

His Honor has ruled.

MR. LYNN: Now, this very matter was threshed out, several years ago, four years ago, as to these very snow tickets, and those cases were abandoned. But this man is a policeman, and hence the easiness to pursue him.

THE COURT: Well, if these snow tickets had no value, there could be no crime. But the question is, have they any value?

MR. LYNN: Yes sir; that's it.

THE COURT: Now, without that value, they couldn't have any value except that of paper?

MR. LYNN: Yes, sir.

THE COURT: Now, here is the statute (The Court repeats the Section read before.). Now, I should say that these snow tickets, leaving out, for the moment, your load of snow, in and of themselves entitle the holder, if handled honestly, to 33 cents.

MR. LYNN: But the witnesses for the People say no.

THE COURT: Oh, no. Mr. Walsh said that the snow tickets and the pay tickets were of equal value.

MR. LYNN: Yes, sir; the witness said so, and all the witnesses say so.

THE COURT: And you claim that there was no snow

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with these tickets?

MR. LYNN: That's just it. Because the superintendent of the dump would not give these pay tickets, except with a load of snow for each ticket.

THE COURT: Well, it is a very close question, Mr. Nott.

MR. NOTT: Oh, I think, if your Honor please, that it is perfectly clear; that is, that it comes absolutely within the statute that your Honor quoted.

THE COURT: Well, it is after recess time, and I cannot say that I feel absolutely certain on it. I would like to hear argument from the District Attorney whether or not these snow tickets, in and of themselves, are any evidence of value, or which entitle anyone to the receiving of any money.

MR. LYNN: And then you have the very important question. It is conceded that this man Bendt might have got 2,000 tickets, and may have signed this receipt, and went into a barroom; and let us concede that someone hit him on the back of the head, and abstracted some tickets. But he doesn't know what tickets were abstracted, at the time of the robbery.

THE COURT: No. You have forgotten the testimony. Reardon said that he said a man came into the saloon,

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with the tickets, and he said that he stole them, and gave the defendant two packages of them.

MR. LYNN: But what that man said, in the saloon, could not be operative to prove a larceny.

THE COURT: Well, wouldn't it be some evidence?

MR. LYNN: No, I might say anything that happened in my personal experience, but it wouldn't prove the fact of the crime. But here we have the crime proved by the person who lost the tickets, and it is uncontroverted that he was drunk.

THE COURT: That part of the case does not trouble me at all. But I would like to hear some argument to convince me that these tickets are, in and of themselves, of some value.

MR. NOTT: But the statute says that through them value is created, is obtained.

THE COURT: I would like to hear the District Attorney argue on that question, as to what value the snow tickets, in and of themselves, have, if any.

MR. NOTT: I don't exactly understand what your Honor means by that.

THE COURT: Well, for instance, the tickets themselves, supposing they were stolen from the engraver's office, if you please, before they had been handed over

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to Mr. Bradley's place at all; suppose that someone had broken in there and stolen these tickets; had they any value at all? Do they get any more value from Mr. Bradley having them, than if the engraver had them?

MR. NOTT: Yes, sir. Mr. Walsh testified that they had a value, and that he was being constantly approached by people, just in this way.

MR. LYNN: Yes, dishonest people.

THE COURT: What I want to know is, whether you can spell out of Section 545 sufficient to cover a case of stealing these tickets?

MR. NOTT: Well, what your Honor read absolutely applies to this case. I don't see how English could cover it better.

MR. LYNN: Well, I disagree with you.

MR. NOTT: But you said, awhile ago, that you had to talk for your client, whether you meant anything or not.

MR. LYNN: No, I did not. I didn't say that I had to talk for my client. You can't indict me for stealing Subway air, because my client is a fool policeman and hasn't very much sense. He shouldn't be arraigned on that account here, upon a trumped-up charge of crime.

MR. NOTT: The very fact that these people asked for

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\$50 is evidence of value.

MR. LYNN: And nobody could be imposed upon to buy them. That shows that he was an arrant fool.

MR. NOTT: And it would be better if they were ~~not~~ fewer such fools on the force.

THE COURT: Well, I will hear you further, after recess, Mr. District Attorney.

(The Court then admonished the jury in accordance with Section 415 of the Code of Criminal Procedure, and took a recess until half-past two o'clock.)

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AFTER RECESS.

MR. NOTT: If your Honor please, following out your Honor's suggestion, I have, in the very short time possible since we adjourned, looked up some authorities, and, also, conferred with Mr. Taylor, one of the gentlemen at the head of the Appeal Bureau; and my investigation and consultation with him have only served to confirm the opinion that I had before.

It appears on this record, now, without any dispute, that the so-called pay ticket is property. It is conceded by the defendant that it has value, and, having value, it is property.

Therefore, this snow ticket falls into the category of instruments which are evidence of title or right to property; because it also appears, without contradiction, that this snow ticket is an evidence of a right or title of the holder of that snow ticket to the pay ticket, which is property.

Therefore, it would seem that this case is in all ways analogous to the case of a pawn ticket.

A man has a pawn ticket. That is an evidence of his right or title to property.

The production of the pawn ticket is not sufficient,

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in and of itself, to entitle him to that property. When he produces the pawn ticket, he has got to produce something else with it, namely, a certain amount of money; and on the production of the pawn ticket and the money, he is entitled to property.

And here, on the production of a load of snow and the ticket, the holder of the ticket is entitled to property, namely, the pay ticket.

And I have numerous cases in which it has been held that a pawn ticket is the subject of larceny or forgery.

It is, also, analogous with the instrument known as a trustee's certificate.

Bondholders will deposit bonds with a trustee, under a trust agreement, and will receive from the trustee a certificate, which entitles them, upon production, to the bonds. It does not entitle them, on production, to the money, but it entitles them to the surrender of the bonds which, in turn, entitles them to the money; and it has never been held, and could not be held, that one of these trustees certificates are not a fit subject of larceny.

Now, the rule is very proper, and, in the case of the People vs. Drayton, 168 New York, page 10, the Court says: (Reads).

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That was upon a demurrer, not precisely this case, and there it was an agreement for advertising; and the Court says that the indictment is good, if the paper set forth in the indictment, and upon which the forgery was predicated, does show upon its own face the averment of extrinsic facts, and here the extrinsic facts are those which show the nature of the paper (Reads).

That is the test, and that is the test laid down by the Court of Appeals.

Now, in this case, it appears by this indictment, and by the extrinsic averments contained in the indictment, that this instrument, if valid, would be operative to secure to the holder the turning over to him of property, namely, this pay ticket, the value of which is conceded.

And upon those cases upon pawn tickets, and the analogy of the trust certificates, it would seem to me that there is no possibility of doubt that the man who produced this ticket, which entitles him to property, and without which he cannot get property, is the holder of an instrument which is operative, and, therefore, its value is the value of the property for which it is an indispensable requisite.

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THE COURT: Well, Mr. Lynn, have you anything to offer, apart from what you have offered?

MR. LYNN: If what Mr. Nott said was true, in this case, if his premises were right, his logic is correct.

But, if you start on a false premises, no matter how logical your reasoning is, why, of course, it is always based on the false premises.

If we can get our premises right, then our logic may be analyzed carefully.

The old Greek logic, that a horse is an animal, and man is an animal, therefore a man is a horse, that is the logic that would be followed by the false premises.

Now, if we start correctly on this proposition, the first question would be, that these two bundles of tickets on the table here, where could we go to obtain any value?

I don't care whether Bradley lost them, or the printer lost them, in the possession of anyone, what can be done with them?

Mr. Nott has not contended that the 200, or whatever there was in these two packages, could be presented at any place in the City of New York, and any value obtained

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from them.

MR. NOTT: Yes. I do contend that, and urge that.

MR. LYNN: No. You don't; because the evidence will not sustain you for that.

MR. NOTT: It is in evidence that Mr. Walsh was offered money for these tickets.

MR. LYNN: No, no. If the two bundles of tickets was brought up and presented to anyone in the street, at the dump or the station, they have no value, and no ticket could be obtained on them. That is the evidence, and you can't twist or distort it in any other way.

We do have the evidence that these tickets, and the labor of the snow produced with them, that the person in charge thereof, will, on the receipt of the ticket, and the dumping of the snow, return a pay ticket; but there is no evidence before your Honor that two bundles of tickets, that these two bundles of tickets has any value whatever, and that any value can be obtained.

If that is true, we have no right to speculate. If you are going to speculate, then I can speculate with the District Attorney, and say what is possible.

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Everything is possible, everything can be construed into a possibility, what might be done.

In the hands of a corrupt person, these tickets might be brought to the dump, and, meeting a corrupt inspector there, he might say, "Give me back some of these pay tickets, your boss will not know but that the snow has been delivered here, and we'll divide up."

But, in the absence of the load of snow, the ticket has no value, with an honest inspector there.

Now, what have we got here? 200 tickets, nominally the property of the snow contractor; and the young clerk and Mr. Walsh concur in the testimony that they are merely tickets to locate and fix the fact, to the satisfaction of Mr. Bradley, that the snow is brought from a certain district, and at the dump, with the snow, the pay ticket is to be delivered. But we are not a legislative body now. We are dealing with a condition before us.

The Section which your Honor read deals with what? It deals with the condition of affairs of written and printed instruments, instruments that, on their face, will give the color or semblance or form of permitting the holder to obtain or get something of value with it. It is a section to intercept the use of written instruments, by means of which money or something of value can be obtained.

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Now, a pawn ticket is what?

A pawn ticket is the evidence of a pledge.

The property has been left behind with the ticket. A value has been given to it. These tickets here, in their bundles bears no color of construction like that, as an evidence of property or as an evidence of a load of snow.

