

men that hired me they went along with me to Delancey street.

Q The two men whom you saw at 9th street and Second avenue?

A Yes, sir.

Q Got on the truck with you and went with you on the truck to this place on 28th street and then there were two other men there who put the stuff on the truck and then the two men who had gone with you to ^{the} 28th street placed jumped on the back and the other two men who had put on the stuff walked away and the two men who had spoken to you stayed on the truck until you got to Delancey and Columbia street? A Yes, sir.

Q And took the stuff off? A Yes, sir, and took the stuff off.

BY MR. JORDAN:

Q Where do you live? A 317 East 121st street.

Q How long have you lived there? A Living there for six or seven years; lived in the block eight years.

Q Are you a married man? A Yes, sir.

Q Live with your wife? A Yes, sir.

Q How many children have you? A Five.

Q How old is the oldest? A The oldest is 15 years.

Q How old is the youngest? A The youngest is three years.

Q You know nothing about the condition of this crime?

A No answer.

Q Did you look to see if you could find the parties that hired you? A When I was seeing the parties I will show the

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cop. Where is the parties?

Q Did you see either of them? A I couldn't see them. I was pinched four or five weeks and I couldn't see them and there was nobody came over here to me only my wife.

Q If you were to see those parties would you recognize them? A Yes, sir.

Q You didn't know them, did you? A No, sir, never knew them; only recognized those two parties as the ones that hired me, and the other two fellows I would not recognize them, they only put it down on the truck.

Q The two that hired you you would know them if you saw them? A Yes, sir.

Q You told the officers that ^{if} you could find those parties you would have them arrested? A Yes, sir.

Q Didn't you? A Yes, sir.

Q And you would have done so? A Yes, sir.

Q You haven't seen them since the time of your arrest? A No, sir, I couldn't see them since that time.

CROSS EXAMINATION BY MR. MARKEWICH:

Q Sender, how many automobiles have you? A I only got now one.

Q Which one is that, the Kreba? A Yes, sir.

Q What happened to your other one? A The other one is the Oneida and I bought it off a man --

Q Before you were arrested? A Yes, sir, before I was

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arrested, ten days before I was arrested when I was working for Weil Brothers.

Q What happened to it? A That is what I wanted to explain. I was working --

Q What happened to the machine? A Where is the machine? Now the company took it away. I could not pay my note.

Q You haven't bought another machine since? A No, sir.

Q Who was the man who bailed you out when you were arrested?

A Mr. Copper.

Q What was your bail? A \$10,000 and after \$20,000.

Q Somebody put it up? A Yes, sir.

Q Who put it up? A I put up my machine.

Q What is your machine worth? A It is worth \$2,000.

Q What was the mortgage on it? A The mortgage I had \$390.

Q \$390? A Yes, sir.

Q And that was taken as security for \$20,000 bail? A Yes, sir.

Q Do you know a man named Miller? A Miller?

Q Do you know a man named Miller in the fur business?

A Well I don't know Miller in the fur business.

Q Do you know Miller who lives in the Bronx? A No, sir.

BY THE COURT:

Q Do you know a man by the name of Miller who has his home in the Bronx? A I don't know Miller who had his home in the Bronx.

Q Do you know anybody as far as you can now remember by the name of Miller? A I can remember Miller. He is a moving man.

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BY MR. MARKEWICH:

Q Do you know Solomon Miller? A No answer.

Q Do you know Miller who put up cash security for you?

A Mr. Phillips, I asked him.

Q You asked him? A Yes, sir. I was here ten days and my wife was over here to visit me and I told to my wife, "Try to get me some bailor." I was here ten days then and I said to my wife, "Try to get me some bailor" and Mr. Phillips knows me I came around all the time to his place and my wife has a pair of diamond screws and she got \$250.

Q I am asking you, Sender, whether you know Miller who put up cash security for you? A I don't know, somebody put up \$5,000.

Q Cash? A Yes, sir. Mr. Phillips was trying to get me out and my wife sees him and the next day --

Q Do you know this man Miller? A I don't know a man named Miller, I know Phillips and he was going to try to take me out.

BY THE COURT:

Q Do you know a man who put up cash security for you? A No, sir.

BY MR. MARKEWICH:

Q Now how long do you know Phillips? A Phillips I know over a year.

Q What business had you been doing with Phillips? A I don't do no business, I was coming in the saloon a couple of times and in the winter, five or six months ago he says, "You want to do a

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job for me" and I says what is it and he says take a load to go to Rock Hill. He bought a farm there.

Q Do you know his nephew, Phillips' nephew? A I don't know the nephew.

Q Do you know Katzenberg, his nephew? A I don't know Katzenberg.

Q Do you know a nephew of his who is in the dress business?
A No, sir, never had no business with him. I only came into Phillips in the saloon.

BY THE COURT;

Q What is Phillips' first name? A I never all the time that I came into his place I always called him Mr. Phillips.

MR. JORDAN: I will explain that to your Honor if you think it is proper.

(Counsel confers with the Court.)

Q I want to ask you who retained the lawyer for you? A Who hired the lawyer?

MR. JORDAN: I object to that. It seems to me to be going to the trial. I have never had any questioners about my practice in this court.

MR. MAPKEWICH: No reflection upon you.

MR. JORDAN: I know you wouldn't reflect upon me.

THE COURT: I sustain the objection.

Q Now you never had any business with Phillips? A No, sir, I never did.

Q Phillips you say asked you to do a moving job for him to

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Rock Hill? A I did one moving job and this was the second.

Q Did you buy a farm out there? A Not a farm but a hotel.

Q Where is the hotel, in Rock Hill? A It is eight miles this side of Monticello, Sullivan County.

Q You were up at Rock Hill before? A Yes, sir, in the same place.

Q In the month of April weren't you? A I don't know what month, in the middle of winter, I was up there about twelve days.

Q You are quite intimate with Phillips, aren't you? A Yes, sir.

Q Friendly with his family? A I know Mr. Phillips and his wife I know because I came in all the time into the saloon.

Q Now Phillips asked you to do a job for him and you said you would do it? A Yes, sir.

Q He promised to give you how much? A \$80.

Q To go up to Sullivan County? A Yes, sir.

Q And back? A Yes, sir.

Q With an automobile truck? A Yes, sir.

Q Now what car did you take up there? A The Kleiser.

Q Is that your car? A Yes, sir.

Q When was that? A The first trip. I will tell you I cannot remember what month it is, I know in the winter but I never write it down.

Q The first trip was the Kleiser truck? A Yes, sir; I didn't write it down.

Q And the second trip what did you go up in? A The Kleiser.

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Q What happened to the Krebs truck? A That is the Krebs truck, called a Kleiser.

Q And the other truck the Oneida, was the other truck here?

A The Oneida I had on the Roberts Express Company.

Q That was not in working order? A No, sir, she was not in good order; I couldn't go out no place with her.

Q Now when did Phillips tell you the first time that he had a moving job for you? A The first time?

Q The first time that he asked you to do a job, that is at the time when you got mixed up in this thing? A No answer.

BY THE COURT:

Q When did he ask you to do it? A He told me when I went the first time he says I got two loads more to take out there and he says any time when the snow will come off, after Easter, any time you have a chance, I have to go out the first of May, the first of May he says, and the 5th of May or any time you will have a chance you take it out, we have some pickles and all kinds of stuff in the basement. Take a load out first and in two days I will telephone for you and I said all right and Friday I came down to his cafe and said, "You give me a chance to take a load out" and he says I ain't got a large load I got to buy some more stuff. You may take it in a few days then" he says "about a week or two weeks come down" and I came down in the middle of the week and I was able to try to load this truck -- I came Friday and I said, "All right Mr. Phillips you will be able to

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move Friday and he says yes move my things Friday.

Q You were doing some strike work? A Yes, sir.

Q For what firm? A Weil Brothers.

Q What is the business? A Furniture.

Q Quite a trike on in the furniture business? A Yes, sir.

Q The strike still going on? A Yes, sir.

Q Has been going on for some time? A Since Easter.

Q Since when? A Easter.

BY THE COURT:

Q Where was their place of business on April 15th, Weil's?

A Third avenue near 123rd or 122nd street.

BY MR. MARKETICH:

Q You were quite busy doing strike work for Weil Brothers?

A They were paying me \$140 a week.

BY THE COURT:

Q After the merchandise had been taken off your truck and put on Delancey street near Columbia where did you go on your truck? A On my truck? I went on straight up to the garage in 108th street.

Q You went back to the garage? A Yes, sir.

Q At 108th street? A Yes, sir.

Q What time did you reach the garage? A About half past eight.

Q In the morning? A Yes, sir, half past eight or nine o'clock.

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Q About how long did you stay at that time in the garage?

A I didn't go in the garage, standing outside, with the car.

Q About how long did you stay outside with the car? A Maybe ten or maybe fifteen minutes, I am not sure.

Q At the garage who if anyone did you see and speak to at that time? A I spoke to Mr. Weiss and a fellow, there -- I spoke to this fellow.

Q And there did you go? A I went over to my house.

Q On foot or in your car, walking or in your car? A No, sir, I went right in the car, I went away from that fellow.

Q Listen to me. You got into your car and went over in it?

A Yes, sir.

Q Is that so? A Yes, sir.

Q Where? A I went right to First avenue and I went up in my house and I stayed --

Q Now that is 121st street? A Yes, sir.

Q When you got to your house what did you do? A I said to my wife, "You got some breakfast for me" and she said, "you told me you were going away, I haven't got any breakfast and I said, "when the truck will come send him right over to 128th street on the corner -- the truckman in the other car.

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Q After you talked with your wife where did you go?

A To Weill Brothers to start work.

Q You went on your truck to Weill Brothers? A Yes, sir.

Q What time did you get to Weill Brothers? A It must have been after 9.

Q When you reached Weill Brothers what did you do at Weill Brothers, what did you do? A I backed in the truck and I took the rags off, and the burlaps off, and there was burlaps that I took off in the machine and he came out and he says -- I am not sure if he wouldn't give me a load for 23rd or 24th street.

Q Listen to me. When you got to Weill Brothers you took something out of your truck that was on it? A Yes, sir.

Q Is that so? A Yes, sir.

Q What was that? A Burlap.

Q Where did you put it? A On the sidewalk.

Q After you put the burlap on the sidewalk what did you do? A A cop standing by me and the boss there, or the foreman came out.

Q The foreman of Weill Brothers? A Yes, sir.

Q And a policeman? A Yes, sir.

Q They were by the machine? A Yes, sir.

Q Did either of them get on the machine? A The cop went on the machine.

Q Was there any merchandise put on the machine, any furniture? A They put on the machine, sure, they just put

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on for 23rd or 24th street, and at the same time when I came into 24th street they got a storage house.

Q You mean 134th street? A Yes, sir; when I came there they put it on in 124th street--

Q When you left your house having had a talk with your wife you went to the front of Weil 's place of business?

