

and says that it was a present from this unknown man. And it was then only, after the most strenuous questioning and examination of the defendant that he finally allowed them -- produces a key of the desk in which these were locked up, (indicating the candelabra in evidence). Your Honor remembers when they said, "Open that desk", and he said, "I can't. The key is lost," and the officer said, "We'll break the desk open, if you don't," and the key was produced.

THE COURT: It was not testified what kind of a desk that was; was it?

MR. GARVAN: Yes, sir; a roll top desk. And that then the defendant produced the key and opened it, and then admitted that he had bought these two candelabra from the man whose picture had been shown to him, and that that same man had given the table-cloth, as a present, to his wife.

Now, if your Honor please, the mere fact that this man, who had only come in and bought a pair of cuff buttons from him, and that this man who had had that small transaction with him, had presented this costly and beautiful tablecloth to his wife, is enough to stamp the entire statement of the defendant,

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at that time, as utterly false.

THE COURT: I deny your motion, Mr. Hymes.

MR. HYMES: Exception. And I desire to except to the amendment of the indictment. I presume it was noted at the time of the granting of the amendment?

THE COURT: Yes; it may be noted.

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THE DEFENSE.

A D O L P H W E I L, the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HYMES:

Q. Where do you reside, Mr. Weil? A 127 First Avenue.

Q Is that where you resided in March, 1905? A Yes, sir.

Q What business are you in? A Jewelry business.

Q How long have you been in that place, in the jewelry business? A Two and a half years.

Q What business were you in before the jewelry business?

A I was before in the same business, in Avenue A.

Q Whereabouts? A Between 6th and 7th Streets.

Q How long have you been in the jewelry business in this City altogether? A About ten years.

Q Were you in business before that time in New York?

A Yes; I was a peddler. I was peddling, you know.

Q And how long have you been in business in New York?

A I am here twenty-four years.

Q And how old a man are you? A Fifty.

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Q Do you still reside at 127 First Avenue with your wife and family? A Yes, sir.

Q And have you a family? A Yes, sir.

Q How many?

MR. GARVAN: Objected to.

MR. HYMES: Do you object to a man having a family, in the face of the President's admonition?

MR. GARVAN: I object. And I object to the impudence, also.

THE COURT: Proceed, Mr. Hymes.

Q In March, 1905, do you remember four men coming into your place of business, two of whom were on the stand, yesterday? A Yes, sir.

Q When did they come into your place first; do you remember? A It was on a Monday morning, I think; yes, Monday morning.

Q And before that time had you purchased People's Exhibits A, B and C from -- A No.

Q Any one? Had you bought them? A No.

Q When did you buy them? A I bought it on a Friday; it was on a Friday.

Q Friday of what month? A In the afternoon.

Q What month? A What month?

Q Yes. A I don't know the month exactly. In March, yes.

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Q And how long before these four men came into your place had you bought these things? A It was on a Friday, and the men come in on Monday.

Q It was the Friday before the men came in that you bought them? A Yes, sir.

Q And from whom did you buy them? A Well, a gentleman come in, and he bought from me a watch, and cuff buttons, and a chain. He don't bought them once, you know, and I know him before, and I know him so much why he bought the goods from me; and after he said he is in the auction business, and I bought two candelabras and two clocks and that tablecloth. I don't bought it. He gave that.

Q And how many times did you see this man from whom you bought the goods? A Oh, I see him about twenty times.

Q And how many times has he bought goods from you, before that time? A He bought from me one watch and chain and cuff buttons; only small articles. He bought a watch for ten dollars and a chain for six dollars, and cuff buttons for a dollar; and such a small articles he bought from me.

Q And how much did you pay him for the articles which you bought from him? A Fourteen and a half dollars.

Q And what did you do with the articles? A The articles, you know, was in the store. One I sold to Mrs. Pincus, for

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a dollar and a half; and I took one clock to my brother, and the second was over there.

Q No.. Just tell me, first, what you did with the articles. One you sold to Mrs. Pincus, for one dollar and a half? A Yes, sir; a clock.

Q And the other one? A I took it to my brother.

Q Did you sell it to him? A Seven dollars. That's what I paid to the man. I paid seven dollars for the clock, and he took it for seven dollars.

Q Did the man tell you where he had got the goods?

A That man he told me he live in 10th Street, East 10th Street.

Q Did he tell you where he got the goods from? A Yes; he tell me he buy that on auction, in Jersey. He say there was an auction in Jersey, and he bought it there.

Q When the detectives called to see you, that day, those four men -- A Yes.

Q Was your wife at the place with you? A Yes.

Q Did you have any talk with those men -- we will call them the detectives -- did you have any talk with them?

A No; I didn't have no talk with them. But he make that picture -- he show me that picture -- and I tell him I know that man, that's all. When the detectives come in, you know,

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I say I will open the safe, and they see everything what is; and there was nothing but them two candelabras, and them two clocks, and them two clocks wasn't home.. One was by my brother, and the other was by Mrs. Pincus; and I find out where Mrs. Pincus live, and ---

Q No; I want to know, first, what they did, when they got into your place? A Well, they come in, and they say I must show them the safe and everything.

Q And did you show them the safe? A Yes; and they didn't find nothing, only them two candelabras, and the two clocks wasn't home, and that tablecloth was home; that's all. And, after, in an hour and a half about, they were by my brother, and he give it to them, that clock, and Mrs. Pincus give back the clock, too; that's all.

Q And did they ask you if you had bought any goods from the man whose picture they showed you? A I never buy something, only them things.

Q No. You mpsunderstand me. Did the detectives say that, when they first asked you whether you had bought any goods from the man whose picture they showed you, you said that you hadn't bought any goods from him? A No. I told them I know that man, and, afterwards, I told them I bought from him two candelabras and two clocks.

Q Well. why was it that, at first, you didn't tell them

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that.

MR. GARVAN: Objected to. He says that he did tell them.

BY MR. HYMES:

Q Well, when did you tell them? A In a minute, right away, I told the detectives; and I opened the desk, and he saw the two; and the desk wasn't closed; it was opened, you know; everything was open. The two candelabras wasn't closed, and the tablecloth wasn't closed; and them two clocks, one was by my brother, and the other was by Mrs. Pincus; and that's all.

Q The detectives say that it was only after they were going to arrest you that your wife spoke to you, in some other language, German or some language, and that it was then that you told them that you had the candelabra and the tablecloth? A You know I never had that before. I am twenty-four years in the country, and I have got lots of witnesses, nobody can say I was short, or in a crooked way.

Q No. Well, tell us about this. The detectives say that it was only after they were about to arrest you, or had arrested you, that you told them that you had the candelabra and the tablecloth? A No, sir; I told them I would take a minute or two, and show them everything, what it was.

