

START

Additional
MATERIAL

623A

CASE

CASE #623A

COURT OF GENERAL SESSIONS OF THE PEACE,

COUNTY OF NEW YORK,

PART I.

-----X
THE PEOPLE OF THE STATE OF NEW YORK :

against :

WILLIAM LANG, :

Before Hon.

: WARREN W. FOSTER,

: and a Jury.
-----X

Indictment filed

Indicted for the crime of ROBBERY IN THE SECOND DEGREE and
GRAND LARCENY IN THE FIRST DEGREE.

-----0-----

New York, January 24th, et seq., 1907.

A P P E A R A N C E S:

FOR THE PEOPLE:

Assistant District Attorney Joseph E. Corrigan.

FOR THE DEFENDANT:

Messrs. C. Fischer-Hansen and Alexander Michaelson.

-----0-----

Peter P. McLoughlin,

Official Stenographer.

CASE #623A

MR. HANSEN (addressing Jury): Do you, any of you gentlemen, know Mr. Corrigan of the District Attorney's Office?

(No response.)

MR. HANSEN: Does anybody know the defendant at the Bar?

(No response.)

MR. HANSEN: Or anybody connected with my office?

(No response.)

MR. HANSEN: Has any one of you gentlemen been the subject or the object of a larceny?

Objected to; objection sustained.

WILLIAM M. TIVOLI, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live, Mr. Tivoli? A. 116 East 91st Street.

Q What is your occupation? A. Cafe manager.

Q What cafe do you manage? A. 44th Street and Sixth Avenue.

Q Whose is that? A. The Fox Cafe.

CASE #623A

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

Q How long have you known him? A. I saw him the night he robbed me.

Q Had you ever seen him before? A. No, sir.

Q What time was it when this occurred? A. Around three o'clock in the morning.

Q What day? A. The 4th of October.

Q Last year, 1906? A. 1906.

Q Where were you at the time you saw this defendant? A. I went to the Bank Hotel, 125th Street and Lexington.

Q What hotel? A. The Bank Hotel.

Q 125th Street and Lexington Avenue is in the City and County of New York? A. New York City, yes, sir.

Q Will you talk a little louder, please? You went into this hotel; what part of the hotel did you go into? A. The family entrance, hotel part.

Q What happened there? A. I went in there and had a drink and a cigar.

Q Were you alone or was some one with you? A. I was all alone.

Q After you had the drink and cigar, what did you do? A. I left the hotel. The defendant followed me out as far as 125th Street.

Q Did he leave the hotel with you? A. He followed me.

Q Was he in there when you went in? A. He was in there

CASE # 623A

drinking.

Q Did he see you pay for your drink?

Objected to.

Q When you went to pay for your drink, what did you do? A.

I paid for my drink.

Q Did you pull a ten-cent piece out of your pocket or a hundred-dollar bill out of a roll? A. He walked off with \$118 that was in my pocket.

MR. HANSEN: I object to that, that "he walked off" and move to strike it out.

Stricken out.

Q Did you show any money in the cafe when you paid for your drink?

MR. FISCHER-HANSEN: Objected to, on the ground that the question is leading.

Objection sustained.

Q What did you do when you paid for your drink? A. I pulled out a roll of bills.

Q Did you pay for the drink? A. I did.

Q Where did you put the bills then? A. In my left hand pocket.

Q What did you do after you had your drink and paid for it? A. I left.

Q What did the defendant do? A. He followed me and start-

CASE #623A

ed a conversation as far as 125th Street, right on the corner.

MR. FISCHER-HANSEN: I object to that as a conclusion. State what he did; what did he say?

A. (contd) Gentlemen, he started a conversation and followed me as far as the corner.

MR. FISCHER-HANSEN: I object to the foregoing answer, and ask that the witness be directed to testify to what was said and not that he started a conversation.

THE COURT: That does not show what he said. What did he say?

THE WITNESS: When any one starts a conversation ---

MR. FISCHER-HANSEN: Objected to.

THE COURT: Your answer is an improper one.

Q What did the defendant say, as near as you can remember?

A. As near as I can remember -- I could not swear to what he said as he started a conversation and followed me.

Q How did he start it, did he say "Good morning" or "Go chase yourself"? A. He was sitting next to me in the cafe.

Naturally he followed me out of the place; he saw that I had money.

MR. FISCHER-HANSEN: I object to the remark "Naturally he followed me".

Stricken out.

CASE # 623A

Q When he followed you what did he do? A. Just simply got hold of my throat.

Q What did he say to you; did he say anything?

MR. FISCHER-HANSEN: Objected to on the ground that the witness has already testified that he could not swear to what he said.

Q Give me the conversation, as near as you can, what he said?

