sir.

Q Every day? A I could not say.

Q Does your book you talk about show how much you paid your help? A What do you say?

Q Have you got any book which shows how much you pay your help? A I never put that down in the book.

Q You never put that down in the book? A No, sir.

Q Well, now, you say that your wife was at your store that afternoon? A Yes, sir.

Q That is right, isn't it? A Yes, sir.

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Q She left about what time? A About four o'clock.

Q And then you were for a while in the store, were you not? A Yes, sir.

Q And you claim your sister was at the store? A Yes, sir.

Q Was your sister known to any of the neighbors of that neighborhood? A No, sir.

Q Is she in the habit of coming to your store, your sister?
A She was down twice.

Q Only twice she has been there? A She came down many times to me.

Q What did you state "twice before"? A She came down many times.

Q What did you say twice for a moment ago? A A long time I was in that store she was twice; I am four years in that store; she was twice already.

Q You were not busy that afternoon, you could sit and talk to your sister? A When my sister come down I was through with my work.

Q Your sister left about five o'clock? A She left after six.

Q After six? A Yes, sir.

Q Now, you remember being before the Fire Marshal? A What?

Q Now, you remember being before the Fire Marshal, don't you? A Before the Fire Marshal?

Q Yes. A What do you mean by that?

Q You remember you were taken to the Fire Marshal's office?

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MR. JOSEPH: I object to any testimony taken before the Fire Marshal.

THE COURT: He is only being asked if he was taken to the Fire Marshal's office. You asked him the same question.

Q And the next morning there was an examination before the Fire Marshal? A What?

Q The next morning was not there an examination before the Fire Marshal? A Well, they got an examination all night.

Q Of July 6th. A They got an examination all night, they bothered me.

MR. JOSEPH: Your Honor, I wish to state this witness directly or indirectly waives none of his rights -

THE COURT: I am not going to hear from the mouth of this witness what he said to the Fire Marshal at the time when this witness was under oath.

MR. WELLER: Your Honor, the statute specifically sets forth that if there is any question of perjury on a material point and I seek to contradict this witness by his own testimony under oath before the Fire Marshal, it never was the intention of the statute to make the testimony before the Fire Marshal a cloak for perjury and certainly under the statute if this witness testified under oath on this trial and it varies with his testimony before the Fire Marshal on a material fact certainly he can be contradicted and held for that testimony. That might be

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held in another proceeding or another tribunal. He has made a contradictory statement under oath and can be interrogated about it.

MR. JOSEPH: I object to it.

MR. WELLER: I say it is not. I don't seek to predicate an affirmative case on the testimony before the Fire Marshal. Their investigation is in itself not secret, once he having testified in open court at variance with his testimony given before the Fire Marshal then I say that the law does not clothe him with a secrecy so that that testimony may be shut up and kept from the jury and the outside world. He has taken the stand and he vouches for his credibility. He has vouched that he has told you and the jury the truth. Now, it appears, and I want to show by him that he has made a contradictory statement -

THE COURT: I am not at all sure ~~if~~ your position is entirely correct. I shall want to look up the law before I rule upon the matter and that I will do between this and the session tomorrow.

MR. JOSEPH: The object Mr. Weller states is not so. The Legislature has realized for many years and I know this for a fact and there has been many attempts to make the law stronger that they know when a man is taken before a fire marshal that unfair methods are used -

THE COURT: I will look up the question.

MR. JOSEPH: And because it is not fit testimony

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that can be brought out at the trial, a little suspicious of fire marshals as we are.

THE COURT: I will look up the law on that subject. I am not prepared to make a ruling one way or another at present. If you have any authorities you may submit them at the same time, Mr. Joseph.

MR. JOSEPH: I think the law is very plain, particularly Judge Benedict's decision.

BY MR. WELLER:

Q Now, Goodmark, when you left the premises you wanted to go home? A No, I didn't; I was waiting for a man to take a suit out from the store; I was waiting on the corner.

Q When you left the premises, didn't you want to go home?

A No, sir.

Q You remember Detective McCaffrey seeing you the next day?

A What day?

Q The day after your fire; didn't the detective come to see you the day after the fire? A After the fire?

Q Yes. A He seen me down in the headquarters.

Q Well, he saw you the night of the fire? A Yes, sir; I saw him in the morning. They held me all night there.

Q Didn't you tell Detective McCaffrey you were in headquarters all night? A Yes, sir.

Q Didn't you tell Detective McCaffrey ^{that you were} on your way home with a ~~that the~~ bundle of clothes at the time the fire broke out? A No.

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Q That you knew nothing about it? A No, sir.

Q Didn't Detective McCaffrey come to your home and bring your wife down and didn't your wife say you hadn't been home?

MR. JOSEPH: I object to that. There is no such testimony on the part of McCaffrey. As a matter of fact he said he didn't go to his house. If you want to read the testimony -

MR. WELLES: I cannot sit here and have the testimony challenged by somebody who really has no recollection of what the testimony is. Detective McCaffrey did go to this man's home and he was not permitted to testify as to what his wife said because of the objection by this defendant.

THE COURT: I will allow him to answer.

Q Didn't the detective tell you your wife said you hadn't been home? A I didn't see my wife that night.

Q Did you tell the Fire Marshal and the detective that you had gone to your home and knew nothing about this fire? "Yes", or "no", sir. A (No answer).

Q "Yes", or "no", didn't you tell the detectives and the fire marshal that you had gone to your home and knew nothing about this fire? A I was thinking to go home and I didn't want to go home.

Q You were what? A Yes, that is what I told them.

Q Didn't you tell the detective that you had taken some

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clothes home to your wife, didn't you? A No, sir.

Q Before the boys, before the witnesses were brought to headquarters, didn't you say that you had taken these clothes home to your wife? A No, sir.

Q And then didn't the detectives say he had just been up to your wife's house and your wife said you hadn't been home? A I seen only the detective, he was coming down and he was there bothering me.
~~two or three~~

Q Didn't he tell you where he had been to your wife's house? A No, sir.

Q And your wife said you hadn't been home since that morning? A I do not know what my wife said.

Q Didn't McCaffrey tell you ^{what} /this was, what your wife said? A He told me that.

Q And then you said, "I went up to Goldner's and I left the clothes with Harry Gordon, the man who was here yesterday?"
A Gordon?

Q So you lied to the detective? A I didn't lie at all.

MR. JOSEPH: I object to that.

THE COURT: He has answered.

Q You deliberately told him something that was not true, didn't you? A I told him the truth - give me a chance. I will tell you.

Q You told the detective you ~~didn't~~ had been to your home?

MR. JOSEPH: Your Honor, the District Attorney is not conducting -

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MR. WELLER: I submit I am conducting the case.

MR. JOSEPH: You are not used to have anybody stop you, but you are going to be stopped today.

MR. WELLER: I am used to being treated courtesly and not treated like you are treating me -

THE COURT: Let us proceed courtesly on both sides.

BY MR. WELLER:

Q Now, as a matter of fact, you claim that Detective McCaffrey beat you up and hurt you? A Certainly.

Q You claim he hit you on the head? A Yes, sir.