A Yes, sir.

Q Is that true? A Yes, sir.

Q Where was that? A 123rd street.

Q 123rd street? A Yes, sir.

Q Near Third avenue? A Yes, sir.

Q Now do you know whether a load was put on your truck there, yes or no, or you don't remember that? A I remember I put on a load.

Q You put on a load? A Yes, sir.

Q You are not sure whether you put it on at their place of business in 124th street or at the place in 121st street? A No, sir, I delivered it --

Q After you had that load of furniture on where did you go? A I went over with the cart to 112th street, I am not sure, I could not remember -- there was a couple of stops nearer.

Q You went to a particular place? A Yes, sir, two or three, I am not sure, how many places, but I cannot remember.

Q After that, then where did you go? A After that we

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came back to the same place.

Q To Weil's, in front of 23rd street? A Yes, sir.

Q 123rd street and 3rd avenue? A Yes, sir, we came back there.

Q Now, when you got back there did the policeman get off your truck? A Yes, sir.

Q He had been on it all that time? A Yes, sir.

Q What time did you get back to Weil's about? A It must be about 12 o'clock.

Q About noon, what did you do then? A Went for dinner.

Q Where did you get dinner? A At Third avenue.

Q Between what streets? A Near 124th and 125th streets.

Q Where did you leave your truck? A Right in front of the place.

Q Weil's? A Yes, sir, and the cop was watching it.

Q What time did you get back to your truck? A In about half an hour.

Q What did you do then? A Put on a load.

Q Of furniture? A Yes, sir.

Q About how many deliveries did you make? A Well, after that we put on a big load to East New York.

Q You went on that truck with furniture in it to East New York? A Yes, sir; a full load of furniture.

Q About when did you get there? A I got there about, I guess about two o'clock or after two.

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Q About how long did it take you to unload it? A Only put it on the sidewalk, the rest of the fellows was taking it off.

Q About what time did you leave East New York? A It must be about three o'clock.

Q Where did you go then? A Right down Broadway over the Delancey street bridge, I came over in Allen street and near Rivington street and the officer was there taking his watch out and he says it was about four o'clock, don't try to go back, I don't want to work over time and I said, well, I got to be five o'clock, I got a job from Rock Hill, and I will jump over there, and I will be back in half an hour, and I will let you know.

BY MR. MARKWICH:

Q When were you paid the ten dollars for carrying the stuff from 28th street from 28th street to Delancey street and Columbia? A I got paid when I took the stuff off.

Q Tell me again when you were paid, when did you get the money? A when I took the stuff off.

Q You put it on the sidewalk? A Yes, sir, I put it on the sidewalk.

Q You did not get any money until that time? A No, sir. Anybody who hires me for a moving job -- there is some people that come to my house and hire me.

Q You didn't get any money until you took the stuff off?

A No, sir, I did not get any money until I took the stuff

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off.

Q When was it you did the job for Weil Brothers, was it on the 16th of April? A Yes, sir.

Q Friday? A Yes, sir.

Q The same day that you had taken these packages away from the 8th street place? A Yes, sir, the same day.

Q Sure about that? A Yes, sir.

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Q Now what truck did you do these jobs for Weil Brothers? A The Kleiser.

Q Where was the Onieda truck? A It went to Jersey.

Q It went to Jersey? A Yes, sir.

Q Now, for whom did you do the job on the Onieda truck?

A What?

Q (Repeated) A 128th street.

Q What concern? A A moving job.

Q For what concern, for whom? A For the moving party.

Q For whom? (No answer.)

BY THE COURT:

Q What was the name? A The name, I wouldn't tell you the name.

Q The number in 128th street? A 128th street.

Q The number on the street? A yes, sir, I don't know the number, I know the house near Madison or Park avenue

Q Give me the number of the street please. A I know the house that is all. It is on the right hand side, top floor I moved the party up there, and I moved them out, I moved

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them over to 18th street the last time.

Q What is the height of the house, how many stories?

A A three story house.

Q A three store house? A Yes, sir.

Q You don't know the name of the family? A No, sir.

BY MR. MARKENICH:

Q Was it Jewish, Italian or Irish? A No, sir, it was German.

Q A German family? A Yes, sir.

Q You don't know the name? A No, sir, I wouldn't tell you if it was German.

Q You did a moving job for them before? A Yes, sir.

Q When were you told about that job in 128th street?

A The job was supposed to be Thursday.

Q You were supposed to do that job on Thursday? A Yes, sir, he came up in the morning Thursday to my house and I was not home and he told my wife to send me up.

Q Now he didn't see you at all? A No, sir; after he seen me about 12 o'clock.

BY THE COURT:

Q This job we are talking about now was one that was done by some person who worked for you? A yes, sir.

Q Is that so? A yes, sir.

Q What is the name of that person? A The chauffeur.

Q What is his name? A I don't know his name. I was calling him Harry, the second name I couldn't tell you what

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it was.

Q You had a boy by the name of Harry? A Yes, sir.

Q He worked for you? A Yes, sir.

Q It was Harry -- A A young fellow;

Q He went to this place on 128th street near Park or Madison avenue? A Yes, sir.

Q And took the property? A Yes, sir.
BY MR. MARKWICH:

Q Now, when did you tell this Harry to go to 128th street? A I came Thursday at 12 o'clock with my machine and I was working I came over there and my wife said "Do you know you moved a party to 118th street--

Q To 128th street? A Yes, sir, and my wife says she is going to move again.

Q When did you tell Harry to do that? A He knew the time he was supposed to be --

Q When did you see Harry after that? A I seen Harry about 9 o'clock.

Q 9 o'clock when? A Friday.

Q Morning? A Yes, sir.

Q Where? A In 128th street.

Q 128th street? A Yes, sir.

Q So that you went to this garage in 108th street and you went up with your truck to 128th street to see if Harry was there? A Yes, sir.

Q You found Harry there? A Yes, sir.

Q Harry was removing the furniture there? A Yes, sir,

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with another man.

Q Harry was there himself? A Yes, sir, with two men.

Q And you went to Weil? A Yes, sir.

Q You were not in Jersey at all that day? A yes, sir,
I was in the night time to Rock Hill I went.

Q What time did you start to Rock Hill? A It was about
maybe it was half past four, I don't know the right time.

Q When did you see Harry after that? A Harry I didn't
see him.

Q You didn't see him at all? A No, sir, when I came
back after I seen him.

Q There was that job supposed to be, that furniture
supposed to be moved? A What furniture?

Q To Jersey from 128th street? A Just this side
of Newark.

Q Was there any particular hurry about that job?

A The party was supposed to move out on Thursday; I couldn't
move out I had lot of work on for that day, and I went
up there Thursday afternoon and I said, "When you want to
move --

Q When did you see Harry he did that moving job?

A After he did the moving job I seen him a week later.

Q Is Harry here? (No answer.)

Q Is Harry here? No, sir.

Q What is his second name? A I don't know what his
name is, his second name.

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Q You don't know his second name? A No, sir. 100

Q Do you know Tony Degrazio, who worked in the garage where you stored your car? A Tony? I don't know Tony, I know a lot of fellows in the garage there.

Q You don't know an Italian fellow named Tony who worked there? A I know a couple of fellows working there.

Q Did you have a talk with Tony on the Thursday before you moved this stuff from 28th street? A No, sir, he don't was working that day; I didn't see him that day; he doesn't work in the night time.

Q Did you tell Tony on Thursday, "Tony I have got a chauffeur I don't care for, a chauffeur I don't like, if I could get you for just a couple of hours to drive me down to 28th street, and then down to 12th street I will give you one hundred dollars? A I never spoke to him.

Q You never spoke to him? A No, sir; I never seen him since I left the garage there.

Q Did you see him before you left the garage? A No, sir, not the same day.

Q Do you know what I mean? A Yes, sir; I seen him in the garage; he is working there; I never spoke to him.

Q Did you ever talk to Tony about doing a good job?

A No, sir; I never talked with him; he was working.

Q Did you about two weeks before that time ask Tony to keep your car out in front so that you could have access to it, and you could get it quickly any time you wanted it?

A The car is all the time in the front, sometimes I got to go out at 4 o'clock and 5 o'clock in the morning for a job and sometimes I come in at 12 o'clock. If I go out in the country I don't know what time I come home.

Q Do you remember going once with Tony to deliver a barrel of whiskey at some place downtown, about two weeks before? A Whiskey? I didn't go with Tony; I went with him to help me load up some barrels; I don't know what it was.

Q Where was that? A 6th avenue.

Q You do know Tony? A Yes, sir; but he was working in the garage.

Q Do you remember having asked Tony at that time if he would not make a job with you on a chance to make a little money? A No, sir; never asked him that.

Q You never asked him that? A No, sir, he told me himself --

Q What is that? A He told me--

Q What did he tell you? A He says when you have a job", he says, "come over there and I will see your license turns around"

Q What kind of a job are you talking about? A I don't know what he meant.

Q You don't know what he meant? A No, sir.

Q What did you think he meant by turning your license plate around? A I don't know. He told me he had a job--

Q What job was that? A A fellow who was pinched two

weeks ago in the garage and he said the fellow was foolish, he didn't turn around the license, and the fellow was got locked up there.

Q Quite confident that you didn't talk about these things?

A No, sir.

Objected to. Objection sustained.

Q Who told you about the fellow who was arrested?

A He told me the fellow was arrested.

Q As a matter of fact you know what burglary is, don't you? (No answer.)

Q You know what burglary is? A Yes, sir.

Q What breaking into a loft is, don't you know what that means, don't you? A Yes, sir.

Q When you were told by the men that you had met to come down at about 7.15 or 7.30 to a place on West 28th street and receive packages and drop them off on the sidewalk you were not suspicious at all? A No, sir.

Q It didn't occur to you that there was something wrong about it? A No, sir, never thought it was wrong.

Q You kept the engine going while you were in front of those premises on West 8th street? A I came down from the street and I seen the packages, and I was figuring it will take me about --

Q Where did you see the packages? A In the hall, they carried them down.

Q How many were there? A Ten packages.

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Q Very heavy packages, weren't they? A Well, there was about a hundred pounds may be a hundred and twenty.

Q A hundred or a hundred and twenty pounds? A Yes, sir.

Q Were they more than that? A I did not weigh them.

Q It took you how long before the packages got on the truck? A About fifteen minutes.

Q Fifteen minutes and you kept the engine going all the time? A I didn't keep the engine going, but when I went down from the street and there were four men to carry them down-- I carried one bundle down, and the other fellows came down after that, and I was on the seat.

Q You kept your engine going, the gas on the car? A Yes, sir, because when you start it takes you some time-- it is hard to start when you crank it up. I have to crank it up.

Q Is that what you did ordinarily when you stopped your car that you don't shut off the gas? A When I stand for twenty minutes I never shut off the gas. It took me about ten or fifteen cents of gas. When at a station or some place I deliver the trunk at the New York Central it takes me ten or fifteen minutes to find the receipt and I leave the engine going, there is no use to start the car.

