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COURT OF GENERAL SESSIONS OF THE PEACE,
City and County of New York - Part III.

-----X
T H E P E O P L E :
:
:
-vs- : B e f o r e:
: Hon. Otto A. Rosalsky, J.
EDWARD J. LAVELLE, im- : And a Jury.
pleaded with Joseph Monahan. :
-----X

Tried, New York, February 26th, 1907.

Indicted for Robbery in the First Degree.

Indictment filed January 24th, 1907.

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

Assistant District Attorney, Keyran J. O'Connor, for
the People.

Messrs Pentecost & Campbell, for the Defense.

Frank S. Beard,
Official Stenographer.

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THE PEOPLE'S TESTIMONY.

MR. CAMPBELL: I move for a separate trial,
in this case, if your Honor please.

THE COURT: Motion granted.

ALBERT GEORGE MILLER, a witness called on
behalf of the People, being duly sworn, testified as fol-
lows:

DIRECT EXAMINATION BY MR. O'CONNOR:

Q Mr. Miller, where do you live? A 117 East 101st
Street.

Q What is your business? A Clerk.

Q And by whom are you employed? A The H. B. Claflin
Company.

Q And how long have you been in the employ of that
firm? A Two years.

Q Now, on the 13th of January, 1907, were you in Park
Avenue in the County of New York? A Yes sir.

Q Near what street? A 99th Street.

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Q In the County of New York? A Yes sir.

Q What time of the day or night was it that you were walking in Park Avenue, near 99th Street, in the County of New York? A Between the hours of 20 minutes and half past seven.

Q At night? A Yes sir.

Q Now did any one approach you and say anything to you, as you were walking along there? A Yes sir.

Q Do you see one of those persons in court here, today? A Yes sir.

Q Where is he? A The gentleman sitting there (indicating the defendant).

Q The defendant at the bar? A Yes sir.

Q What did he say to you? A He said -- he asked me how much I had, and I asked him how much he wanted; and, with that, he pulled out a revolver and he said, "Let's have it," and he took the money and the watch.

Q And what did he do with the revolver? A He held it towards my stomach.

Q Where? A Towards my stomach (indicating).

Q And then what did he say to you, when he held the revolver to your stomach? A "let's have it."

Q What did you do? A I didn't do anything. I let him go as far as he liked.

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Q What did he do? A He went through my pockets and took the money, and then took the watch.

Q What pockets did he go through? A The pants pocket and the hip pocket, and he took the money out of them, and out of my watch pocket he took the watch.

Q What kind of a watch was it? A A gun metal watch.

Q And how much money did you have? A Eighty cents, in change.

Q Did you have a pin? A Yes sir.

Q Scarf pin? A Yes sir.

Q Who took your pin? A The other defendant.

Q Can you identify him as being the man who took your pin? A Yes sir.

Q Who was he? A Joseph Monahan.

Q And you say that he took your pin? A Yes sir.

After this defendant got through, Mr. Monahan came up and said, "We might as well take the pin along, too."

Q And what did they then do, after they had taken your watch, money and pin? A They ran away. And then I stayed there for a minute, until they got so far that they couldn't shoot, and then I followed them. I followed them down Lexington Avenue and 98th Street, and then they went through 98th Street to Third Avenue and then they went downtown on Third Avenue, and I lost track of them.

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Q Now when was the next time that you saw the defendant, Lavelle? A In Court, the following morning.

Q Did you go to the police station, that night?

A I did.

Q Did you make a report? A Yes sir.

Q And the next time you saw him, was in court, the next morning? A No sir; I saw him again the same night.

Q Now where did you see him? A In the pool room between 96th and 97th Street, on the east side of Third Avenue.

Q And did you go in the poolroom? A Yes sir.

Q And who went in there with you, if anybody?

A Mr. Brenner.

Q Mr. Brenner, the policeman? A Yes sir.

Q And were there any other people there when you went in? A Yes sir; several.

Q And did you pick the defendant out of the people in there? A Yes sir. And I told the officer that that was the man that I identified as holding me up in Park Avenue, near 99th Street, about fifteen minutes ago -- at 99th Street.

Q Did you ever get your watch back? A Yes sir; at my house.

Q Do you know who brought that watch to your house?

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A Yes sir; a gentleman by the name of Mr. Meyer.

THE COURT: Well, Mr. O'Connor, you may show that the watch was returned to him, but not the person who brought it there.

MR. O'CONNOR: Well, then, I ask that whatever was said about Mr. Meyer be stricken out.

THE COURT: Yes. Strike it out.

BY MR. O'CONNOR:

Q When did you see Monahan next? A Not until Tuesday morning, the second time I was called up in court.

Q And how many days after this robbery? A Well, one day.

Q And Monahan was under arrest there at the time, was he, when you saw him in the Police Court? A When I seen him in the Police Court, he was under arrest; yes.

CROSS EXAMINATION BY MR. CAMPBELL:

Q What day of the week was this? A On the 13th day.

Q No, the day of the week? A Sunday evening.

Q Where had you been? A I just left the house.

Q Your own home? A Yes sir.

Q Where were you going? A To the Club rooms.

Q What club? A 1267 Park Avenue, the Idle Hour Social Club.

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Q The Idle Hour Social Club? A Yes sir.

Q Is that a club frequented by boys and girls?

A Oh no sir; that is a select club.

Q What kind of a club? A Social.

Q Well what do they do there, in that Club? A Well, they merely go there to keep out of mischief, and, during the cold weather, sit down there and read books.

Q Go there to keep out of mischief, during the cold weather? A Yes sir.

Q And what do you do during the hot weather? A Well, we generally go to the cuntry in summer, spending our vacation, camping, or something like that.

Q And you were walking down Park Avenue, near 99th Street, when this happened? A Yes sir.

Q And were you above or below the corner? A On the downtown corner of Park Avenue and 99th Street.

Q And from which direction did the defendant approach? A He was standing under the lamp post.

Q Alone or with somebody? A Well he was standing alone, and the other gentleman was standing up against the fence.