Q And where else did he hit you? A He took me down by my hands and two sides he held me so strong -

Q Where did he hit you? A He stepped on my leg; he gave me a smash in my face.

Q Did the blood come out? A No blood came out.

Q Did the blood come on your face, yes or no? A No, no blood was coming out; I was feeling very bad; I left a receipt there for threemonths in the Detective Bureau. They let me down in the basement so I go to a watercloset; I was feeling so badly I could not stand on my legs.

Q Was there any mark on your face or body that you claim Detective McCaffrey made, "Yes", or "no". A At the time he didn't blood me.

Q Was there any mark at the time on your foot? A He stepped on my leg, marked I have a pair of shoes he put the tops on the front.

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Q Was there any mark on your body where he hit you? A He didn't kill me; I could not say he killed me.

Q Was any marks on your body? A He smashed me in the face and gave me a lick on my head.

Q You were taken to the police court next morning, were you not? A Not police court, they took me up to the Marshal's office, City Hall.

Q You were later taken before the Judge, the Magistrate's court, taken before the Magistrate, were you not? A That was Friday.

Q Answer my question, sir? A You don't ask me to the point. Pardon me. You don't ask me to the point the time when they took me up in the headquarters of the Fire Department.

MR. JOSEPH: Wait a moment.

Q You were taken before the Judge sitting on the bench, the Magistrate's court? A Yes, sir.

Q Did you make any complaint to the Judge that Detective McCaffrey who arrested you and assaulted you? A They didn't give me a chance.

Q Did you say anything to anybody about it? A No, sir.

Q Did you go to a hospital or have a doctor? A I didn't have a doctor.

Q Well, now, your wife was brought to Headquarters, was she not? A I do not know; they put me in the closet twice.

Q Did you see your wife? A No, sir.

Q Listen; didn't you see your wife in Fire Headquarters?

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A No, sir.

Q In the Fire Marshal's office? A No, sir.

Q Didn't you see your wife - A No, they put me in a closet; I do not know what they did there.

Q You did go to the watercloset while you were there, yes or no, you went to the watercloset? A I was down once in a basement.

Q And you took some matches out of your pocket and threw them down the trap? A Yes, I had some matches; I was very excited.

Q And you threw the matches down the watercloset? A I was very excited and I had the matches and I tore the pieces off them.

Q And the Fire Marshal went down there and dug them out with his hands? A I do not know.

Q He showed them to you? A I throwed them around on the floor.

Q You say you threw them on the floor? A Yes, sir.

Q Didn't you throw them down the toilet? A I didn't throw them in the watercloset; I threw them in all the places.

Q Then you pulled the chain? A I didn't pull no chain.
boys

Q Now, the ~~place~~ when you left your place that night told you that your place was on fire? A I didn't see any boys, no boys told me.

Q Didn't the boys call to you that your place was on fire and call to you to come back? A No, sir.

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Q Didn't the boys grab you by the arm and bring you back there? A They grabbed me by the arms, when I opened the store and when I ran out from the store when the fire was there already.

Q The boys grabbed you? A I do not know what boys grabbed me; they were on me like flies.

(Last four questions and answers read by the stenographer, at the direction of the Court.)

MR. JOSEPH: That was after the fire.

MR. WELLER: I must object to the manner of comment. It is not only improper but untrue.

THE COURT: We will have no comment. Mr

MR. JOSEPH: I am willing to stake my reputation for telling the truth against Mr. Weller's and I feel sure I would not come out very much the worse.

THE COURT: Proceed, gentlemen.

Q Now, these clothes are yours, aren't they? A Yes, sir.

Q And all these three suits, the brown suit, the blue suit - now, are these new suits? A No, sir.

Q Well, they are good suits? A Well, they are not so good, they are all four years already.

Q Are these the suits you wore? A That is suits -

Q That is, they fit you? A Why certainly.

Q Did you have any other suits of yours there in the place?

A There were two other suits.

Q That you left in the place? A Yes, sir.

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Q Were they as good as these or better? A Much better.

Q So you left only good clothes in there and came out -

A (Interrupting) I didn't know there was going to be a fire; there was a black suit which I could not wear and I had one light suit on me.

Q Now, you say there were firecrackers being shot off?

A Yes, sir.

Q You don't know that firecrackers could not be bought in the city that day? A I don't know where they got them; I know they took firecrackers and put matches to them and threw them in the store.

Q How many did you see thrown in the store? A I could not remember how many.

Q Were you not afraid ^{of} ~~that~~ the firecrackers when they came in your store? A I chased them away a couple of times.

Q Did you have them arrested? A I could not.

Q Tell any police officer on the block? A I didn't have the time to look for an officer.

Q How many boys did you chase away? A I could not remember how many. There was many of them.

Q How many? A I could not say how many.

Q How many times did you chase them away? A About three times.

Q What did the boys do with the firecrackers - you say they lit a match like that? A Yes, sir.

Q Took a firecracker and threw it in your place? A Yes.

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Q Where did the firecrackers fall in your place? A I don't know; there was a man by the name of Meany there.

Q Where did the firecrackers fall down? A I didn't look.

Q What did you do when you saw the firecrackers come sizzling in your place? A After I heard them explode -

Q How many times did they explode in your place? A I could not say.

Q Did they make any fire? A Once you know they stopped on a rack.

Q What rack? A A rack which was laid on the floor and I saw that and I stopped that off from the rack.

Q Was Meany there at that time? A Yes, sir.

Q He saw the firecracker explode on the rack? A Yes they caught on his eye, too - he didn't see that time.

Q How many firecrackers came inside of the door? A I do not know; I didn't count them over.

Q One? A I could not tell you.

Q Two? A I didn't count them over.

Q A dozen? A I didn't count them over.

Q It didn't make such an impression on you - you don't even remember? A I had my work to do. After I chased them away I went to my work.

Q You claim this fire was caused by firecrackers? A I don't know what it was caused by.

Q Did anyone of the ~~three or four~~ ^{throw a} firecrackers before you went home? A Many.

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Q Did anyone throw a firecracker in your store before you went home? A Well, they chased down many before I left the store, the time I closed up. When they saw me outside they ran away.

Q Did anybody throw any in just as you went out of the door? A There was a couple of them.

Q Did you put them out? A I didn't see what place they were thrown in.

Q How do you know if you didn't see them thrown in? A After I ran right for them.

Q What time did you leave to go home? A Maybe five minutes after six or maybe ten minutes after six.

Q Did you say you left at five o'clock? A No, sir.

Q Did you say before the Fire Marshal you left before five o'clock?

MR. JOSEPH: I object to that.

THE COURT: Sustained.

Q Didn't you have a clock right on your table on your shelves? A Yes, sir.

Q What time did that clock say you went home? A About five minutes after six that I left the store to close it.

Q How long were you standing on the corner before the fire? A About twenty minutes, maybe about twenty or twenty-five. I could not say exactly.

Q You were waiting on the corner twenty or twenty-five minutes? A Yes, sir.

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Q You say you saw some boys throw firecrackers in your place before you went out? A Yes, sir.

Q Did you go back there and put the firecrackers out? A I didn't see at this time any fire.