Q Did you notice these men being very fast in putting the packages on the wagon or truck? A How could I see whether they were fast or not fast.

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Q You didn't notice that at all? A No, sir, when I was going--

Q Nobody said when the last package was on to you, "Now beat it"? A No, sir, nobody told me that.

Q As a matter of fact nobody came back with you on that truck? A Two fellows went along with me.

Q Sure of that? A Yes, sir, two fellows went along with me.

BY THE COURT:

Q Are you sure when you drove over to those premises and when you got to that door there were two persons on your truck? A Yes, sir.

Q Besides yourself? A Yes, sir, two fellows with me on the truck.

Q And sure when you went away from the place those same two men were also on the truck with you, is that so?

A When I went away from the same place I drove towards the east and I looked around in the back and seen two fellows in the back of the wagon, not in the front with me but in the back.

Q You did not notice them in there until you had already started? A When I started, yes, sir.

Q You had already started your truck and when you looked around in the back you saw two men on it, is that so? A Yes, sir.

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Q Did you know that they were going to get on the truck with you? A Yes, sir; they told me they were going along with me.

Q They told they were going? A Yes, sir.

BY MR. MARKEWICH:

Q Now, Sendler, when you got off the truck at West 28th street, you went in the hallway? A Yes, sir.

Q Is that a wide hallway? A No, sir, not very wide.

Q See a package there, one bundle there? A It was on the second floor, they carried it down.

Q See what kind of a place it was? A I didn't look at the place; I didn't look at the place.

Q Did you help bring some packages down? A Yes, sir.

Q Was it a heavy bundle? A I don't weigh them.

Q You have been handling merchandise of all kinds?

A About 150 or 160 pounds; I could carry three or four hundred pounds.

Q You have been handling all kinds of merchandise doing moving jobs? A Yes, sir.

Q Can you tell by the handling of a package about what is contained in the package? A It must be about over one hundred pounds.

Q About what was in the package? A No, sir.

Q Were you able to tell? A No, sir, for I never opened a package.

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Q Never able to tell by feeling the package? A No,.

Q Did they tell you what was in the package? A I never ask no people, I take a lot of stuff out and when I was taking out some stuff at Third avenue and 126th street --

Q Did you know from whom the packages were coming?
A No, sir; two men standing in the hall and the fellows said go up there and take the packages.

Q Was there anything written on the packages? A It was nothing written.

Q Any address? A I didn't look at the address.

Q Didn't it seem strange to you that the packages had no address on, nothing marked on them, just wrapped up in plain blank paper? A Papers

Q Didn't it look strange to you that there was something wrong? A No, sir, it didn't look strange to me; I never look at the stuff sometimes when people hire me.

Q Were you interested in finding out whose place it was?
A I never asked them.

Q You were a moving man how long? A For myself?

Q How long in the moving business for yourself or with somebody else? A The moving business about sixteen years for myself.

Q And with somebody else? A Yes, sir.

Q Altogether you are about fifteen years in the moving business? A Yes, sir.

Q You say it never occurred to you at that time to ask

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what it is? A No, sir.

Q To find out who runs the place? A No, sir.

Q Or whose packages they were? A No, sir, never asked nobody.

Q Didn't it look strange to you that men should come up to you in the middle of the street, hail you right at the corner of Ninth street and Second avenue to come to West 28th street to do a job? A That is nothing strange; that is not new to me.

Q You have been around the city a great deal? A Yes.

Q Seen a lot of *trucking concerns* stepping stones? A yes, sir.

Q Just around 8th street and 6th avenue? A Yes, sir

Q And around 7th avenue? A Yes, sir, a lot of trucks.

Q Now, didn't it look strange to you that people should come to Second avenue and take you to a job around there? A No, sir.

Q You took these things to Columbia and Delancey street? A yes, sir.

Q You have been around that neighborhood quite often? A yes, sir.

Q That is not very far from the place where Phillips had his saloon on Broome street? A Not is not far from Forsyth street.

Q It is just about eight or ten blocks? A Yes, sir. about eight or ten blocks.

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Q You dropped those packages you say on that corner?

A yes, sir.

Q Now which corner was it? (No answer.)

Q The northeast corner, the northwest, the southeast or the southwest corner? A Coming from Delancey street on this side.

Q The east side of Delancey street? A The downtown side.

Q Was it on the downtown side? (No answer.)

THE COURT: The down side of Delancey street at Columbia is the bridge, isn't it?

THE WITNESS: The other side, the bridge is this side.

BY MR. MARKWICH:

Q The downtown side? A Yes, sir.

Q What place of business is on the corner? A A tenement house.

Q Any store on the corner? A Well, I seen two stores there.

Q What stores? A I didn't look at what store.

Q What store? A I didn't see what store it is; two stores there.

Q You didn't see what store it is? A Two stores there.

Q You didn't see what store it is? A Two stores there.

Q What kind of a store was it, a grocery store or a delicatessen store? A I couldn't look in the store.

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Q. Or a drug store that was there? A One store on the corner and the next is a store, and I didn't look in the store what is in it.

Q Was there any woolen or clothing stores there? A No.

Q Or dress houses over there? A No, sir, no store at all.

Q When you dropped the packages off and these two men you say took them? A Yes, sir.

Q That went along with you on the truck? A Yes, sir.

Q You didn't see them taken into any place. A No, sir.

Q Now wasn't there any suspicion in your mind? A There is no suspicion when I move somebody I never ask nobody what is it; I never ask them; never take notice of it.

Q Now why didn't you go directly, as the Judge asked you, to Phillips. You were starting downtown to go to Phillips job, weren't you? A I started to go to Phillips

Q Why didn't you finish the job? A I thought it was too late any how.

Q What is that? A I was figuring it was too late anyhow.

Q Why, a little difference of an hour? A Two hours.

Q What time was it when you were hailed on Second avenue? A When the fellow got me to hire the stuff it was ten minutes after seven.

Q You say you went up to 28th street then about a quarter after seven or twenty minutes after seven or half past seven? A Half past seven; I couldn't see the clock.

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Q You were down at Delancey street what time? A I was there about 8 o'clock.

Q About 8 o'clock? A Yes, sir.

Q Then from Delancey street you went up to Harlem?

A Yes, sir.

Q You were there at half past eight? A Yes, sir.

Q Well, now, the Judge asked you why didn't you continue with your job and go to Phillips, there was only a difference of about an hour or less from the time that you met them on Second avenue and Ninth street when you were going down to Phillips and the time you left at Delancey and Columbia street? A I thought I would go back and I will do the job first for Weil Brothers.

Q What was the change of mind, why change your mind all of a sudden? A Sometimes I changed my mind, sometimes I take a job and after I see I can take another, and I put it on later, no matter how many jobs I take not to disappoint people in order to move them, and I think you will say anyhow when I come up to his house that I was losing out about \$22.50 on this job.

Q You knew the job to go to Rock Hill was not a job for a few hours, it was a job at least eight hours? A Yes.

Q Eight or ten? A Yes, sir.

Q All day, didn't you? A Yes, sir, going up there and coming back, yes sir, it was more than that.

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Q Two days? A Yes, sir.

Q You knew that? A Yes, sir.

Q So that you were prepared when you started to go downtown for that? A Yes, sir.

Q Weren't you? A Yes, sir.

Q All of a sudden you changed your mind? A Yes, sir. I didn't change my mind but I thought I will go there in the night time.

Q You would rather make a trip to the mountains in the night time? A Yes, sir.

Q Isn't it customary for moving men to make long trips in the day time, to start out in the day time? A No, sir.

Q And reach there before sunset? A No, sir, night time is the time for a long trip, I ride up in the night time and I have the whole night on it and in the morning I come up there.

Q Now the Weil job, by the way, was a job in which you received \$150 a week? A \$140.

Q You were supposed to pick up odd jobs for them, weren't you, you weren't supposed to do all the mowing for them, were you, that is you were subject to call? A Any time they called.

Q You were supposed to come up there and do a job for them? A For whom?

Q Weil Brothers? A No, sir.

Q Well, what were you supposed to do, did you stay there

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did you stay there all the time? A When they hired me it was an agreement from 8 o'clock to 5 o'clock.

Q 8 o'clock to 5? A After 5 o'clock I went for my own.

Q Would you go to Weil Brothers every day in the week except Sunday? A Yes, sir.

Q You were to be there at 8 in the morning? A 8 or half past 8, I came around half past 8 or sometimes 9.

Q When you undertook this work for Phillips, you expected to go to Weil's on that day, did you? A I was expecting to go with the other car, the big car.

Q You expected that your man Harry would take out the other car? A Yes, sir.

Q And go to Weil brothers? A Yes, sir.

BY THE COURT:

Q Did you see Harry that morning? A Yes, sir. I seen him, yes, sir.

Q Whereabouts? A In 28th street, I took a job down for \$40, and I told my wife --

Q On the 16th of April, before you left the garage in the morning to go on Second avenue had you seen and talked with your boy Harry? A No, sir, I didn't see him.

Q Did you give Harry at any time on April 15th, that is the day before, any orders or directions as to what he should do on the 16th? A No, sir.

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Q So that when you started for downtown to go to Phillips place you had not told Harry anything about going to Weil's? A Thursday night I gave Harry a direction that I have a job at Atlantic City for \$125, if I remember, \$125 or \$115, and I came home and I said to my wife, "I got a job to go to Atlantic City, and I have a job for Phillips and here is a job for \$40 to go to Jersey, and I got to be at Weil brothers again. I can't do all the jobs," and my wife says its no use to go to Atlantic City, it will take you too long give it to somebody else, and I went over to a moving man in 116th street and I said are you busy tomorrow, and he said no, and I said I got a job from Atlantic City from 64th street and he said how much and I said \$125, and he took it and I was making ten dollars commission, and he said all right, and I went over there that very next day, and the man told me that he raised it to \$150.

BY THE COURT:

Q You were expected to be at Weil's as I understand it about half past eight o'clock? A Yes, sir.

Q Listen to me. On the morning of Friday? A Yes, sir.

Q You were expected to be there? A yes, sir.

Q So instead of starting for Weil's you started for downtown to go to Mr. Phillips house on Broome street near Chrystie. You now say that you had intending sending to

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Weil's your other car with Harry on it, but you also tell me that you didn't send Harry on the morning of Friday before you left the garage, and you also tell me that you had not given Harry any directions on April 15th to go to Weil's on April 16th, is that so? A My wife gave me a moving direction to go to 128th street --

(At this point the Court admonished the jury calling their attention to Section 415 of the Code of Criminal procedure and took a recess until two o'clock.)

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AFTER RECESS.

2 p.m.

J A C O B S E N D E R, the defendant resumes the stand.

CROSS EXAMINATION CONTINUED BY MR. MARKEWICH:

Q Did you on the morning of the 16th of April, on that Friday, about four o'clock go to to the home of DeGrazzio?