Q How far away from him? A Well, I should judge about three foot.

Q You say he was standing under the lamp post? Was

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he leaning against the lamp post, or standing free and clear from it? A No sir; he was leaning up against the lamp post, with his back up against it.

Q And in which direction was he facing? A Towards me, towards the east.

Q Did you pay any particular attention -- he was facing towards the east? A Yes sir.

Q And so that, as you approached him, you had a side view of his face? A No sir; I had a full view of his face; because I felt kind of suspicious of him, and was going to turn back, but I kept on; and then, as I got between them, this defendant stepped out towards me.

Q When you saw one man leaning against the lamp post, and another leaning against the fence, you got suspicious? A Yes sir.

Q And a little frightened? A Yes.

Q And how far distant from these men were you when that feeling of fright came over you? A Well on the up-town corner, on the other corner.

Q And was the defendant looking at you all the while you were crossing the street, or apparently looking off in another direction? A Well that I couldn't say.

Q You didn't notice that? A No sir.

Q And were you looking at the other man? A No

sir.

Q Well what were you looking at, if you didn't notice how he was looking? A Well I just noticed the two standing there.

Q Just the two outlines, the figures? You didn't take any particular notice of their faces? A No; it was too far away, across the street.

Q All that you noticed was the relative position in which two male persons stood there, on the street?

A Yes sir.

Q And when you got as far as the corner, one of them jumped out at you quickly? A No sir; he didn't jump at me at all.

Q Well then what did he do? A I was so close to him that one step brought him close up to me.

Q And, notwithstanding you were suspicious of them, and frightened, you walked then close enough between them for him to step one step to you? A I certainly did, because there wasn't much space between them.

Q Was the width of the sidewalk between them?

A Yes; but I walked right in between them.

Q Had you ever seen this defendant before that time?

A No sir.

Q He was a stranger to you? A He certainly was;

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yes.

Q And how was he dressed? A Well he had a pepper and salt suit on, to the best of my knowledge.

Q Yes. Some mixed color? A Yes sir.

Q White and black? A Well I couldn't just tell that. It was pepper and salt.

Q Well, it had a general gray effect; had it? A Well I didn't take so much notice of his suit. I only took notice of his face.

Q And did you notice what kind of hat he had on? A No sir; except that the hat was kind of old. His face was the only thing that attracted my attention.

Q And what was there that attracted your attention to his face? Don't look at him, now, but look at me?

A Nothing at all, only as far as the appearance that he made then. It was one of those general characters that you see going around the Bowery, or some place like that.

Q It was one of those general characters that you see going around the Bowery, or some place like that?

A Yes sir.

Q You were very much frightened? You were even more frightened when he spoke to you than you were when you first saw him? A Well, when he first spoke to me, I thought he was going to brace me for a pint of beer, or something,

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and I wasn't so much afraid then, until he pulled out this revolver, and put it to me.

Q Did he pull the revolver out immediately? A No sir; he asked me how much money I had, and I asked him how much he wanted, thinking he wanted the price of a pint of beer; and, with that, he pulled out the gun and said, "Let's have what you have got", and so, with that, he went through my pockets.

Q And you were so paralyzed with fright that you didn't make any effort to restrain him? A I didn't make any effort at all. I just let him go as far as he liked.

Q You were just passive? A Yes sir.

Q Did you say anything to him while he was doing it? A I asked him not to take the watch.

Q But, notwithstanding your modest request, he took the watch also? A Yes sir. And, when I found out that he meant business, I let him go as far as he liked, and I said to myself, "I'll take my turn next."

Q Did you say that to him? A No sir.

THE COURT: Then strike that out.

BY MR. CAMPBELL:

Q And, during all that time, the other defendant did not participate? A No sir; but, just as the defendant started to walk away, the other fellow came up, and said,

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"We might as well take that along, too."

THE COURT: Strike out what the witness says
the other defendant must have noticed.

BY MR. CAMPBELL:

Q Now, if it should appear that the defendant was in
some other place in New York, at that time, would that shake
your own confidence in your identification of this man as
the man who pointed that gun at you?

MR. O'CONNOR: Objected to, as hypothetical.

THE COURT: Sustained.

MR. CAMPBELL: Exception.

BY MR. CAMPBELL:

Q Do you realize that everything in this case depends
upon your identification of this prisoner; don't you?

A Yes.

Q Do you realize that it is very important, and
that a great responsibility rests upon you in identifying
him? A Yes sir.

Q Now, are you absolutely sure, beyond any possibili-
ty of a doubt, that this is the man who held you up on the
street, at that time and place? A Yes; I am positively
sure.

Q You never saw him except the once? A Never seen
him before; no sir.

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Q And then you saw him for how long, altogether?

A Well, during the time I was held up, or during the time that I was in the poolroom?

Q Yes; during the time that you were held up on the street, as you claim? A I should say between three and four minutes.

Q And, during that time, you were very much frightened?

A Yes; I was frightened.

Q Now you say you picked him out? A Yes; I picked him out, I should judge, of about 25 fellows, and I said, at the time, that I could pick him out of one hundred more fellers.

Q Did the officer assist you at all in picking him out? A No sir.

Q What was he doing when you picked him out, the defendant? A I seen him leaning over a pool table, and I went up to him, and told the officer that was the fellow that held me up.

Q In his presence, you told the officer that?

A Yes sir.

J E S S E B R E N N E R, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. O'CONNOR:

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Q You are an officer of the Police Department of the City of New York? A Yes sir.

Q Attached to what precinct? A 29th.

Q Now, officer, did you arrest the defendant?

A Yes sir.

Q Where did you arrest him? A In a pool and billiard parlor, on Third Avenue, between 96th and 97th Streets.

Q Before going to that pool or billiard parlor, did you see Mr. Albert G. Miller? A Yes sir.

Q Did you have a conversation with him? A Yes.

Q And then you went to the pool and billiard parlor; did you? A Yes.

Q What time of night did you go there? A About ten minutes to eight.