Q Did you take any precaution to put out the firecrackers? A I didn't see any fire.

Q Did you look to see if there was any fire about? A I looked; I didn't see anything.

Q Did you see any fire? A No, sir.

Q Did you go back to see any part of the partition? A I didn't go back; my sister has to go home.

Q It was more important to see your sister home than to find out there was a fire in the back part of the partition? A Something fell down and there just comes a fire.

Q Where did the firecrackers fall? A I could not say.

Q Didn't you look when you heard the sizzling of the firecracker, didn't you go and look? A I could not look in that time.

Q You had to take your sister home, is that the idea? A I took my sister home, I had to take my sister home; I see there is nothing - something extra damaged; I closed the door and I went away.

Q And you went home and stood on the corner for twenty or twenty-five minutes? A Yes, sir.

Q Well, then, you saw the fire engines come? A I didn't see any fire engines.

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Q Where were you going at this time? A I was down in the corner when I seen Mrs. Blank running. She said Mr. Goodmark, run quick there is a fire in the house. I listened to that lady.

Q My question was where were you going; what were you standing on the corner for so long? A I was waiting for a customer.

Q Why didn't you wait in the store? A I had closed the store.

Q You were not afraid the boys would throw firecrackers in there while you were gone? A I was not afraid of that.

Q Now, did you lock the transom before you went home?
A I don't remember that.

Q You don't know when the boys were throwing firecrackers whether or not you locked the transom? A I don't remember - I generally leave it open.

Q Don't you know that when the firemen came this transom was locked and the windows were all locked? A I don't remember that.

Q When you went back there to open up the door for the boys did you see the transom was open or closed? A I didn't notice it; I was very much excited when I opened the door. Just as I seen it I was trying my best to stop the fire.

Q You knew where the fire-engine house was, down the street? A Yes, sir.

Q You knew the fire engine house was between Third and

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Second avenue? A Yes, sir.

Q Just one block away from you? A That is all, yes, a block and a half.

Q It is just the other side of Third avenue? A The middle of Second avenue.

Q Call it a block and a half? A Call it as you wish.

Q The fire engines were not there when you were at the fire, when you left the store? A When I opened the store I didn't see the fire engines.

Q When you left the store you went around by Lexington avenue? A No, I was waiting just when the firemen came.

Q You waited for the fire engines to come? A When they came they chased away everybody.

Q Didn't you go in the saloon and leave a package? and When the firemen were coming I left that package in the saloon.

Q Didn't you leave a package there before the fire engines came? A No, sir.

Q Didn't you go back and get the package? A No, sir.

Q You walked up Lexington avenue to Gordon's place?
A When the fire was through, the crowd was very big, I could not come up to that store any more.

Q Did you stay there or go to Gordon's? A I stayed there for fifteen minutes after I went down in the saloon I took that package, I was thinking to go home, I went down to Gordon's; I told Gordon shall he mind that package and I went to the store again.

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Q You say you stood there watching the fire for fifteen minutes? A Yes, sir.

Q Did you inform any police officer, or fire marshal that you were the proprietor of that store, did you? A No, sir.

Q Then you stayed after fifteen minutes? A Yes, sir.

Q The fire didn't last fifteen minutes, did it? The fire only lasted five minutes? A I don't know how long it took.

Q So then after you waited there fifteen minutes you went up to Harry Gordon's place? A Yes, sir.

Q You walked up Lexington avenue? A Yes, sir.

Q Where does he live? A I don't know where he lives. He has a store at Seventy-seventh street.

MR. WELLER: If your Honor please, the question is how long did the fire last.

Until

MR. JOSEPH: ~~Only~~ the fire was out. See page 55 of the minutes.

THE COURT: Proceed.

BY MR. WELLER:

Q Now, you went up to Gordon's place? A Yes, sir.

Q Where is Gordon's store? A Seventy-seventh street, corner of Lexington avenue.

Q Then from Gordon's place you went back to the fire? A Yes, sir.

Q Then you gave yourself up to the fire marshal? A No.

Q Didn't you? A No.

Q Didn't you walk into the store and tell the fire marshal

you were the boss? A I was standing down by the stoop; there was a man by the name of Rosengarten, one by the name of Kline -

Q Didn't you walk in and give yourself up? A I didn't have a chance. The crowd was very big.

Q Didn't you go in and tell the fire marshal you were the boss of that premises?

MR. JOSEPH: I object to the form of the question.

THE COURT: The question pending is one the witness can answer.

THE WITNESS: No, sir.

Q Did you tell them you were the proprietor or owner of the premises and this was your store? A No, sir, I could not come in after the fire marshal came out and said: "Goldmark" "Here, here, I said, "here , I am here. He said, "Come right in".

Q The fire marshal invited you into your own store, is that right? A He called me in, and I went in; in the store he said is you Jacob Goodmark? I said yes.

Q You saw Connolly? A Just as I walked in the boys started to walk in, too.

Q You heard what Connolly said? A He asked the boys -

Q You heard what Connolly said, didn't you? A I heard the boys. He asked the boys, do you know anything about that fire? they said, yes, I knew it. They asked them the names and they took me right up in the automobile, come on Goodmark, sit down and come right up into the marshal's office. That was in Sixty-sixth street, the Headquarters.

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Q You heard the fire marshal ask them if they knew anything about it and they said they did? A Yes, sir.

Q They said they did?

MR. JOSEPH: I object to this entire line of ~~cross~~ examination which is highly unfair. He will say to this man, "Didn't he do so and so", something not in the testimony and this man who is not an intelligent man, he leads him on into positions he knows does not exist.

THE COURT: Objection overruled.

Exception.

Q And didn't you hear the young man calmly say that he had seen you leave the premises while the fire was burning? A I didn't hear that question.

Q And then you were all taken up in the automobile to Fire Headquarters? A Yes, sir, Fire Headquarters.

Q Now as a matter of fact ~~and~~ it was not Mrs. Blank that first called your attention to the fire in your place; it was the boys, wasn't it? Mrs. Blank called your attention to it after the boys had spoken to you? A Mrs Blank she was the first, she told me of the fire in the house.

Q When the boys called your attention to it? A When I opened the store and went out the boys fell down on me.

MR. WELLER: That is all.

MR. JOSEPH: That is all.

THE WITNESS: I want one question.

MR. WELLER: I have no objection to his making any

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statement if he wants.

MR. JOSEPH: Maybe I will allow him and maybe not.

I will consult with him.

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

(I reside at 1225 Madison Avenue).

DIRECT EXAMINATION BY MR. JOSEPH:

Q Mr. Dwyer, do you know the defendant Goodmark? A Yes sir.

Q How long have you known him? A Since February, 1912, about three years and seven months.

Q You are in charge of the building in which he lives? A I am, sir.

Q And do you know people that know him around the neighborhood?

A Yes sir.

Q Do you ~~xxxx~~ own the building? A Mrs. Dwyer, my wife owns it.

Q And do you know what this defendant's general reputation is for honesty and truthfulness? A I found him during that time an honest and truthful man, he paid his debts as they came along, just as any other good man does.