MR. NOTT: They are evidence of labor done.

MR. LYNN: No; they don't bear that, because the ticket says, "One load of snow. Present this ticket to the dump." But these tickets were not presented at the dump. They were not brought down in the course of business, and offered by the defendant to the person in charge of the dump at Section 4. But the evidence is that the tickets were brought to Walsh, not by the defendant but by a person who, he says, was drunk.

MR. NOTT: 200 tickets were brought to him by the defendant.

MR. LYNN: Now wait. And he wanted to know if he would give him \$50 for them, not the defendant, but the person accompanying the defendant, and Walsh said "I don't know. Come tomorrow night." Tomorrow night's engagement was never kept. Walsh himself says that he took this officer aside, and he said,

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"Officer, what do you know about these tickets?
These tickets might have been stolen."

MR. NOTT: There is no such evidence.

MR. LYNN: I will leave it to the jury to determine if the drunken man didn't offer to sell him the tickets.

MR. NOTT: Well, that is very different.

MR. LYNN: Well, Walsh says, "I don't know but these tickets were stolen", and the officer said "Well, that may be so. I will find out about them."

MR. NOTT: No, he said that he knew that they had not been come by right.

MR. LYNN: And you know that an officer of the peace, he has the right to take into his control and custody stolen things. You and I might not have that right.

But here is a proposition of law that presents itself so clearly to my mind that I am convinced of the correctness of my contention. Of course, your Honor can write into the statute that it is an evidence of obligation or value, but they are only, according to the evidence an identification of labor; and, no matter indiscreet or foolish this officer may have been, that is not the question for your Honor.

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But the question is whether or not these things have a value in themselves.

Will these things, in open market, in the hands of Fletcher, or A or B, be capable of being presented anywhere to obtain value, or do a wrong to anyone?

The answer is no; because it is coupled with something else, with the bringing of a load of snow; and if that is true, then the two propositions would have to be taken together.

If Fletcher had held out to anyone that 200 loads or snow had been delivered on those tickets, and had endeavored to obtain the 200 pay tickets by such a statement, then your Honor's reasoning under that section would become strong and forcible; because the completion and the making of this instrument in writing would bring it within the statute.

But there is no pretense that 200 loads of snow was delivered or was represented as being delivered by the tickets.

On the contrary, Walsh says that they brought them down there in a drunken state.

And now what have we got here? Two conditions, an identification ticket and the pay ticket, not

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detached from the stub; and the young man says that in order to be presented at the dump they must be detached from the stub.

It is not contended here that these stubs were ever detached. In fact, on the contrary, we have 200 tickets, simply with the stubs and all on.

Now, this is possibly a novel case, your Honor, but the defendant should not be made the experiment of novelty; and your Honor is too wise and too experienced on the bench not to know the elements of law, that you can write into a criminal statute something that you would like to write into it, something that ought to have been put in there, something that anticipated snow tickets. But the statute says that unless the instrument is not covered by the previous section, the value shall be determined by the market value.

Now, have they a market value?

Will any man dare to take that stand and say that these tickets have a penny of market value?

If there is a witness that can be called, then I withdraw all that I have said.

But they all reason with Mr. Nett the possibility the use to which they might be put to, not that which

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they had been put to, or that any part of the evidence discloses that they were put to.

On the contrary, it is not answerable that these tickets were in any sense offered in the channel which they purported to bear on their face.

200 coupons attached to the stubs brought by a policeman in uniform to a public dock, to Mr. Walsh; and Mr. Walsh saying that he didn't want them, that they didn't belong there; and the officer arrested the next day.

It was not for the larceny of them, but for the receiving of the stolen goods; and still a strong doubt hangs over the case whether they were stolen or not.

My own views and your Honor's views as to this man Bendt are widely different, but the evidence as to whether they were stolen or not, is certainly flimsy.

Now, then, comes the question of value.

This Court certainly has not reached the point where value must be a speculative thing, and where the defendant, whose rights to the law, is to be held sacred, is to be held upon a strained construction

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of the statute.

If this policeman has been a fool or an indiscreet person, and without logic or thought in dealing with a thing that has no value, he might be criticised and characterized as a man of little or no sense.

But we are dealing with criminals, and the protection of life and liberty is the object of our laws.

Now, if this policeman was handling useless, valueless things, of no value, that could do no man any harm, I think the proposition so palpable that there shouldn't be any question on this.

That statute from which you are reading, and which you must read and re-read over again, provides that the uttering or delivery of the instrument must obtain something of value, and it couldn't be that that ticket, in itself, is fit to obtain in a single cent.

I don't know what further I should say to your Honor. Your experience is much greater than mine. This man will pass out of my memory after this case is through, but as a lawyer I am talking to His Honor here of 25 years experience. The preservation of good

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law is far more important to our Courts than the mere escape of a guilty person or the holding of a person charged with crime.

It is a matter that the District Attorney has not given any thought to, and therefore, he is wrong.

Now, if he brings in the Bank Note Company, and has testimony to the fact that they may have cost a few cents to print them, what good would that do, when not a penny could be obtained on those tickets in the open market?

Bradley has lost nothing, because, by your Honor's own logic, these 200 tickets must be presented in order to get the 33 cent tickets; that that ticket could not be obtained until the surrender and delivery of the very tickets in question.

These tickets were not presented by anyone for the purpose of obtaining the 33 cent tickets.

No man went to that deck; no man approached Bradley or his foreman, and asked him for the delivery of these 200 tickets, and the surrender to them of 200 other tickets.

If that had been done, if the defendant had gone down and said, "I have got 200 loading tickets here. Won't you give me 200 of those pay tickets?"

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And the pay tickets were not delivered and yet the prosecutor says, within the presentation of them, the endeavor to obtain the 200 pay tickets by the presentation of these possibly might have been proper under some color of construction, and might have been brought within that section.

But the fact is that they were not offered for that purpose. Walsh himself says that they wanted to know if he would buy them, and wanted \$50 for them, not the defendant, but the person who had them, and he said, "Oh, I will see you tomorrow night".

Now this indictment does not bring into a Criminal Court the particular crime defined by law, that this defendant had in his possession stolen goods of the value of 33 cents apiece.

Mr. Perkins, an able lawyer, who drew the indictment said to himself, undoubtedly, "These tickets are not worth 33 cents, and so we will allege that they are worth a penny."

Now, I am not urging a principle of law that I am ashamed of, and it is one entirely distinct from the defendant and his case, and it isn't one that you can read into the statute, that a snow ticket can be used or construed as a thing of value, obtain-

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able of values in the open market, or capable of negotiation.

With these facts I am content to rest upon your Honor's construction of the statute.

THE COURT: Before recess my mind was somewhat uncertain on how I ought to decide this question; and, since hearing the arguments, I am still of the opinion that, while the question is a nice one, that I should submit this case to the jury.

MR. LYNN: On the question of value, your Honor?

THE COURT: Yes; as to whether or not these snow tickets are instruments upon which larceny may be predicated. I am not certain in my own mind, but I think there is enough in that statute, 545, that section of the Penal Code which would justify me in submitting the case to the jury on that question as to whether larceny may be predicated on them.

MR. NOTT: May I recall Mr. Walsh for another question? I haven't rested yet.

THE COURT: I think I will submit it to the jury.

MR. NOTT: May I recall Mr. Walsh for a single question, your Honor.

THE COURT: Yes.

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F R A N K J. W A L S H, being recalled by the District Attorney, testified as follows:

BY MR. NOTT:

Q On cross examination, Mr. Walsh, Judge Lynn asked you whether or not you had been offered money for any of these snow tickets? A I have, yes, sir.

Q Now, I ask you in what number of instances you have been offered money, and how much have they offered you?

MR. LYNN: I object to that. I was only asking as to whether they had a market value among honest people.

A And I said yes, they had an equal value.

THE COURT: I do not think I would urge that.

MR. NOTT: I simply wanted to show that he has been continually offered money for these tickets.

MR. LYNN: Oh, by dishonest people. I don't doubt that.

THE COURT: My own opinion is that anyone who delivered one of these tickets to Mr. Walsh, wherever he was, with a load of snow, he was entitled to

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one of these pay tickets; and therefore, I think that a snow ticket is a thing of some value. I cannot help thinking that. I shall let the case go to the jury.

MR. LYNN: I will ask him a question.

MR. NOTT: Does your Honor rule on my question.

THE COURT: I sustain the objection.

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CROSS-EXAMINATION BY MR. LYNN:

Q Now, Mr. Walsh, take those two bundles of tickets. You are under oath, and I want you to speak the truth. Take those tickets in your hand, as they are to-day, undetached, with the coupons and other parts that is to them there, what value have they in the hands of an honest person, to-day?

MR. NOTT: Well, I object to that question, if your Honor please.

THE COURT: I sustain the objection.

BY MR. LYNN:

Q Well, have they any value, stripped of the relationship with a load of snow?

MR. NOTT: Objected to.

THE COURT: Allowed.

A They have so much value that I am approached every day by six or eight people, to buy them.

Q Well, these dishonest people -- they are dishonest people, aren't they? A Well, they are reputable business men.

Q I am talking of them as an honest commodity, to go out among honest people.

MR. NOTT: Oh, we are not restricted to that, when the defendant got them, as we claim, to deal with them dishonestly.

THE COURT: The part of the section which impresses me very much is that, "under any contingency, might be collected thereby", and they might be collected in the contingency if a man went there with a load of snow and a ticket, he could get one of the pay tickets.

MR. LYNN: But your Honor should spell out that statute that it means an honest contingency.

THE COURT: No. Suppose that a man goes into a railroad office, and takes unused railroad tickets, he commits larceny, doesn't he?

MR. LYNN: But they have a value in the office.