Q And, when you went in there, were there any other people in there? A Yes sir; about twenty.

Q And what did Miller do? A I went in there with Miller and we looked around the place, and he picked out the defendant, Lavelle, and said that he was the man that held him up at Park Avenue and 99th Street, and wanted him arrested.

Q And did you take Lavelle then to the station house?

A Yes sir.

Q When was Monahan arrested? A A day after.

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CROSS EXAMINATION BY MR. CAMPBELL:

Q Did you search Lavelle in the station house?

A Yes sir.

Q You searched him right in the billiard room; didn't you? A No; I didn't search him thoroughly. I just tapped him for a gun.

Q What did you find on him? A I didn't find anything, in the billiard room.

Q And you say you tapped him for a gun? That is, you just felt his pockets, to see if he had a gun? A Yes sir.

Q And you didn't find any gun? A No sir.

Q And then you took him to the station house?

A Yes sir.

Q And he was thoroughly searched there? A Yes sir.

Q And what did you find on him there? A Nothing.

MR. O'CONNOR: The People rest.

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THE DEFENSE.

EDWARD J. LAVELLE, the defendant, being duly sworn, testified as follows:

MR. O'CONNOR: I ask that all the witnesses for the defense be excluded.

THE COURT: Yes. Exclude all the witnesses for the defense.

DIRECT EXAMINATION BY MR. CAMPBELL:

Q Lavelle, is that your right name? A Yes sir.

Q Where do you live? A 118 East 97th Street, with my sister.

Q Where do you say you live? A 118 East 97th Street.

Q With whom do you live there? A My sister.

Q Mrs. Carroll? A Yes sir.

Q How long have you lived there? A I have lived there about three years and six months.

Q What do you do for a living? A Pipe fitter and mason.

Q Have you ever been convicted of any crime?

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A No sir.

Q Do you remember the Sunday night that you were arrested in that poolroom, charged with robbery? A Yes sir.

Q About ten minutes of eight, was it? A About ten minutes to eight; yes.

Q Now you heard the testimony of this boy on the stand? A Yes sir.

Q Are you the man who held him up, and robbed him, in the manner that he described? A No sir.

Q Did you ever see him in your life since the time that you saw him, or were pointed out by him, in the poolroom, as the man who had robbed him? A Yes sir.

Q You had seen him somewhere else? A Yes sir; I had seen him around in 98th Street, at the Club. I have been living in that neighborhood for fifteen years, and I have seen him at least fifty times going up and down the street; and, in fact, I think he lived in the same block with me, for a couple of years.

Q And you refer to the Idle Hour Club? A Yes sir; I saw him going in there.

Q And you never had any conversation with him?
A No sir.

Q Now where you from, say, seven o'clock, on the even-

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ing of that Sunday? A I was working.

Q Until the time you were arrested? A I was working.

Q Where were you working, and what were you doing?

A Well, I was working for the janitor and the agent of a building on the southeast corner of 97th Street and Third Avenue, from about three o'clock in the afternoon until about 20 minutes of eight.

Q And who was working there with you? A Mr. Hines and Mr. Roth.

Q What are their first names? A Oscar Roth and William Hines. I ain't sure of the first names.

Q They were working with you in this place? Where was that? A Southeast corner of 97th Street and Third Avenue.

Q And how long were they there with you? A They were in the cellar with me until 20 minutes of eight, from about three o'clock. We were working in the cellar, in the boiler room, up till about 20 minutes of eight.

Q How do you fix the time? A Well, about half past seven or 20 minutes after, I was working, and I got through with my work, and I talked with the janitor for a few minutes, and I asked him the time, and he said it was about half past seven o'clock; and then I went to the agent's house, because I wanted to give these gentlemen some money

for helping me.

Q Where was the agent's house? A Next door to where I was working.

Q Did you go there alone, or did anyone go with you?

A Well, Mr. Roth went with me. And then I went to the pool-room, because one of my friends was there that had a book I wanted to read, and he was going to lend it to me.

Q And it was in the pool room that you were arrested?

A Yes sir.

CROSS EXAMINATION BY MR. O'CONNOR:

Q Who were you working for? A For Mr. Samuels, the janitor, and the agent. I don't know who the agent was. It was the first time I met them.

Q When did you go to work? A Between two and three.

Q When, for the first time? A That was the first time.

Q And you went to work on a Sunday? A Yes sir.

Q On the southeast corner of Third Avenue and --
A 97th Street.

Q New building? A Well, they was new; only up a year or so.

Q What were you doing there? A I was cleaning out the cellar, and going down to oil down the stairs, and clean

out the cellar and the boiler room.

Q And you went to work at two o'clock in the afternoon? A Between two and three.

Q Where were you in the morning? A No sir; in the afternoon.

Q Where were you in the morning? A I was up in my sister's house.

Q What time did you get up, that morning? A I got up around eight o'clock, I believe.

Q Was it eight? A Well I am pretty sure it was around eight.

Q Are you sure about that? A Between eight and nine.

Q Now was it between eight and nine or nine and ten?
A Between eight and nine.

Q Well how do you know? A Because I seen the clock. I know it was around there, because I was going to church, at nine o'clock.

Q You looked at the clock? A Yes sir.

Q What time was it by the clock? A I couldn't tell you exactly.

Q Now you looked at the clock when you got up? What time was it? A Well 20 or 25 after eight.

Q Now which was it? A Well I can't remember now.

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Q Why? A Well I just forget; I don't remember.
I didn't pay much attention, because I knew I hadv lots of
time to go to church, at nine o'clock.

Q Well, you paid very much attention to the fact that
the janitor told you it was 20 minutes after, or half past
seven? A Well, because that has been brought to my memory
a good deal, since, by being arrested.

Q Well who brought it to your memory? A Myself.

Q Who else? A Nobody else.

Q Didn't you go around and see the janitor? A No;
the janitor was with me.

Q Well have you seen the janitor since your arrest?
A No sir; only in the court.

Q He came up as a witness for you? A Yes sir.