Q Did he have his rent on his room paid right ---

MR. WELLER: I make no question about his having paid his rent. There is no question. He could not have stayed there if he did not pay his rent.

Q What was the rent, Mr. Dwyer? A \$17 for his room.

MRS. ANNA M. DWYER, called as a witness on behalf of the defendant, first being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. JOSEPH:

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Q Mrs. Dwyer, you know the defendant in this case, don't you? A I do.

Q How long have you known him? A Since February, 1912, a little over two and a half years ago.

Q Do you know his general reputation for honesty, ^{and} truth telling in the community in which he lives? A I do.

Q What is it? A I found him to be a most industrious, hard working man, thoroughly conscientious and above all very honest, and I have heard him spoken of by others with whom he has dealt for the three years anyway.

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

(I reside at 174 East 77th Street).

DIRECT EXAMINATION BY MR. JOSEPH:

Q Mr. Bough, do you remember the 5th day of July of this year?

A Yes sir.

Q You know Mr. Goodmark? A Yes sir.

Q You will have to talk so that the twelfth juror can hear you. Do you remember calling at his place of business on that day? A Yes sir.

Q That was Monday, the 5th of July. They were celebrating the 4th on that day? A Yes sir.

Q And what did you come to see him about that afternoon?

A A suit of clothes which I was buying of him.

Q What do you mean you were buying of him? A Yes sir, I bought them on time, and I owed him a balance.

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Q What did you tell him that day? A I went around --

MR. WELLER: I object.

THE COURT: He may state what the transaction was.

Q What was the transaction?

BY THE COURT:

Q When did you last see him on that day? A Mr. Goodmark?

Q When did you see Mr. Goodmark on July 5th? A About half past four.

BY MR. JOSEPH:

Q And what was the transaction you had with him? A I went to tell him I would be back about six or half past six o'clock to pay the balance of the money on the suit.

BY MR. WELLER:

Q What time? A About six or half past six I would be back.

Q Did you tell him that at half past four? A Yes sir.

BY MR. JOSEPH:

Q You didn't get back? A No sir, I did not get back.

Q You didn't get the money, so you didn't get back? A No sir.

MR. JOSEPH: Your witness.

MR. WELLER: No questions.

JOHN MEANY, called as a witness on behalf of the defendant, having been first duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. JOSEPH:

Q Where do you live? A 166 East 87th Street.

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Q Mr. Meany, you know the defendant, Mr. Goodmark? A Yes sir.

Q You have known him for some time? A Yes sir; about six or eight months I believe.

BY MR. WELLER:

Q How long? A Six or eight months.

BY MR. JOSEPH:

Q Do you remember coming around to his store on the 5th of July, some time in the afternoon? A Yes sir.

Q Now, did you see the boys playing around there? A Yes sir, - not when I first came there.

THE COURT: Keep your voice up. xmx

THE WITNESS: When I first came there there were no boys there. I went in and had a talk with Mr. Goodmark.

THE COURT: A little louder.

THE WITNESS: I was talking with Mr. Goodmark; I was quizzing him for working on a holiday.

MR. JOSEPH: I cannot hear that.

THE WITNESS: I was talking to Mr. Goodmark and I was quizzing him for working on a holiday. He had a table there. I was standing by talking and his wife was at the other end and I was at this end. He said to me, "I am in a bad way to be; if I my man had come in I would be in Ashbury Park."

MR. JOSEPH: Can't you speak up.

THE COURT: If you will have the witness to raise your

voice, Mr. Meany, so that the twelve who can hear you, we will

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be very much obliged.

THE WITNESS: As I said, I was quizzing him about working on the 4th of July -- it was on the 5th, was the celebration-- he said to me in return, "If my man had come in to me to work this morning, I would be in Ashbury Park." So we were talking a little while after that; then a crowd of boys came with firecrackers outside the door and they slung one in and nearly hit his wife -- I guess she was his wife -- in the face. When I saw that I didn't see where it landed -- I went out to see if the boys would go away. They would not go away. He came over and wanted them to go away. They would not go away. I said to myself then it is none of my business.

BY THE COURT:

Q About what hour of the day was it when the firecracker came in? A It must have been between half past two and three o'clock.

Q And whereabouts in the store did the firecracker fall?

A It came right in the door, passed in his work shop where he was working.

Q By "work shop" what part of the place do you mean? A The partition and the back where he worked.

Q But did it fall in the back part? A I didn't wait to see what became of it. At the time I went out to see if they wouldn't stop, I saw ^{the} two boys who were here, and I wanted them to go away.

Q You recognize them? A Yes. So the other boys were going

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around and one went in the sash of the window, and put one ~~XXXXX~~ in there and set it off. He went up in the railing.

Q What window are you talking about? A THE show window, the front window.

Q And that window was open? A No sir, it is the show window.

Q How do you mean "put it in the sash"? A He found a hole in the sash and put a firecracker on that side.

Q In other words, there was a hole in the sash? A Yes sir.

Q And he put a firecracker in the hole? A Yes sir. He inserted it into that hole.

BY MR. JOSEPH:

Q Just explain, Mr. Meany, more in detail for the benefit of the twelfth juror.

THE COURT: We don't understand you. Talk up.

THE WITNESS: I am saying they saw a hole in the sash of the large window, and one boy went up there and he inserted a cracker into that and set it off.

BY THE COURT:

Q Inside or outside? A Outside of the store.

Q Now, was that before or after the firecracker had been thrown inside? A After.

Q About how long after? A It could not be more than ten minutes I believe, after.

Q And that was about what time of day? A I presume half-past two to three o'clock.

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Q In the afternoon? A In the afternoon, yes sir.

BY MR. JOSEPH:

Q Now, Mr. Meany, let us get this a little more clearly; you say that a boy climbed up on the railing? A Yes sir.

Q And put a cracker in this sash? A Yes sir.

Q Now, can you point out in that picture just exactly what you mean? (Handing photograph, People's Exhibit 4, to witness).

A (After examining) The store window comes close to the place upstairs. The store windows, there is a railing where the people lives upstairs in an apartment; he climbed on that railing and put it right into the little hole.

BY THE COURT:

Q In other words, there is a step to the house? A Yes sir.

Q Leading up to the front door and that front door is alongside of Goodmark's store, and they went up on the railing of that stoop and put the firecracker in a hole in the sash, in the plate glass window in front of Goodmark's store; is that what you mean? A That is correct, your Honor.

BY MR. JOSEPH:

Q Now, Mr. Meany, did you go out and chase the boys away?

A I went out to advise them to go away and they paid no attention to me. He also went out and they treated him as a joke.

BY MR. WELLER:

Q Treated who as a joke? A Mr. Goodmark.

BY MR. JOSEPH:

Q They didn't pay much attention to what he said? A No. I

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went away after a little while, and I do not know what happened.

CROSS-EXAMINATION BY MR. WELLER:

Q What is your business, Mr. Neany? A My business is that of a tailor.

Q Whereabouts is your tailor store? A Well, I am out of business for the last fourteen months.

Q Been out of work for fourteen months? A Yes sir.

Q Speak up. We have all to hear you. This is important.

A I am not afraid to tell the truth.