THE COURT: Oh, there might be a contingency by which the money could be collected, through the agency of those tickets.

MR. LYNN: Well, if they be collected through the agency of a load of snow, no harm would be done to anyone.

THE COURT: Well, I think that is evidence of a right and obligation to deliver to them, under certain contingencies, a pay ticket.

MR. NOTT: Now, if your Honor please, your Honor excluded my question, and, therefore, I object to any further cross-examination.

MR. LYNN: Well, I am not struggling here to con-

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deal a lie. I don't do that thing. You have got a very close case, and you are getting the Court to lean a little bit with you.

MR. NOTT: Oh, go on with the case. I would like to get through with this case sometime to-day.

BY MR. LYNN:

Q Now, I want to know, Mr. Walsh, whether or not, in the open market, you can go out, and obtain a market value? A I could, yes.

Q In the broad open daylight, among honest people, for those tickets? A I could go to a hundred people in New York, and sell them.

Q Honest people? A They are supposed to be honest.

Q Well, what would the dishonest people do with these tickets?

MR. NOTT: Objected to.

BY THE COURT:

Q Well, the dishonest people would deliver those tickets, and get pay tickets, wouldn't they? A Sure, sir.

MR. LYNN: Yes; with dishonest people.

BY MR. LYNN:

Q But what value have the tickets themselves on their honest bearing faces? Have they a value?

MR. NOTT: Objected to. In the first place, I

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object to it as unintelligible. Let's have some order in this case, please. I object to the question, on the ground that it is incompetent, immaterial and irrelevant, and calling for a conclusion.

THE WITNESS: They would have a value.

THE COURT: He has answered it.

THE WITNESS: They have an equal value, anyhow, with the pay tickets.

BY MR. LYNN:

Q If -- A In any case, you can't get a pay ticket without them.

Q And the load of snow? A Or any other way.

THE COURT: Oh, I will let it go to the jury. You can take an exception, and that will save any rights you may have, if it should become necessary, and you can have it renewed.

MR. LYNN: And, of course, I take it.

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OPENING ADDRESS FOR THE DEFENCE

-of-

WAUHOPE LYNN, ESQ.

May it please the Court,

And Gentlemen of the Jury:

I have defended many cases in my lifetime, and have prosecuted many cases. Like Mr. Nott, I have had the distinguished honor of being a prosecuting attorney, many years ago, and when his Honor was on the bench, too; and sometimes we are considered rascals when we are defending men, and honest men when we are prosecuting them. Jurors have, sometimes, a strange way of viewing lawyers in that way; that a lawyer has no conscience about whom he defends, or anything else, when he is paid.

Now, that is hardly a fair position to put a lawyer in.

I haven't defended this case with probably as much zeal as I have defended some other cases, but I have been impressed a good deal with the fact that I have had a client who is a hard looking man, a tough looking man, hard face, pockmarked, nothing prepossessing, nothing winsome, but rather repelling.

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I haven't got a Nan Patterson here to move a jury to tears, or anything else. I have got an ordinary New York cop, with a manner and face that is not at all inviting. So that my difficulty has been to endeavor to get the truth of this matter, and this man should never have been indicted, at all, for grand larceny in the first degree, or for stealing stolen goods. He should have been indicted for being a damned fool. That is my idea of what he ought to be indicted for, simply for being a damned fool, and, being a policeman, the possibility of the two things existing together, seems absurd.

Now, what is the truth of this matter?

Stripped of all this argument of legal parlance, and everything else but the bare evidence, the truth is that Fletcher, with his hours off between the time he was last on post and the time he had next to go on post, was in a restaurant, in the rear of a saloon.

Probably that is a crime, too. But he was in there, in this dining room, and he was sitting playing pinochle, a game of cards. Maybe that is a crime, also. It hasn't been brought out, but it may be a crime also.

And, while he was in there, at five or six o'clock, or whatever the time was, a fellow came in, whom

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he had met sometime before that, and whom he had known in some distant way.

This fellow came to him, and he says, "I have got a lot of tickets here, four or five hundred. I found them. I don't know whether they have been lost, I don't know whether they have been stolen. There may be something wrong about them, but I found them. Do you know anything about them?"

The officer looked at them, and he said, "I don't know what they are", or "I don't know what the hell they are".

They were new things to him. He had never seen anything like them before. If they had been a policy ticket or a ticket for a ball, he might have known something about them, and he said he didn't know anything about them.

And so the other fellow said, "Well, I don't know much about them. Will you go down to the dock with me, and we'll see if they were stolen or lost, or have any value?"

Here is where the fool begins to show his fool part. He starts out with the fellow, and goes down to the dock, in full uniform. No pretense of hiding, or putting blinders on him. But he goes down to the dock,

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in full uniform.

And they meet Walsh at the saloon opposite the dump, and Walsh is asked by this man, not by Fletcher, if they are good for anything, and Walsh says, "I don't know; what do you want for them?" And he says, "I want \$50 for them."

They started away together, and Fletcher says, "Well, you had better leave these tickets with me. If there is anything wrong about them, I'll find out," and he said, "No, you can't keep them."

And he took 200 tickets away from him, and he says, "If there is anything wrong about them, I'll find out about them."

And so he goes back to post, and it is his tour, and, the next day, he is passing a cigar store where he buys cigars. He goes in every day to Goldstein's to buy cigars, and he throws them to the cigar man, because they are bulky, and you wouldn't like to carry them around in your pocket, and policemen don't like to burden their pockets, and he tells him that he will call for them.

next,

And he wants to find out, what they were worth.

The information that he got from Walsh was that they were only blank pieces of paper.

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And he goes on post, the next day, Sunday, and, in the meantime, he had met a man who did know something about the tickets, a man named Boyle, or Boyd, the foreman of Bradley, and he told him about the tickets.

This was before Fletcher knew anything of anybody being accused in the matter, and Doyle, or Boyle, said, "They ain't worth a damn. They have got to go with the snow."

And, before he had any time to find the owner, or locate the fellow who had given him the tickets, or, rather, when he had taken them away from this man, who was drunk, whatever you call him, he is arrested, and he is brought down, and the newspapers have two columns about him, "Bad man. Grafters."

Now, he has been on the police force about nine years, and he is one of those unfortunate policemen who have a streak of bad luck running through their entire career. They seem to be in trouble all the time, no matter how they try.

Some people are born that way. I wasn't born that way. I was born lucky, as the fellow says.

But there are other people who seem to be born with bad luck: If they went to church, the church would fall, or, if they went to see somebody, the person would

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be dead before they got there.

Now, I am going to put Fletcher on the stand, and I don't consider him a shining light of the profession, but he will try to tell how he got into this thing, how he got hold of these snow tickets. He hasn't attempted to hide them, or hesitated to disclose the fact.

He went down to the dock to a man who knew him, Walsh. There was no concealment about it. He hasn't been handling tickets for the purpose of robbing anybody.

Now, if this man had stolen them from the man with the bag, and it is hard to tell whether he was knocked down or not, of course, he is a hard looking case, and he might have given them to this man that gave them to the policeman.

But he says that he was robbed, and that suits the District Attorney, to prove that they were stolen, and he never told Bradley's people, that night, that he had been robbed.

Now, if he had been robbed, that night, the first thing he would have done would have been to go to the office, and say, "My God, I have been knocked down and robbed."

But he only said, "You didn't give me 2,000 tickets, you only gave me 1100."

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Now, if he gave them to the man who gave them to Fletcher, that is reasonable, and that man, a cunning rascal, using a policeman, said to himself, "I'll disguise the whole thing by going down with a policeman", and this fool goes down to the dock in broad daylight, in full uniform and stands by when this man negotiates for the sale of the tickets.

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And he doesn't know what he is charged with today. I tried to tell him that he is charged with grand larceny in the first degree and receiving stolen goods, and he said "Well, Judge, the fact is that they may have been stolen, but I didn't know it."

And the difficulty is that, between the time that the man gave him the tickets and the time that Reardon and the Captain were talking to him, he had learned what they were.

And then you have the apparent declaration from some of the witnesses that he knew they were stolen.

The consistent, truthful statement is that this man gave him the tickets, or spoke to him about them-- I don't think he gave him the tickets at all-- I think that, when he got down there, Fletcher took the two bundles from him-- but they went to the pier and found out that they had no value, and Pending gave a false address, and we can't get hold of him, or we would know where he got them.

It is more than likely if he went on the stand, that he would say, "Well, Bendt gave them to me."

Now, the officer is charged with taking into

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his possession feloniously stolen property, and I will
call him and you will hear his story.

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THE DEFENSE.

FRANK G. FLETCHER, the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. LYNN:

Q Now, Fletcher, I want you to talk loud. These are your judges now, not the District Attorney. You needn't be afraid of him. Talk to these twelve gentlemen at the bar. How old are you, Fletcher? A 37 years.

Q Where were you born? A New York.

Q New York City? A Yes, sir.

Q How long have you been on the police force? A Eight years, the 2nd of December last.

Q Eight years past then? A Yes, sir.

Q Are you a married or single man? A Married.

Q Wife and family? A Wife and six children.

Q Well, never mind the children. We are not putting the children in for any sympathy. Now you have been on the police force for eight years?

A Yes, sir.

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Q And you have had, during that time, more than the usual experiences of a policeman?

A Yes, sir.

Q Had numbers of charges and complaints and various things against you; haven't you? A Yes, sir.

Q And you have been fined and you have paid all the penalties of your misdeeds as a policeman?

A I did.

Q I want you to tell how bad you are. I don't want you to put wings on yourself at all. You are a plain, ordinary cop. Now on the night of the 27th of January last, do you remember that night? A Yes, sir.

Q Now, where were you about five or six o'clock?