Q And you and the janitor have had a talk about the
time you left the building? A No sir, we have not.

Q Didn't the janitor say that it was 20 minutes after
seven? A The janitor gave his testimony in the Police
Court, when I had my examination.

Q And what did he say? Did he say it was 20 minutes
after seven? A I don't know what he said up there.

Q You don't? A No sir.

Q Had you talked with him since the case has been pend-
ing? A No sir.

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Q He has never visited you? A No sir.

Q Well what about Roth or Hines? Have they visited you? A Haven't seen either one since, until I seen them here.

Q You haven't seen either of them since? A No sir.

Q And that you remember, because the janitor told you it was 20 minutes after seven o'clock, on that night?

A Half past seven.

Q Oh, the janitor said it was half past seven?

A Yes sir.

Q And at 20 minutes to eight you went to the pool room? A No sir.

Q Where did you go? A I went to the agent's house, and I got fifty cents off him, so that I could give these other boys something; and then I went into the pool room, and I got in there about a quarter to eight, I believe.

Q Now, you say that you looked at the clock, in the morning, on January 13th, and you couldn't tell exactly what time it was by the clock; could you? A No sir; because the clock sometimes would be fast, and other times it would not.

Q Well, when the hands of the clock point, you can tell; can't you? A Well, around 20 or 25 after eight.

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Q When you got up? A Yes sir.

Q Now what did you do when you got up? You say you went to church? A I washed and ate my breakfast, and dressed myself.

Q And you went to church? A No sir; I didn't go to church.

Q Didn't I understand you to say that you were up in time to go to church? A Yes sir; but I didn't say I went. I intended to go to nine o'clock mass.

Q Well you didn't go? A No sir.

Q What did you do? A I stayed in the house, and read the paper.

Q And how long did you stay in the house? A Until after dinner.

Q And what time did you have your dinner? A About 12 o'clock.

Q And then what did you do, after having your dinner? A Why, I sat around until about one o'clock, and then I went out.

Q And where did you go to, when you went out at one o'clock? A I went up to 98th Street and Lexington Avenue; to that corner, for a while.

Q What did you do there? A I was talking to a few friends of mine.

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Q Yes. Who were they? If you haven't any objection to telling me? A Well, one of them was named Charley McCormick, and the other was Robert Merrick.

Q And how long did you stay with them? A About an hour.

Q And what did you do then? A Then I went down to 97th Street and Third Avenue.

Q Well what did you do when you got to 97th Street and Third Avenue? A I met the old janitor of this house, and he told me his pump was out of order, and he couldn't get it to go, and he asked me if I thought I could fix it for him, and I told him I would look at it and see; and I went down in the cellar, to look at the pump.

Q Well, now, you looked at the pump? A Yes.

Q And what did you do after looking at the pump?
A I seen that I couldn't fix it. I didn't know what was the matter with it.

Q And then you left the cellar? A No sir. While I was down in the cellar, the agent and the new janitor came down, and wanted to know what I was doing down there, and the agent asked if I wanted to go to work for him, for a day or two, and I said yes; and then he said to clean out the cellar and mop down the steps, and oil them, and then he had some repairs on the roof he wanted made.

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Q And then you stayed there all the afternoon?

A No sir; between two and three I started in; and these two other friends of mine were in the poolroom; and I called them down, and they helped me.

Q And then you went around to the pool room to get them? A No sir; I didn't go around to the pool room.

Q Well how did you know that they were in the pool room? A Well they were looking out of the window of the pool room. It looks down to the boiler room into the yard.

Q And you called them to come down and help you?

A Yes sir.

Q Now, while you were down in the cellar, working, did you go out of the cellar at any time? A Into the yard; that is all.

Q And where did you work, before you went to work in this cellar, on a Sunday? A I was working for Mr. Simon-ton, the Russian Construction Company.

Q And when did you work there? A I went to work there about the second or third of January.

Q And how long did you work? A I went to work on the second or third of January, and I found out it was a Union job, and I had no bricklayer's card, and I had to knock off work.

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Q Well, are you a bricklayer or pipe fitter?

A Well I work at fitting pipe, and my father is a mason by trade, and I have worked for him, too.

Q And before that for whom did you work? A Charles T. Eastburn, Trenton, New Jersey.

Q And how long did you work there? A About three weeks.

Q Now you recollect everything that took place after you got out of bed, that morning, very well, don't you, the 13th of January? A Yes sir.

Q Now, tell us what time you got out of bed, on the 7th of January? A No; I can't.

Q Or on the 11th of January, what time you got out of bed? A Yes; I think I got out of bed before seven o'clock.

Q Why did you get up out of bed before seven o'clock, on the 11th? A I was looking for work.

Q Can you tell us what time you got up on the second of January? A Yes.

Q What time? A I got up at six o'clock.

Q That was because you were going to work on that job? A Yes sir.

Q And, on the third, did you get up at six o'clock?

A No sir I didn't; because I didn't go to work on the

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third.

Q And then you don't know whether it was on the second or third you went to look for this Union job?

A Yes; the second of January I went to work; started in at eight o'clock.

Q Now you say that you left this basement at about half past seven o'clock, that night? A Twenty minutes of eight, I left the basement.

Q And you were dressed in working clothes; were you not? A No sir; I had a suit of clothes on.

Q What kind of clothes did you have on? A I had a pepper and salt coat and striped pair of pants.

Q You heard the complaining witness say that you had a mixed goods coat on?

MR. CAMPBELL: No; he said a pepper and salt suit.

A Yes, but, when I was arrested, he said I had a checkered suit on.

BY MR. O'CONNOR:

Q You heard the witness say that you had a pepper and salt coat on, at the time you held him up? A Yes.

Q And that you looked like a man who was around on the Bowery, as he used the expression? A Well I don't know; I guess I looked as good as he did.

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Q Did you have a white collar and tie on? A Yes sir.

Q And when did you put your white collar and tie on? A Sir?

Q (Question repeated)? A I put it on in the morning, when I got up.