Q How do you support yourself, Mr. Neany? A How do I support myself?

Q Yes. A My children support me.

Q Live on your children? A I do not; I have money in the bank, sir. I don't have to live with my children^{xx} - they don't want me to work either.

Q Now, how long have you known Goodmark? A I have said eight months, or thereabouts.

Q A good friend of yours? A Not necessarily good friends.

Q How came you to go around there to visit on the 5th of July? A The reason is I was looking around to see if I could locate myself in the store -- that was my object.

Q You wanted to take part of the store? A No, I only went to see if it was a desirable place.

Q Sir? A I was looking for a desirable place.

Q And you thought Goodmark's was a desirable place? A Not exactly, I didn't.

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Q How is that? A I didn't mean that his place was desirable -- no sir.

Q How long were you in the shop? A I guess about half an hour.

Q This was a holiday afternoon? A Yes sir.

Q You had no other place to go except to a tailor shop?

A Plenty -- it is my privilege -- plenty of places.

Q That is right. Now, did you consider it dangerous to have a firecracker put in the door? A Well, I will tell you, yes sir.

Q Why didn't you notify the police about it? A Well, if I could have seen a policeman I certainly would have called him -- it was not my business.

Q You say a firecracker was thrown into the work room between two and two thirty that day? A Yes sir, somewhere thereabouts. If I had thought anything was going to be back of it I would have kept the time properly -- somewhere in that neighborhood.

Q You say you saw firecrackers thrown into the workmen's room about 2:30? A Somewhere in that neighborhood; I was having dinner and I took a walk out.

Q What part of the workmen's room did it land in? A Right in opposite the door. When I saw it come so near the lady I walked out and wanted them to go away.

Q Did it go over the partition? A In through the doorway because there is no door in the place, I presume it was open between the shop and the work room.

Q Did it go off and make a noise? A I do not know, to tell

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the truth I walked right away.

Q You say you saw one of these young men who was in court here? A Yes sir.

Q How many days have you been down here on this case? A Since it started.

Q Every day? A Every day.

Q And you say one man in court you say you saw shooting off firecrackers? A They were in the crowd. I didn't say that.

Q You be here tomorrow morning, Mr. Meany. A All right, sir.

MR. WELLER: May I suspend the examination of this witness until tomorrow morning, your Honor.

THE COURT: Yes.

MR. WELLER: (Addressing witness) Be here tomorrow morning, Mr. Meany.

THE WITNESS: All right, sir.

SOLOMON LEVY, called as a witness on behalf of the Defendant, being duly sworn, testified as follows:

(I reside at 173 East 75th Street).

DIRECT EXAMINATION BY MR. JOSEPH:

Q Mr. Levy, you live on the same block that Goodmark has his store? A Yes sir.

Q Living private? A Yes sir.

Q Do you remember going to Goodmark's store on the 5th of July? A Yes sir.

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Q To get a sample of light cloth? A Yes sir, that is the sample? (showing sample).

Q Just tell the story.

BY THE COURT:

Q In the first place, tell us when it was you went there?

A The 5th of July.

Q About what hour of the day? A Between 11 and 12.

Q In the morning? A Yes sir.

BY MR. JOSEPH:

Q Tell us what happened in his place.

MR. WELLS: I object to what happened.

THE COURT: Well, I will hear what he has to say.

THE WITNESS: I went in by Mr. Goodmark. He was giving me a few samples; I had a special suit to make, black goods. So he said, "Mr. Levy, I am too busy; my man did not come to work. You go home. At dinner time when I go home I will bring you the sample." The workingman just came in. When the workingman came in he says, "What is the matter, you come too late to work?" He said, "I am not here to work for to-day. I don't want to work on the 4th of July"; so I went home. When I went home -- I only live three or four hours away -- when I went homethen in a few minutes his workman went home. I was standing by the door. I said, "Why don't you work to-day?" He said --

THE COURT: I don't see how this is competent.

MR. JOSEPH: Except he is trying to throw a great hurrah.

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THE COURT: I misunderstood the purpose of the testimony. I don't think it is of any materiality. I will be very frank with you. I thought you purposed to show some incident at that hour similar to the one testified to by Mr. Neany.

MR. JOSEPH: I was showing he did not have any motive.

THE COURT: You interrogate him by question and answer.

Q Now, Mr. Levy, you afterwards saw the workman Harry Goldner?

A Yes sir.

Q And did you talk to him? A Yes sir.

Q What did he say to you? A He didn't want to work today.

MR. JOSEPH: That is all.

BY MR. WELLER:

Q That is Harry Goldner. (Pointing to Harry Goldner who has been brought into the court room). A I don't know his name.

Q What did you say he said that day? A I went into the store and I was two minutes in the store.

MR. JOSEPH: I will consent to have that stricken out if it is for the purpose of Harry Goldner hearing his testimony. I object if he is here to identify him. Take Harry Goldner around. (Referring to the witness box).

MR. WELLER: Do you object to his saying it in his presence?

MR. JOSEPH: I absolutely do object.

Q That is Goldner, he said he didn't want to work that day?

A He didn't care to work on the 4th of July.

Q Well, who is the boss of that establishment, Harry? A On

a holiday if he don't want to work the boss could not force him.

Q So you came down here to testify that there was plenty of work all over the store? A He had plenty of work; I didn't say so.

Q There were a hundred suits there? A I don't know that.

Q Were there not a hundred suits of clothes? A I don't know how many.

Q Did you see a hundred suits of clothes there? A I didn't take notice how many there were.

Q There was plenty of work there? A I don't know that; I know Mr. Goodmark.

Q You don't know ~~how many~~ A I don't know how many suits he had; I could not tell you.

HESTER BREIMAN, called as a witness on behalf of the defendant, first being duly sworn, testified through the official interpreter (Mr. Fischer), as follows:

(I reside at 626 East 9th Street).

DIRECT EXAMINATION BY MR. JOSEPH:

Q Now, Mrs. Breiman, you are a married woman, aren't you?

A Yes sir.

Q You are living with your husband? A Yes sir.

Q And Mr. Goodmark, the defendant, is your brother? A Yes sir.

Q You remember the 5th of July was a holiday? A Yes sir.

Q Did you go down there, up there, to see your brother that

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day? A Sure.

Q Just tell us what you did that day? A I came to my brother on the 5th day of July, at 4 o'clock in the afternoon; I waited there because my sister-in-law said that he would be in the house at 6 o'clock; I could not wait, so I waited there until half-past four.

Q Half past five? A Half past five.

THE INTERPRETER: She said half past four.

Q Then what did you do? A Then I went down to the store with my brother; it was half past five.

Q Then what did you do? A I sat there until six o'clock in the store with my brother. Then he told me he was going tomorrow to Ashbury Park. I said goodbye to him, and he brought me to the Lexington Avenue car.

Q Was she there when he locked the store? A Yes sir. He locked the store and took me to the car.

Q Did you notice anything wrong in the store when you left about six o'clock? A I saw that the boys were playing outside with firecrackers. He always went out and chased them away.

Q Now, was anything wrong at the store when he left? A I didn't see anything. He only told me that all day he had been chasing the boys with their firecrackers.