A I was in a saloon.

Q Now, what saloon? A A hotel, corner-- between 18th and 19th streets, on 3rd avenue.

Q Now, is that a saloon that you know, or are you acquainted with the proprietor? A Well, I have known the man for about eight years.

Q What is his name? A Frank Keyes.

Q Is that the gentleman that keeps the saloon (indicating)? A That is the man; that is the manager.

Q Well, he keeps a hotel; does he? A Yes, sir.

Q Well, you mean by that that he keeps a bar room and

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restaurant? A Yes, sir.

Q Serves meals? A Yes, sir.

Q Now, in what part of the building were you?

A I was in the dining room.

Q That was in the rear of the saloon? A Yes, sir.

Q Now, what were you doing there? A Well, I went in there, as I often did, to see Mr. Keyes, and I knew him before I went on the police force, being a machinist.

Q Now, what time did you go in there, Fletcher? A Well, it was around five o'clock.

Q When had you left post that day? A I left post about a quarter after four, and answered roll call about twenty minutes past four. It was my reserve, that night, and I had to report back to the station house at eight o'clock that night.

Q So that at the time you were in the dining room of Mr. Keyes' place, you were off duty?

A Yes, sir.

Q And you had a right to go in there, had you? A Yes, sir.

Q Now, while you were in there-- how long had you been in there before anything occurred? A I might have been in

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there pretty near an hour.

Q Well, then, who came in? A This---

Q In reference to these tickets? A That is this Pending, and he had a friend with him.

Q Now, who is Pending and what is he? How long have you known him or in what way do you know him?

A Well, about eight years ago, when I first went on the force, the first precinct I was in was the 18th precinct, and I had knew Pending from being on post where he used to stand.

Q Well, what did he use to do then? A Well, I don't know what he did.

Q Drove a truck or worked around? A Well, I don't know what he did.

Q Well, you got acquainted with him as a policeman up there? A Yes, sir.

Q Well, had your acquaintance been intimate? A Well, when I met him that night, it was the first time since about seven years that I had met him.

Q Now, what occurred there? A Well, he come to me where I was sitting and he had these tickets, and he asked me were they any good.

Q He had a lot of snow tickets? A Yes, sir, snow tickets.

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Q Were they tickets in shape or form anything like these (indicating the Exhibits in evidence)?

A Yes, sir.

Q Now, what did he say to you? A He asked me if they were any good.

Q And what did you say? A I said I didn't know.

Q You told him you didn't know? A Yes, sir.

Q Then what did he say? A Well, he asked me to go with him down to the dock to see if they were any good.

Q And did you ask him where he got them? A Well, he said that he had found them and that they might be stolen.

Q He said that he had found them and that they might be stolen? A Yes, sir.

Q And then he asked you if you would go down to the dock? A Yes, sir.

Q Did you go down there to the dock? A Yes, sir; I went with him to the dock.

Q And were you in uniform then? A Yes, sir.

Q What dock did you go to? A We went down to 18th street, to the river.

Q And you were near 18th street? A Yes, sir.

Q And you had only to go down the street to the foot, to the river?

A Yes, sir. And, on the way down I took two packages

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from him.

Q How many packages did he have? A Well, he had some more besides these two, but I took two packages.

Q Out of his hand? A Yes, sir.

Q On the way down? A Yes, sir.

Q And, when you got down there, what happened? A Well, I looked around, and didn't see nobody at all.

Q Exactly. A And I was on my way back again and I met this man Walsh. He come and spoke to me.

Q And that was where? The corner of the saloon?

A About 18th street and Avenue C.

Q You had been down to the dock?

A Yes, sir.

Q And so nobody? A Yes, sir.

Q And were on your way back? A Yes, sir.

Q Well? A He spoke to me first.

Q He spoke to you? A Yes, sir. He mentioned a policeman in my precinct, Mr. Adams, and said he was a friend of mine, and we got talking about them snow tickets, and he said, "Let me see them," and I said, "Are they any good?" And he said "They don't belong in this section."

Q Do you know what section he was in? Section 6 wasn't it? A Yes, sir.

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Q And he said they didn't belong there? A Yes, sir. And he said they was no use, no value, unless you went down there and got them exchanged for pay tickets. I asked him about them, what they were, and he said, "Well, if you had a load of snow and went down with these they would give you a pay ticket for it."

Q Yes. And what else took place? A Then I asked this Pending, this man that was with me, "What is your address? Where do you live?" I asked him that two or three times, to make sure.

And he gave me his address as 414 East 14th street--- 18th street-- 14th street.

Q You hadn't known at that time where Pending lived? A I never did know where he lived, but I asked him that a couple of times so as to make sure that I could get him again, in case he was wanted.

Q Well, go on. And he gave you this address? A Yes, sir. And so I was speaking to Walsh, and I said, "I have got to go on reserve at eight o'clock and I have got to have those to get back," and Pending wanted the two bunches of tickets from me and I said, "No, I will keep them for future reference."

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Q You said "No, I will keep them for future reference?"

A Yes, sir.

Q And you certainly did keep them for future reference?

A Yes, sir.

Q And you have got them with a reference now. Well, go on.

A Well, then, I left him and went away, and went back to the station house.

Q You went on your tour of duty then?

A No, sir; went on reserve. And I was on reserve then until four o'clock in the morning. That was my regular reserve. After we go to the station house and go to bed we stay there until eight o'clock in the morning.

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Q Now, up to that time, had you known that these things had been stolen, or that they had any value at all?

A No, sir.

Q You received no information as to that whatever?

A No, sir.

Q When did you leave these tickets in the cigar store?

A On Saturday night, I left the station house about half-past six.

Q Where did you go to work that day, on post? A Well, I was over at the fire, in the first precinct.

Q (Question repeated) A I went on at about eight o'clock, and I got off at about half-past six, because I had to wash, before I left the station house.

Q And did you put on your uniform again, and go home? A No, I put on my citizen's clothes.

Q And then what did you do next? A I went down to Goldstein's, and I got some cigars; I bought some cigars, and there was two young fellows in the store, at the time, and I asked one of them to have a cigar with me, and, after we had the cigar, I asked the young fellow-- we went over and had a drink together.

Q Those were some of the young men that was here? A Yes, sir. And I took these two packages of tickets -- they were in my side pockets like this (illustrating by pointing to the side pockets of his trousers), and I said

to Goldstein , "Save these for me until to-morrow morning."

Q And the two bundles were just as they are now? A Yes, sir.

Q And then to-morrow morning would be Sunday; wouldn't it? A Yes, sir; that would be Sunday morning.

Q Now, when did you go next on post? A Sunday afternoon -- no -- Sunday. I went on post on Sunday morning eight o'clock.

Q And you worked on post up to the time they called you off post? A Yes, sir.

Q When was that? A Around twelve o'clock.

Q Did you see any of Bradley's people in the meanwhile, making inquiries about these tickets? A I see nobody, nothing. I hadn't thought of the things any more at the time.

Q You had left the entire thing out of your mind to some extent? A Yes, sir.

Q Now, at the time you were brought into the station house, Officers Reardon and Hughes speak about something about your knowing that the man had robbed another man. Had you told them that you knew that the man that you got them from had robbed somebody else? A No, sir. I told them that the man I got them from said he found them, and they might have been stolen.

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Q That was it? A Yes, sir.

Q And is that all you know about these tickets, Fletcher?

A That's all I know.

Q Can you tell us anything else that you know about them?

A I don't know nothing else about these tickets.

Q Did you take them into your possession for the purpose of using them, or defrauding or wronging anyone, or stealing them? A No, sir; I didn't aim to do anything wrong to nobody; I didn't intend to do anything wrong with them, at all.

Q Now, let us see how bad you have been in the Police Department, how many complaints have been against you? A Well, I couldn't say how many.

Q I have got them all here, and so I might as well save Mr. Nott.

MR. NOTT: I brought them down here.

MR. LYNN: Yes, I understand that.

MR. NOTT: There are thirty-one there.

BY THE COURT:

Q Any complaints for dishonesty there? A No, sir.

MR. LYNN: No, sir; only for not properly patrolling.

THE WITNESS: A year ago, the 8th of March, I was shot, at the corner of Houston and Hudson Street.

THE COURT: I do not suppose you want to go into

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that, Mr. Nott?

MR. NOTT: Well, I want to ask a question or two about them.

THE COURT: There is no charge of larceny there, is there?

MR. LYNN: Oh, no, no. It is the usual routine of a policeman's life. If he doesn't answer roll-call, he is reprimanded or fined, or something.

BY MR. LYNN:

Q Now, you were suspended from the Police Department when this charge was made against you; weren't you? A Yes, sir.

Q Now, this man Pending, you have been trying to find him, haven't you? A Yes, sir.

Q You have been unable to find him? A Yes, sir; and I believe that Captain O'Brien of the Detective Bureau has had his men out, trying to find him, also. He had the whole Detective Bureau trying to get this man.

Q And you came into possession of these tickets on that day, in the manner that you have described, in that saloon? A Yes, sir.

Q And that is the truth, is it, Fletcher? A Yes, sir; I didn't know anything about the thing at all, then.

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CROSS-EXAMINATION BY MR. NOTT:

Q You have had thirty-one charges against you; haven't you? A I couldn't say how many charges.

MR. LYNN: Well, if he is going to be tried on the charges, I will go into them. But if he is going to be tried on the snow tickets, I submit, in all fairness, that, no matter what a man may have been in the past, as a police officer--

THE COURT: Well, only such derelictions as affect his credibility.

MR. NOTT: If Judge Lynn hadn't asked about those charges, I wouldn't have had the right to ask about them at all, but I claim now that I have the right to go into them.