Q You wore it all that day, while you were working? A Yes sir.

Q Cleaning out a boiler, you wore a white shirt and collar? A Yes.

MR. CAMPBELL: He didn't say that he cleaned out a boiler.

MR. O'CONNOR: Now, pardon me.

BY MR. O'CONNOR:

Q Cleaning out this boiler and boiler room, you wore a white collar and shirt? A Yes sir.

Q And it wasn't dirty at all? A I wasn't handling any dirt, only ashes, and the ashes were wet down, and my clothes weren't dirty. And I washed my hands and face, when I got through.

BY THE COURT:

Q How were you dressed while you were working down in that cellar? A I had my coat off, and I was in my vest, and I had my sleeves rolled up.

Q What kind of a shirt? A A salt shirt, kind of mixed goods, light, with flowers in it; some kind of design on it.

Q What was the design? A I just couldn't tell you. Some kind of flower.

Q Did you have a collar? A Yes sir; a celluloid collar, just as I have on now.

Q And a necktie? A Yes sir.

Q What color? A Red.

Q Red? A Kind of red; mixed goods.

Q What kind of suit did you have on? A I had a kind of a mixed pepper and salt coat, and a light pair of striped pants.

Q Mixed pepper and salt coat? A Yes sir.

Q And light trousers? A Yes sir; and a vest, black.

Q Now, when you were doing work in the cellar, how were you dressed? A I had my vest on and this shirt and collar and my sleeves rolled up.

Q And you had only your coat on? A Yes sir.

Q What kind of hat did you have on? A A derby hat.

Q Did you wear the hat while working? A No sir.

Q So that you put off your coat and hat? A Yes sir.

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Q And that was all? A Yes sir.

Q Now, when you were arrested, how were you dressed? No. How far from where you were working did you live? A One block, one block and a half up, west, between Lexington and Park, I live, and I was west, on Third Avenue.

Q And you quit work about what time? A Well, I was through work about half past seven.

Q You were through work about half past seven?
A Yes sir.

Q Did you change your clothes then? A No; I just washed my hands at the faucet there.

Q Did you say that you wore a checkered coat, when you were arrested? A No sir.

Q Now which did you wear? A coat of a material called pepper and salt, or a checkered coat? A A pepper and salt coat. But, when I got to the station house, the complainant said, "Didn't I tell you that he had a checkered suit on?"

BY MR. O'CONNOR:

Q And yet your clothes were nice and clean, when you came out of that cellar, after working in ashes all the afternoon? A Well they wasn't as clean as when I started in, but they weren't dirty.

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Q Now, those were your good clothes? A No sir; they weren't my extra best.

Q Well, you didn't expect to go to work on that job, when you left your house, that day; did you? A No sir.

Q Well were you as well dressed as you are to-day? A Well I didn't have the same suit of clothes on, but my clothes were clean and neat, and looked well.

Q And you went to work down there with your good clothes on, and you say you came out of the cellar, and went into the pool room, at 20 minutes before eight o'clock?

A Yes sir.

Q And what did you do in there? A I went in there to ask this friend if he was going to loan me the book.

Q Who was the friend? A Mr. McAvoy.

Q And it was Mr. McAvoy, then? A Yes sir.

Q And did you see Mr. McAvoy? A No sir.

Q Where did McAvoy live? A I don't know. 94th Street somewheres. I don't know the number of the house.

Q How long had you known McAvoy? A About three years.

Q Did you meet him regularly? A No sir, not regularly. I used to meet him once in a while.

Q Did you meet him in the pool room? A Well, whenever I went down there I would meet him.

Q McAvoy was a friend of yours; wasn't he? A Well, no more than he was of Mr. Miller's, there, or anybody else; just an acquaintance; that was all.

Q Well, now you didn't meet McAvoy. No did you meet there? A Well there was quite a few in there. I didn't know them all.

Q Well did you speak to anybody in there? A Well, I spoke to the man who is running the place, Mr. Sullivan.

Q Yes. Anybody else? A And Mr. Hines and Mr. Roth. I was speaking to them.

Q And they were working with you, that afternoon, you say? A Yes sir.

Q Now did Hines and Roth leave the basement before you did? A A couple of seconds before me. I got the key from the janitor to lock the door, and they was a couple of steps ahead of us when we went upstairs.

Q And where did you meet them, after you left the cellar? A And I met Mr. Hines in the pool room, and Mr. Roth was waiting for me at the agent's door.

Q And how much did you get for cleaning out that cellar? A Well I just wanted to get fifty cents, to pay them. I had a little money myself, and I didn't need it all, that night.

BY THE COURT:

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Q Was there any agreement made as to what compensation you were to receive? A No. Well, I'll tell you. He told me that he would give me half a dollar, if I would clean out the boiler room. That's all he wanted to do, first. And then he put the other work, and said that he would make it all right.

Q How much did you get, that day? A Sixty five cents.

Q And how much did you give the other men?

A I didn't give them any, because I got arrested, and I didn't have any change to give them anything.

Q Did you get the fifty cents from the agent?

A Yes sir.

Q Did you make any agreement as to how much you were to pay these men?

A No sir.

Q Now just tell the jury what work you did in the basement, and what the other two men did?

A Well, there was a lot of ashes in the basement. The janitor didn't clean it out, and the pump wouldn't run.

Q How many barrels of ashes were in the cellar?

A Well, at a close guess, about four.

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Q Four? A Yes, sir.

Q And where were the ashes located? In what part of the cellar? A Well, there were some in the boiler room, and some outside the door, in front of the boiler room, and some in the back of the cellar; scattered all through the cellar.

Q Who carried up the ashes? A We put them in the yard. We didn't carry them up.

Q Did you have to carry them from the cellar upstairs?
A No, sir; we just put them in the yard.

Q And how long did that take? A Well, that wasn't working very fast.

Q Well, how long did it take to deposit the ashes in the barrels? A About three hours, I guess.

Q To deposit them? A Well, we went out in in the street, and got the barrels from the street, and brought them down in the cellar; and we cleaned up the cellar, and put the ashes in.