Q And he took you to Lexington Avenue and put you on the car?

A Yes sir, and where he went I don't know.

Q Did she walk with her brother to the car? A Yes sir. He

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put me on the car because I did not know what car to take.

Q On the way to the car did any one grab him by the shoulder and tell him there was a fire in the store? A I didn't see anybody.

MR. JOSEPH: Your witness.

CROSS-EXAMINATION BY MR. WELLER:

Q Do you go up to your brother's store very frequently?

A N't very often because I have three very small children; I cannot go very often.

Q You got there about five o'clock on the day in question?

MR. JOSEPH: I object. She did not say that.

THE COURT: I will allow it.

MR. JOSEPH: I object. She didn't say anything of the kind.

Q Speak in English. You understand me. A I can no speak English. Half-past five I went out of the house and went to my brother's store.

Q Half past five, where is your house? A I was in the store until six o'clock. How long it took after that I don't know.

Q Now, where do you live? A 626 Ninth Street.

Q And you got up there about half past five? ~~xxxxxxxixxxx~~

MR. JOSEPH: Your Honor, that is the lowest form of cross-examination.

THE COURT: That is an improper remark.

MR. JOSEPH: I object, that he is assuming a state of ~~xxxxxxxixxxx~~
was ~~xxxxxxxixxxx~~ to.

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THE COURT: Objection overruled.

MR. JOSEPH: Exception.

THE WITNESS: I left the store at six o'clock; it might have been two minutes more or less.

Q My question was, what time did she get up there. I have asked three times and I am unable to find out, and I am accused of being unfair. A It was half past five when I went out to his house, and six o'clock when I left the store.

BY THE COURT:

Q When you left the store it was six o'clock? A Yes sir.

BY MR. WELLER:

Q You first went to his house in 78th Street? A Yes sir.

Q Then you went down to his store, is that right? A Yes sir.

Q You got to the store about six o'clock? A It was not six o'clock, because when I left the house it was half-past five. How long it took me from the house to the store I don't know.

Q Well, is there a clock in the tailor shop? A I didn't look at the clock because I was hurrying home to see the children; I have two children at home.

Q Now, where did you talk with your brother, in the front part of the store or the rear part of the store? A I was also in the rear, but I talked with him in the front part of the store.

Q What did you do in the rear part of the store? A I only went in to ~~change~~ diaper the baby inside.

Q Was he working in the rear part of the store? A No.

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Q Did he do any work while you were there that afternoon?

A While I was there I didn't see him do any work.

Q And how long were you in the rear part of the store?

A I don't know how long, it may have been 15, 10 minutes or 6 minutes; I know I left the store at six o'clock.

Q It didn't take you 15 minutes to put a diaper on the baby? A No.

Q Well, how long were you in the rear part of the store?

A The diaper pin only busted; I had to put that right.

Q How long were you in the rear part of the store? A Maybe two and a half minutes.

Q Now, the rest of the time you sat out in the front part in the door where the breeze was, is that right? A I was in the front, not in the rear.

Q And your brother, where was he? A He was sitting with me and spending his time with me.

Q Sitting down talking? A Yes sir.

Q Did he go into the rear part of the store at any time?

A No, no ways.

Q Before he went out of the door before you left, did he at any time go in the rear part of the store? A No, I didn't see that.

Q Did you smell any gasoline around there? A No sir.

Q Who went out of the door first, you or he? A I went out first and then he went out and locked the door.

Q What time was it when you left? A I went towards the clock,

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I looked at the clock. It was just six o'clock.

Q Did any boys throw any firecrackers in that store while you were there? A I saw boys playing with firecrackers; I ~~was~~ saw boys throw firecrackers, and he always went out and chased them away.

MR. WELLS: I move to strike that out, your Honor.

THE COURT: Strike it out.

Q Ask her if she saw boys throw firecrackers in the store?

A I always saw them throw the firecrackers, and he came out and chased them.

Q Did you see them throw any firecrackers in the store?

A Sure.

Q How many firecrackers came in the store lighted? A Several, I cannot say how many.

Q Count them? A I could see it by the door.

Q Inside of the door or outside? A Inside; how many I don't know. I didn't count them.

Q Didn't you say you were sitting by the door, yes or no, Mr. Fischer. A Yes sir.

Q And you say that, although you were sitting by the door, several firecrackers exploded in front of you by the door? A I sat away from the door and past me the firecrackers were thrown in.

Q How far away from the door did you sit, you said a minute ago you sat in the door? *

THE INTERPRETER: Witness indicates by pointing to the right

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hand side, about two feet.

Q Are you a married woman? A Yes sir.

Q Got a husband? A Yes sir.

Q What is his business? A He is an operator on furs.

Q Did you ever have a fire in your house? A No.

Q Has your husband ever had a fire? A No.

Q Didn't he use to be a tin roofer? A No.

MR. WELLER: All right.

MR. JOSEPH: Your Honor, that is the defendant's case.

MR. WELLER: Your Honor, I shall have to put one more witness on anyway, and I should like to have the opportunity to cross-examine Mr. Meany when those boys are here.

FRANCIS COOKE, called in rebuttal by the People, first being duly sworn, testified as follows:

(I reside at 155 East 75th Street).

BY MR. WELLER:

Q Do you live in the same house where this tailor's shop is?

A Yes sir.

Q Do you remember the day of the fire on July 5th of this year, ~~about what time~~ did the fire break out, do you remember, about half past six in the evening? A I don't remember.

MR. JOSEPH: I object. That is very important.

Q About what time, what is your best recollection? A Just about that time.

Q But you could not be positive? A No.

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Q The point is this, at the time the fire broke out, where were you? A Upstairs.

MR. JOSEPH: I object.

BY THE COURT:

Q At the time she became aware there was a fire, where were you? A Upstairs.

MR. JOSEPH: I object on the ground as not competent rebuttal; should have been on the direct case.

THE COURT: I will receive it.

Q Where were you at the time you knew there was a fire in the building? A In my apartment.

Q In what floor? A Second floor.

Q Two flights up? A Yes sir, in the front.

BY MR. WELLER:

Q Front or rear? A Front.

Q You live with your family there? A Y^es sir.

Q And you have rooms there? A Y^es sir.

Q Sleep there? A Yes sir.

Q Cook and eat there? A Y^es sir.

BY MR. JOSEPH:

Q You knew Goldmark, didn't you? A Yes sir.

Q H^e has a pretty good reputation in the neighborhood? A I don't know anything about it. I know he is a neighbor, but no more than that I know nothing about it.

MR. JOSEPH: I move to strike out the testimony. I don't

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think it is proper rebuttal.

THE COURT: I will let it stay in. It has not done you any harm.

MR. JOSEPH: Exception.

MR. WELLER: Your Honor, there is another witness I would like to have.

THE COURT: The probability is this case can go to the jury at an early hour tomorrow.

(Counsel held a consultation with the Court).

THE COURT: You are admonished not to converse amongst yourselves on any subject connected with this trial, form or express no opinion thereon until the same is submitted to you.

The formal notice in the Law Journal will possibly be for half-past ten tomorrow. I will ask you to be in your seats at a quarter past ten.