THE COURT: If they are charges that affect his credibility, that is one thing, any acts of dishonesty. I think that might be admissible.

MR. NOTT: There is no charge of larceny, I admit that.

MR. LYNN: Or receiving stolen goods.

MR. NOTT: No. But I admit that, if Judge Lynn hadn't asked about them, I wouldn't have had any right to go into them.

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THE COURT: Well, I don't think I would go into them, unless there should be something in the charges such as I have indicated.

MR. NOTT: The charges go to show the general character of this officer.

THE COURT: Well, his reputation for honesty and dishonesty.

MR. NOTT: Well, his reputation as a police officer.

MR. LYNN: Well, I submit, your Honor, that they would all be hung on that. Try him on this thing.

MR. NOTT: Well, what did you ask him about them for, then, and then object to my going into the matter? That's not fair.

BY MR. NOTT:

Q Now, you said that you had been shot once; did you?

A Yes, sir.

Q When was that? A On the 8th day of March last.

Q And how long were you disabled, after that shooting?

A About four or five days.

Q Weren't you out a month? A Wait a minute.

Q (Question repeated). A No, sir.

Q Weren't you disabled over a month? A No, sir.

Q And, after you were disabled, didn't you refuse to

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put in a claim for pay while you were disabled? A Now, you said that I was disabled --

Q Now, just answer my question. Don't tell me what I said. Were you charged with being shot while attempting to hold up an Italian? A No, sir.

Q Do you allege that you were not so charged? After you received that wound, did you put in your claim while you were disabled? A No, sir.

Q You didn't? A No, sir.

Q How long were you laid up while you were disabled?
A About four or five days.

Q And you didn't put in any claim to that? A No, sir; I was on half pay.

Q Did you have an investigation made of the shooting?
A No, sir.

Q You had none at all? A None at all; no, sir.

Q Now, on this day in question, on the 27th, you got off duty about four o'clock? A About twenty minutes ^{after} ~~xx~~ four, after roll-call.

Q And you turned in your stick at the station house?
A Well, I went into the station house, and put off my uniform, and put on my plain clothes.

Q Were you in citizen's clothes when you were in this saloon in Third Avenue? A No.

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Q Well, then, be careful . You left your stick in the station house, at four o'clock? A Yes, sir.

Q And you were then in uniform? A Yes, sir.

Q And then you went to the saloon of your old friend, Keyes? A Yes, sir.

Q And that is a Raines Law hotel? A Yes, sir.

Q And you spent an hour there? A Yes, sir.

Q And how long were you there? A I was there about an hour.

Q Yes. Are you aware that that place -- that there has been convictions against it as a disorderly house? A No, sir; I never knew anything about that.

Q Never? A No, sir.

Q Well, what did you go away out of your precinct for, away over there for?

MR. LYNN: I object to that question, as to whether he was aware that a certain place had been convicted of keeping a disorderly house .

BY MR. NOTT:

Q Well, why did you go away over there? A That was on my way home.

Q Where do you live? A 105th Street near Lexington Avenue

Q How did you go?

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A I went there on a Prince Street car, to Houston, and the Houston Street car, to the 18th Street "L", went in there to see Frank.

Q And what did you get off the car for?

A To go in and see Mr. Keyes.

MR. LYNN: And why shouldn't he go in?

THE COURT: No. Let the District Attorney have the witness.

MR. LYNN: Oh, but I didn't know whether it was a crime to get off the car.

BY MR. NOTT:

Q Now, you say you got off there, on the way home?

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A Yes, sir; I was going home.

Q Up to 105th street? A Yes, sir.

Q And what were you going home for? A Well, going home to supper. We have four hours for supper.

Q And what were you doing in that dining room of this Raines Law Hotel, if you were going home to supper?

A Well, on my way home I stopped off to see Mr. Keyes, as I do two or three times a week. I knew this man Keyes before I ever went in the business.

Q Well, what were you taking supper there for if you were going home? A I wasn't taking supper.

Q Did you drink anything? A No, sir; not then.

Q But were you sitting with Keyes? A No, sir; I was talking to a man named Walsh.

Q Not this Walsh? A No, sir; he is a man that worked in the place, and we were talking together. I knew him.

Q And what time did you have your supper? A I didn't eat no supper at all.

Q What time did you have supper at home? A I didn't go home at all.

Q What time do you have supper when you do go home, if you ever do go home? A I always go home. My wife makes my supper at any time I get home.

Q You always go home for supper? A Well, I go pretty nearly all the time; I go home nearly all the time,

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pretty near.

Q Well, you didn't go home this night? A No, I didn't, not this night. It wasn't the first night.

Q And how long did you talk with Keyes? A I wasn't talking to Keyes more than 15 or 20 minutes.

Q What were you talking to him about? A Oh, different things.

Q Well, had you gone there to see him about anything special? A No, sir.

Q And then you were talking to these other people? A No, sir; I was only talking to one man, this Walsh.

Q And what time did Pending come in? A Pending come in in the neighborhood of six o'clock, it must have been.

Q Six o'clock? A Yes, sir.

Q Did you still intend to go home to supper? A Yes, sir.

Q At six o'clock? A Yes, sir.

Q What time did you go on your reserve? A At eight o'clock.

Q And you intended, at six o'clock, to go up to 105th street for supper, and back? A Yes, sir. You can do that in 20 minutes.

Q Now, Pending took out these tickets and showed them to you? A No, sir.

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Q You didn't know what a snow ticket was, did you?

A No, sir.

Q How long have you been on the Police Force in this city? A About eight years.

Q And you never saw a ticket given when a load of snow was hauled, was loaded up? A No, sir.

Q And you want the jury to believe that?

MR. LYNN: Yes, and they will believe it too.

BY MR. NOTT:

Q Now, did Pending tell you they were snow tickets?

A Yes, sir.

Q Well, what did he tell you about it? A I could see the name there "Snow."

Q What did he tell you about them? A He told me that these tickets here, he had found them.

Q No, no. What did he tell you about the tickets themselves? A He said they were snow tickets.

Q Did you ask him what he meant? A He didn't know.

Q He didn't? A No, sir. They were marked there. That is the way he knew.

Q Is it marked on here (indicating)? A Yes, sir; "Snow tickets."

Q Where does it say on any part of the ticket, snow tickets? A Well, he said they were snow tickets.

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4 Q And did you ask him then what a snow ticket was?

A Yes, sir.

Q And he said he didn't know? A He said he didn't know.

Q And yet there is nothing on here to show that they are snow tickets, and you can't explain how he knew they were snow tickets? A No, sir.

Q And then he said what? That he had found them? A He said he had found them.

Q Did he tell you where he had found them? A No, sir.

Q Didn't you ask him? A No, sir.

Q You had no curiosity about it? A No, sir.

Q Now, after he told you they might have been stolen, what did you say to him about the tickets? A I said, "You come withme and we will go down and find out if they are any good or not."

Q Any good? A Yes, sir.

Q Well, why didn't you ask him where he got them? A Hhf

Q If he told you they might have been stolen, what did you care for the value? What were you looking for someone to ascertain the value from for? A Well, he said they might be lost or stolen and I wanted to find out something about them from somebody that knew something

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about them.

Q Well, why did you want to find out whether they were worth anything or not? A Why did I want to find out?

Q Yes. You heard my question, didn't you?
(Question repeated). A I wanted to find out if they were worth anything.

Q Why? A Well, then, I would know something if I knowed that.

Q Well, you would know what you could get for them; wouldn't you? A Well, I don't think that is a fair question to ask me.

MR. LYNN: And I don't think it is, either.

BY MR. NOTT:

Q You don't think it is a fair question?

A No, sir.

Q All right then. I will not press it. Did you ask him if he had found them in Bradley's office? A No, sir.

Q In some man's pocket? A No, sir.

Q And you were a police officer? A Well, I did take him-- make him go down with me to one of those dumping places.

Q Well, who proposed going down there? A He did.

Q He did? A Yes, sir.

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Q And why did he say he wanted to go down there?

A Well, I don't know.

Q So that you were going home to take supper with your family, and at once, thinking that there might be some value in those tickets, started at once down to 18th street and 1st avenue? A Yes, sir.

Q And did you have any supper, at all, that night?

A Yes, sir.

Q Where? A Right in Keyes'.

Q After Pending came in? A No, sir.

Q Well, you certainly didn't have any supper after he came in? A Well, I did eat some free lunch.

Q Oh, free lunch? A Yes, sir.

Q Did you have any drinks in there? A Yes, sir.

Q Well, didn't you tell me, awhile ago, that you didn't have anything at all to drink in there? A No, sir; not at that time.

Q Well, did you drink anything at all in there?

A Yes, sir.

Q What? A I had a glass of beer.

Q Now, what did Pending say he wanted to go down to the dock for? A I suppose he wanted to go down to find out whether there was any value or not.

Q How did Pending know that these tickets were to be presented at the dock? A Well, how did I know?

Q (Question repeated) A He asked me to go down there with him; that is all.

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Q Well, why were you so much interested to go down with him to the dock, at that time of night? A Well, I felt a little suspicious about them tickets, too, and I brought him down there.

Q It never occurred to you to take him up to Bradley?
A Yes, sir; it did. I will explain that afterwards.

Q Now, you see that each ticket has the name of Bradley plainly printed on it? A Yes.

Q Now, then, why didn't you go down to the docks where the tickets are exchangeable for pay tickets? A Well, I found nobody there.

Q Well, why did you go down there?

MR. LYNN: Tell him, Fletcher, why you went down there.

MR. NOTT: Now, I ask, your Honor, that you ask Mr. Lynn to make his remarks to your Honor, and not to me or the witness.