Q You were not hired to do any masonry work, were you?
A No, sir.

Q Well, this is a tenement house? A Well, a kind of flat or tenement house.

Q And the janitor hired you to clean out the cellar?
A The agent hired us first.

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Q And then you started on the work about half past two?

A Between two and three.

Q And when did you quit work? A Well, I was all through a little before half past seven, and was all washed up by half-past seven.

Q You were working there after sundown? A Yes; I think so.

Q And did you have any gas light down there or candles? A Well, the light was lit all day.

Q And what did you do after depositing the ashes in the barrels? A We cleaned the stairs down.

Q And how long did that take? A Well, that took an hour or so.

Q Well, what else did you do? A We were mopping them down. That took us about an hour. Sweeping and mopping. And then we worked around, and picked up a lot of bricks, and old wood, and put them in the woodsheds, the empty sheds belonging to the people there.

Q Did you know the janitor of that house? A That's the first day I met him, the new janitor. I knew the old janitor.

Q Well, the new janitor, the man that hired you, is that the first time you met him? A Yes, sir.

Q And is the pool room next door to this building? A It is in the same building.

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Q And so the janitor was the janitor of the pool room and the building also? A Well, he wasn't the janitor there then. He was to take charge.

Q Now, did you tell the policeman where you were there, that night? A Yes; when I got up into the station house. He said, "Now, you know you done this, and you had better tell who was with you," and I told him, "No; I didn't do this, because I was working."

BY MR. O'CONNOR:

Q How long -- did you ever know Moynahan?

A Well, he lived in the same house with me, when I was a little boy.

Q And how long had you known Moynahan?

MR. CAMPBELL: Objected to, as immaterial, irrelevant and incompetent.

THE COURT: Objection overruled.

MR. CAMPBELL: Exception.

BY MR. O'CONNOR:

Q How long had you known Monahan? A Well, I should think -- the first time I met him -- I never knew him very well, but I first saw him living in the same house with me, about four years ago.

Q Where was the house? A 1492 Lexington Avenue.

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Q And was he in the pool room that night? A Yes, sir.

Q Did you see him there? A Yes, sir.

Q Were you talking to him? A Yes, sir.

Q What time did you talk to him? A I was ^{not} talking to him then. I just said, "How do you do," to him.

Q And so you and Monahan were together in the pool room? A Yes; after I come out of the cellar.

Q And did you and Monahan come out together?

A No, sir; I was arrested while I was in there.

Q And was he there when you were arrested? A Yes, sir.

Q Where? A In the pool room.

Q In what part of the pool room? A I just don't know. I wasn't paying any attention to him.

Q Well, how many boys or men were in there at the time you were arrested? A Well, there was several of them in there.

Q Who were they? A I don't just know who they were. They were strangers to me.

Q And so Monahan was in there when you were arrested?

A Yes, sir.

Q And was McAvoy in there? A Well, I didn't see him

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there.

BY THE COURT:

Q Well, was Roth there? A Yes, sir.

Q And the other men? A Yes, sir.

BY MR. O'CONNOR:

Q And Hines? A Yes, sir.

Q Now, you went upstairs to the janitor or agent, to get fifty cents, to pay off Hines and Roth; didn't you?

A Yes.

Q Now, you didn't pay any of them any money? A No, sir; because I went in there, and I didn't think I was going to be arrested so quick, for nothing.

Q Well, Roth waited downstairs for you until you got the money? A Yes; waited at the agent's door.

Q And Hines left you and went into the pool room?

A Yes, sir.

Did

Q You give Roth any of the money when you came downstairs? A No, sir; I was going to get change in the pool room.

Q And what did you get from the agent? A Fifty cents that evening, and fifteen cents in the afternoon.

Q Yes. Was the fifty cents two quarters or not?

A One piece.

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Q And you were going in to change it? A Yes, sir.

Q And did you ask anybody to change it? A No, sir.

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

Q And how long were you in the pool room before you were arrested? A About three minutes.

Q And the officer came in, and this young man Miller came in, didn't he? A Yes.

Q And Miller walked around the pool room?
A Yes, sir.

Q And looked at the people in the pool room?
A Yes, sir.

Q And came over and said to you that you were the fellow that robbed him? A He said that I was one of them.

Q And, therefore, the police officer placed you under arrest? A Yes, sir.

Q Did you look at Miller, when he came into the pool room? A No, sir; I didn't look at him until the officer grabbed me.

Q Now, didn't you say that Miller came into the pool room and walked around, and looked at the people in the pool room? A But well, I didn't look at him; I didn't see his face; only I seen him just walking around.

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Q Was there any one else walking around, at that time? A There was no one walking around just the way he was, and the officer.

Q And that attracted your attention; didn't it? A Well, no, it didn't attract my attention more than anything else did.

BY THE COURT:

Q Did you know the police officer? A Yes, sir.

Q You knew him when he came into the pool room?

A Yes, sir; he lives about a block away from me.

Q When you saw the policeman come in there, did you say "hello" to him? A No.

Q Had you ever spoken to the police officer?

A No, sir.

Q And he and Miller walked around, and then they came over, and Miller said that you were one of the men that had robbed him; is that right? A Yes, sir.

Q Now, after you were taken to the station house, nothing was found on you; was there? A No, sir.

Q And Monahan was in the pool room? A Yes, sir. I wouldn't say whether he was in there at the time I was taken out or not, but he was there when I was arrested.

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Q Well, did you see him? A Yes; I said, "How do you do" to him.

Q And why would you not say that he was there when you were arrested? A Well, the officer started to search me, and that took a couple of minutes, and I don't know whether he was there when I left the pool room or not.
BY MR. O'CONNOR:

Q Have you seen McAvoy since you have been arrested?

MR. CAMPBELL: Objected to as immaterial, incompetent and irrelevant.

BY MR. O'CONNOR:

Q Do you know how McAvoy came to deliver the watch that was stolen to Meyer, to be given back to the complaining witness, Miller? A I heard of it in the Harlem Court.