Q The detectives say that, when they showed you that pic-

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ture, you said that you knew that man was a thief, or that he was a thief? Did you tell them that? A No, sir. He was a perfect gentleman. He was by me every second day, and he was fine dressed; and he said his father was in Germany, and he was in 10th Street. I can't say was he a thief or not. He bought from me lots of goods, a watch and ---

Q Yes; you told me that? A Yes, sir.

Q Now, the detectives say that your roll top desk was locked, the one containing the candelabra? A No, sir; it wasn't locked. On the desk, there is no lock on that desk. The desk, it was open. I went to open that.

Q And they say it was only when they threatened to break open the desk, that you went and got the key, and opened it?

A No, sir.

Q Was there any lock on that desk? A No, sir; there was no lock on it. I can swear there was no lock on it.

Q Did you have any talk in a foreign language, German or any other language, with your wife, that morning, when the detectives were there? A Well, maybe, sometimes, I speak German, you know.

Q Well, did she say anything to you in German? What language did you talk to your wife in? A I speak to her in German. And my wife said, "Here is the desk. Open it." And

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here is the two candelabra." She said that in German. I never bought such things, and I am a man what lots of people know me for twenty years.

Q Yes. I know. You told me that. Did you ever know that this man was anything else but what was right and honest?

A No, sir. He always come in like a gentleman, and was always fine dressed.

Q Have you ever been arrested before? A No, sir.

MR. GARVAN: Objected to. And I move to strike out the answer.

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THE COURT: Objection sustained. Strike out the answer.

MR. HYMES: Exception.

BY MR. HYMES:

Q Have you ever been in any trouble before? Ever been arrested in your life before, for anything?

MR. GARVAN: Objected to.

THE COURT: Sustained.

MR. HYMES: Exception.

CROSS EXAMINATION BY MR. GARVAN:

Q How much did you say you got from your brother for the clock? A \$7.

Q Don't you know that that clock was worth \$100? A No, sir.

Q How much was it worth? You have been in the business all these years? A Yes, sir. Maybe it is worth \$6.

Q Maybe it's worth \$6? A Yes, sir; or six dollars and a half or eight dollars. I can't tell exactly the price.

Q Don't you know, as matter of fact, that it was worth \$100? A No, sir; it isn't worth \$20.

Q It was not? A No, sir.

Q How much are those caldelabra worth? (Indicating.)

A That caldelabra?

Q Yes. A When you go buy them, a new one, maybe you

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pay \$7. That's only plated, you know, that's only Rogers plate. you know. That isn't Sterling silverware. That's only plated.

Q All right. That's worth \$7? A Yes, sir.

Q And the clock is worth \$7? A No; I mean them two.
(Indicating the caldelabra in evidence.)

Q And this tablecloth, you say, he gave you? A Yes, sir.

Q Well, how did he come to give you this? A Well, I bought from him these two clocks, for \$14.50, and then he give me that.

Q Yes. But you said that you paid all that they were worth. You say you can buy them new for \$7, and you paid him \$7 for them old; and you say that the clock was worth only \$7, or so, and you paid him that for it; and you paid him then as much as you could buy them new for? A Yes.

Q And then what did he give you that for? (Indicating the tablecloth.) A Well, you know, I bought them all together, for fourteen fifty, and he give me that.

Q Well, what did he give you that for? You had given him all that the articles were worth. One clock you sold for one dollar and a half? A Yes, sir.

Q And that was Mrs. Vaughan's clock; wasn't it?
A Yes, sir; and Mrs. Vaughan got it.

Q And that clock was worth eighteen or twenty dollars; wasn't it? A No, sir.

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Q Well, how much did you sell it for? A One dollar and a half.

Q Why didn't you have the candelabra out in your showroom, where you could sell them, where people could see them? Why did you have them in your desk? A Well, because, you know, you must fix them up before you can sell them. They were black, as they are now.

Q They were black? A Yes, sir; they must be cleaned.

Q And this was the Friday before the officers came?

A Yes, sir.

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

Q And they were black, just as they are now? A Well, no; not maybe so black. I can't tell you exactly.

Q Well, you had from Friday to Monday? You fixed up the clock, and sold that? A Well, the clock, you know, was broken. The figure was broken.

Q What kind of a desk was that? A It was a writing desk, you know.

Q A rolltop desk? A Yes, sir.

Q Was it closed? A No, sir; it wasn't closed.

Q Now, didn't you just testify that your wife said to you, "Here is the desk, and open it"? Didn't you just testify to that to the jury? Didn't your wife tell you to open the desk? A The desk was open. There was no key for the desk, you know. I tell the detectives I ~~wikk~~ look around for the

key, and I open the desk; that's all. There was no key for the desk, you know.

Q Did you say, just now, that you said you would look for the key, and open it? Did you say that to the detectives?

A No, sir; I didn't say that.

Q Well, did you say that, just now, to the jury?

A No; there was no key on; there was no key for the desk.

Q Did you say to the detectives, "I'll look for the key, and open it"? A No, sir; I didn't say that. Excuse me.

Q Did you say anything about the key to the officers?

A No, no; I don't say nothing.

Q Well, did you just tell this jury that you told the officers that you were looking for the key to open it?

A No, sir; I don't say that. There is no lock on it now, on that desk, you know.

Q I don't suppose there is, now.

BY MR. HYMES:

Q Now, one moment. I ask that the remarks of Mr. Garvan be not stricken from the record, but I ask that an objection be noted; I wish my objection noted to that.

MR. GARVAN: The witness says it, and I suppose its true.

THE COURT: Well, it is not evidence, Mr. Hymes, and I will strike it out.

MR. HYMES: No, sir; and it was an improper

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remark.

BY MR. GARVAN:

Q Now, these officers went in? A Yes, sir.

Q And you thought that you had bought these goods from an honest man; is that right? A Yes, sir.

Q And you thought you had paid all that they were worth; is that right? A Yes, sir.

Q And he had made you a present of this tablecloth?

A Yes, sir.

Q Now, when the officers came in, they were in uniforms, were they? A No, sir.

Q They were in plain clothes? A Yes, sir.

Q And they showed you his picture; didn't they?

A Yes, sir.

Q And they asked you if you had bought any goods from that man; didn't they? A Yes, sir.

Q One of them spoke to you, and said, "Well, have you bought any goods from that man"? A (No answer.)

Q First, they asked you if you knew him; didn't they?

A Yes, sir.

Q And you told them you knew him, because he had bought goods from you twice? A Yes; more than twice.

Q Well, I am talking of what you said to the officer.

And, the second time, he bought a pair of cuff buttons?

A Yes, sir.

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Q And did they ask you his name? A No, not the name.