A. We were speaking about betting in there at the time in the back room.

Q Go on. A. Of \$5.

Q On what? A. On the subject of \$5.

MR. FISCHER-HANSEN: Objected to, unless you state with whom you had the conversation.

MR. CORRIGAN: With the defendant, of course.

MR. FISCHER-HANSEN: Oh, no.

Q Who did you have the conversation with? A. With another party in the room.

MR. FISCHER-HANSEN: Objected to, and ask that that be stricken out.

Stricken out.

A. (contd) And the defendant butted in.

Q What did the defendant say? A. He said that I did not have \$5. That is the conversation started outside after he followed me; and then, why, the first thing I knew, I caught

CASE #623A

his hand in my left side pocket. He had my wallet, \$118.

As I made an outcry, he choked me and beat me and I was black and blue for two weeks.

Q Where did he hit you? A. On the left side here (indicating).

Q How far from the cafe did this happen? A. Right across the way.

Q On the same side of the street? A. Across the street.

Q 125th Street and Lexington Avenue is in the City and County of New York? A. Yes, sir.

Q The first thing the defendant said was that you did not have \$5? A. Yes.

Q Did you make any answer? A. I said I did, I had that and more.

Q Then you say you found his hand ---- A. I caught his hand in my left hand pocket. As he did that, he slipped another old wallet in my pocket, an old pocketbook in my coat pocket, and as I made an outcry, he choked me.

Q Did he strike you? A. After that I started to make a cry, yes.

Q Where? A. Right here (indicating). I was black and blue for two weeks.

Q After he struck you, what happened then?

Objected to.

CASE #623A

A. I was dumb; I could not speak; my tonsils were swollen for a week.

Q Did the defendant stay there or run away? A. A pal of his come up that was about ten feet away, after he done this.

THE COURT: Strike that out.

Q A man came up. What happened? A. He disappeared.

Q Who disappeared? A. He walked down towards Lexington Avenue.

Q The defendant? A. Both.

Q What became of your wallet? A. He had it.

Q How much was in it? A. \$118.

Q You say he put an old pocketbook in your pocket? A. Yes.

Q Where is that? A. I have not got that.

Q Has the officer got it? A. No, sir.

Q What did you do with it? A. I left it home; an old pocketbook anybody would throw away.

Q What pocket did he put it in? A. My coat pocket.

Q From what pocket did he take your money? A. Left hand trousers.

Q When was the next time you saw the defendant after that?

A. Down at 300 Mulberry Street.

Q How long after? A. On the 26th day of December.

Q This happened on the 4th of October? A. Yes.

Q Did you say anything to him at that time? A. I did not.

CASE # 623A

Q Did he say anything to you? A. No.

Q Did you say anything in his presence? A. I did not.

Q When you saw him, did you say anything?

Objected to.

A. At 300 Mulberry, I simply went out and picked my man out.

Q Just tell the Jury how you picked him out? A. I stated my case as near as I could the next day ----

Objected to.

Q Mr. Tivoli, if you would please pay attention to my questions and try to answer them, I think we would get along better. I asked you how you picked out the defendant at 300 Mulberry Street on the 26th of December, or whenever it was. I did not ask you what you did the next day.

MR. HANSEN: Objected to, on the ground that there is no testimony to show that he ever did pick out the defendant.

THE COURT: Strike that out, because that is really a matter of opinion.

Q Just tell what occurred at 300 Mulberry Street on the 26th of December? A. I went down to 300 Mulberry Street and was led into another room. They 'phoned to my house, I described my man to 300 Mulberry Street months before that, and been looking for him all the time.

Objected to; stricken out.

CASE #623A

Mr. Tivoli, will you kindly answer my questions and not go into these other matters? You say the next time. Did I understand you to say that the next time after the 4th of October that you saw this defendant was at 300 Mulberry Street? A. Yes, sir.

Q What time of day was that? A. It was twelve o'clock in the day.

Q In the middle of the day? A. Yes.

Q You arrived at 300 Mulberry Street at twelve o'clock on the 26th of December? A. Yes.

Q When you arrived at the door of that building, did you go into the building? A. I went into 300 Mulberry Street.

Q You went into a room in the building? A. I did.

Q How many men were in the room? A. About eight men.

Q How were they dressed? A. Lined up.

Q How were they standing? A. In a straight line, dressed in all different shapes and manner.

Q In uniforms or citizens clothes? A. Citizens clothes.

Q All of them? A. All of them.

Q And what did you do? A. I simply went over and picked my man out, the man that robbed me.

Q Did you pick out the defendant? A. Yes, sir.

Q Did you say anything when you picked him out? A. I said that was the man, to the sergeant.

Q What did the defendant say? A. Nothing.