MR. CAMPBELL: Objected to as immaterial, irrelevant and incompetent. I object to the form of the question, at this time, no foundation having been laid for it.

THE COURT: Objection sustained. Strike out the answer.

BY MR. O'CONNOR:

Q Do you know whether this complainant got his watch

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back or not? A I didn't know it until I had an examination up in Court.

BY THE COURT:

Q When did you learn of it? A When I had this examination.

BY MR. O'CONNOR:

Q And then did you learn who brought it back?

A Yes; by the evidence.

Q Just by the evidence, in the Court? A Yes.

Q And that McAvoy brought it back? A Yes.

Q Did you learn who McAvoy got it from? A No, sir.

Q McAvoy wasn't there as a witness, was he? A No, sir.

Q He is a friend of yours? A No, sir; no friend of mine; just an acquaintance.

Q Well, when did you see Monahan, after you had left him in the pool room, that night? A I didn't see Monahan again until he was arrested.

Q The next day? A I believe it was the next afternoon.

Q You believe it was the next afternoon? A No; it was Tuesday afternoon.

Q You and Monahan were in the same prison up there?
A Yes.

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Q And did Monahan speak to you about the case at all? A No, sir; he couldn't speak to me. I just seen him coming in.

Q And were you in the same prison pen, up in Harlem?
A We was in different cells.

Q And since you have been down here in the Tombs, have you met Monahan? A Yes.

Q Have you talked with him about the case?
A Oh, we had a kind of talk. I asked him about the watch, and one thing or another.

Q Now, you say you knew this boy Miller? A I have seen Miller. I didn't know him. I have seen him.

Q That is, you were not on speaking terms with him, but knew him well in the neighborhood? A Yes; I have seen him lots of times.

Q And knew what club he was going to? A Yes, sir.

Q And knew him as a member of that club? A No, sir; I didn't know him as a member of that club.

Q And do you say that you were never over at Park Avenue and 97th Street, that evening? A Yes.

Q And you live near Park Avenue and Lexington, don't you? A No, sir; nearer to Lexington Avenue.

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BY THE COURT:

Q On what street? A 97th Street.

Q And how far is that corner of 97th Street and Park Avenue from the pool room? A It is about a block and a half, about five minutes down to the pool room.

BY MR. O'CONNOR:

Q And were you in the vicinity of 99th Street and Park Avenue, that night? A No, sir.

Q And you say that you never pulled out a revolver and pointed it at Miller? A No, sir.

Q Did you ever have any trouble with Miller?

A No, sir.

Q Now, you say you have never been convicted of a crime? A No, sir.

Q Never convicted of any crime? A No, sir.

Q Misdemeanor or felony? A No, sir.

BY THE COURT:

Q When Mr. Miller accused you of having held him up, at Park Avenue and 99th Street, did you say anything? A Well, I might have made some exclamations. It took me so by surprise. I didn't know what it was for. I asked the officer what it was for, and he told me what it was for, and I said, "I didn't do it," I believe. I believe

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that's what I said. I passed some remark.

Q Well, what did you say? A Mr. Miller said, "This is one of the men," and I didn't pay much attention to it, until the officer grabbed hold of me, and commenced to search me, and then I asked him what was the matter, and the officer told me, and I said, "I didn't do that."

Q Now, how far was Monahan away from you in the pool room? A Up near the door, and I was in the back of the pool room.

Q Well, you used to associate with Monahan, didn't you? A No, sir.

Q You are sure of that? A Yes.

Q You met him in the pool room; didn't you?
A Yes.

Q And how often did you go to the pool room?

A Well, I wasn't in the habit of going there at all, because I was always at home, in the evening, playing cards with my brother-in-law and a friend of mine.

Q And how often did you go into this pool room?

A Well, I believe I wasn't in there more than a dozen times, your Honor.

Q And when did you go in there, this night? A A lit-

tle before a quarter to eight.

Q And how long had you been in there, when you were placed under arrest? A Well, between three and five minutes.

Q Was there anything in your appearance to indicate that you had been working in the cellar, that night?

A Well, there wasn't anything else, except my clothes looked a little bit dusty, or something like that.

Q Well, were your clothes dusty? A I don't know. You couldn't see very well, because they were mixed goods, and may have been a little roughed up.

RE-DIRECT EXAMINATION BY MR. CAMPBELL:

Q What did you do after cleaning yourself up? You spoke about that? A Well, I washed my hands and my face, and dried my face with my handkerchief.

Q And did you do anything with your clothes? A I kind of brushed them off with my hands, like that, (illustrating); brushed off my coat, because it was hanging on the gas bracket.

Q And you cleaned out the dirt in the cellar?

A Yes; all the refuse we gathered up.
BY THE COURT:

Q How much money was found on your person when you

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were arrested? A I had fifty-two cents, I believe.

Q A fifty cent piece? A Yes, sir; a few pennies. And I had a ten cent piece. It was in this here pocket, (indicating the left outside coat pocket). I didn't know I had that until I put my hand in my pocket afterwards, and the officer didn't see it.

O S C A R R O E T H, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CAMPBELL:

Q Where did you live? A 320 East 86th Street.

Q How old are you? A Nineteen.

Q Talk up loudly? A Going on nineteen.

Q Then you are eighteen? A Yes, sir.

Q And with whom do you live? A With my parents.

Q Where? A 320 East 86th Street.

Q Did you see this defendant -- how long have you known the defendant? A About a year and a half.

Q Did you see him get arrested? A Yes.

Q In that pool room? A Yes.

Q When did you first see him, that afternoon, and where? A At half past three, down -- around half-past three in the afternoon.

Q Where did you see him at that time? A Down in the

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cellar.

Q Were you down in the cellar at the time? A Yes.

Q What were you down there for? A To help clean up.

Q What did you do there in the cellar? A Cleaning up the cellar.

Q And how long did you work there with him?

A Well, from about half past three to twenty minutes ~~is~~ of five -- six -- to eight.