Q What name did you know him by? A I don't know the name from him.

Q What name did he give you? A Charlie or Joe, or whatever he say.

Q Well, did you take any receipt from Charlie or Joe for this silverware that you bought from him? A No, sir. He show me that he buy that from the auction. The ticket from the auction was on that goods.

Q Well, did you take a receipt from him? A No, I don't take a receipt from him. He says he bought it from the auction, and the ticket is on from the auction.

Q Did you wash the ticket off? A No, sir.

Q Are the tickets there now? A No, they are not.

Q I don't suppose they are. Where are the tickets now?

A I don't know. That's over a year.

Q Were the tickets on there when the officers took the goods? A Well, maybe it was on; I don't know.

Q Well, did you take the tickets off? A No, sir. You see there is two tickets on them now.

Q Were they tickets like these that are on them now, or were they the tickets that were on them then? A I don't know that.

Q Did you show the officers the auction tickets when they came there? A No, sir; I don't show that.

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Q Well, why didn't you show them the auction tickets, and say they were mistaken; that these were auction goods?

A Well, you know, four of them comes in, and they makes you excited; and I was so excited that I don't know what I say.

Q You don't know what you said to him? A No, sir.

Q How long have you been in the jewelry business, in New York? A I am in that business thirty-four years.

Q You are in that business thirty-four years? A Yes, sir.

Q And the sight of officers coming in, and asking you about goods, made you so excited that you didn't know what you were talking about? A Well, I never got that before, at all; never before I got that.

Q Well, what became of the auction tickets that were on these goods? A Well, there was a ticket on; and I didn't see them, but he told me he was in the auction business.

Q Oh, you didn't see the tickets? Did you see them? A Yes, I see them.

Q And where were they placed on them? A They were on here. (Indicating.)

Q And who took them off? A Well, maybe somebody took them off.

Q Well, who took them off? A I don't know. Maybe it was in the court. They was laying around over a year, over there.

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Q Well, were they on them when the officers came in?

A Well--

Q Yes or no. Were they? Please tell us. A Well, I think it was on; I don't know for sure.

Q And was there an auction ticket on this, too, the tablecloth? A I don't know for sure if it was an auction ticket on it or not. I--

Q All right. Now, just a moment. Now, you have told us that the officers came in, and they asked you if you had bought any goods, after you had admitted that you knew the man; they asked you if you had bought any goods from him. What did you say? A I told them, yes.

Q The first thing? A Yes, sir; I told them I bought them from him--

Q Now, just one moment. Just the time, the first time, that the officer asked you if you had bought any goods from the man, you said yes, at once? A Yes, sir.

Q And you showed the officers the goods right away? A Yes, right away; two candelabras and two clocks and that tablecloth, that I showed him, right away.

Q Right away? A Yes, sir.

Q And there was no dispute about it? A No, sir.

Q And it wasn't after they threatened to arrest you,

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or anything like that?

A Yes; they take me along to Headquarters.

Q No. But, as soon as they asked you about this man, you said that you had bought these goods from him honestly?

A Yes, sir.

Q And showed the goods?

A Yes, sir.

Q And you had no argument about opening the desk?

A No, sir; the desk wasn't closed.

Q The desk wasn't closed?

A No, sir.

Q Now, what conversation did you have with your wife, in German?

A Well, my wife says, "Here, open the desk, and take out the goods."

Q Well, but if the desk was open, why did your wife ask you to open it and take out the goods?

A The desk wasn't closed; the desk was open.

Only the door was closed. There was no lock on.

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RE-DIRECT EXAMINATION BY MR. HYMES:

Q What part of this desk were these candelabra in?

A There is a writing desk, with the cover on, you know.

Q What part of the desk were the candelabra in? A On the top, was the candelabras, on the top.

Q Is there any desk of the kind that you had there, in this Court room? A No; there is no desk here, like that. You know, a desk with a cover on top.

Q It is a roll top desk? A Yes, sir.

Q That's all? A It wasn't closed.

BY THE COURT:

Q Now, were those candelabra within the top of the desk? A Yes, your Honor; they was on the top, right here on the top, (illustrating).

Q Well, that's on the plane? A Yes; on the plane.

Q They were on the top that rolls open, you say? A Yes, sir.

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

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AFTER RECESS.

EMMA WEIL, a witness called on behalf of the defendant,
being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HYMES:

Q Mrs. Weil, you are the wife of the defendant? A Yes,
sir.

Q You remember last March, when these four men came into
your place of business on First Avenue? A Yes, sir.

Q And showed a picture? A Yes, sir.

Q Before that day, had your husband bought some articles,
including articles which have been marked here People's
Exhibits A, B and C; that is, the two candelabra and the table
cloth? A Yes, sir.

Q Were you present when he bought them? A Yes, sir.

Q From whom did he buy them? A From a man, from a gen-
tleman.

Q Are you accustomed to be in the store yourself?

A I am not always there. Sometimes.

Q Did you know this man from whom your husband bought
these, (indicating)? A I seen him in the store.

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Q Before that time? A Yes, sir.

Q About how many times had you seen him before in the store? A I can't exactly recollect.

Q And what had he done in the store before that time?

A He came and buy some goods off us.

Q Was this the first and only time your husband bought any goods from him, so far as you know? A Yes, sir.

Q What goods did your husband buy of him? A These candelabras and two clocks.

Q What about the tablecloth? A He gave me that as a present.

Q Tell me how this man happened to give you that?

MR. GARVAN: When was it?

BY MR. HYMES:

Q Was it at the same time that the goods were bought?

A Yes, sir.

Q About how many days was that before the officers came? A I can't exactly remember that.

Q Give me an idea? A It was a good many days. I can't exactly remember that.

Q You are not able to state that? A No, sir.

Q You say that the tablecloth was given to you at the same time that the goods were bought? A Yes, sir.

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Q Tell us what happened when he gave you the tablecloth?

A Well, he said he buy these things in auction, and he got the tablecloth between; and its no use traveling around with it; and "I'll make you a present of this."

Q How much did your husband give for those articles?

A Fourteen and a half dollars.

Q Did you see the man since your husband bought the goods? A No, sir.

Q Now, come down to the day that these officers, these four men, came to your store. Were you there with your husband? A I was there.

Q Were you there when a picture, a tintype was shown to your husband? A Yes, sir.

Q What was said by the detectives with respect to that picture, when they came in? A He took that picture out of his inside pocket, and asked if ~~the~~ we knew the man.

Q And what was said in answer to that? A We said yes, we knew that man.

Q And did the detectives, or any of them, then ask you or your husband, if any goods were bought of that man? A He did ask.