MR. LYNN: Now, your Honor, the District Attorney's office, after a long number of years, has come to shout and bullyrag, and drown the voice of any lawyer who wants to object.

THE COURT: Well, the District Attorney says that you should be heard to make an objection, and that I be allowed to pass upon it, but not have the running

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comment. If you make an objection, I will rule upon it.

MR. LYNN: But he will not permit me to do it.
He says he will not be interrupted.

THE COURT: But I understood you were talking to him all the time.

MR. LYNN: But he said he wouldn't permit me to interrupt him, to object, even.

THE COURT: Well, I think we have disposed of this matter. I will hear any objection that you may want to make.

MR. LYNN: But I don't want to be put here in the position of feeling like a pickpocket, your Honor? I feel almost like a crook myself, being treated in this way.

BY MR. NOTT:

Q Now, this restaurant was on Third Avenue near 18th Street? A Yes, sir.

Q Did you ask where Bradley's office was? A Did I ask?

Q Yes. A No, I didn't ask anybody. Oh, yes, I did. I asked Walsh.

Q Where Bradley's office was? A Yes, sir. Where the contractor's office was.

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Q And did he tell you it was 24th Street? A Yes sir.

Q And, instead of going right up to 24th Street, going to where the owner of the tickets was, you went down to the dock? A Well, I didn't meet Mr. Walsh until I got down to the dock.

Q Well, did you know where Bradley's office was, when you were in the saloon? A No, sir.

Q Did you inquire? A No, sir.

Q Had you ever heard of William Bradley, the snow contractor? A No, sir; never heard of him.

Q How long have you been on the force? A Over eight years.

Q And then why didn't you ask where Bradley's office was, the owner of the tickets? A I did ask.

Q Who did you ask? A Mr. Walsh, the superintendent. He told me.

Q Well, why didn't you ask before you went down to the dock? A Well, I hadn't looked at the snow tickets then. I didn't have them then.

Q Well, this man told you that he had some lost or stolen property? A Yes, sir.

Q And did you ask him who the owner was? A No, sir.

Q Instead of that, you started right out to find out

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whether it was worth anything? A Yes, sir.

Q Now, when was it that you took these tickets away from the man? A We were on our way down to the dock.

Q And where did you take them? A Around Second Avenue.

Q And why did you take them? A Well, I said, "I'll take these two packages, and make inquiries about these tickets".

Q Why did you take two packages? A Why, just for a sample, to ask about.

Q And you left the rest with him? A Yes, sir.

Q Well, why didn't you take all, if you meant to restore them? A Because I only took two.

Q Well, why? A Well, only for a sample. I took two.

Q Can you give us a reason for that? A Well, I have no reason for that.

Q Isn't the reason that you agreed that you should have two, and he keep the rest? A No, sir.

Q And then tell the jury when you, an officer, had found this lost and stolen property, why you didn't take the whole property, and turn it in to the true owner? A Well, I took these two packages to find out about them.

Q Why didn't you take the rest of them? A Well, I took two of them.

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Q Can't you answer a plain question?

MR. LYNN: I submit that he has answered.

A I told you I had no reason. I just took two packages, to inquire about them, as a sample/

Q And you thought it was worth your while, instead of going home to supper, to go away down to the East River, to find out whether these pieces of paper, as you call them, had any value?

MR. LYNN: I submit that he has answered, Mr. Nott.

MR. NOTT: Now, address the Court. The Court's name is not Mr. Nott.

A Well, there was hardly time for me to go home, and I said, "I'll go down with this fellow, and find out about these tickets."

Q But you just told the jury that you could go up in twenty minutes, go up home? A Well, it must have been after six o'clock, then.

Q How much after? A I don't recollect.

Q Did Pending make any objection to your taking these things away from him? A No; he handed me the two packages.

Q Now, you knew that Pending was a loafer; didn't you? A No, sir.

Q Had you ever seen him do a stroke of work? A No, sir.

Q Don't you know that he has been in Keyes's place,

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time and time again, and thrown out for being drunk and disorderly? A No, sir; never knew it.

Q And you told the jury that you, a police officer, met this man, whom you had never seen do a stroke of work, and hadn't seen for seven years, and you let him take away seven of these packages, without verifying his address, at all? A Well, I did ask him his address, several times, and Mr. Walsh was right there when I asked him.

Q But I say, you took his word for his address?

A Yes, sir.

Q And that is the only investigation you made? A That's all, at that time.

Q Well, Pending you hadn't seen for seven years?

A No, sir.

Q And you had never seen him do a stroke of work?

A Well, I never--

Q Had you or not? A Well, I didn't know whether he worked or not.

Q And you say that he was more or less drunk, at that time? A Yes, sir; at the time.

Q And you took his word for his address, and gave him this lost or stolen property, or let him go away with it, you a police officer; is that right? A Yes, sir.

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Knowing-- thinking that I could get him any time I wanted him.

Q And then you took his word for it? A Yes, sir; because I found out, before this, that these things were of no value.

Q Now, have you heard Mr. Walsh testify on the stand here? A Yes, sir.

Q And do you tell this jury, after hearing his testimony, that Walsh told you they were no good? A Yes, sir; he said they didn't belong in this section.

Q Now, that didn't mean that they were no good? A And he said they were no good, without getting a pay ticket in return for this ordinary ticket.

Q Why, of course, if you didn't get a pay ticket, you couldn't realize on them? A Yes, sir.

Q And did you tell Walsh that the tickets had been come by wrong, or words to that effect? A No, sir.

Q Did you hear him so testify? A Yes; but I didn't say a word like that.

Q Do you want to say that he is testifying falsely?
A Yes; I do.

MR. LYNN: He said he intimated something of that kind. That's what Walsh said.

THE COURT: No. You will have an opportunity to re-examine him. Don't interrupt now.

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BY MR. NOTT:

Q Now, when you left, did you leave with Pending?

A No, sir. I went down to 14th Street, and took a car, and came right over to the station house.

Q Where did you put those two pads of tickets, when you got on the car? A I had them in my coat pocket.

Q Which pocket? A My back coat pocket.

Q Were they very much in your way there? A No, sir. They are big pockets in my coat.

Q And there was plenty of room for them? A Yes, sir.

Q Now, when you got to the station house, tell the jury why you didn't turn that property in at the desk? A Why?

Q Yes. A Why, because the tickets were told to me by Walsh, that they were no good.

Q Do you know that it is a rule of the Police Department to surrender at once all lost or stolen property, found or obtained by a police officer?

MR. LYNN: Yes; stolen property.

MR. NOTT: And I ask that Mr. Lynn be required to sit down, and not interrupt me.

THE COURT: Yes, Mr. Lynn; I don't think you ought to interrupt the District Attorney constantly in this way.

BY MR. NOTT:

Q (Question repeated) A Yes, sir.

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Q Now, why didn't you do that? A Because this property was of no value, and wasn't worth anything.

Q Well, it was lost property or stolen property, either one; wasn't it? A Yes; it must have been.

Q Do you mean to say that you took upon yourself to see how valuable it was, and whether or not you should turn it in? A Yes, sir. But, look here. The reason why I didn't turn it in, or report it, was that I found out it was no good.

Q Who told you that? A Walsh. He was the one, the only man I met.

Q And, if the property was no good, why did you keep it in your pocket all night? A Well, in case anything should come out of the case, I would have these two.

Q Out of what case? A Out of this case here. If any trouble would be made about this case, I could prove my end of it. I intended to turn them in to the contractor, the next day.

Q Why didn't you turn them in to the Sergeant, and let him send them to the contractor? A Because I told you before they weren't any good.

Q Then why didn't you turn them in, and let him send them to the contractor? A Well, that was the question, whether they were of any use to the contractor. I was going to the contractor, and I even told Mr. Walsh and Mr. Reardon,

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in the office there, that I was going to the contractor with them.

Q Did Walsh tell you that you would get a reward from the contractor? A No, sir.

Q That had nothing to do with your not turning them in to the Sergeant? A No, sir.

Q And how long were you on reserve? A From eight o'clock until four o'clock in the morning.

Q And at four o'clock what did you do? A Well, I laid in bed until near eight o'clock.

Q From four to eight you were in bed? A Yes, sir. You see, we went to bed at eight o'clock.

Q In the station house? A Yes, sir; and stayed there until I turned out, eight o'clock in the morning.

Q At eight o'clock? A Yes, sir.

Q And then where did you go? A Out on post.

Q And still you had the tickets? A Yes, sir.

Q And they were still in your pocket? A No, sir.

Q Where were they? A They were in my locker.

Q Where? At the station house? A Yes, sir.

Q You looked them up there? A Well, my locker is open; no lock on it.

Q And when did you go off post? A About a quarter after four.

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Q In the afternoon? A Yes, sir.

Q And what did you do with the tickets? A When I went into the station house -- I was at the first precinct that afternoon, that was Saturday. There was a big fire down there, in Fletcher Street; and when I come back from there, it was about a quarter to five, back to the station house, and I took a bath, and dressed up, and put on my citizen's clothes.

Q And did you change your clothes at the station house?

A Yes, sir.

Q And when did you leave the station house? A About half-past six.

Q About half-past six? A Yes, sir.

Q And why did you take the tickets? A I put them in my pocket, with the full intentions of going to Bradley, that same night.

Q I see; you put them in your citizen's clothes pockets?

A Yes, sir.

Q And you meant to go right up to Bradley's? A Yes, sir.

Q And why didn't you? A Well, I went down to Hudson Street.

Q Why did you go down there to this cigar store, from McDougal Street? A Well, I could go up Eighth Avenue to 23rd Street, and take a Crosstown car.

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Q Well, why didn't you do it? A Well, I went into the cigar store, and bought some cigars, and there was two young fellows at the time, and after we had the cigars, he asked me to have a drink.