CASE # 623A

CROSS EXAMINATION BY MR. HANSEN:

Q What time did you say that you entered this hotel on

October 4th? A. Between three and four in the morning.

Q Where had you been during the night time, prior to three o'clock in the morning? A. Me?

Q Yes, you. A. I got through my business at 2:30 in the morning.

Q And where is your business downtown? A. 44th Street and Sixth Avenue.

Q That is a cafe? A. Yes, sir.

Q You got through there at half past two o'clock? A. Two or half past two.

Q Just describe to us how you got up to this hotel, if you walked or took a car? A. I took the Madison Avenue car. I go home with my boss.

Q Where is that, where does he live? A. I took the car at 44th Street and Madison Avenue.

Q Then you stopped at your boss's house? A. No, my boss lives in 123rd Street. I got off at 125th and I walked over to the Bank Hotel.

Q To the what? A. To the Bank Hotel.

Q Where is that? A. 125th Street and Lexington Avenue is the Bank Hotel.

Q About what time did you get there? You left downtown about

CASE #623A

two o'clock? A. I did not say that -- half past two.

Q What time did you get to the hotel? A. Around three o'clock, in the morning or after.

Q You have testified that this happened at about three o'clock in the morning, have you not? A. Between three and four in the morning, I said.

Q Were you alone when you entered this hotel? A. I was alone.

Q For what purpose did you go in there? A. To get a cigar, and I know the proprietor of the cafe.

Q Did you get anything to drink? A. Did I have a drink?

Q Yes. A. Yes.

Q How many did you have? A. I had one drink.

Q Did you drink with anybody? A. I drank all alone.

Q You were not with anybody at all? A. I was all alone.

Q Were you in the barroom? A. I was not.

Q Where were you? A. In the back room.

Q You were there all alone? A. Yes.

Q Did you stand up or sit down? A. Sat down.

Q Had your drink and had a cigar? A. Yes.

Q You spoke with nobody? A. I spoke with another party in the room.

Q When you got into the room you had a conversation with somebody? A. They knew me.

Q Just tell the Jury who you spoke to in the back room?

CASE # 623A

A. I spoke to a party in the back room named Joe Peyser, and to the bartender.

Q And to the bartender? A. Yes.

Q Did any one of these two men or both of them join you at your table? A. This defendant sat across from me.

Q I am asking you if either the bartender or the other man that you met in the room, joined you at your table? A. Joined me for a drink?

Q Joined you for any purpose. A. (No answer.)

Q You were sitting at a table? A. I simply paid my way.

Q Were you having your drink at the table? A. Yes.

Q Seated at a table? A. Yes, sir.

Q You said you had a conversation with the bartender and also with another man? A. Yes.

Q Now, when you had this conversation, did they sit at the table with you? A. No.

Q Where were they? A. One was in one part of the room and the bartender was standing up waiting on other people.

Q In the room? A. Yes.

Q You had your conversation with them while you were sitting at the table and they were standing in a different part of the room? A. Yes, sir.

Q What did you converse about? A. What did I talk about?

MR. CORRIGAN: I object to what they talked about,

CASE #623A

on the ground that it is incompetent, irrelevant and immaterial.

MR. HANSEN: You brought out about betting.

Q What did you talk about? A. Some suggestion come up that I did not have \$5.

Q I ask you now what did you converse about with the bartender and the other gentleman? A. The bartender asked me how business was downtown.

Q What did you say? A. I said it was fair.

Q What else did he say to you? A. That is all.

Q Who talked about betting? A. This friend of mine.

Q What did he say? A. Well, he just simply brought that up that I did not have \$5.

Q What did he say to you and what did you say to him? A. What did I say to him?

Q What did you say to him and what did he say to you? A. He said to me that I did not have five; he was kidding me.

Q Who said that? A. Joe Peyser.

Q The man you conversed with said you did not have \$5?

A. Yes, sir. I said I did.

Q Had you known this Joe Peyser before? A. Yes.

Q How long have you known him? A. As long as I went in to the cafe there.

CASE #623A

Q Now, just tell the Jury the conversation that you had with this man Kaiser about betting; tell us what you said to him and what he said to you?

MR. CORRIGAN: I submit that that is irrelevant, incompetent and immaterial and I therefore object to it. We have gone in to that at some length.

THE COURT: Sustained. The objection is that your question calls for repetition. I sustain the objection.

MR. HANSEN: I have asked the question, but I have received no answer. It was brought out by the District Attorney.

THE COURT: Since he went into it, why, if you want to go into it, you can do so.

MR. HANSEN: I want to know what was said. It is very important.

THE COURT: How does that relate to this?

MR. CORRIGAN: It does not.