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Q And what did you say? A We were right away excited, and said no. And then I seen there was something wrong, and I said to my husband in German, "We didn't do any harm. We didn't murder anybody. This is a thing that happens to us. So we might as well say the truth, and give the things up." I told him that in German.

Q And what happened then, when you told that to your husband, in German? A Well, that was in the safe, and we gave it to him.

Q What was in the safe? A These candelabras. Not in the safe, but in the desk.

Q What desk? A The writing desk, the rolling desk.

Q Was that desk locked? A It wasn't locked. There was no key to the desk.

Q Where was the tablecloth? A The tablecloth, I had upstairs.

Q Who got that? A I went up and brought it down.

Q Was anything said about clocks? A We had two clocks, and we sold only one, to a lady, which removed from there, and I tried to search all over, and brought that clock to the officers.

Q How much was that clock sold for; do you know?

A I think, one dollar and a half.

Q Well, what about the other clock? A The other clock, my brother-in-law bought.

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Q How much did he pay for it? A I believe it was \$7.

Q Was that gotten, too, by the officers? A Yes, sir.

Q Who got that for them? A The officer went up to his house.

Q Oh, he got that himself? A Yes, sir.

Q Did you tell the officer to whom it had been sold?

A Yes, sir.

Q Was there anything else that you had bought from this man, excepting the two candelabra and the two clocks that you have just told us about? A Nothing else.

Q The officers testified, Mrs. Weil, that your husband said that he had lost the key, or hadn't the key of the desk?

A There was no key.

Q Did he say that to the officers? A No, sir. My husband gets a kind of excited. He isn't an Englishman, you know; he don't know what he says. There wasn't any key. The door was closed, but not locked, he meant to say.

Q Yes. A It was a rolling desk.

Q The officers say that it was only when they threatened to break open the desk that your husband showed the candelabra in the desk? A It was nothing to break open.

Q Yes, I know, but did they have to threaten to break open the desk, before they got the candelabra? A No, sir; it

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wasn't locked.

Q The officers say that your husband, when he was shown this tintype, said that he knew the face, but that he thought that he was a thief? A He was a perfect gentleman. Nobody could ever ---

Q No. But did your husband say that to the officers, that he thought that man was a thief? Did you hear that?

A No, sir; I didn't hear that.

Q Was there anything like that said in your presence?

A No, sir.

Q Were you there all the time? A Yes, sir.

Q Were you there when the picture was shown? A Yes, sir.

Q And what did your husband say, when the picture was shown him? A He said, right away, "I know him," and I said, too, "Yes; I know that man."

Q Did you know or believe that the goods that your husband bought from that man were stolen goods?

MR. GARVAN: Objected to.

A No, sir; he said he bought them on auction; he says he buys and sells on the auction.

Q Do you know anything about any tags that were on the candelabra? A There was a tag on, but these candelabras were all bent up, and I even showed it to the officer. And they were

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black, in the condition what they are now, like; and so I said to my husband, "We won't be able to sell them that way," and I took the tag off, and tried to clean them; and he shall say whether we shall have them polished, or clean them, like new.

Q What did you do with the tags? A I don't know. I guess I must have thrown them away. They was no use to me.

Q Was there anything on those tags? A There was a number on them.

Q Anything else? A Nothing else.

BY MR. GARVAN:

Q It was Monday, wasn't it, when the officers came in?

A I can't exactly remember the day. I think it was.

Q Now, you heard your husband testify, didn't you; you heard him tell his story on the stand? A Yes, sr.

Q This morning? A Yes, sir.

Q You heard him say that it was the Friday before that he bought the goods; didn't you? A Yes, sir.

Q Now was it the Friday before? A I can't exactly remember, and I don't think he remembers, either. He is a man that gets excited. He can't exactly remember the day.

Yes, as he said, he was peddling. We were a number of years --

Q Well, now, just answer the question. Wasn't it the

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Friday before? A I can't exactly tell you.

Q Well, didn't somebody tell you, during recess, that this man was in prison, the Friday before? A Which man?

Q The man that sold your husband these goods?

MR. HYMES: Objected to, as there is no foundation laid for it, and there is nothing in the evidence that warrants a question of this kind. Of course, the witness can be interrogated about what was said to her, at recess.

MR. GARVAN: That's what I am doing.

MR. HYMES: Yes; but we contend that the counsel knows that he has no right to spread all of this on the record of this Court, unless he has some foundation for the question.

MR. GARVAN: If your Honor please, I am asking her if she hasn't been told, since her husband testified that he bought these goods on Friday, and she has just testified that she thinks her husband must be mistaken as to that ---

MR. HYMES: No. The witness hasn't testified to that. The witness says her husband is a German man, and doesn't understand English very well.

MR. GARVAN: Well, as I understood her to say,

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she says that her husband is likely to be excited, and to be mistaken, etc; and I asked her if she hadn't found out, during recess, that the man that stole the goods to the defendant was in State Prison, in New Jersey, on the day that the defendant claims to have bought the goods.

MR. HYMES: Now, I object to that statement, if your Honor please, under the circumstances, as utterly improper.

THE COURT: On cross-examination, it is for the District Attorney to test the accuracy as well as the credibility of this witness; and in order to ascertain as to her accuracy and credibility, he has a right to test her as to what information she may have received on that point; not for the purpose of showing that this man was in prison -- and the jury will so regard it, I instruct the jury so, that it is not for that purpose at all. In this case it makes no difference where the man went. The only object of the question is to test the credibility of the witness, whether or not her testimony now has or has not been influenced by what she may have heard, during the recess. I will permit the question.

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MR. HYMES: Exception.

BY MR. GARVAN:

Q Now, didn't you hear, during recess, that this man was in prison, on Friday? A Yes, sir.

Q Who told you that? A What?

Q That this man was in prison, on Friday? A I tell you I can't exactly know what day it was; I can't remember.

Q No, no; that's not the question. Now, when these detectives came in there, on whatever day it was, was there any one else in the store besides you and your husband?

A I don't think there was any; no, sir.

Q Wasn't your husband's cousin there? A I don't know whether he was just at the time or not. There was a cousin there, a greenhorn.

Q No. Just answer me whether he was there or not?

A I think he was there at the time. I don't know exactly.

Q Now, you say that the officers asked you, first, if you knew the man, and you said yes? A Yes, sir.

Q What name did you know him by? A I didn't know any name at all.

Q Did your husband take a receipt from him, when he bought these goods? A No receipt.

Q Don't you usually take a receipt for goods you buy?

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A Yes, we do, off the wholesalers downtown. But, as he said he buys he sometimes, and he sells sometimes on the auction, he didn't give us no receipt.

Q Well, did you pay him by check or by cash? A Cash.

Q And are you in the habit of buying from people who come in that way? A Never do; only people what we know.