(Whereupon at 3:55 P.M., an adjournment was taken until A.M.
10:15/September 28, 1915)

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New York, September 28, 1915.

Court met pursuant to adjournment.

Appearances same as before.

J O H N M E A N Y (recalled).

MR. WELLER: Bring in those boys.

(Joseph Connolly, Thomas Conlon and Thomas McCarthy were brought into the court room).

BY MR. WELLER:

Q. You said yesterday that you saw one of the boys? A Two.

Q. That testified here throwing fire crackers? A I have not said that I saw them throwing fire crackers, but they were in the crowd.

Q. I cannot hear you. A I did not say that I saw them throwing fire crackers. I said they were in the crowd.

MR. JOSEPH: I object to having these boys present while the witness is giving his testimony.

THE COURT: Now, they are here in the court room.

Q. Which boy did you see in the crowd that were throwing fire crackers? A Both of them.

Q. Which of them? Come down here and show us, which of the three of them? A Not the tall boy (John Connolly). I have not seen him.

Q. The large one, Joseph Connolly, you never saw him? A I never saw him.

MR. WELLER: Just step outside Connolly.

(Connolly did so).

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Q Now those two boys (indicating Conlon and McCarthy) Did you see them throw any fire crackers? A I had my back turned when that fire cracker was thrown in.

Q Do you know their names? A I do not, sir. They were in the crowd; I did identify them.

Q Did you ever see these boys before? A Not until then.

MR. WELLER: Step aside -- referring to Conlon and McCarthy).

BY THE COURT:

Q That is to say, you saw them for the first time when you say you saw them in a crowd, some of whom were throwing fire crackers? A Yes, sir.

BY MR. WELLER:

Q Now, after the fifth of July when was the next time you saw them? A I never saw them until I saw them here - after that.

Q Who pointed them out to you? A It was not necessary to point them out to me. I knew them by sight, and I advised them to go away, those two boys, and they kept laughing at me.

Q Well, you say that one of either of those boys had a lighted fire cracker? A I have not said that.

Q Will you say they had a lighted fire cracker in their hands? A No, I would not.

MR. WELLER: That is all.

BY MR. JOSEPH:

Q They were in the crowd of boys? A Yes, sir.

Q How many were in this crowd? A I could not tell you;

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there was quite a bunch there.

MR. JOSEPH: That is all.

THE COURT: Now, that is the case on both sides?

MR. JOSEPH: There is a Mr. Gitterman, the butcher.

MR. WELLER: Your Honor, I am not through yet.

THE COURT: I beg your pardon.

MR. JOSEPH: May, it please the Court, if Mr. Gitterman comes a little later, I suggest that he can be put on after Mr. Weller is through. If Mr. Gitterman is not here then, of course, I will have to do without him.

MR. WELLER: You rest?

MR. JOSEPH: Yes.

JOSEPH CONNOLLY (called in rebuttal), having previously been sworn, testifies as follows:

BY MR. WELLER:

Q Connolly, did you have any fire crackers in your hand that day? A No, sir.

Q You live at 75th Street and Third Avenue, you testified?
A 74th Street and 75th Street and Third Avenue.

Q And Mr. Gitterman, the butcher, you worked for him for how long? A About two years and nine months.

Q And do you live there in the same place still? A Right overhead.

Q Right over the butcher's store? A Yes, sir.

Q You see Mr. Gitterman every day? A See him every day now, yes, sir.

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BY MR. JOSEPH: Q Now, Thomas -- Joe -- do you still swear that you delivered eggs to Israelson every day? A No, not every day. If I did not deliver them there, I delivered orders to other places up there.

Q How often did you deliver eggs to Israelson? A A couple of times a week.

Q Now, is it not a fact, that it was only one day a week, you did that? A Not all the time.

Q Well, usually once a week? A Sometimes.

Q And it was not every day in the week that you went to Israelson's on 95th Street? A No, sir.

Q Only about one day a week and sometimes twice a week?
A Yes, sir.

BY MR. WELLER:

Q Did you have an egg route to deliver eggs for anybody else besides Israelson? A We did not have egg routes; we had routes for turkeys each night different. If a telephone call comes in to bring a package, a hurry call, I would be sent up with it.

THE COURT: That is all.

T H O M A S M c C A R T H Y, (called in rebuttal), having previously been sworn, testifies as follows:

BY MR. WELLER:

Q How long were you playing that afternoon in 75th Street, Thomas? A About two hours.

Q Did you have any fire crackers that day? A No, sir.

Q Any time during the day did you have fire crackers? A No.

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Q It was pretty hard to get fire crackers in New York that day?

MR. JOSEPH: Objected to.

THE COURT: Sustained.

Q Did you know of any place that you could buy fire crackers in that neighborhood?

MR. WELLER: I object.

THE COURT: I will allow it.

BY MR. JOSEPH:

Q Did you know of a boy whose father went to a picnic the day before? A No, sir.

Q You don't know who the boy was who went to a picnic the day before? A No, sir.

Q And whose father brought home some Japanese crackers? A No, sir.

Q You don't know that boy? A No, sir.

Q You are sure of that? A Yes, sir.

Q You did not talk to anybody about this case since yesterday? A No, sir.

THOMAS CONLON (called in rebuttal) having previously been sworn, testifies as follows:

BY MR. WELLER:

Q Sit down, Thomas. That day you had a headache you testified? A Yes, sir.

Q And how long were you sitting on that stoop opposite Goodmark's place? A An hour and a half.

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Q Did you have any fire crackers that day? A No, sir.

Q Did you see any boys there have any fire crackers? A
No, sir.

Q Was there any fire crackers in the street? A No, sir.

BY MR. JOSEPH:

Q Do you get headaches very often? A Sometimes.

Q Very often? A No, sir, not very often.

Q When you get headaches you get very bad headaches?

A Sometimes.

Q How often do you get these very bad headaches? A Once
every two or three months.

Q Is there any particular time when you get your headaches? A No, sir.

Q Do you know what causes those headaches? A No.

THE COURT: That is enough on that.

H A R R Y G O L D N E R, (called in rebuttal), having previously been sworn, testifies as follows:

BY MR. WELLER:

Q Goldner, you left the store about what time on the afternoon of the fifth of July? A Two o'clock.

Q Up to that time did you hear of any fire crackers been shot off in the street? A No, sir.

Q Did any boys throw any fire crackers in the store? A No, sir.

Q Now, in using benzene to clean coats, what did Goodmark use? A A piece of goods

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Q What kind of goods? A Any kind, black.

Q Did he have one clean rag or more than one? A One.

Q And where was that rag kept? A On the table.

Q Did he use rags and throw them in that box (indicating) with gasoline on when you were there? A No, sir.

BY MR. JOSEPH:

Q He always used one rag --

MR. WELLER: Just a moment.

BY MR. WELLER:

Q Do you know a tailor on that block, named Sam Levy, Solomon Levy? A Yes, sir.

Q And had you known him before the Fifth of July? A Yes, sir.

Q Now, on the fifth of July he came in the store that day while you were there? A No, sir.