Q Well, do they sell drinks in that cigar store? A Well, wait a minute. No. We went across the street. And that's the reason I left the packages there, because they were heavy in my pocket, and I went over to the saloon, and there was some friends of mine, and we sat down, and played cards.

Q And was that before or after you left the tickets in the cigar store? A After.

Q And, before you left the cigar store, you left the tickets there? A Yes, sir.

Q And why? Why? A To leave them until I come the next day, to take them away.

Q But you said you were going right up to Bradley's with them? Why didn't you go? A Because I changed my mind, then, and went across the street to the saloon.

Q And why did you leave them there? A Well, what reasons have I got?

Q That's just what I want to know? A Well, I left them there because they were bulky in my pocket.

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Q Now, you have said that they didn't take up any room in your pocket? A No, I didn't say that.

Q Do you mean that that was your reason, then?

A Yes, sir.

Q Well, what else had you in your coat pocket? A I had nothing else in my coat pocket.

Q And then why did you leave them there, then? A Well, I'll tell you, if you will give me a chance.

MR. LYNN: Now, give him a chance.

BY MR. NOTT:

Q Well, why? A Why, I left them there because they were bulky in my pocket, and I was going across the street, and then I didn't go back, and I told him to leave them there until the morning, and I would call for them.

Q And you said that before you went across to get the drink? A Yes, sir.

Q And why was it, before you had taken the drink, you intended to leave them there until the next morning? A Why, the next morning I would have taken them up to Bradley's.

Q And that's the only reason you can give the jury?

A Yes, sir.

Q That you left them in the cigar store because they were bulky in your pocket? A Yes; and because I had no intention of going up there, then.

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Q And why did you change your mind about going up to Bradley's? A Well, we went over to get a drink, and we got playing cards, and it was quite late before we got through, about ten o'clock.

Q And what kind of a place is that? A Raines Law hotel?
A No, sir; a decent, respectable place; Suss's.

Q And where did you go from Suss's? A Right home.

Q And, when you left Suss's, why didn't you go and get the tickets? A Because I had told the man that I would leave them there until morning.

Q Oh, I see. You didn't want to disappoint him?
A Oh, no, sir.

Q And why, then, didn't you take them up to Harlem with you? A Well, I could leave them there, and it would be the same thing. I could call for them in the morning, and deliver them.

Q Couldn't you have stopped off, on your way down from your home, in Third Avenue, and left them at Bradley's?

A Well, I mightn't have time.

Q Well, what time did you go on post, on Sunday? A At eight o'clock.

Q And you mean to say that you wouldn't have time, before eight o'clock, to stop off, and leave those tickets with Bradley? A Well, it would depend upon what time I would

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sleep to in the morning.

Q Now, what time did you intend to take them to Bradley's? A On Sunday afternoon. I was off at four o'clock.

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sleep to in the morning.

Q Now, what time did you intend to take them to Bradley's? A On Sunday afternoon. I was off at four o'clock.

Q Now then why have you told the jury that you intended to take them to Bradley's Sunday morning?

MR. LYNN: No. He hasn't said anything of the kind.

A No, sir. I said I would leave them there until tomorrow morning.

BY MR. NOTT:

Q What time were you on post? From eight until when? A On Sunday?

Q Yes. A Eight o'clock on Sunday morning, until four o'clock in the afternoon.

Q And then you intended to get the tickets after four o'clock? A Yes, sir.

Q And take them up to Bradley's right away? A Yes, sir.

Q You knew that Bradley's was open, of course, on Sundays? A Well, I kind of thought so.

Q Why did you think so? A Well, because on Sunday morning, when I went on post, about twenty minutes after eight, when I got over on post-- they call the roll at eight o'clock, and by the time you get on post it is 15 or 20 minutes past eight--- and I met a man a foreman of

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Bradley's who has charge of some men there. His name is Boyle, and I told him about the tickets, and told him I was going up to the contractor and take the tickets.

Q Is Boyle in Court? A No; I don't think he is. I telephoned to him three or four times this morning.

Q Now, why were you tackling another foreman of Bradley's? To see how much they were worth? A No, sir.

Q Now, you say to the jury that you had never heard of Bradley before the 27th of January?

A Yes, sir.

Q Now, how did you happen to strike him, Boyle, a foreman of Bradley's right after you got possession of these tickets? A Why, he was working on the snow.

Q And you knew he was working for Bradley?

A Well, I didn't know the name of the contractor. I knew he was the snow man, but Walsh had told me the name of the contractor.

Q Did you ask him what the tickets were worth?

A No, sir.

Q You didn't say anything about the value of the tickets at all? A No, sir.

Q Didn't you testify, a minute ago, that he said they were no good? A Walsh told me so.

Q Didn't you testify, a minute ago, that he said they

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were no good? A Walsh told me so.

Q Didn't you testify that Boyle told you so? A We didn't say anything about the tickets. I asked Boyle, when I met him about these tickets-- he come from Section 4, see-- and I told him these tickets were from Section 4.

Q How did you know that he came from Section 4?

A He told me.

Q And so you asked him about Section 4? A He told me.

Q (Question repeated). A Well, he said-- I said, "The tickets are from Section 4," and he said "I am from Section 4."

Q And you had found out a good deal by that time about these tickets, hadn't you? A Well, he was the only man that gave me any information about it, except Walsh. He told me they belonged to another Section.

Q And when did you see Boyle? A On Sunday morning, about eight o'clock.

Q Where was he? A Between Broome and Spring.

Q Did he have a gang of men loading wagons there?

A Yes, sir.

Q And you didn't see any snow tickets there, I suppose?

A No, sir; I didn't.

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Q And did you ask Boyle anything about the value of the tickets? A No, sir. I merely asked him how I could get them back to the man that owned them, or the party, the contractors.

Q Oh, I see. You thought you had to ask some way to get them back to the owner? You didn't know how to do it yourself? A Well, I knew about going to Bradley's.

Q Well, if you knew that, why didn't you go to Bradley's? A Well, him coming from Section 4, I asked him would he know who they belonged to.

Q Well, with the name of Bradley printed on 200 tickets did you find it necessary to asked him who they belonged to? A Well, to tell you the truth, I never looked at the name on them, at all.

Q Well, you told the jury, awhile ago, that you did see the name of Bradley on them? A Oh, no, I didn't.

Q Didn't you tell the jury that you knew that William Bradley was the owner of the tickets, and saw the name on the tickets, after you got them from Pender? A Well, Walsh told me that.

Q Well, if Walsh told you that on Friday, did it take you three days to find out how to get the tickets back to Bradley? A Let me tell you. I had to go back on re-

serve, hadn't I? And was on reserve until the next morning, and then was on post up to Saturday afternoon, up to the time I went down to the cigar store, and between that time I didn't have no time; no, sir.

Q Well, then, it took you three days to find out how to get them back to the owner?

MR. LYNN: It wasn't three days. It was only one day and a half. You can't make three days out of a day and a half, Nott.

MR. NOTT: Now, if your Honor please, he is talking to me again.

THE COURT: Is there any objection pending, as to any questions?

MR. NOTT: No, sir. He is talking to me, now, instead of addressing your Honor.

MR. LYNN: And I must apologize for doing that, and this is the first time I ever had to apologize for speaking to a gentleman. As a matter of fact the tickets didn't come into the possession of this defendant until, concededly, six or seven o'clock on Friday night, and he is apprehended on Sunday, at noon; and it isn't two days, and I object to Mr. Nott making up three days out of one and a half days.

THE COURT: Well, make the time whatever it is, Mr. Nott.

BY MR. NOTT:

Q Now, do you remember having an interview with Reardon and Hughes? A Yes, sir.

Q Now, did you state to Reardon that you knew those tickets were stolen when you received them?

A I was called into the station house---

Q Did you state that? Yes or no. A What was the question?

(The question is repeated by the stenographer).

A No, sir.

Q Did you state to Captain Hughes that the reason why you didn't turn them in, or restore them to the owner, or make the arrest was because you were off duty? A No, sir.

Q He is testifying falsely in that regard, then?

A Yes, sir.

Q And Reardon is testifying falsely?

MR. LYNN: Now, I object to that. Now don't answer any such foolish questions.

MR. NOTT: Now, has he the right to instruct the witness?

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THE COURT: Yes. I think myself that it is incompetent. He need not characterize other testimony.

MR. LYNN: You want everybody else to call each other a liar, so that you can have something to sum up on.

MR. NOTT: Are you talking to the Court now?

MR. LYNN: No. The Court has rebuked you.

BY MR. NOTT:

Q Did you tell Reardon that you were at home^{all} that afternoon until you went on reserve?

A When Mr. Reardon come in---

Q (Question repeated). A Yes, sir.

Q Well, why did you tell him that? A Well, that was a mistake of mine, I admit, about the reserve day. That was the only thing. But the minute I found it out, I told him everything.

Q Why did you say that you were at home from four o'clock until you went on reserve? A Well, that was a mistake of mine about the reserve day.

Q Why did you deny that you were down at that place, on 18th street and Avenue C? A I didn't deny it. I admitted it.

Q Now, didn't you say that you were at home, at the time? A I told you twice that I made a mistake as to the day of the reserve, and, as soon as I knew I was

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wrong, I corrected myself.

Q As soon as Captain Hughes went out, and looked at the blotter, you corrected your mistake? A I corrected my mistake before he got out of the room, almost.

Q Because you knew he was going to look at the blotter, didn't you?

MR. LYNN: Now, don't argue with the witness. This is absolutely childish.

MR. NOTT: Hasn't your Honor instructed Mr. Lynn to conduct himself properly, and not interrupt constantly?