A Tony? No, sir, I did not see him.

Q Did you go to his house? A No, sir.

Q Do you know where he lives? A I don't know where he lives; I know 105th street.

Q Didn't you go to his house that morning at about 4 o'clock? A No, sir.

Q And ask him to go along with you? A No, sir.

Q You are sure of that? A Yes, sir.

Q You told us before that the Oneida car went out on the 16th in charge of your chauffeur Harry? A Yes, sir.

Q To a job in Jersey? A Yes, sir.

Q To a moving job from New York to Jersey? A Yes, sir.

Q Didn't you know as a matter of fact that the Oneida car never left the garage that entire day? A Friday?

Q Yes. A Never left the garage Friday?

Q Yes, on that day? A He took the car out at a quarter after eight or twenty after eight, and took a load to 128th street and went away to Jersey, and I got the people to prove that; these two helpers that was on the back.

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Q Have you got Harry? A No, sir.

Q Have you got Harry? A I thought nobody is going to ask me if the other truck was working; I told my wife to get the chauffeur and some helpers and one fellow lives in 81st street, and one fellow lives around the corner on Second avenue.

Q Do you know where Harry is? A He lives uptown someplace.

Q Do you know his second name? A I don't know his name.

Q Do you know his address? A I have the address where he lives uptown.

Q What kind of a looking man is he? A He is a young fellow.

Q Well, don't you know as a matter of fact that Harry left your employ on Saturday morning? A Saturday morning he left me.

Q Saturday the 17th of April? A Yes, sir, on account of the Oneida truck broke down, this machine cost me three hundred dollars to fix up.

Q Where did it break down? A It wasn't in good condition and I wanted to get it fixed up, and they wanted three hundred dollars to fix it up, and I have only one car and I said I don't need any chauffeur and he went away. He was Monday night around by me and I told him not to come any more.

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Q You weren't home Monday? A My wife told me.

Q You don't know what took place? A My wife told me.

Q Now Weil Brothers asked you to go to 282 Buffalo avenue with a load of furniture on Thursday the 15th of April? A Weil Brothers told me-- they didn't ask me to go to Buffalo; told me to take a load to Brooklyn, a full load.

Q Did you go to 282 Buffalo avenue, Brooklyn? A Friday?

Q Was it Thursday? A No, sir, Friday.

Q What time? A I left the place about one o'clock.

Q In the afternoon? A Yes, sir.

Q Was that the load? A No, sir, that was the second load.

Q That was the second load? A Yes, sir.

Q Are you sure of that? A Not to Brooklyn.

Q What is that? A Not to Brooklyn, the second.

Q Don't you know as a matter of fact that you only had one trip for Weil Brothers that day? A I had in the morning some deliveries uptown.

Q Don't you know as a matter of fact that you did just one job for Weil Brothers on that day? A One job?

Q Yes. A I was working since the morning until the afternoon when I got through.

Q What is that? A I was working, and when I started I was working until the afternoon when I got through, and done

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in the morning a few deliveries.

Q Do you remember having been asked by Weil brothers to stop off at the Eureka Bedding Co.? A The what?

Q And bring back four springs? A Yes, sir, I stopped off.

Q Supposed to bring springs? A Yes, sir.

Q Did you bring the springs back to Weil Brothers?
A No, sir, I started to load up that load for Rock Hill.

Q Now, did you report to Weil Brothers, did you telephone to Weil Brothers? A No, sir.

Q When you went to Rock Hill what time did you start out?

THE COURT: I think we have been over all that now.

MR. MARKEWICH: I don't think I questioned him about it.

THE COURT: I think we have been over that.

BY MR. MARKEWICH:

Q What time was it you telephoned to Oscar Weiss about your automobile having broken down, the garage man? A I don't know, the minute, about 6 or half past 5, I did not look at the clock; it was in the night time.

Q WhQ Was it did repair your automobile? A There was a lot of fellows on the road where a fellow needs a repair and he got tools he repairs it.

Q Do you know him? A Going on the road, when you break down sometimes you get off of gasoline.

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Q Your automobile broke down the second time as you got to Rock Hill? A Yes, sir.

Q Now what was the matter with your automobile at Rock Hill? A The gas tank was stuck in the mud, I got in the mud there.

THE COURT: I don't think we will go into that.

Q How long were you at Rock Hill? A I was there for a week, till Monday, and I went down to Middletown.

Q Where did you spend that week? A I went down to Middletown, I went over to get some parts for it to fix up the truck, Middletown, New York.

Q Where did you stop during that week? A In Middletown.

Q Where did you stop, did you stop at Rock Hill or Middletown? A In Middletown.

Q Did you communicate with your wife during that time?

A No, sir, I telephoned over to somebody else.

Q To whom did you telephone? A The next door, not Monday, a few days later.

Q What is that? A A few days later, I guess Thursday or Wednesday I telephoned over to my wife.

Q Did you talk to your wife? A Yes, sir.

Q Did you speak with your wife? A Yes, sir.

Q At the place where you telephoned you spoke with her?

A Yes, sir.

Q What place did you telephone to? A In the candy store.

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Q Well, what is the number on the street 121st street in the same block.

Q 124th street? A 121st street.

Q 121st street? A Yes, sir.

Q How far from your house was that? A Two houses or three.

Q Do you know the telephone number now? A I have it on a paper, I ain't got it; they took it away from me when I got locked up; it was on a paper; they write it out.

Q What did your wife tell you? A My wife told me they were looking for me.

MR. JORDAN: I object to that as immaterial.

THE WITNESS: They told me they were looking for me.

Q Did you know what she meant when she said or told you they were looking for you? A I asked her and she said they were looking Friday afternoon, they came up somebody and asked for the license and she said the license is laying there, they had the license and she said I will be home this week.

Q You came back on what day? A On Friday.

Q Where was the first place that you went to when you got back to New York? A The first place I went, I went up to Mr. Jordan.

Q Anybody go along with you? A No, sir, nobody went along with me.

Q Did you know Mr. Jordan before? A I know him by his

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name.

Q What is that? A I heard Mr. Jordan's name.

Q Was Mr. Phillips up in Rock Hill at the time you went up there? A No, sir.

Q Who was up there with you? A That boss that had sold him the farm.

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

Q Who else was up there besides? A His wife was there and another couple of men, a few, a bout a half a dozen.

Q Anbody up there that you knew? A With me?

Q Anbody up in Rock Hill that you knew? A I don't know anybody, I know the fellow that was there, the people where they pulled me up there the last time, when I was stuck, I was stuck there, ten miles before, and that man knows me that I was there, that man that pulls me out over to that place; that man seen me; I was there on Monday, I was there Sunday and I was speaking with him, and I went to get some tobacco, that man has got a cigar store, and I went over to get some tobacco from that man, and he seen me the last time, and he says "The last time you were stuck and now you are stuck again."

Q You were out on bail how long on this charge? A I was out a couple of days or two weeks.

Q Did you during those two weeks go to Delancey and Columbia streets, did you go around there? A I didn't come around there.

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Q Did you go to Second avenue and Ninth street, did you go around there? A I was passing there with the machine every day when I was riding.

Q You said before you didn't know Solomon Miller. Was Miller a partner of yours? A Solomon Miller, he was a partner of mine?

Q Were you in partnership with a man by the name of Miller? A The Miller I know was a moving man.

Q Were you a partner with a man named Miller? A Yes,

Q Miller? A Yes, sir; I was a partner with him.

Q What? A Yes, sir.

Q Have business with him now? A Moving business.

Q Still in the moving business? A Yes, sir.

Q Is that the man who put up the cash security for you?

A What is that?

Q Repeated? A I don't know if he put it up the cash money, I don't know.

Q What is that? A Not him put it up.

Q What is that? A Not him put it up.

Q Did Muller put it up? A I told Mr. Phillips to try and take me out on bail.

Q Do you know the Miller who put up the cash security for you? A That is another Miller.

Q What is his business? A I don't know what business he is in when I came in sometimes I found him in the saloon by Mr. Phillips, I don't know his name, when I came around

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there to Phillips, Phillips introduced me to him.

Q What saloon do you refer to, Phillips saloon? A Yes, sir.

Q Did you meet Phillips in a cafe on Forsythe street very often? A I never went in the cafe, when he had a saloon I came in the saloon to him.

Q Do you know the Odessa cafe at 118 Forsythe street near Broome? A Yes, sir, I know it.

Q You know that place? A Yes, sir.

Q On the first floor there over Barron's, the syrup man's place? A Yes, sir.

Q Do you know the place -- isn't that a place where Phillips frequents? A He is not around any more there.

MR. JORDAN: You don't mean Phillips?

MR. MARKETICH: I mean Phillips.

Q Did you meet Phillips around there? A I did not meet him, I met him only in the saloon when he had the saloon and after when I got out on bail, I saw Mr. Phillips, "You are ready to move the furniture", and he says, "I moved away."

Q Did you have an appointment with Phillips at 118 Forsythe street before you did the moving job for him? A No, sir; never had an appointment with him, before I went up with him to his house.

Q He lives right near the saloon? A He lives in the middle of the block.

Q You had a telephone in your own name, didn't you?

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A Yes, sir.

Q You used that telephone for business purposes, didn't you, you knew it was not disconnected, was it? A Sometimes it is discontinued.

Q You knew it wasn't discontinued, didn't you? A Sometimes it is discontinued.

Q Was it discontinued when you left town. Your telephone bill was paid? A Sometimes I don't pay the telephone.

Q Will you listen to me. Was your telephone bill paid when you left town? A No, sir, it was not paid.

Q Was it discontinued? A I telephoned a couple of times and they don't answer.

Q Who telephoned? A I telephoned over a couple of times.

Q From where? A When I go away on a job sometimes I telephone over to my wife and she didn't answer sometimes.

Q When did you telephone to your wife that there was no answer? A Thursday.

Q On Thursday you telephoned to your wife? A Yes, sir.

Q The Thursday before you came to New York? A Yes, sir.

Q Did you telephone to your wife then? A No, sir, not this Thursday on the 15th Thursday.

Q The 15th? A Yes, sir.

Q Before you left? A Yes, sir.

Q There was no answer? A No, answer.

Q Well you received other telephone calls, did you

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on that before? A I couldn't tell you, for I don't was home.

Q When was the last time you paid the telephone bill?

A Sometimes I paid it.

Q When was the last time you paid it? A I do not remember; sometimes I paid it on the 25th, and sometimes there comes in a second bill and now the telephone is out.

Q Was your bill paid for the month of April? A I guess it was paid some time.

Q Was it paid for the month of March, 1920? A Yes, sir, it was paid.

Q Now what I wanted to get at was this, in plain English: Why didn't you telephone to your own home, why did you telephone next door to the candy store when you wanted to communicate with your wife? A I just telephoned to the candy store to call my wife.