Q And you saw this man come in with these two candelabra, two clocks and a tablecloth and you bought them, and you didn't take a receipt; is that right? A Yes, sir.

Q Now, when the officers came in, and you told them that you knew him, one of the officers asked your husband if he had ever bought any goods from him? A Yes, sir.

Q And what did your husband say first? A He got kind of excited, and said no.

Q And what did you say? A Then I seen ---

Q No, the very first thing. Just answer my question, please. I don't want to be harsh to you, Madam? A Well, I said to my husband, in German ---

Q No. What did you say to the officers? A I denied it first, too.

Q And why did you deny it, at that time? A Because I seen there was some kind of a wrong thing, which we are not used to it. I got frightened. I see there was some men coming in, and it was some kind of a strange thing, and we

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wasn't used to that, and I thought there was something wrong, and I said to my husband, in German, "We didn't do any harm to anybody. We didn't murder anybody. This is a thing that is liable to happen to anybody. This is a misfortune, and so we might as well tell the truth." I said that, in German, to him.

Q Well why didn't you say it to him in English? A Well, he is a man that don't understand English very well; he don't speak English very well.

Q Well, the reason why you said it in German was not to prevent the officers from understanding it; was it? A No, sir.

Q Well, now, didn't you deny it several times, before you admitted it? A No, sir. Right off I denied it, because I didn't know what it was.

Q Well, didn't the officers say that your husband would have to go to the Police Station? A Yes, sir.

Q And it was only after he said that, the officer, that you told him that your husband had the goods? A No. Before that.

Q Sure of that? A Yes, sir.

Q Are you certain? A Yes, sir.

Q And how many times did you deny it, that he had bought the goods? A Well, I can't exactly remember that.

Q Now, you went upstairs and got this tablecloth? A Yes,

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sir.

Q And you say that the desk wasn't locked? A It wasn't locked.

Q And the officers didn't threaten to break it open?

A No, sir.

Q Didn't they say anything about if you didn't open it, they would break it open? A I can't remember that; because the desk wasn't locked; there was no key to it.

Q (Repeated). A I can't remember that.

Q Didn't they say that, if you didn't open the desk, they would break it open? A It was anybody that --

Q No, never mind that. Just a moment. Didn't one of the officers say, "If you don't open the desk, I'll break it open"? A I didn't hear him say that. They didn't know where the candelabras were.

Q But they looked all over the store; didn't they?

A I gave them the privilege to look all through the place, and I opened the safe, the desk, and said, "Here they are."

Q And there was no discussion at all about opening it?

A I don't remember that exactly.

Q Wasn't there any talk about opening the desk? Now tell me? A I don't remember.

Q What was the talk about? A They asked if we bought any goods, --

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Q No, no. About opening the desk? A I can't remember that. But the desk wasn't locked, because we had no key to the desk. It was an old desk.

Q Now, your husband testified, I think, that he said to you to get the key to open it. That's my recollection of his testimony. Did he say that to you? A No, sir.

Q He didn't say to you to get the key and open it?

A No, sir.

Q But you did open it? A No, sir. He said it was closed, and he meant it was closed, but not locked. There is no lock in it. You know he can't explain it in English.

Q Did you talk with any one, since recess, or during recess about what he said or testified to here? A I did not.

Q Well, could you hear everything that he said, before recess, where you sat, in the back of the court room there? (Indicating). A Yes, sir.

Q Now, you told me that, when you got these goods, these candelabra, they were about like what they are now? A No; they were all bent and crooked.

Q And did you straighten them out? A Yes; we tried to straighten them and tried to sell them, and so everybody said they were secondhanded.

Q You tried to straighten them out? A Yes, sir.

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Q And you say there was a ticket on one of them?

A There was a ticket on.

Q On only one of them? A Yes.

Q Did you clean them at that time? A I tried to clean them.

Q Well, it isn't difficult to clean them; is it? You had been in the jewelry business a long while? A Well, we thought we would polish them so that they should look like new.

Q Well, you did polish them up; didn't you? A Yes, but with powder, not like they polish them, downtown, in the big places.

Q But, if they had been in a lady's house all the time, and in daily use, they wouldn't want anything more than a powder polish; would they? A Yes; but still they would look secondhanded.

Q But weren't they bright and fresh, after you got through polishing them? A Well, they were a little better then than they are now.

Q And were they black, when you got them? A They were black.

Q They were black? A Yes, sir.

Q Now, what was on this ticket? A There was a number on.

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Q Well, did you hear what your husband said about the tickets? A Well, he said there was a tag on, a ticket.

Q Yes. What else did he say? A That it was bought in auction.

Q Well, was there anything on the tag that said it was bought in auction? A I seen a number on.

Q That's all you saw? A Yes, sir.

Q And you took that tag off? A Yes, sir.

Q Was your husband there when you took that tag off?

A That's what I can't recollect. I took them inside, on my kitchen table.

Q And you took the tag off? A Yes, sir.

Q Did the man show you that tag, when he sold them to you? A Well, anybody could see that, without him showing anything.

Q (Repeated). A Well, he bought them from auction, and all auction goods has tags on.

Q And, therefore, you looked to see, before you bought these articles, to see whether there was an auction tag on them? A Yes, sir.

Q Was there a tag on the clocks? A No.

Q Well, then, you knew that those clocks didn't come from an auction sale? A Well, he brought them altogether.

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Q The clocks, the candelabra and the tablecloth altogether? A Yes, sir.

Q He brought them altogether? A Yes, sir.

Q And there was a tag on only one of the candelabra?

A Yes, sir.

Q And did you look to see what auction house, or firm they came from? A No, sir; I see only a number.

Q And you know that auction goods are always marked with a tag? A Yes, sir.

Q And the name of the auctioneer is always on it?

A I didn't see it.

Q But when you bought goods at auction? A We never bought any.

Q But you said, a minute ago, that whenever goods are bought at auction, they have a tag on them? A Well, I always heard that.

Q Did you ask him whether those were bought at auction, and if so, why they didn't have any tags on them? A He said he bought all that in one lot.

Q He bought it all in one lot? A Yes, sir.

Q Now, when did you sell the clock to Mrs. Pincus?

A Well, that was, I think, a few days after. I can't exactly remember.

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Q How many days after? A You see I don't want to tell no lie. I can't exactly remember.

Q That's right. That's a fair answer. Was it in a week or ten days? A Maybe it was a week after, I don't know; I can't remember.

REDIRECT EXAMINATION BY MR. HYMES:

Q Mrs. Weil, did you tell Mr. Garvan that, during recess, some one informed you that the man from whom these goods were bought was in State Prison in New Jersey? A Who was?

Q Did any one tell you that, during recess? A Me?

Q Yes, you? A I don't understand what you mean.