Q About how long did you converse with Mr. Kaiser? A. Oh, I was in there about ten minutes with Mr. Peyser -- not Kaiser.

Q You talked with him about ten minutes? A. Yes.

Q Did you talk with him after you had paid for your drink, or before? A. Before and after.

CASE #623A

Q Did you say that you had your money in a wallet? A. I did.

MR. CORRIGAN: In a wallet?

THE WITNESS: In a wallet.

Q Just describe to the jury what kind of a wallet? A.

A. Well, it was something like this, gentlemen, something like that (showing Jury a small wallet), only I had a rubber band around it and I had it in my left hip pocket.

Q Do you remember how much you paid for your drink and your cigar? A. 25 cents.

Q Do you remember the money you paid it in, the denomination, whether a dollar, a quarter or what? A. It was a dollar bill.

Q Where did you get that dollar bill?

Objected to.

A. I got it from this pocket (indicating).

Q What pocket? A. From my left pocket.

Q From the wallet? A. No.

Q How much money did you have, besides what you had in the wallet? A. Around \$25, outside the wallet.

Q Where do you live -- where did you live at that time?

A. 112 East 127th Street.

Q Did you give the address in the Magistrates Court as No. 160 East 91st Street? A. Yes, I live there now.

CASE #623A

Q You must have lived there the time you went to the Police Magistrate's Court to sign this affidavit, didn't you? A. I lived where I am living now. I lived there about three months. I moved around the 15th of October.

Q How many people were in the back room together with you and Mr. Peyser and the bartender? A. The room was full.

Q And about how many people? A. Oh, I should judge about twenty-five, thirty people.

Q Did you take particular notice of anybody in there? A. Well, I took notice of this defendant because he followed me.

Q I ask you, at that time did you take particular notice of anybody in that crowd of those twenty-five people, except this defendant? A. Outside of my friend that spoke to me.

Q That is all? A. That is all.

Q Could you to-day identify any one or any of those twenty-five people if you were to meet them in here? A. I would, yes.

Q I mean, I take it, people that you had never known and met before? A. Yes. I understand.

Q You could? A. Yes.

Q Describe to the jury just two or three of those men?

MR. CORRIGAN: Objected to, on the ground that it is incompetent, irrelevant and immaterial.

A. There is none here.

CASE # 623A

Q I ask you if you could if they were here? A. I said yes.

Q You were there ten minutes talking with the bartender and Mr. Peyser ---- A. Ten or fifteen minutes.

Q And you would undertake to do -- to identify those twenty-five people that you never ---- A. I had been there before.

Q I ask you about people you had never seen before in there? A. Yes.

Q I ask you now if you could identify any of those twenty-five people that you had never seen before you saw them that night?

A. Yes, I could. I have served the public for sixteen years.

THE COURT: Strike that out.

Stop here, gentlemen, it is four o'clock. Do not talk about this case, gentlemen, or let anybody talk with you about it, not form nor express any opinion thereon until the case is finally submitted to you. Gentlemen, we will continue with this case as near to eleven o'clock to-morrow as circumstances will permit. You will take your seats in the box at that time.

(The further trial of the case was then adjourned to Friday, January 25th, 1907, at 11 A. M.)

CASE # 623A

THE PEOPLE vs. LANE.

New York, January 24th, 1907.

TRIAL RESUMED.

WILLIAM M. TIVOLI, a witness called on behalf of the People, resumes the stand.

BY MR. HANSEN:

Q Now, Tivoli, what salary did you earn in your employment at the time of this larceny?

MR. CORRIGAN: I object to that question.

A \$25 a week.

THE COURT: I sustain the objection.

Q The money that you had in your pocket on that night amounted to how much? A \$118 in my purse and twenty-five in the other pocket.

Q Did that money belong to yourself? A Yes, sir, personally.

Q Personally? A Yes, sir.

Q Do you keep your savings in your pocket?

MR. CORRIGAN: I object to that question, where he keeps his savings.

Q Do you always carry your money, all your money with you?

CASE # 623A

MR. CORRIGAN: Objected to.

THE COURT: Objection sustained.

Q Are you in the habit of carrying over \$100 in your pockets?

MR. CORRIGAN: Objected to.

A Yes, sir; I am at times.

THE COURT: He has already answered. Mr. Witness, if you will just hold your answers when there is an objection. The question has been answered.

Q You were not intoxicated on this morning, were you?

A I was not.

Q You were not under the influence of liquor? A No, sir; I was not.

Q You are sure of it? A I said so.

Q Would you speak up so that we can hear you? A I was not intoxicated, gentlemen, I simply went and had one drink in this place; I had a few down where I was employed.

Q Now, in this room were there any women present, in this back room? A Yes, sir.