BY THE COURT:

Q Why, when you were away did you not ring up your own phone. Why didn't you ring up your own house, why did you ring up the candy store? A I rang up on Thursday, the wife, telephoned the wife, and she said the telephone did not ring. When I got home, I said, "What is the matter with the telephone", and she said it is out of order, and she was going to telephone Friday to have the telephone people fix it up, and that is why I rang up in the next morning, I was ringing up a couple of times there.

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Q When was it fixed up? A I told my wife and my brother to telephone to the people to come up and fix up the telephone on Thirsday.

Q On Thursday? A Yes, sir, I think sometimes it takes a week, and sometimes two weeks.

Q What is that? A Sometimes I think it takes a week and sometimes two weeks, and I telephoned over to MrsBlank--

Q Did you try to ring up your home from Middletown?

A No, sir, I did not ring it.

Q You did not? A No, sir.

Q Now, what place in Middletown, did you stop? A I was stoppin in a hotel.

Q What is the name of the hotel? A I don,t know the name of it; I know the place.

Q What street was the hotel on? A What street?

Q Was it on main street? A It isn,t Main street, it is the little block or so.

Q What is that? A I don,t know what street it was.

Q What was the name of the hotel? A Right by the station there.

Q What was the name of the hotel? A I don,t know; I did not ask them.

Q How many days did you stop there? A Monday the whole day.

Q You don,t know the name of the hotel? A No, sir, Monday the whole day I was there.

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Q You don,t know the name of the hotel? A I left there -- I left about 9 o'clock.

Q Will you answer the question. Do you understand English? A Yes, sir.

Q I am asking you whether you know the name of the hotel? A No, I don,t know the name of the hotel, a saloon downstairs, and I went in there and sat in it, in the hotel.

Q Sat where, in the saloon? A Yes, sir.

Q Did you register in that hotel? A No, sir.

Q What was the size of the hotel? A It was one story high.

Q You don,t know the street? A Yes, sir, right by the station.

Q Was there anybody along with you in that hotel?
A No, sir, nobody along with me.

Q Did you sleep in that hotel? A No, sir.

Q Just sat in the hotel? A yes, sir, just sat in the hotel.

Q What did you go to Middletown for? A I went over to get some parts.

Q What time did you get there? A Half past 12.

Q You got your parts there? A yes, sir.

Q What time did you get the parts? A It was perhaps about 4 o'clock in the afternoon.

Q In what store do you remember? A I do not remember.

Q What parts did you get? A I brought some things

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there, I don't know how they call them, little things I bought, I don't know how they call them.

Q What time did you leave Middletown? A I left Middletown, perhaps seven o'clock in the night time.

Q You went back to Rock Hill? A No, sir, I did not go back.

Q Where did you go? A To Newark.

Q From Middletown? A Yes, sir.

Q What did you go to Newark for? A To see a party there, and I couldn't see him.

Q Did you say you allowed your machine to remain up there in Rock Hill? A Yes, sir.

Q In the middle of the road? A No, sir, not in the middle of the road.

Q The side of the road? A Yes, sir, after I pulled it in there, I did, yes, sir.

Q Weren't you interested in going back to New York as soon as you could to attend to business? A I couldn't go away until I got fixed up.

Q You had the parts you got in Middletown? A I could not fix it up myself.

Q You couldn't get mechanics in Middletown? A I don't know mechanics there.

Q Middletown is quite a town? A Yes, sir, quite a town.

Q Did you make inquiries in the place where you bought

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these parts? A No, sir. I went in a store there and in this store they sold parts.

Q From Middletown you went to Newark to try and get a mechanic? A Yes, sir.

Q Did you get a mechanic in Newark? A Yes, sir.

Q Where did you get the mechanic? A I got him in a shop there.

Q What shop? A I don't know what shop.

Q What is that? A I was looking in a shop and I seen automobile fixtures and I went in there, and I said is there a fellow here.

Q Do you mean to say you don't know what shop you went to -- to have your machine fixed that day at Rock Hill? A I saw this automobile fixing place, and I went in there, and I say, is the fellow able to go out with me to fix my machine a few days? A And he says, I can't go out now I am working all day he says I will be able to go out in the night time, and we will fix it up. He was always working the whole day, and at night time he goes out all right

Q You did go with him at night? A Yes, sir.

Q You went with him to Rock Hill? A Yes, sir.

Q You paid him? A Yes, sir.

Q How long did he take repairing the auto truck? A It took one day and the next day, the next, about a day and a half

Q Took him two days? A Yes, sir.

Q What did you pay him for it? A Twenty dollars.

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Q Do you know his name? A No, sir, I didn't know his name; I did not take his name.

Q And you don't know where you got him? A No, sir.

Q You don't know the place or the store where you got the man from? A I know the garage there.

Q What is that? A I know the garage.

Q Was it in a garage that you got him? A Yes, sir.

Q Where is the garage? A That is near broad street when you are coming on this garage.

Q What street? A Not in Broad street, when you are going through broad street you go to the left hand side.

Q Broad street is a very long street, isn't it?

A You are going up through Broad street.

Q What street was it? A well, I don't know the name of the street? Well, I don't know the name.

RE DIRECT EXAMINATION BY MR. JORDAN:

Q Mr. Sender, you were asked about how long you were out on bail. You were present in court here when a motion was made to increase your bail, were you not? A yes, sir.

Q You were in here when a motion was made to increase your bail, were you. Don't you understand me? A I understand that.

Q Well, I will try to make it clear.

THE COURT: I imagine that is conceded.

MR. MARKEWICH: Well, it is conceded the bail was

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ten thousand dollars. He was bailed out, and then it was increased to twenty thousand dollars, and he was bailed out, and then later it was increased to thirty thousand dollars on motion of the District Attorney and then on motion of counsel it was reduced to twenty thousand dollars, and he was bailed out.

MR. JORDAN: That is not right, that is not the fact. The fact is that it was made twenty thousand dollars, and then reduced to ten thousand dollars by consent, and then it was increased to twenty thousand dollars the same day.

MR. MARKEWICH: It was thirty thousand dollars, and reduced to twenty, and then an application was made to increase it to thirty, and your Honor increased it to twenty five thousand.

MR. JORDAN: And we have been in since that time.

THE COURT: It was originally fixed at thirty thousand dollars on May 5th of this year. On May 11th it appears to have been reduced to twenty thousand dollars, and on May 17th it appears to have been fixed at twenty five thousand dollars.

BY MR. JORDAN:

Q Now Mr. Sender, when the bail was increased to twenty five thousand dollars you were not able to get that bail? A No, sir, I couldn't get that bail; I hadn't any money.

Q You have been locked up since that time? A Yes, sir.

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Q Have not been able to make any investigation or help yourself in regard to looking for these parties? A No; I have no money to pay for the bail any more.

Q Now on the day when you were taken to court first you rode down in a taxicab with the detectives any myself and others to the place -- did you hear a conversation with Officer Casasa in regard to what would be done in case you would locate the parties that got these furs and get the furs back, did you hear that conversation? A When I get the furs back?

Q If you got the furs back? A Yes, sir.

Q What is that? A He told me if you get the furs back, he will give me fifty thousand dollars.

Q Wasn't it ten they said? A Fifty thousand dollars, and I told him like this? A I said, I don't want your money, I got a wife and kids, I don't want the money, I like better to stay in the house with my wife and children?

Q Did you tell him you would try and find the parties? A yes, sir; I would try and find the parties.

Q Have you, since you were out, whenever you were out of jail, did you look around to see if you could find the parties? A yes, sir, I looked around to see if I could find the parties.

MR. JORDAN: There is practically one issue in this case, and I can shorten this case very materially

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if we know just exactly what will be controverted in this case. If there is any question as to the defendant taking a load of goods from New York to Rock Hill for a Mr. Phillips I will be obliged to call several witnesses on that subject. I want to know if the District Attorney controverts that fact.

THE COURT: Do you want to put in evidence on that point?

MR. JORDAN: Yes, your Honor. Will you put in evidence to controvert that?

MR. MARKWICH: There is nothing to controvert unless it is the fact-- unless you try to establish it.

THE COURT: The people, in other words are not in a position to concede it. They don't want to concede that this defendant in point of fact did that. They have no testimony which contradicts the defendant on that point but they are not in a position to concede it.

MR. JORDAN: I see. I didn't know but that we could shorten the trial very materially; that is all. Will your Honor give me five minutes to decide what I will do.

THE COURT: Yes.

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

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DIRECT EXAMINATION BY MR. JORDAN:

Q Where do you live? A Rock Hill, Sullivan County.

Q Mr. Kandonick, you formerly lived in New York? A Yes.

Q How long have you lived in New York? A Ten years.

Q Were you in business there? A Yes, sir.

Q Where was your place of business? A 309 Broome street.

Q How long were you in business there? A Ten years.

Q Where did you live? A 313 Broome street.

Q Did you know during the time that you lived here, did you know this defendant, Jacob Sender? A Yes, sir.

Q How long have you known him? A I have known him about six or seven years since he used to come in my place.

Q What business were you in? A Restaurant and cafe.

Q There in Broome street? A Yes, sir.

Q Did he frequently come to your place? A Yes, sir.

Q Had business dealings with him for sometime, had you? A Yes, sir.

Q Now what is your business now? A Hotel.

Q What hotel? A Rock Hill, Sullivan County, a summer and winter resort place.

Q You run a resort up there? A Yes, sir.

Q A summer and winter resort hotel? A Yes, sir.

Q That is known as Philips? A Phillips is the name of the hotel.

Q You have your sign with the name Phillips on it?

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A Yes, sir.

Q Phillips Hotel? A Yes, sir; it used to be Phillips Cafe, Broome street.

THE COURT: It will be conceded for the purposes of this trial that the person alluded to in the testimony of the defendant as Phillips, is the witness who is now on the stand.

BY MR. JORDAN:

Q Now, Mr. Witness, did you engage this defendant to do anything in regard to moving you from New York to Rock Hill? A Yes, sir.

Q Did he take any goods from this city to Rock Hill?

A Took my hotel furniture.

Q When did he take the first? A 313 Broome street.

Q When did he take the first goods? A The first goods he took on the 14th of January.

Q The 14th of January? A The first one.

Q That was in the winter? A Yes, sir.

Q Now, when did he take the last load? A The last load he took the 16th of April.

Q The 16th day of April, this year? A Yes, sir.

Q Do you remember his coming to your place to get the loads? A Yes, sir.

Q Were you there when the load was put on? A Yes, sir.

Q Do you know about what time it was done? A Well, I hired him, supposed to be at my place between 8 and 9 in the

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morning; I was waiting for him, he had another job in the morning and he does not show up, and he showed up at my place about 4 o'clock in the afternoon, ~~and~~ I was prepared to load up the truck in the morning and I started to ask him the question, "What is the matter you don't come in the morning", and he answered me that he was working for a concern for furniture, and it was a strike there, and he was working the whole day in the furniture store, but he finished with the work between three and four o'clock, and after four o'clock he came over and does the work of my place.