Q Well, did any one tell you -- do you know what I mean by recess? A Yes, sir; recess.

Q Did any one, during recess, tell you anything about the man from whom your husband bought these goods, being in State prison in New Jersey? A I don't talk to anybody between recess.

RE-CROSS EXAMINATION BY MR. GARVAN:

Q Did you hear your husband testify, this morning, that he bought the goods on the Friday before the Monday that the officers came in? You heard your husband say that? A Yes,

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sir.

Q Well, now, didn't you find out, since recess, since he testified, that he was mistaken about that; and that the man from whom he bought them had been arrested before that Friday? A I don't know when he got arrested.

Q Didn't you find that out this Noon, at recess? A I didn't ask nobody; I didn't speak to nobody.

BY MR. HYMES:

Q Did you understand Mr. Garvan's question, before?

A No, sir. I understand it now.

BY MR. GARVAN:

Q Do you keep books in your business? A No, sir.

Q No books at all? A Books?

Q Yes. A Yes; we keep books.

Q Did you put this purchase on the books? A We just put on the books how much we take in every day, you know; that's all.

Q You don't put any of your purchases on your books?

A No, sir.

Q Don't you keep a cash book? A I never look at the books. My husband just keeps what he sells, and what he charges; that's all.

Q Well he puts in his books what he buys and what he sells;

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doesn't he? A I don't know about that.

Q Well, you work in the store; don't you? A Very little. I have got my house to take care of. When he goes downtown to buy something, I am in the store for half an hour or so.

BY MR. HYMES:

Q Who was this cousin of whom you spoke, that was in the store the time the detectives came? A That was one of his cousins. He was a greenhorn, and he went to Europe again. He was only here a short time.

Q What do you mean by greenhorn? Did he speak English?

A Yes. Years ago he was here before.

Q And when did he go to Europe? A Oh, well, he is out there a year ago already.

Q What was his name? A Morris Pollak.

A D O L P H W E I L, the defendant, being recalled by counsel for defendant, testified as follows:

DIRECT EXAMINATION BY MR. HYMES:

Q What kind of a store have you there, what size?

A A small sized store.

Q And what is the stock? A About three or four hundred dollars. I make only repairing, more repairing. I ain't

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got no stock for five thousand dollars or ten thousand dollars. I got a small stock there.

Q And what kind of books do you keep? A Books what I take in, and what I sold. I don't keep books, you know, like in a big store. There isn't so much stock there.

CROSS EXAMINATION BY MR. GARVAN:

Q Well, you make a record of your sales, during the day, don't you? A Yes, sir.

Q Your cash account? A Yes, sir.

Q And you put down what you pay out? A Certainly. And I have got the bills, and I will pay small bills; not bills for two or three hundred dollars. Sometimes I will buy goods for twenty dollars, and I have the receipts and everything.

Q Well, you generally get the receipts, when you buy goods? A Yes. It isn't so big a stock there. It is a small stock.

Q And you say you don't put down the goods you buy, because you get receipts, generally, when you buy? A Yes, sir.

Q Why didn't you get a receipt from this fellow?

A Well, because there was a ticket on, and I didn't ask him, and because I believe that man; and I come in trouble because I

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believe him. I never got any trouble in twenty-four years before.

HERMAN STEIFEL, a witness called on behalf of the defendant, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HYMES:

Q What is your profession, Mr. Steifel? A Attorney and Counsellor at law.

Q And you practice in this State? A Yes, sir.

Q And what is your present position? A Assistant Corporation Counsel.

Q Of this City? A Yes, sir.

Q And you have been connected with the Corporation Counsel's office for how long? A Twenty five years.

Q Do you know the defendant, Adolph Weil? A I do.

Q How long have you known him? A Well, about ten or fifteen years; I can't exactly tell.

Q You have had an opportunity of observing him during those years? A Medium, yes.

Q Do you know others in the community, who know him?

A I know people who know him; yes.

Q And do you know what his reputation for honesty and

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general respectability in the community is?

MR. GARVAN: Objected to, 'general respectability.

THE COURT: Sustained.

BY MR. HYMES:

Q Do you know what his reputation for honesty and integrity is? A As far as I know, good.

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

CROSS EXAMINATION: NONE.

M O S E S Z I M M E R M A N, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. HYMES:

Q Mr. Zimmerman, your business is what? A Manufacturer and dealer in provisions.

Q And whereabouts, please? A 318 -- 324 East Houston Street.

Q And how long have you been in business in New York?

A Since 1878.

Q Do you know Adolph Weil, this defendant? A I do.

Q Have you had business relations with him? A Yes, sir.

Q For how long? A Oh, about five or six years.

Q Do you know other people in the community that know him? Do you know other persons that know him? A Oh, yes.

Q What is his reputation for honesty and integrity in the community? A I can't say nothing else. All his dealings with me was fair and upright, and he paid everything what he owed me.

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MR. GARVAN: Objected to.

THE COURT: No, no; that will not do.

BY MR. HYMES:

Q You never heard anything against him, except in this particular manner? A No, sir.

CROSS EXAMINATION BY MR. GARVAN:

Q He dealt with you; did he? A Yes, sir.

THE COURT: Is there not sufficient testimony on that point? The District Attorney, I apprehend, does not intend to assail the character of this defendant.

MR. GARVAN: No, sir; only as the evidence in this case assails it.

MR. HYMES: Well, I intend to prove it affirmatively, if your Honor please.

THE COURT: Well, have you not enough testimony now?

MR. HYMES: Well, I want to call a variety of witnesses, in various walks of life, and also a wholesale jeweler.

THE COURT: As to his reputation?

MR. HYMES: Yes, sir.

THE COURT: Then I do not think it is necessary. I think you have called a sufficient number, and intro-

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duced sufficient proofs on that subject.

MR. HYMES: Well, then, I want to state what I have in court in the way of witnesses.

THE COURT: Yes; you may put it on the record.

MR. HYMES: I have half a dozen or more, besides those already called, one of whom is the president of the Realty Corporations. I don't know what the gentleman's business is whom I have just called.

THE COURT: Well, merchant.

BY THE COURT:

Q What is your business, sir?

(The witness called to the stand, but not sworn.)
Superintendent of the Lebanon Hospital.

MR. HYMES: And I have two or three business men from Maiden Lane, who will testify to their business dealings with him, and his general uprightness, for years.

THE COURT: Well, on the statement of the District Attorney that he does not intend to assail the character of the deceased, I think that you have already sufficient in the case on that point.

MR. HYMES: And my offer may also stand on the record?

THE COURT: Yes.

MR. HYMES: Then that is the case for the Defense.

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MR. GARVAN: That's the People's case.