Q In the saloon? A Yes, sir.

Q About how many women? A I could not quite answer how many; I did not count everybody in the room.

Q About how many? A I don't think there was over two or three ladies.

Q What were the three ladies doing? A They were with

CASE #623A

gentlemen friends.

Q This was three o'clock in the morning? A Yes, sir, between three and four o'clock in the morning.

Q What were these ladies doing?

MR. CORRIGAN: Objected to as immaterial.

Q Were they drinking?

MR. CORRIGAN: Objected to.

A They were drinking with gentlemen, yes, sir.

Q About how large was that back parlor?

MR. CORRIGAN: Objected to.

MR. HANSEN: I want to show that if there were twenty-five people in the room it would be impossible for this man to take a mental photograph of this defendant. He says he did not know anything about anyone else.

MR. CARRIGAN: There is no such testimony in the case. I object to that question.

THE COURT: Objection sustained.

Q. It is not a fact, is it, that this money that you had in your pocket on this particular morning belonged to your employer?

MR. CORRIGAN: I object to that question as already answered.

A No, sir.

Q It is not a fact that you had been betting on the races and lost your employer's money?

CASE #623A

MR. CORRIGAN: I object to that question. Don't answer it.

Q Isn't that a fact? A No, sir.

THE COURT: He may answer that question.

THE WITNESS: No, sir.

Q So you had only been talking betting in this saloon; you had not been betting? A Yes, sir.

BY MR. CORRIGAN:

Q How long after you left the saloon did the defendant take you by the throat? A Why, it was about five or ten minutes after.

Q How far away from the saloon was it? A It was right across the way.

Q Was there a light around there? A Sir.

Q Was there light around there? A The opposite corner.

Q Then you are not mistaken about who took you by the throat, are you? A No, sir.

Q Sure it was this defendant? A Yes, sir.

BY MR. HANSEN:

Q Let me ask you this: When did you make your complaint to the Police Department? A The next morning.

Q The next morning? A Yes, sir.

Q How often between the date in October that this happened and the day that this man was arrested did you consult with anybody at Police Headquarters regarding this matter? A Why,

CASE #623A

every day I was there; I had two detectives after him all the time.

Q I asked you how often, every day? A Yes, sir, I kept it up for two or three weeks.

Q Did you come down frequently to try and identify the man? A (No answer.)

Q Were the police in the habit of sending for you when they had somebody that they thought corresponded with the man that you had given them? A (No answer.)

Q Were you in the habit of coming down to Police Headquarters by request? A No, sir.

Q To identify anybody? A No, sir; I was only called down once.

Q Once? A Yes, sir.

Q That was in what case? A That was in this case.

Q In this case here? A Yes, sir.

Q So you came down of your own volition the other times?

A I only went to Mulberry Street once.

Q I thought you said you went there every day? A I went to Police Headquarters, 126th Street.

Q What is that? A 126th Street.

Q The police station house, not the Headquarters, you went to the station house? A Yes, sir.

Q You were there about daily? A Yes, sir.

Q You are sure that on the morning, or on the day that you

CASE #623A

came to Police Headquarters to identify this man that you did not say that you believed him to be the man? A I described the man and they knew him.

Q And when you saw the man-- A I picked him out.

Q You picked him out? A Yes, sir.

Q There is no mistake about that? A No, sir; no mistake at all.

JAMES SULLIVAN, a witness called on behalf of the People, having been duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CORRIGAN:

Q Where do you live? A Bank Hotel, 125th Street and Lexington Avenue.

Q Where is your voice? A Bank Hotel, 125th Street and Lexington avenue.

Q What is your occupation? A Bartender and general manager of the place.

Q Do you remember the night of October 4th of last year, or the morning rather? A I remember the morning; I don't know what date it was.

Q Do you remember the morning that the complaining witness, Tivoli, was in your place? A Yes, sir.

Q Did you see this defendant there? A Which one?

Q This defendant, is the only defendant here.

CASE #623A

A No, sir; never seen him, I don't think I seen that gentleman, not that morning.

Q Did you ever see him there? A Yes, sir; I seen him.

Q Did you ever see him follow Tivoli out? A No, sir; he used to come in the store; he is a customer there, that gentleman is.

Q Did you ever see him follow Tivoli out? A He was not there that night; I did not see him that night.

Q You say you don't remember the night, how do you know that he was not there? A I remember the night he claims it happened, I remember the day.

Q Who have you talked to about this case? A I ain't talked to nobody.

Q A friend of the defendant's? A No, sir; I ain't a friend.

Q How long has he been a customer of the place? A He has been coming in there since I have been in the place.

CROSS EXAMINATION BY MR. HANSEN:

Q How long have you been in the place? A Seven years.