Q Now, what was put on that truck? A It was dishes and silverware and linen, furniture, barrels of pickels and tomatoes, which we needed at the hotel.

Q Which you wanted to move up there? A Yes, sir.

Q It wasn't any load of furs or anything of that kind, was it? (No answer.)

Q You didn't see anything of that kind? A No, sir, not in that line of business. I am

Q Who, if any one, went with the defendant to Rock Hill? A I beg pardon.

Q Who went to Rock Hill? A I sent my employee, one fellow with him.

Q Did the man that you sent with him come back?

A The next day.

Q He came by train? A Yes, sir.

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Q You know that your goods got up there? A Yes, sir.

Q And they are there now? A Yes, sir.

Q You are now conducting the hotel? A Yes, sir.

Q You have been well acquainted with Sender and sender with you? A Well, he used to come into my place quietly, he used to come into the place every day.

CROSS EXAMINATION BY MR. MARKEWICH:

Q How long did he come into your place? A Six or seven years.

Q Six or seven years? A Yes, sir.

Q He says he only knows you about a year or so? I suppose he is mistaken about that? A Well, six or seven years I should judge.

MR. JORDAN: I object to that.

THE WITNESS: I didn't understand that question.

THE COURT: Objection sustained.

Q When did you ask him to take the furniture up to Rock Hill? A When we made the first job the 14th of January, I told him on April, I wanted to make a second moving, the first of May-- I expect to close the place on account of prohibition. I closed my business the first of April and go out of business and make an arrangement between April and May, any day that would be convenient to him. A few days before I gave him the order, Mr. Sender when you make me the job, and he told me I will try to make you the job

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this week some day, and I said, "very well make me priday morning," and friday morning I was prepared between 8 and 9 to make the job and I was waiting and he didn,t showup. About four o'clock he came again with the trunk, and I asked him why he disappointed me, and he told me that he had been in the morning between 8 and 9 o'clock, and he said, "Well, Mr. Phillips I was working with a concern for the furniture strike, I was carrying furniture with a policeman all day, and I finished my job, and I make the job for you and he will be up four or five o'clock, he will be up with the truck

Q Now, were you up at Rock Hill during the time the defendant Sender was up there? A No, sir.

Q When was it that your man came back from Rock Hill? A The next day.

Q Your man told you that Sender's truck had broken down? A Yes, sir.

Q Did Mrs. Sender come into you place and inquire about her husband? A What is that?

Q Did Mrs. Sender come into your place and inquire about her husband? A Yes, sir.

Q When was that? A That was fice or six days later.

Q Five or six days later? A yes, sir.

Q She came in and asked why the husband was not back?

A No, sir, she didn,t ask me that; she asked me whether Mr. Sender is back?Q She asked why Sender wasn,t back?

A No, sir, she did not ask me.

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Q What did she come in there for? A I saw her about six days or seven days later, and she came over and told me, "Mr. Phillips, somebody looking for my husband", and I said, "Why", and she said, "Some party has been over, and I don,t know what to do", and she she said, "My husband is-- can,t you help me out-- the police look for my husband", and I said, "What Have I got to do with it", that is what I answered.

Q You said, "What can I do?" A Yes, sir.

Q You did do something? A After that.

Q You helped him out when he came back? A She asked me, she asked to get a lawyer, she wanted to get a lawyer, and she go to the counsel, Mr. Jordan.

Q It was you sent to Mr. Jordan? A Yes, sir.

Q You send Mrs. Sender to Mr. Jordan? A Yes, sir.

Q By the way, you got bail for him, too, didn,t you?

A No, sir, I didn,t get anything.

Q What is that? A I don,t know nothing about it.

Q Mrs. Sender asked you get bail for him? A She asked me if I get a bailer, and I am not in this line of business, and this man and Mr. Miller is in the line of business, and he will do it for you.

Q Who put up the case security, do you know?

A I do not know.

Q Do you know Mr. Miller? A yes, sir, I know him personally.

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Q What is Mr. Miller's first name? A I could not tell you, Samuel if I am not mistaken.

Q Sam Miller? A Yes, sir.

Q What business is he in? A I could not tell you.

Q What is that? A I don't know.

Q How long do you know him? A Well, I know him a couple of years.

Q What is that? A A year or a year and a half maybe.

BY THE COURT:

Q Where did he live? A I beg pardon.

Q Where does he live? A I don't know, your Honor.

Q Where is his place of business? A I don't know.

Q Where can he be found? A I can't say, I saw him at the Russian Tea House, in a restaurant.

Q Whereabouts is that? A On Forsythe street.,

Q What number? A 118.

Q 118 Forsythe street? A Yes, sir.

BY MR. MARKSWICH:

Q Right over Barron's syrup place, called the Odessa Tea House? A Yes, sir.

Q You come around there very often? A Not very often.

Q Well, when you are in the city you are around over there? A Not very often.

Q Where was it you became acquainted with Miller?

A Before I was in the business he used to come in there.

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once in a while for eating.

Q Did you see Sender up in the Russian Tea House?

A Well, I never been there, maybe I was with him, seen him there three or four times; it was in my neighborhood I was at 309 Broome street, and he was at 118 Forsythe street.

Q Do you know he lives in Harlem, and has lived there how long? A I don't know; I could not tell you.

Q He has a garage up in Harlem, don't you know that?

A I didn't know that.

Q You didn't know that? A No, sir.

Q He was around your place with the truck? A He was pretty near every day, sometimes every day, week days for eating. We had a restaurant where people eat.

Q During the month of April how many times was he in your place? A A couple of times, I can't remember how many times he was there.

Q He was there almost every day, wasn't he? A Yes, sir., when I knew him sometimes five times a week or four times a week or three times a week, sometimes every day if it was bad weather he used to stay a couple of hours.

Q Now when Sender's bail, was increased, or was twenty thousand dollars he was bailed out. Do you remember that? A What is that?

Q Where did he get the bail-- did you get it for him?

A I helped him, his wife asked me and I told her maybe Mr. Miller will help you out, and since then I didn't see Miller

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or nobody for I was up in Rock Hill; I am there since the first of May.

Q Did his wife come to see you a few days after he was arrested, after Sender was arrested, and have a talk with you about her husband?

Objected to. Objection sustained.

Q Let me ask you this, Mr. Phillips: When your man came back from Rock Hill, and told you that the car had broken down and that Sender remained up there, did you get in touch with Mrs. Sender and tell her? A No, sir.

Q That her husband is up in Rock Hill? A No, sir.

Q You didn't send anybody up there? A No, sir; my man told me that the truck got stuck in a hole and they carried the things up to my place the goods were brought in good condition, and the goods was in my possession and he locked the barn and brought me the keys and everything is in good condition

Q Did you go up to Rock Hill? A The first of May.

Q When did you see Sender the first time after they took your goods to go up to Rock Hill? A I didn't see him.

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

Q You saw him after he was bailed out, didn't you?

A No, sir, I didn't see him again, I am in Rock Hill.

Q Do you remember when he came down here and surrendered on the 3rd of April? A I didn't see him the 2 3rd, no, sir,

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Q You hadn't seen him? A No, sir.

Q Have you seen him at any time before you went up to Rock Hill? A No, sir.

Q You have not? A No, sir.

Q Well, he was your friend, a customer of yours, you were interested in getting him bail, didn't you make it your business to see him?

Objected to. Objection sustained.

Q You didn't see him at any rate until you moved up to Rock Hill? A I did not see him since one day when he left with my job to go there.

Q You got a subpoena to come here? A No, sir.

Q You came down here voluntarily for him? A No, sir. I came down by call on the telephone.

Q You were called by his lawyer, Mr. Jordan? A Yes, sir.

Q Have you any other business outside of the hotel business? A No, sir.

Q Have you any relatives in the fur business? A What is that? I couldn't hear you.

Q Have you any relatives in the fur business? A No, sir.

Q Do you know a man named Katzenberg? A Yes, sir.

Q Who is he? A A nephew of mine.

Q What business is he in? A He used to be in the restaurant business. I had a place and I used to run a cafe, and he and his mother used to run the restaurant.

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since
now he is in the-- ^ I gave up he has merchandise , goods,
buying in auction.

Q Where is his place of business? A I don't think he
has got a business, he buys at auction and sells at auc-
tion.

Q He is a neppew of yours, isn't he? A Yes, sir.

Q Have you another nephew of yours? A He used to
be a chauffeur.

Q An automobile chauffeur? A Yes, sir.

Q What is his name? A Barnet Chellis.

Q Where does he live? A He is a chauffeur.

Q Where does he live? A I don't know, I couldn't tell.

Q He is your sister's son? A Katzenberg is my sister's
son.

Q Where does Katzenberg live? A He used to live at 305
Broome street.

Q Is he married? A No, sir, he supports his mother
and children.

Q What is his first name? A Jake.

Q Where does Barnet live? A I don't know.

Q Where does your sister live? A I am not supposed to
know where my relations live I got to take care of my own
business; I wouldn't take care of somebody else's business;
before he was living at 120 Forsythe street or 124, I
couldn't tell you.

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Q With his mother? A With his wife.

Q He is married? A Yes, sir, he has a wife and four children.

Q What is his business, do you know? A Chauffeur.

Q Still a chauffeur? A Yes, sir.

Q Do you know whether he is a friend of Sender? A I don't know that; I could not tell you.

Q Katzenberg, Barnet and Sender were in your place of business very frequently, weren't they? A I couldn't tell you.

Q They would meet in your place very often? A Katzenberg?

Q Katzenberg? A Katzenberg used to keep a restaurant in my place, as I told you before.

Q In your place? A Yes, sir; I was taking care of the cafe, and Katzenberg and his mother had the restaurant.

Q You have another nephew that has got a store here in New York, haven't you? A No more.

Q Haven't you any other nephew, are those the only two nephews you have? A That is all; I got in the old country more.

Q But I mean in New York City? A That is all, I have two.

Q Two? A Yes, sir.

Q Just those two? A Yes, sir.

Q Do you know whether Katzenberg had a store up here

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along on 30th street on the west side? (No answer.)

Q You don't know anything about it? A No, sir.

BY THE COURT:

Q What is the answer to the question? A No, sir, your Honor.

BY MR. MARKWICH:

Q Were you told by any one that it was your nephew who had received these furs?

MR. JORDAN: I object to that as improper and it is an imputation.

THE COURT: Objection sustained.

Q Did you contribute anything by way of going towards bailing this defendant, did you help bail him out, did you pay anything to the bondsman or to the surety company?

A No, sir.

Q Did you talk to Sam Miller before the defendant was bailed out? A No, sir.

Q Did you tell Sam Miller that the defendant was a good risk and he should bail him out? A No, sir.

Q You haven't helped him out at all? A No, sir; I told his wife if you want to find out go up and see Sam Miller if he will help you.