MR. HYMES: And now I renew my motions, made at the close of the People's case, if your Honor please, on the grounds there mentioned; and I now urge further that, in the light thrown by the evidence that has any bearing whatever on the circumstances of the receipt of the goods in question by the defendant, we have affirmatively shouldered the burden, if there be any, that the law puts upon the defendant, in like circumstances.

THE COURT: I deny your motion.

MR. HYMES: Exception.

(Mr. Hymes then summed up for the Defense, and Mr. Garvan closed the case for the People.)

THE COURT: Gentlemen of the jury,

Do you feel like taking charge of this case, to night? I wish to consult your feelings. If any of you are likely to be inconvenienced by detention here, I will not give it into your charge, to-night.

THE FOURTH JUROR: I have an important engagement on, to-night, sir.

THE COURT: At what time, sir?

THE JUROR: Well, it should be sometime before six.

THE COURT: Then I shall not detain you.

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Gentlemen of the jury,

Do not talk about the case among yourselves, or permit anyone to talk with you about it, and do not form or express any opinion concerning the guilt or innocence of the defendant, until the case is finally submitted to you.

You may go until tomorrow morning, at 10.30 o'clock.

(The trial was then adjourned until Thursday morning, December 6th, 1906, at 10.30.)

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T R I A L R E S U M E D.

New York, December 6th, 1906.

THE COURT'S CHARGE.

Gentlemen of the Jury,

Before I deliver to you my principal charge, I desire to instruct you in relation to a part of the testimony given by Mrs. Weil, the defendant's wife. My understanding that, on the re direct examination, she said that she did not understand a question of the District Attorney's in the cross examination, regarding certain information which reached her, during the recess of Court. She said that she did not understand the question, and that her answer to that question was given under a misapprehension of the question. That being so, it is proper that I should instruct you now to disregard whatever she may have said under a misapprehension or a misunderstanding, if she did do so, touching her being told by some person that this man referred to

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in relation to the photograph was in prison, at the time mentioned. You will disregard that altogether, and consider that you have not heard it, and must pay no attention whatever to it.

The defendant is indicted for the crime of receiving stolen property; and the law defining that crime is very concise and very simple. I will read that portion of the statute which is directly applicable to the charge before you: "A person who buys or receives any stolen property, knowing the same to have been stolen, is guilty of criminally receiving stolen property."

There are three requisites to constitute this crime. First, it must be proven to the satisfaction of the jury that the property in question was actually stolen. Secondly, that the accused person either bought or received such property. Thirdly, that, in doing so, he knew at the time that the property was stolen. Those are the three requisites which are essential to the commission of the crime; and, unless those be proven to your satisfaction, beyond a reasonable doubt, you must declare the defendant not guilty of the crime charged against him.

The first question that is presented to you is:

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Was the property stolen?

You have heard the testimony given to you by Mr. and Mrs. Vaughan, in relation to the property which they say disappeared from their residence in Orange, and it is for you to say, upon that question, taking all the evidence into consideration, and giving to it careful consideration, what inference you, as reasonable men, can draw from such evidence.

And incidentally to that question, another question arises, and that is: If the property was stolen, were the articles presented to you identified to your satisfaction as the property that was stolen?

These are two questions of fact, upon that phase of the case, which you will have to determine upon this evidence.

It is for you to determine, in view of the testimony of Mr. and Mrs. Vaughan, in relation to the candelabra and the drawn-work table cloth, whether or not you are satisfied that these articles are the articles that they had in their house in Orange, and which they say disappeared from their house, on the night in question.

So that, if you find, in the first instance, that the candelabra and the table cloth were stolen

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from Mrs. Vaughan, then you determine whether the articles presented in evidence were the articles that were stolen.

I may say here that it is not necessary, in order to prove the identity of an article, that a particular mark should be made upon it by the owner, which would distinguish it from all other articles of its kind ; that is not necessary. It is for a jury to say, upon all the evidence in the case, whether they are satisfied that the articles are the identical articles claimed by Mr. and Mrs. Vaughan to have been taken from their house.

If you find that the property so named was stolen, and that the articles presented to you are the stolen articles, you may then proceed to the next question of importance, and that is: Did the defendant buy or receive that stolen property?

There is no dispute here but that the defendant had the articles in his possession. They were found there. On that point, of course, you will have no difficulty in arriving at a determination.

Did he buy or receive? The testimony is, I believe, as far as my recollection goes, that he bought the candelabra, and that the man who sold him

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the candelabra made a present of the table cloth to his wife.

Now, upon that point, gentlemen, it makes no difference, in law, whether a receiver of stolen property either buys or accepts it as a present. It is not necessary to constitute the crime of receiving stolen property that the receiver should pay money for the property. If he receives it into his possession, knowing it to have been stolen, that is sufficient; and it makes no matter whether the property was a gift or whether it was the subject of bargain and sale; if it be received into possession, with a knowledge that the property was stolen, that is sufficient in law.

If you determine upon the evidence that the property was either bought or received by the defendant, and it was stolen property, as I before instructed you, you then come to the third important question in the case: Did the defendant buy or receive that property, knowing it to have been stolen? And really that is the crucial question for you to determine.

A man may receive or buy stolen property, without a knowledge that it was stolen; and, if he does

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so, he does not commit a crime. The gist of the crime really lies in the buying or the receiving of stolen property with a knowledge of its character; because, as I before observed to you, a man may innocently so far as the law is concerned, buy or receive property which has been stolen, but being ignorant of its character as stolen property.

It follows from that rule that, if this defendant bought or received that property into his possession, and did not know that the property was stolen, he did not commit a crime, and it would be your bounden duty to declare him not guilty.

But, if he bought or received that property into his possession, knowing it to have been stolen, he committed the crime of receiving stolen property, and it would be your bounden duty to declare him guilty of that crime.

The question of knowledge is one that may be made up of very many circumstances, and appearances, and conditions surrounding the transaction. It is not necessary that a jury should be informed by evidence that the person charged with criminally receiving stolen property was told by the person who gave it to him, or by the thief who stole it, that it was

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stolen property. It is not necessary that he should be told, in so many words, "This is stolen property"; because it is apparent to you, gentlemen, that, if a crime is contemplated, the person or persons who contemplate the commission of that crime do not announce their intention of committing the crime beforehand, in express language. Indeed, it may be fairly said that a person who commits a crime will rather try to suppress outside information concerning it, or deprive other people than those who may be concerned with him in the commission of the crime of the opportunity of knowing his purpose. It is more in accordance with his purpose to secrete and suppress knowledge of what he is about to do; and the law, therefore, wisely says that it is not necessary that words of information should be conveyed to the person who buys or receives the stolen property. But a jury may gather from the transaction and all its surrounding circumstances whether or not the person who buys or receives the stolen property did so with a knowledge that it was stolen.