MR. LYNN: What is the offense in addressing this gentleman here? He will pass away with winter's snow, and another man will be in his office.

THE COURT: Now, I want to get along nicely with you, Judge Lynn, but I see I must now be firm, and direct you to be seated, while the examination is going on, and not interrupt constantly. I will hear any objection that you make.

MR. LYNN: That is all I want, that Mr. Nott will stop when I object.

BY MR. NOTT:

Q What day did you have in mind, when you told Reardon that you had been home all the afternoon? A Saturday. I

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had Saturday in view.

Q Had you been home all Saturday afternoon?

A No, sir.

Q Hadn't you been down to that big fire, in the first precinct? A Yes, sir.

Q Well, then, why didn't you think of that? A Well, I got mixed on the day of my reserve.

Q What day were you at home, then, that you were thinking of, then? A Well, the day before, Thursday.

Q Thursday? A Yes, sir.

Now, when Mr. Reardon started to ask me the question, he asked "Where were you Friday night?" And I said, "I was home," and he said, "Did you stay home?" And I said "Yes."

That is what I said. But I seen, right away, my mistake, that it wasn't Friday night, see, and I immediately corrected myself, before they had to go to the blotter and get it; I corrected myself.

Q Now, I ask you again, what day were you thinking of when you said you were at home? You said Saturday, and then Thursday? Now, which was it? A Thursday.

Q And were you at home Thursday? A Yes, sir; I was home

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Thursday.

Q And then why did you tell the jury Saturday? A Thursday, I said.

Q Why did you tell the jury, at first, Saturday?

A Did I say Saturday? Thursday was the day I meant. We was on reserve one day and off two, and it was in between those two.

Q Now, I ask you once more, if these articles were so bulky that you couldn't carry them around in your pocket, why you didn't turn them in to the Sergeant at the desk?

A Well, I told you about that before, about them things. I told you that I didn't turn them in at the desk, because I heard they were of no value.

Q Well, if they were of no value, why did you carry them all around with you? A Why?

Q Yes? A Because I took them with me that night, when I left the station house, and left them there, at the cigar store.

Q Well, why, if they were of no value? A Well, they might be of value to Bradley.

Q Well, then, why didn't you leave them at the station house, at the desk, leave them with the Sergeant? A Well, because I thought they were of no value.

THE COURT: I think he has answered that, Mr.

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Nott. He says he did not turn them in because he thought they were of no value.

MR. NOTT: Yes, sir. And then he said he carried them around because he thought they might be of some value.

BY MR. NOTT:

Q Do you know where this man Boyle or Doyle lives?

A He lives near Horatio street and Hudson. I telephoned twice to a place where he goes, but I couldn't get him.

Q He has a telephone in his house? A No, sir; not at his house. This is a saloon that I telephoned to, where I thought he would be.

Q Have you ever seen him in that saloon? A Yes, sir; I have seen him in that saloon.

Q When have you been in there to see him? A Saturday, I think it was.

Q What? A Saturday.

Q Saturday? A Yes, sir. Friday.

Q This week? A Yes, sir.

Q Friday of this week? A Last week.

Q When were you out on bail? A Wednesday.

Q You were arrested on the 29th of January?

A Yes, sir; on Sunday.

Q And you were only bailed out last Wednesday; is

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that right? A Well, I was out on bail before that.

Q Well, I asked you, a minute ago, when you got out on bail? A Well, I was out on bail once, and then I was re-arrested, and placed under higher bail, and then reduced to lower bail. I was in the Police Court in \$500 bail, and when the examination come up, I was re-arrested there, and brought down here.

Q Yes. A And bailed in \$2500. Then the bail was reduced to---

Q And you couldn't get out at all, on the \$2500 bail?

A No, sir.

Q And how long were you on the force? Eight years?

A A little over eight years.

THE COURT: Now, gentlemen, it is nearly half past four, and I do not think we will go along any further with the case, today.

Gentlemen of the Jury,

Do not talk about the case with each other, or with anyone else, and do not form or express any opinion concerning the charge against the defendant until it is finally submitted to you.

You may go until tomorrow morning at half past ten o'clock.

The trial was then adjourned until Wednesday

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morning, February 15, 1905, at 10:30

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TRIAL RESUMED.

New York, February 15, 1905.

MR. LYNN: If your Honor please, I called up Mr. Bradley on the telephone, last night, and he promised to be here this morning-- I didn't like to subpoena him-- but he is not here. With the right of calling him, if he comes in before the case goes to the jury, I will rest the defendant's case.

THE COURT: Very well.

MR. LYNN: For the purposes of keeping the record consistent, and as I don't know whether I took exceptions as to all the motions that I made, I now ask that the stenographer may note that an exception be taken wherever I omitted to do so. I don't do it in a captious spirit, at all, of course,

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but simply for the protection of my client's rights.

THE COURT: Yes.

MR. LYNN: Now, I took up, last night, the section of the statute which your Honor read, and it is most puzzling to me.

It was evidently the intention on the part of the Legislature to cover particularly instruments of record, by which property might be obtained, or somebody deprived of property, and they had something in mind outside of the usual bills of exchange, drafts, checks, and promissory notes, and sight drafts, and other papers common to the commercial world; and the codifier was evidently intending to take in, by a grouping large enough, what your Honor thinks is these snow tickets.

I find that your Honor's reasoning is absolutely correct, with this provision, that, had the tickets been presented to any person after they brought the load of snow to the dump, and given in exchange for the load of snow, and that ticket then to be exchanged for another ticket, would have that value, and that position which your Honor interprets in the meaning of that section, and the words, "or, in any contingency, might be collected thereon or thereby."

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Now, if you will assume that the man who brought the snow to the dump dumped it overboard, and first received this ticket, then that ticket had behind it some labor, something that expressed the doing of an act, and it bore then a value which this particular section would incorporate, because it had behind it something.

But the condition here is, your Honor, that when this ticket is first received, nothing whatsoever of any character or kind, labor or anything else, is behind it. In other words, the person gets it on the street, without doing anything for it.

THE COURT: Well, I do not want to interrupt you, of course, but how about a railroad ticket, which a man goes in and steals? What has been done for that ticket?

MR. LYNN: But that is a promise on the part of the railroad to convey the bearer between two points.

THE COURT: But nothing has been done as to it. It is an unissued paper.

MR. LYNN: But we have this difficulty in this case, and I don't think we should cavil on it, that

this ticket standing in its nakedness, is not capable of transformation by exchanging or negotiating it into a something else that is property.

If it was, then possibly your Honor's thoughts might be extended to this point.

But we have the coupling of a load of snow with it, something that must accompany it. So that the detached ticket itself does not, in any sense, indicate that this ticket could be used to get money, or be collected upon thereby, or in any possible way.

Now, with that testimony before the Court, full, as it is, it does seem to me that the legal mind of the bench would immediately interpret in favor of the defendant, because the rule of law gives in the Court that discretion, that, in the interpretation, it shall not be interpreted as against the defendant, but rather in his favor; and all the old decisions where they have had to deal with just such a proposition as this, whether in the Courts of Chancery in England or in America, have always construed the statute in favor of the defendant.

Now, the construction that your Honor gives to it, is giving a construction against the defendant,

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which I claim, your Honor, with all due respect to the bench is somewhat at variance with the history and spirit of our statutes.

In the civil law it is true the bench is permitted, where a statute is presented of a dubious character, the Court has an inherent power to give an interpretation for or against the defendant or the plaintiff, but where a man is charged with crime, and I think it is a wise provision, and our lawmakers have always intended that it should be so, that, where the doubts come up as a reasonable doubt on the evidence, the law wisely provides that that interpretation shall be favorable to the defendant.

Your Honor is aware that, if two inferences can be drawn from the same state of facts, and when they can be drawn logically in favor of guilt or innocence, the law wisely says that it must be drawn in favor of innocence.

It does seem to me, your Honor, that this whole case bubbles over--- not because Fletcher is the defendant,-- but the law is interesting, its analysis, its history, its foundations, and its structure, and we have to live in all future days under it.

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Fletcher passes out, today. This jury goes away, and you continue on the bench, and I continue to practice as a lawyer.

THE COURT: But the trouble about the case is this, Mr. Lynn, that we have no way here of reserving questions of law for another Court, only as it comes up on appeal.

MR. LYNN: And that is to be regretted, sir,

THE COURT: And, while I am not absolutely certain of this question-- for instance, if I were absolutely certain that the snow tickets had no value in the language of that statute, I would not hesitate to say so. But, inasmuch as I am in doubt on that question, I think it far better as the People have no chance to appeal, at all, that I should not decide a case which, at least, leaves a doubt in my mind, unless that could be determined in some other place.

I would like to have it determined. I am not fully sanguine that I am right, but, at the same time, I do not believe that I would be justified in holding that this paper writing has not, under the circumstances, some pecuniary value, in the light of reading that section. And, therefore, I have held that it

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is a question that I will submit to the jury.
If they come to the conclusion that this ticket has
a value---

MR. LYNN: The trouble with that, Judge, is that
the jury passing on it doesn't fix the rule of law.

THE COURT: No. But if they pass upon it
against you, you can have it reviewed. But, if they
pass upon it against the People, they cannot appeal.

MR. LYNN: But, if your Honor shouldn't leave
it to the jury, but should take the indictment
as it is, and advise an acquittal, the People have
a right to appeal, then.

MR. NOTT: No, not at all; nothing of the
kind.

THE COURT: No. They have no right of appeal,
under any circumstances.

MR. NOTT: We have an appeal from what?

MR. LYNN: An appeal from the order of the
Court.

MR. NOTT: The Court makes no order.

THE COURT: That might be so on a demurrer,
but no demurrer was introduced. If you had demurred

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