Q You did send his wife around to see Sam Miller in the Russian cafe at 118 Forsythe street? A Yes, sir.

Q And then you knew that this defendant was bailed out?

A Yes, sir.

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Q Twenty thousand dollars bail? A I didn't know how much the bail was ; I never saw him since he was bailed out.

Q The wife told you? A I seen the wife for the first time today now.

Q You have seen the wife? A The wife I say I didnt see.

Q Didn't the wife tell you what the bail was? A Yes, sir, she told me.

Q When she told you what the bail was you sent her over to Miller? A Yes, sir.

Q Have you a nephew of yours in Philadelphia? A No.

Q What is the name of the man from whom you bought this place up in Rock Hill? A Kranke.

Q Is he here as a witness? A No, sir.

Q Did you ask him to come down with you? A I don't ask him.

Q Did anybody ask you to bring Kranke down here? A No.

Q Kranke occupied the place, didn't he before you moved in there in May? A Kranke was there thirty two years.

Q But is he there now? A Yes, sir, he is there now, an old man, a very old man.

Q Is he right near your hotel? A Yes, sir.

Q Was Kranke there at the time, if you know, when the goods were brought up there by the defendant? A My employee was there, he brought over the goods with an expressman in my barn, and they all was there.

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Q Do you know this chauffeur Harry, the man who was working for the defendant is a chauffeur? A Harry? No, sir.

Q What time of the day was it, that the defendant came around to your place of business to move the furniture?

A About four o'clock.

Q What is that? A After four o'clock.

Q About four o'clock in the afternoon? A Yes sir.

Q Which truck did he bring around there? A A big truck.

Q What color was it? A I don't remember, the color.

Q What was on the truck? What name was on it?

A I don't see any name there.

Q What is that? A I didn't take notice to the name.

Q Did you see any name on it? A Well, may be it was something there he don't show it to me.

Q Sender used to come there to work, used to come to your place very frequently? A No, sir, he used to come and eat there, not for work.

Q How long did it take him to put the kitchen utensils and the furniture on the truck? A It takes about an hour.

Q You helped him? A Yes, sir.

Q You say you didn't take notice to what name was on the truck? A No, sir, absolutely not.

Q Do you know how many trucks the defendant had? A I

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could not tell you.

BY MR. JORDAN:

Q He had a stand down near your place, where he got business? A I beg pardon.

Q Sender had a stand near your place? A No, sir.

Q Didn't he? A No, sir.

Q Did he have a stand in Ludlow street -- how far is Ludlow street from your place? A Ludlow and then Eldridge and Allen and Orchard -- four blocks away.

J A C O B M A R K S, a witness called on behalf of the defendant, being duly sworn, testified as follows:

(The witness states he lives at 2102 Prospect avenue, Bronx.)

DIRECT EXAMINATION BY MR. JORDAN:

Q Where do you live? A 2102 Prospect avenue, Bronx.

Q What is your business? A Garage owner.

Q Do you know the defendant Jacob Sender? A Yes, sir.

Q About how long have you known him? A About 6 or 7 years, something like that.

Q Have you had any business dealings with him? A Yes, sir, he is one of my tenants for the whole time since I know him.

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Q Ever since you have known him? A In Harlem, 131st street.

Q In the same place? A Yes, sir.

Q You are his landlord? A Yes, sir.

Q Do you know other people who know him? A No answer.

Q You know other people there, neighbors of his who live in the same house? A All the people in the neighborhood has known him about seven years, they all know him.

Q Do you know what his reputation is in that community for truth and veracity and honesty? A Yes, sir, as far as I know his reputation, I never heard anybody speak anything wrong about him; never heard a word to say against him wrong and I am sure all the tenants in the house, everyone of them, about thirty, never heard anything of that kind.

Q You have heard that his reputation was good? A Never heard anything bad.

Q But do you say it is good? A Yes, sir, it is good; I never heard anything against him.

CROSS EXAMINATION BY MR. MARKEWICH:

Q You never heard anything against him? A No, sir.

Q He is your tenant? A Yes, sir.

Q Pays you rent I suppose? A Yes, sir.

Q You never had any trouble with him along those lines? A No, sir.

Q Did you know that he was arrested once for grand larceny, charged with the crime of grand larceny with having gotten away with a truck load of goods?

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MR. JORDAN: I object to that and particularly to the last imputation contained in the question "got away with a truck load of goods."

Q Do you know that that was the charge against him?

THE COURT: I think, Mr. Jordan, that passing for the moment the question as to the form in which the question is put that the People have a right to interrogate this witness as to whether he heard anything derogatory to the reputation of the defendant.

MR. JORDAN: Yes.

THE COURT: I don't think they have a right to ask as to any specific acts of alleged wrongdoing. I think they must confine themselves to alleged statements bearing upon the reputation of the defendant. I sustain the objection.

MR. JORDAN: I assume it refers to something prior to the time contained in the indictment.

MR. MARKEWICH: Yes, sir.

BY MR. MARKEWICH:

Q I will ask you this question. Do you know that on the 3rd day of November, 1919, the defendant was --

MR. JORDAN: I object to that, your Honor.

THE COURT: I think you have gone far enough to show that that is objectionable. My understanding of the rule is that the People have a right to interrogate a witness as to alleged wrongful acts on the part of the defendant. You may interrogate him respecting alleged derogatory state-

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ments to the reputation of the defendant; in other words you have the right to question this witness as to whether he ever heard anyone say that the defendant was of bad reput-

MR. MARKEWICH: That is what I am trying to bring out.

THE COURT: I think that the question is aimed not at the reputation of the defendant but that it is designed to bring to the attention of the witness certain alleged wrongdoing on the part of the defendant.

MR. MARKEWICH: I had understood, if your Honor please, that where a man's character or reputation is brought into issue that the People have a right then to show that the man has been accused of a crime as bearing on his reputation, as to whether he had heard anything derogatory to the defendant's character or reputation.

THE COURT: There has been a case in the Court of Appeals decided some ten years ago, I cannot recall the name of the case, something like the People against Hinckley or a name very similar to that, where a man was charged with the crime of murder -- the case as I recall it was one that arose in one of the Counties on Long Island -- and the Court of Appeals, if I remember the decision correctly, drew a distinction between the examination of a character witness respecting the evil repute of a defendant and the examination of a character witness for the purpose of eliciting whether or not he was informed as to certain alleged wrongdoing by

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the defendant. The latter line of questioning was not allowed and the former was permitted. That is my recollection of it.

Question excluded.

THE COURT: The case I refer to was decided in 1907 or 1908.

MR. MARKEWICH: I am pretty certain, your Honor, that there was a case decided more recently than that, within the past two years. I cannot give the title of it, in which they laid down the proposition that you can bring out against any defendant anything derogatory to a defendant's reputation.

THE COURT: You can when cross examining the defendant as a witness but where character evidence is introduced it can only be rebutted by testimony that goes to the point of the defendant's reputation.

MR. MARKEWICH: What constitutes reputation except what people have heard of a man, what his reputation is in the community. There is a vast distinction between character and reputation as your Honor knows. But if a witness comes forward and says that he knows a man to be of good reputation, that he never heard anything against him, I think it is perfectly proper to ascertain from the witness if he had heard that the man had been ever *charged* with larceny or burglary. That is the only way it can be brought out. We cannot bring it out until the defendant's

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reputation is in issue.

THE COURT: I will examine the authorities in a moment.

BY MR. MARKEWICH:

Q And while we are waiting let me ask you what is your business? A I am a garage owner in Prospect Avenue.

Q Where? A Near 180th street, number 2102.

Q Has the defendant ever had his car in your place? A No, sir.

Q How often had you seen him? A He is living with me, a tenant.

THE COURT: I will allow you to ask the witness the question as suggested.

Q Did you hear that on or about the 3rd of November, 1919--

MR. JORDAN: I object to that so far. That is making a specific charge.

Q Did you ever hear from anyone that this defendant had committed larceny and stolen a truck load of goods? A No, sir.

MR. JORDAN: I object to that.

THE COURT: I think the question is objectionable.

MR. JORDAN: He has answered that he never heard it.

Q Did you ever hear that this defendant had committed burglary? A No, sir.

MR. JORDAN: I object to that question and to the imputation contained in it. It is detrimental to the defendant and prejudicial to his interests, particularly the latter

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part of it.

THE COURT: I will allow the question.

Exception.

A I don't understand that question.

Q. Did you ever talk to anybody about this defendant? A Did I talk? It was only one -- Mrs. Sender.

Q She is the only one you talked to about him? A Yes, sir, she explained to me in reference to this case otherwise I never heard before that he should be in anything wrong -- in reference to this case she explained to me that he was mixed up in it here.

Q How often do you come around to that house? A I lived six years all together in the one house where I am living today.

Q How long did you live all together in that house? A About six or seven years.

Q Where do you live now? A Up in the Bronx.

Q How long are you away from that house? A About a year.

Q When did you move up there? A Over a year, about a year, something like that.

Q About a year? A Yes, sir.

Q You don't know anything about the defendant after you moved away from there? A Well I come down there to get the rent.

Q Just to collect the rent? A Yes, sir.

Q You have you come in contact with him since you moved to the Bronx? A Since the last time --

Q Have you had occasion to discuss with the tenants his

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reputation, have you talked to any of the tenants? A No, sir, I never heard from anybody and the defendant was living in the one house there and nobody said anything against him and I never heard it.

(At this point the Court admonished the jury calling their attention to Section 415 of the Code of Criminal Procedure and adjourned the further trial of the case until tomorrow, Friday morning, June 18th, 1920.

New York, June 18, 1920.

TRIAL RESUMED

MR. JORDAN: My witnesses were here last night, character witnesses, and they have not arrived and I will not ask the Court to wait and therefor I rest.

CHARLES MOSKOWITZ, a witness called on behalf of the People in rebuttal, being duly sworn, testified as follows:

(The witness states he lives at 152 West 118th street and is attached to the District Attorney's office.)

BY MR. MARKEWICH:

Q You are a process server attached to this office for how many years? A Three years.

Q Did you receive a subpoena in the case of the People of the State of New York against Jacob Sender the defendant to be served on Tony DeGrazzio? A I did.

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MR. JORDAN: I object to that question.

THE COURT: I will allow it.

Q Did you serve the subpoena on him? A I did.

Q Where did you serve the subpoena? A Right in the hall.

Q What day? A On Wednesday.

Q When was that subpoena returnable? A The following day Thursday.

Q Yesterday? A Yes, sir.

Q Was Tony DeGrazzio here in court yesterday? A I did not see him.

MR. JORDAN: I ask that the testimony be stricken out.

THE COURT: I will strike it out and the jury will disregard it.

GEORGE F. CHIQUETTE, a witness called on behalf of the People in rebuttal, being duly sworn, testified as follows:

(The witness states he is a police officer attached to the Safe and Loft Squad Police Headquarters.)