The character of the property, the price paid for it, the circumstances under which it was received or bought, the person from whom it was received or

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bought, the time of day or night at which it was received or bought, the exposure of such property, after it was received, or the secreting of such property, after it was received; all these are circumstances from which a jury may infer knowledge on the part of the accused person.

If a man accused of the crime should be found in possession of stolen property, and if the stolen property was secreted, kept out of sight, and its possessor denies having it in his possession, such would be circumstances for a jury to consider on the question of whether or not he knew that he had stolen property in his possession; because a jury might say there that, if he had nothing to conceal, why should he attempt to conceal such property; if he believed that he had purchased or received the property in an ordinary, honest transaction, what reason would he have for the concealment?

I have mentioned these matters to you, gentlemen, as illustrating the methods and the means by which a jury can arrive at the question of whether or not an accused person had a knowledge, when he received the property into his possession, that that property was stolen.

So far as the facts in this case are concerned, I will not comment upon them. That is exclusively for you to do. You are the exclusive judges of all questions of fact in the case. My function ceases when I instruct you upon the law of the case. Then the responsibility rests with you to determine on the evidence before you the questions of fact presented; those questions of fact are, as I have outlined them to you, involved in the determination of the question of whether or not the defendant committed the crime charged against him. I do not think, gentlemen, that it requires any further statement from me to you as to the law of the case. You are not only the judges of the facts in the case, but you are also the judges of the credibility of every witness who has taken the witness stand; and the defendant having taken the witness stand, in his own behalf, places himself in the category of all other witnesses. He is subjected to the same tests as to his credibility, and must be bound by the same rules of ascertaining the truth, which you will apply to all other witnesses in the case.

The law gives to the defendant the benefit of a reasonable doubt, upon all the evidence and the lack

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of evidence in the case.

But that reasonable doubt is not a mere guess, or surmise; but it must be a reasonable doubt, just as the phrase expresses; not any doubt, but a reasonable doubt, and a reasonable doubt founded upon the evidence. If you entertain such a reasonable doubt, it is your duty to give the defendant the benefit of it, beyond a reasonable doubt, and deliver a verdict of acquittal.

But if, after considering all the testimony, and weighing it carefully and comparing it, you come to the conclusion, beyond a reasonable doubt, that the defendant bought or received these articles as stolen property into his possession, knowing them to have been stolen, it will be your bounden duty to declare him guilty of the crime charged against him.

I submit the case to you.

MR. HYMES: May I ask your Honor, first, to charge that the doctrine of reasonable doubt applies to each element of the offence alleged against this defendant?

THE COURT: I so charge.

MR. HYMES: And that, if there be any reasonable doubt as to any one element, that entitles the defendant absolutely to his acquittal.

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THE COURT: No; not as to any one element.

No, I decline to charge in that language.

MR. HYMES: As to any one of the material elements of this offence, as laid down by the Court, in its charge.

THE COURT: Yes; I so charge.

MR. HYMES: Will your Honor kindly charge as to the effect of good character evidence.

THE COURT: Oh, yes; I omitted that.

MR. HYMES: Yes sir.

THE COURT:

The defendant has interposed before you evidence as to his good character; that is, what is popularly termed good character. It is really good reputation, because the evidence of character is one thing, and reputation is another.

The law gives such testimony that weight which a jury considers it entitled to; and when evidence of good character is introduced, it may, of itself, create a reasonable doubt where otherwise such reasonable doubt would not exist. No matter how conclusive the testimony for the prosecution may be against a defendant, such evidence, like all other evidence, is for you to determine, how much weight you will attach

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to it. It does not follow that good character, of itself, is a defence to a criminal action, or to a criminal act; because men of good character may commit crimes; and if a jury be satisfied upon all the testimony in the case, including that of good character, that the crime charged against a defendant was committed, it will be their duty to render a verdict of guilty. But, if they entertain a reasonable doubt, even though that reasonable doubt be generated only by the evidence of good character, it will be their duty to give him the benefit of that doubt, and acquit him.

MR. HYMES: And will your Honor also kindly charge that all the facts and circumstances, including the facts and circumstances attaching to the stratum of life in which the defendant is, are facts and circumstances which must be considered as bearing what your Honor has been pleased to call the crucial question in this case, whether or not the buying of these goods was with knowledge of their felonious character.

THE COURT: I decline to charge further on that point.

MR. HYMES: I except. And will your Honor charge

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the obverse of what your Honor has charged at length, namely, the effect of what may be called concealment with regard to goods that have been received by a defendant, which are charged to have been stolen? Your Honor has charged at length upon what may be considered as bearing upon that knowledge. I now ask your Honor to charge the opposite of that, namely, the effect of essential disclosure.

THE COURT: No, I shall not charge any further on that question. It is for the jury to take all that into consideration.

MR. HYMES: And we respectfully except to that.. Shall I take such exceptions to your Honor's charge in chief now as I desire?

THE COURT: Yes.

MR. HYMES: We except to that portion of the Court's charge in which it states in these words, with regard to the question of felonious or guilty knowledge, at the time of the receiving of the goods in question, and "really that is the crucial question in the case". That is all.

THE COURT: If you except to those words which, when I delivered them to the jury, I considered really in the interest of the defendant, I will withdraw those

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precise words from the jury; and say, instead, that that is one of the material questions in the case for the jury to consider.

MR. HYMES: Of course, we don't except to that amendment.

THE COURT: Gentlemen of the jury, I forgot to say to you that your verdict will be, either guilty of criminally receiving stolen property, or not guilty. Remember that, guilty of criminally receiving stolen property. That is, in case you should find the defendant guilty, your verdict will be in that form, guilty of criminally receiving stolen property, knowing, at the time of the reception of the goods the same to have been stolen, or not guilty.

You may retire, gentlemen.

(The jury retired at 11:35 P. M.)

THE COURT: Mr. Hymes, the jury wants to see the Exhibits in the case. Is there any objection?

MR. HYMES: None whatever, sir.

THE COURT: Do you consent, Mr. District Attorney?

MR. GARVAN: Yes sir, certainly.

(The exhibits are sent into the jury room, by consent.)

The jury returned to the court room at 12:20 P.M. finding the defendant Not Guilty.

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-: I N D E X :-

	Direct.	Cross.	Re-D.	Re-
Henry B. Vaughan	2	14		
John Drabel	19	26		
William F. Day	28			

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-: I N D E X :-

	Direct.	Cross.	Re-D	Re-C
Lucy M. Vaughan	34	39		
Adolph Weil	67	75	84	
Emma Weil	85		102	102
Adolph Weil Rold.	104	105		
Herman Steifel	106			
Moses Zimmerman	107	108		

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