Q What is your business? A Manager of the place and bartender.

Q Do you remember the night that the complaining witness in this case was robbed? A Yes, sir; I remember the night.

Q Did you see the occurrence? A No, sir; I did not.

CASE #623A

Q What do you remember regarding it? A Well --

Q If you did not see the robbery or anything --

MR. CORRIGAN: I object to that.

A I came downstairs at three o'clock and the gentleman was sitting in the corner.

Q Which gentleman? A Mr. Tivoli.

Q The complaining witness? A Yes, sir.

Q He was sitting in what corner? A In the corner right near the door, behind a pipe; he was sitting there drinking, he seemed to be feeling jolly and they were having a kind of an argument.

Q Who was he sitting there with? A Well, I could not tell you who he was sitting with; a lot of gentlemen there.

Q He was sitting with a lot of gentlemen there?

A Yes, sir.

Q Now, one word, have you discussed this case with the defendant or anybody from Mr. Fischer-Hansen's office?

A No, sir.

Q Or anybody in connection with this case? A No, sir; I have not.

Q Have you ever been in communication with the office of Carl Fischer-Hansen, or any employe of that office?

A I don't know the gentleman.

Q Have you discussed this case with anybody? A No, sir;

CASE # 623A

9
I ain't talked with anybody, only Mr. Tivoli.

Q Now, let me ask you: You say he was there about three o'clock in the morning, Mr. Tivoli? A Yes, sir; it was three o'clock when I came down.

Q Was he under the influence of liquor? A He seemed to be to me; I asked him to go home.

Q You asked him to go home? A Yes, sir.

Q Did he go? A Well, not right away.

Q How long did he stay there? A I could not judge exactly how long he stayed there but he came back after and he told me about the case.

Q You mean to say that after he left at three o'clock he came back again? A Yes, sir; about five.

Q And told you about the occurrence? A Yes, sir.

Q Now, when you first saw him there about three o'clock, was he sitting or standing -- he was sitting, you say?

A Yes, sir; sitting down arguing.

Q Who did he argue with?

MR. CORRIGAN: Objected to.

MR. HANSEN: I beg to call your Honor's attention to the fact that the complainant testified that he sat at the table alone.

THE COURT: \ He may answer the question.

Q Who was he talking to? A I could not tell you; he was

27
CASE # 623A

talking to a lot of gentlemen there.

Q About how many were sitting at the table? A Well, there was -- there was one sitting here and one sitting there; they were all sitting around.

Q Was he in conversation with them? A Yes, sir; he was in conversation with them.

Q So far as you know how many drinks did he have? A Well, I could not tell you; he had a drink standing in front of him when I came down; I didn't serve him with any drink.

Q You say you know this defendant? A I know the gentleman's face from coming in the store.

Q Was he in the place, in this particular back parlor on this particular morning when you saw the complainant sitting there drinking? A No, sir; he was not there that morning; I know his face.

Q You have been in that place for seven years? A Yes, sir.

BY MR. CORRIGAN:

Q How do you know he wasn't there that morning? A Because I know the gentleman.

Q Was he there the morning before? A No, sir; he was not there the morning before either.

Q Was he there the morning after? A Well, the morning

CASE # 623A

after I could not exactly say, the morning after, because I don't come down until three o'clock; he might have been there before I came on.

Q He may have been there that morning before you came down there? A What morning?

Q Any morning? A Well, I could not swear.

Q You could not swear to that? A No, sir; when I was not there.

Q Has the defendant been in your saloon since that occurrence, since the 4th of October? A Yes, sir.

Q How many times? A Well, I seen him in there once.

Q Was he there between the 4th of October and the day he was arrested? A The day he was arrested? He has been there since this case has been on, since this thing occurred.

Q How many times? A I seen him once.

Q Was that when he was arrested, when he was out on bail?

A I don't think he was arrested; I don't know.

Q Did you notify the police he was there? A Who?

Q You? A Notify them about what?

Q That the defendant was there?

MR. HANSEN: I object to that question unless it is shown that this man knew that this defendant was suspected.

A I did not know.

THE COURT: He may answer.

CASE #623A

THE WITNESS: Did I tell the police? This Mr.

Tivoli came in that morning and told me and two officers came that morning and asked me did I see anything in there and I said "No, sir, I did not" -- two ward-men --

Q Did you tell the two ward-men that the defendant was not there? A Which defendant?

Q Why, the defendant on trial, of course? A No, sir; I did not tell them he was not there; they did not ask me about him.

Q Didn't they ask you about the case? A They asked me did I know anything about it.

BY MR. HANSEN:

Q You saw the complaining witness leave that room, did you not -- you saw him go out and come back? A Yes, sir; I was talking to him.