DIRECT EXAMINATION BY MR. MARKEWICH:

how long

Q Officer/are you connected with the Police Department of this City? A Ten years.

Q Assigned by the Police Department to this case? A I have been.

Q Of the People against Jacob Sender? A I have.

Q Do you know Tony DeGrazzio? A I do.

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Q Do you know where he lives? A I do.

MR. JORDAN: I object to that question as incompetent immaterial and irrelevant.

THE COURT: I will allow it. It may transpire that he was subpoenaed to appear today. I am allowing it for that purpose; if not I will strike it out.

BY MR. MARKEWICH:

Q Were you up at his home? A I was.

Q At Tony DeGrazzio's home? A Yes, sir, I was.

Q When? A This morning.

Q Did you find Tony DeGrazzio there? A I did not.

Q Did you find what apartment he lived in? A I did.

Q What apartment? A 404.

Q Apartment 404? A Yes, sir.

Q Do you know his mother? A I seen his mother this morning.

Q Did you make any inquiries for him? A I did.

Q From whom? A From his mother.

MR. JORDAN: I object to that.

THE COURT: I will allow it.

THE WITNESS: From his mother and sister-in-law.

Q What were you told by them?

MR. JORDAN: Objected to.

THE COURT: I will allow it to show what efforts were made to subpoena this man.

MR. JORDAN: But not what somebody told him.

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THE COURT: I will allow a statement to appear on the record as to what the officer was told not as showing the truth of the statement made but as bearing upon the effort made to secure the attendance of the witness.

MR. JORDAN: But suppose something should be said by the witness your Honor detrimental to the defendant?

THE COURT: I will allow merely a statement as to the whereabouts of DeGrazzio.

BY MR. MARKEWICH:

Q Were you told by anybody at that house where the man that you were looking for was to be found. Yes or no? A NO, sir.

Q Were you told by anybody at that house whether the man that you were looking for was inside, in the house at the time that you were there? A NO, sir.

Q Were you informed that he was not there at the time that you called? A I was.

Q Did you have with you at the time that you called a subpoena calling for the attendance of the man in question in this court on this trial today? A I did not.

THE COURT: That will be all, Officer.

BY MR. MARKEWICH:

Q Were you told where he was during the night?

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

THE COURT: Objection overruled. They have a right to show that he went out of the jurisdiction.

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THE WITNESS: I was told that he was home during the night.

Q During the entire night? A Yes, sir.

MR. JORDAN: I ask that everything in regard to Tony DeGrazzio be stricken from the record including the imputations contained in the question just propounded by the District Attorney in regard to Tony DeGrazzio

THE COURT: I think I will allow it to appear on the record that the People sent someone there for the purpose of procuring the attendance of DeGrazzio as a witness on this trial, and that the officer, who was the last witness that the People called went to what was supposed to be the home of DeGrazzio and DeGrazzio was not there. Beyond that I will strike it out.

MR. JORDAN: But your Honor I desire to ask your Honor to say to the jury in view of the effort to get Tony DeGrazzio and because of his non-appearance that there should be no inferences drawn by the jury that there is anything substantial in the question asked of the defendant upon his cross examination in regard to a collateral matter so that the jury would have a right to assume that the District Attorney intended, if he had Tony DeGrazzio here that Tony DeGrazzio would contradict the defendant -- I ask your Honor to say that the People are bound by the answers of the defendant and that they are to draw no inferences from the imputa-

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tion contained in the question put to the defendant.

THE COURT: Well I think that you are not entirely correct in asserting that it was in every respect a collateral matter. I think, for example, that the item of testimony going to the point or rather as suggested by the question as to whether the defendant was with Tony DeGrazzio early on the morning of the day of the alleged larceny -- that is to say -- as early as four o'clock on the morning of that day and that that conversation might have been regarded as some circumstantial evidence bearing upon the question of the defendant's guilt. Now, in other words, I think that it would have been a matter as to which the People would have been allowed to have interrogated DeGrazzio if he appeared. I don't think the People would have been foreclosed by the rule as to collateral matter, the contradiction of a collateral matter. But as the proof now stands there is no evidence at all that any such talk did take place or that such an appointment was made. If that is what you want the jury told then there is no evidence at all.

GEORGE F. CHIQUETTE, a witness for the People,
recalled.

BY MR. MARKEWICH:

Q Did you have a talk with the defendant at the time of his
surrender? A I did.

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Q Now, pursuant to that talk did you go to the corner of Delancey and Columbia street? A Yes, sir, I did.

Q In this county? A Yes, sir.

Q What corner did you go to? A On the southwest corner, Hoe & Company.

Q Did you see the building that was there? A I did.

Q What building was on it? A R. Hoe & Company.

Q What kind of an establishment? A Machine makers.

Q Any store on that corner? A No store.

Q On the adjoining corner? A No, sir, none whatsoever.

Q What is on the adjoining corner? A There is a flat with the entrance on Columbia street.

Q Now you are talking of the east and west corners of Delancey and Columbia street on the south side, the down town side of Delancey street? A I am.

BY MR. JORDAN:

Q What are the other corners? A R. Hoe & Company on the southwest corner and on the southeast corner the flat entrance is on the front of Columbia street, -- on the side of Delancey street there is a wall, both sides.

Q You have given now three corners, what was on the other corner? A Well R. Hoe & Company and then there is the entrance on Columbia street.

BY THE COURT:

Q As I understand it the bridge structure rises to a certain

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height and it divides into two separate roadways at Delancey street, one roadway being to the south of the bridge and the other roadway to the north of the bridge, is that correct? A Yes, sir.

Q You confined your investigation to the buildings that were on the south of the bridge, in other words the southwest and southeast corners in front of the bridge? A Yes, sir.

BY MR. MARKEWICH:

Q Are there any business places in any of those blocks at all?

MR. JORDAN: I object to that as being immaterial.

THE COURT: I will allow him to answer yes or no.

A R. Hoe & Company is the only business place that I know of.

Q Did you look to find out whether there were any other business places on this corner? A I did.

Q You say that R. Hoe is the only business place you know of? A Yes, sir, the only one.

Q On the four corners? A Yes, sir, the two corners.

Q There are four corners? A I know that I only investigated two, the southeast and the southwest.

Q Now can't you tell us about the others whether you investigated them or not?

Objected to.

THE COURT: Objection sustained.

THE COURT: This defendant has testified to going along Delancey street and stopping at a certain place. As

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a matter of fact Delancey street east of the point where the Williamsburg Bridge begins might be regarded as two independent streets, one the roadway to the south of the bridge and the other the roadway to the north of the bridge. Is there an arch under the bridge there?

THE WITNESS: Yes, sir, there is an arch.

Q So that vehicles could pass through? A Yes, sir, underneath.

Q What is the width of that bridge structure? A Well about the width of this street right here.

Q About the width of this room? A Yes, sir.

MR. JORDAN: Your Honor my point is this that the witness having said that he guessed there were stores there -- he didn't know anything about those stores, he guessed there were stores there.

THE COURT: I will strike out his evidence if he has purported to give any as to what was on the up town side of Delancey street because I regard that as entirely immaterial.

MR. JORDAN: I don't mean that he has testified. As I recall his testimony he said that he guessed there were stores there where he took the goods but he was not positive about it.

THE COURT: You are referring to the testimony of the defendant.

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MR. JORDAN: Now there is nothing to contradict that testimony by this witness saying that there is nothing there.

THE COURT: No, but it is competent for the People to introduce proof as to the nature of the place at which this defendant allowed merchandise that was on his truck to be taken off. I am receiving it for that purpose.

MR. JORDAN: And for that purpose solely?

THE COURT: Yes.

MR. JORDAN: I have no objection.

THE COURT: That is all, Officer.

BENJAMIN HONIG, a witness for the People recalled in rebuttal.

BY MR. MARKIEWICH:

Q Did you see the defendant at the time when he arrived in front of 127 West 38th street? A Yes, sir.

Q With his automobile truck? A Yes, sir.

Q Was anybody along with him on that truck? A No, sir.

Q Anybody got off the truck? A No, sir.

Q Either from the rear or front? A No, sir.

THE COURT: I think that is only what he testified to before.

BY MR. JORDAN:

Q Now let us see you got to your place between seven and eight o'clock? A Six and seven.

THE COURT: I think, Mr. Markewich, in order to shorten

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the matter this testimony is only repetition of what he said before.

MR. MARKEWICH: I was not clear.

THE COURT: I will strike this testimony out given when he came back.

MR. MARKEWICH: I wasn't certain whether he testified to that or not and it was for that reason that I recalled him. I don't think he testified, your Honor, that there was nobody on the truck when it came there.

THE COURT: My recollection is that he did. But now go ahead.

BY MR. JORDAN:

Q Between six and seven? A Yes, sir.

Q What were you doing? A 137 West 38th street.

Q What were you doing there at the time that you first saw him with the truck? A I was just beginning to work.

Q Beginning to work? A At the place where I am working at.

Q What were you doing at that time? A Taking my coat off.

Q Inside or outside? A At the door.

Q Standing in the door taking your coat off? A Yes, sir.

Q Taking your coat off? A Yes, sir.

Q What did you do with your coat when you got it off?

A Threw it on the table.

Q How far was the table from the door? A Right next to the door.

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Q What did you do next after you threw your coat on the table? A I stood there.

Q You stood? A Began working.

Q Didn't do anything else? A Didn't do anything else.

Q How long did you refrain from doing any work during that time, about how long did you do no work? A Fifteen minutes.

Q Fifteen minutes? A Yes, sir.

Q All you did was take your coat off? A And stood at the door as soon as that truck was at the door.

Q Now was the truck there at the door before the door opened? A What door was that?

Q The hallway door? A The hallway door?

Q How long was the truck there before that door opened?
A As soon as the truck arrived it was opened.

Q You stood there for fifteen minutes? A Yes, sir, and watched until the truck went away.

Q How many men did you see there all together? A I seen Sender on the truck and two men getting packages, one upstairs, I couldn't get a glimpse at him, throwing them down.

Q How do you know one was upstairs if you didn't get a glimpse of him? A Well I noticed one throwing it down when I walked by the door and looked at the face of the other fellow who was standing on the sidewalk.

Q You didn't see but two men besides Sender? A Downstairs.

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Q Did you see the otherman at any time? A Yes, sir, up at the stairs throwing them down.

Q Did you see him? A I didn't see his face.

Q You saw somebody throwing something down? A Yes, sir.

Q Did you watch them when he came out? A No, sir.

Q Why not, why didn't you watch that fellow throwing them down? A I don't belong in that place up there.

Q Well I know but you were there interested in it, weren't you?

Objected to. Objection sustained.

F R A N K D. C A S S A S A, a witness for the People recalled in rebuttal.

BY MR. MARKEWICH:

Q Officer at the time you had a conversation with the defendant as you testified to did you ask him whether anybody was along with him on the truck?

Objected to. Objection sustained.

The People rest.

(Testimony closed.)

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