Q Sir? A No, sir.

Q Did you have any conversation with him that day? A No, sir.

Q Did you at any time say to him that it was a holiday, and you did not want to work that day? A No, sir.

BY MR. JOSEPH:

Q Did he use one rag all the time for the whole three months you were there? A Not all the time. He used one rag; if that got lost he took another one.

Q That is, if he used a dark suit, use dark rags? A Yes, sir.

Q And if he used light clothes, he would use a light rag? A Yes, sir.

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Q Because when you use a cloth with benzene the stain comes on the cloth, and that cloth is dirty? A Yes, sir.

Q And when you get another suit you get another piece of cloth? A Yes, sir.

Q That is, you only use one piece of cloth for one suit? A Yes, sir.

Q You use a different piece of cloth for every suit? A Yes, sir.

MR. WELLER: Do you understand?

MR. JOSEPH: You can come right at him when I am through.

MR. WELLER: All right.

MR. JOSEPH: I have never seen this witness. He has been in the House of Detention.

Q Now, you know Sam Levy, the old man, the tailor on the block? A Yes, sir, Solomon Levy.

Q Now, do you remember him ever having come in for a sample of goods, he had a suit to make for an undertaker, a piece of black goods that he wanted to get; you remember that? A Yes, sir.

Q Now, wasn't that on the fifth of July? A No, sir.

Q When was that? A Another day; I don't remember what day.

Q But you do remember him coming in for a piece of goods? A Yes, sir.

Q Do you remember leaving the store on the fifth of July? A Yes, sir.

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Q Which way did you go? A At two o'clock.

Q Which way did you go home, towards Lexington Avenue or Third Avenue? A Toward Third Avenue.

Q You are sure you walked towards Third Avenue? A Yes, sir.

Q And Levy's store is towards Third Avenue? A Yes, sir.

Q And didn't you see Levy on the street when you went out? A Yes, sir.

Q You did see Levy on the street? A Yes, sir.

Q What did Levy say to you on the street? A He asked me if I got work.

Q But you had met him? A Yes, sir.

Q But you didn't see him in the store? A No, sir.

Q How did he come to ask you if you had no work? A Because he seen me going home. He asked me, "No work for you?" I said, "No."

Q Now, you are a tailor's helper, aren't you? A Yes, sir.

Q And what you do is, if there is a button off, or a rip in the trousers, you attend to that? A I am a bushelman.

Q And you repair clothes? A Yes, sir.

Q And after you do the repairing, Goodmark finishes the work? A Yes, sir.

Q That is, he presses it and helps to take out the stains if he notices anythat you didn't take out? A Yes, sir.

Q That is his own job? A Yes, sir.

Q Your work comes first? A Yes, sir.

Q And then you turn it over to him? A Yes, sir.

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Q And before he can do any work on any garment, you must do the work first? A Yes, sir.

Q Now, how long had you been working for him, three months? A Yes, sir.

Q Pretty steady for those three months? A Yes, sir.

Q You hadn't been laid off any to speak of during those three months? A No, sir.

Q And he kept you right up to the fifth day of July, and you were still working? A Yes, sir.

BY MR. WELLER:

Q Goldner, you have answered "Yes, sir," thirty-four times in one minute. Will you please say what you do in the business. Just tell us what you did in the business. Then after that tell us what Goodmark did? No, go ahead. A I was the bushelman. In the tailoring --

Q Tell us what a bushelman is? I don't know at least. A I fix old clothes, the lining I got to fix, the overcoat I fix it, and after I get through and give it to Goodmark to be pressed up, to the presser.

Q Well, you were the tailor, were you not? A Yes, sir.

MR. JOSEPH: I object. He said he was the bushelman.

There is a big difference between a bushelman and a tailor.

BY THE COURT:

Q Tell us in your own words what exactly you did? A I fix the suits.

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Q A man comes to the store, and he has in his hand a suit of clothes, that is already made. Now, what do you do? A Nothing.

Q You don't do anything? A Only if he wants them pressed out, Goodmark presses them.

Q You don't do any pressing? A No, sir.

Q What kind of work do you do? Just tell me; we don't know? A Only fixing.

Q What kind of fixing? A Suits.

Q How do you fix them? What do you do? A I put in --

MR. WELLER: Speak in Yiddish, if you don't understand clearly.

A (Through Mr. Fischer, one of the official interpreters). I piece the suit; I fix the lining.

MR. JOSEPH: I think it is called "patching."

A (continued) Making the pants shorter, and sometimes a coat, making it shorter.

MR. WELLER: That is all.

BY MR. JOSEPH:

Q What does Goodmark do? A He is a presser.

Q And a cleaner? A Yes, sir.

BY MR. WELLER:

Q Now, Goldner, you testified -- put this to him in Yiddish, Mr. Fischer, today you have testified, you said "yes, sir" in answer to Counsel when he asked you if for every suit Goodmark cleaned he used a separate rag; is that so or is it not so? A Yes, that is so. If it is a black suit, he has a black piece; if it is a light suit, he ^{has} a light piece of cloth.

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BY THE COURT:

Q Pardon me a moment. Suppose a man comes in and has a suit cleaned, and Goodmark uses a piece of goods in cleaning that suit, and then the next day another man comes in to have another suit cleaned, and both suits are light suits, would Goodmark use the same piece in cleaning the second suit, or would he use a different piece? A If it is a different suit between the one and the other, he uses a second piece.

Q In other words, you mean to say that one piece of goods is used for one suit, is that so, and another piece for another suit? A No.

Q What do you mean? A If he cleans a black suit, he uses a black piece of cloth, and he puts that piece away on the place, on the table.

Q Now, suppose he is after cleaning a black suit, and he has another black suit to clean, will he use the piece that he used before, or will he use a different piece? A If he has the same he uses the same, and if he has not got it, he uses the the second piece.

Q In other words, you mean that this piece -- withdrawn.

Q About how many pieces if you know were in use in that shop, not at one time but during the time you were there? A I cannot say; I did not count them.

Q Well, do you mean one or two, or more than that? A Three or four or five.

Q You mean that three or four or five pieces were used during the entire time that you were there? A I told you if

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it is a different suit, he uses another piece of goods.

Q You mean to say that for every suit brought in he would take a different piece from the one that he had used before?

A No, he used the same.

BY MR. WELLER:

Q Did you ever see him throw the rags that he used for cleaning purposes in that box (indicating) A (In English). No, sir.

MR. WELLER: That is all.

BY MR. JOSEPH:

Q What rags were put in that box? A (Through Interpreter) The same rags which were in that box, when I came to him the first time were in the box all the time.

Q Did he ever put any other rags in there? A No.

Q You were not very careful about those cleaning rags, to to keep them together carefully, you let them lay all over, don't you? A Yes, sir.

THE COURT: That is all.

MR. WELLER: The People rest.

THE COURT: Is that the case on both sides?

MR. WELLER: Both sides.

May it please, your

Honor, I renew all motions made.

THE COURT: I will make the same ruling. You have an exception.

MR. WELLER: Now, I make a further motion on all of the grounds --

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THE COURT: Same ruling.

MR. WELLER: Exception.

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