Q Well, Tivoli has testified that when he left the place he was followed by the defendant sitting here, is that so? A I could not tell you that; I did not see that gentleman there that night.

Q He was not there? A No, sir; I did not see him there that night.

Q You stayed there for how long? A I stayed there until four o'clock the next day.

Q Now, when the police officers, the wardmen came up to

CASE # 623A

your place the next day to inquire about this matter, did they say anything to you about his taking this man's money?

A No, sir; they never mentioned his name to me.

BY MR. CORRIGAN:

Q What name did you know him by? A I know his face coming in there and heard them calling him "Bill".

Q Did they describe to you the particular kind of a man who was supposed to have committed this crime?

A No, sir; they did not say anything to me about it.

Q Did they give you any clue that would lead you to suspect anybody that you knew? A No, sir; they did not tell me anything about it.

Q That is for them to say? A They came in and they said did I know anything about this Mr. Tivoli, it seems he went around to the station house and made a complaint.

Q Just tell us what they said? A He went around to the station house and made a complaint.

JOSEPH F. MEEHAN, a witness called on behalf
of the People, being duly sworn, testified as follows:
DIRECT EXAMINATION BY MR. CORRIGAN:

Q Meehan, you are a detective sergeant of the New York City Police Force, are you not? A Yes, sir.

Q Did you make the arrest in this case? A Yes, sir.

CASE #623A

Q Just tell the jury under what circumstances you made the arrest? A I arrested this man at 54th Street near Eighth Avenue, the West Side Police Court.

Q Did you have any conversation with him when you put him under arrest? A I asked him where he had been and he said he had been down on the west side, over in Hoboken, working; I told him he was wanted for a robbery in Harlem and he said he had done no robbery. I took him to Police Headquarters and telephoned for Mr. Tivoli. In the Detective Bureau we stood him up with four other men, five men in all, and Mr. Tivoli came in and looked at him.

Q What then? A Mr. Tivoli came in and looked at the five men and walked over and put his hand on this defendant.

Q On the defendant? A Yes, sir.

Q What did he say? A He said, "That is the man that robbed me".

Q What did the defendant say? A He said he did not.

Q Did he say he did not then? A Yes, sir.

Q Did you have any other conversation with the defendant at any time? A I asked him where he had been and he said he had been over in Hoboken, working over there.

Q Is that all? A Yes, sir; that is all the conversation I had with him.

CASE #623A

ID
CROSS EXAMINATION BY MR. HANSEN:

Q About what date did you arrest this defendant?

A On the 26th of December.

Q About two and a half months after the occurrence?

A Yes, sir.

RE-DIRECT EXAMINATION BY MR. CORRIGAN:

Q Did you know the defendant before you arrested him?

MR. HANSEN: I object to that.

THE COURT: He may answer that.

A Yes, sir; I have known him.

Q Under what name did you know him?

MR. HANSEN: I object to that.

A Under the name of William.

Q William Williams? A Yes, sir.

MR. CORRIGAN: The People rest.

MR. HANSEN: Now, if it may please the Court, I respectfully move that this Honorable Court direct the jury to acquit the defendant on the ground that the District Attorney has failed to substantiate the charge as made in the indictment. There is nothing here to show that except the unsupported testimony -- and I might say the contradicted testimony -- of the complaining witness. The complaining witness has testified that he was

CASE # 623A

in this saloon on a certain morning at three o'clock; that he left this saloon; that he was followed by this man out of this saloon; that he had been sitting there during all the time and had not been drinking with anybody, simply talking to two men; that he walked out of the saloon, that this man followed him and that he was robbed and assaulted. Now, the District Attorney's own witness, this bartender in the very place, says that that is not so. He testifies that on this particular morning the complaining witness was there; that he was intoxicated; that he told him to go home; and that this man, the defendant, was not there; that he knows this man; that he has come to the place, but that this defendant was not in that place on this particular morning.

THE COURT: Mr. District Attorney, what charge do you want to submit to the jury?

MR. CORRIGAN: I will go to the jury on robbery.

THE COURT: Motion denied.

Exception.

Mr. Hansen opens the case on behalf of the defendant.

CASE # 623A

DEFENSE.

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

DIRECT EXAMINATION BY MR. HANSEN:

Q Mr. Hurst, what is your business? A I am in the trucking business.

Q Where is your place of business? A 405 East 101st Street.

Q How long have you been in business there? A Since 1901.

Q How long have you been in the trucking business?
A Since I moved there.

Q Do you know the defendant at the bar, Lang?
A Yes, sir.

Q How long have you known him? A I should judge about five years.

Q Do you know people who know him? A Sir?

Q Do you know people who know him, do you know others who know him? A Yes, sir.

Q Will you tell us what his reputation is for peacefulness, quietness, truthfulness and veracity, among those that know him, good or bad? A Well, he worked for me and proved satisfactory.

Q I asked you about his reputation for truth, veracity

CASE #623A

and honesty, is it good or bad? A Good, sir.

CROSS EXAMINATION BY MR. CORRIGAN:

Q Have you ever talked with anybody about his reputation? A No, sir; I have not.

Q Then how do you know whether it is good or bad?

A As far as I am concerned.

Q That is your personal opinion, isn't it?

A Yes, sir.

BY MR. HANSEN:

Q He has worked for you? A Yes, sir.

Q How long? A Three years; worked for me three years.

Q And proved honest during that time? A Yes, sir; I could not find any fault with him while he was with me; he worked for three years and everything was all right.

Q You say you know people who know him? A Yes, sir.

Q Have you ever heard anything against him? A No, sir.

BY MR. CORRIGAN:

Q What name did he work for you under? A William Lang.

Q Did you ever know him as William Williams? A No, sir.

Q Did you ever know him as William Smith? A No, sir.

Q Did you ever know him as Buttermilk Bill? A No, sir.

Q Never heard of any of these names at all? A No, sir.

CASE #623A

BY MR. HANSEN:

Q He was never known by the name of Roosevelt?

A No, sir; I don't know.

BY MR. CORRIGAN:

Q When did he work for you? A It was between 1901 and 1903.

Q That is two years then, isn't it? A Three years full.

Q Well, I don't see how you get that? A 1901, 1902 and 1903.

Q He worked for those three years for you? A Yes, sir.

Q As what? A Stableman.

Q At your place up there? A Yes, sir.

Q Have you ever seen him since 1903? A I have not seen him since.

Q You have not seen him since? A No, sir.

Q How did you come to be here to-day? A Well, I had a letter stating that they wanted me to come down and testify to his character.

Q Who was that letter from? A Mr. Lang.

Q Have you got the letter with you? A No, sir, I have not, I don't think so -- no, sir, I have not got it with me.

Q Now, you say you came down as a character witness?

A Yes, sir.

CASE #623A

Q About this man's reputation? A Yes, sir.

Q Did you ever hear that he had been in jail?

A No, sir.

Q Didn't you know he had been in the Penitentiary?

MR. HANSEN: I object to that on the ground that the witness already answered that he did not know that.

MR. CORRIGAN: I think I can show how much he knows about him.

THE COURT: He may answer.

A I have never known it.

Q Did you know his picture was in the Rogue's Gallery?

MR. HANSEN: I object to the District Attorney being permitted to put such question "Do you know his picture is in the Rogue's Gallery".

THE COURT: There is no objection to the question. Answer the question.

MR. HANSEN: I object to the question on the ground that it is irrelevant, immaterial, and is only being put for the purpose of influencing the jury.

Objection overruled. Exception.

Q Answer the question. A No, sir.

Q You did not? A No, sir.

Q You have not seen him since 1903? A No, sir.

Q Just got a letter asking you to come down and testify

CASE #623A

here? A Yes, sir.

Q Have you talked to anybody about the case?

A No, sir.

Q How did he know you would testify to his character?

A Well, I don't know.

Q Just he guessed it, I suppose?

MR. HANSEN: I object to that on the ground that it is impossible for the witness to know how this man knew.

Objection sustained.

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

DIRECT EXAMINATION BY MR. HANSEN:

Q Mr. Gormley, what is your business? A Contractor and private cartman.

Q Where is your place of business? A I stable in 71st Street.

Q I beg pardon. A 408 and 410 East 71st Street.

BY MR. CORRIGAN:

Q Don't you know where your place of business is?

A That is my stable -- home is my place of business, where I transact business.

CASE # 623A

BY MR. HANSEN:

Q Is that where you work around home -- that address is your stable? A Yes, sir.

Q That is where you have your office? A No, sir; I have my office home, 162 East 106th Street.

Q Is that your place of business? A My place of business is at my house, my office.

Q Where is your stable? A 410 East 71st Street.

Q Now, where do you live? A 162 East 106th Street.

Q How long have you lived there? A About five years.

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

Q At the bar? A Yes, sir.

Q How long have you known him? A About five or six years.

Q Has he ever worked for you? A On and off.

Q During the last five or six years? A Yes, sir.

Q Do you know people who know him? A Yes, sir.

Q What is his reputation for truth and veracity?

A I always found him out trustworthy.

Q What is his reputation? A Good as far as I know.

Q Have you ever heard anything bad about him?

A No, sir.

CROSS EXAMINATION BY MR. CORRIGAN:

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

CASE #623A