Q Now, which is it? You said twenty minutes of five, six and eight? A Twenty minutes to eight.

Q Well, how do you fix the time? A I saw it.

Q Where did you see it? A Right next door, in the store, in the next house.

Q How did you happen to see the time, next door?

A Passing by, I looked up to see when I passed.

Q And it was twenty minutes of eight when you came up out of the cellar? A Yes, sir.

Q And who came out first, you or the defendant?

A The three of us came out.

Q Practically together? A Yes, sir.

Q And where did you go to when you came up out of the cellar? A I went into the pool room.

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Q And you left him there then and went into the pool room? A Yes.

Q And that was about twenty minutes of eight?
A Yes.

Q And did he come with anybody, or alone? A The other young fellow was with him.

Q What other young fellow? A Mr. Hines. He went up to collect some money.

Q With Hines? A Well, I don't know that Hines went up with him, but I left him there.

Q You left the defendant, Lavelle, in front of the premises at twenty minutes to eight? A Yes, sir.

Q And you went into the pool room? A Yes.

Q And did you see the defendant Lavelle again?
A Well, it seemed about five minutes, that's all.

Q And where did you see him then? A In the pool room.

Q And how long had he been in the pool room before he was arrested? A It was just a few minutes.

Q Well, give your best estimate of the time? A Five or ten minutes.

Q Do you know Monahan? A Yes; I know him.

Q Did you see him there in the pool room, that night? A I don't know. I am not positive about that.

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He might have been there; I am not sure.

Q Describe what happened there, at the time the defendant was arrested, if you noticed. Did you notice his being arrested? A Yes, sir.

Q Well, just tell what you saw and heard there?
A Well, we were standing around there, and Mr. Lavelle was standing by a table there, and three gentlemen, I think it was, came walking in, and one of them pointed out Mr. Lavelle as holding him up, Mr. Miller.

Q And was the defendant there? A Yes, sir; he didn't say nothing.

Q What did you say? A I didn't say anything.

Q Did Mr. Miller say anything about the time and place that the defendant held him up? A Not while in the pool room.

Q But you are positive, are you, the defendant was with you, working in the cellr, with you and Hines, from around three or half past three in the afternoon, until twenty minutes of eight? A Yes.

Q And you looked at the clock to fix the time, after you came up out of the basement? A Yes.

Q You are now relation to this man, are you?

A No, sir.

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CROSS-EXAMINATION BY MR. O'CONNOR:

Q Are you sure you looked at the clock? A Yes, sir.

Q Well, what time was it by the clock? A Twenty minutes to eight.

Q Sure about that? A Yes, sir.

Q It was nineteen minutes of eight, was it?

A No, sir.

Q Was it twenty-one minutes of eight? A No, sir.

Q Where was the clock? A In the tailor shop, right next door.

Q Right next door to where? A The house we were working in.

Q Well, you were working in the corner house, were you? A In 202.

Q And that is the corner of Third Avenue and 97th Street, southeast corner? A Yes, sir.

Q Did you go out of the building on the corner of 97th Street? A Yes.

Q Where did you walk to? A Went around the corner to the pool room.

Q And where is this tailor shop? A Right next door

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to that house; in the same house, 202.

Q It's in the same building, but is it on Third Avenue or 97th Street? A On 97th Street.

Q And where was the clock located? A Right near the window.

Q And the window was lit up that night? A Yes, sir.

Q And the tailor had his shop lit up then, on Sunday evening? A Well, it was lit up by the lamp on the corner, the street lamp.

Q And you can see by that light that it was 20 minutes of eight? A Yes, sir.

Q What time did you go down in the cellar? A Half past three.

BY THE COURT:

Q What time did you have your supper, that night?
A I didn't go home to supper.

BY MR. O'CONNOR:

Q When you went down into the cellar, did you look at the clock? A No, sir; I come right from home then.

Q Where were you? A At what time?

Q At half past three? A Down in the cellar.

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Q And how did you come to go down in the cellar?

A I was in the pool room, and Mr. Lavelle called up for me. There is a window right in the side of the pool room.

Q And who else did he call down? A Nobody else.

Q Well, who else went down? A Mr. Hines went down.

Q And you did you bring Hines with you? A No, sir.

Q And then he walked down himself? A I don't know how he came down.

Q Well, were you down there before Hines? A Yes, sir.

Q And what time did Hines come down? A A little while after me.

Q Now, what did you ^{do} down in that cellar? A Cleaning up cellar and yards.

Q Well, what did you do down there? A Cleaning up the ashes.

Q How many barrels of ashes did you take up?

A Three or four.

Q And then what? A Swept up the cellar.

Q Yes. A And mopped up the steps, and cleaned up the yard.

Q And it took you four hours to do that? A Yes, sir.

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J A C O B S A M U E L S, a witness called on behalf of the defense, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. CAMPBELL:

Q Mr. Samuels, where do you live? A I live now, at present, at 629 Tinton Avenue.

Q In the Bronx?? A Yes, sir.

Q What is your business? A Tin smith and plumber.

Q Now, were you on the 13th day of January, Sunday-- where did you live? A I live at 201 East 97th.

Q And did you see this defendant, that day? A Yes, sir.

Q What was your position, on that day? Did you have anything to do with this house? A Yes; I was going to take charge of 200 East 97th Street, right across the street from where I lived.

Q Now, you saw the defendant, that day? A Yes, sir.

Q What time of the day did you see him, and what did you say to him? A Well, I went down to the cellar, and was looking everything over, before I was going to take charge; and I told the agent ~~at~~ the house needs a cleaning with up, and so I find the defendant down there, the old janitor.

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Q Yes. A And so I asked him if he wouldn't mind cleaning up the house, and he said yes, and so I told him to go ahead, and do it.

Q Did you make any arrangement with him as to compensation, as to any particular amount you would pay him?

A Not exactly; about fifty cents, or something, but I told him that the agent would pay him.

Q You told him that the agent would pay him?

A Yes.

Q And what time did he go to work? A I guess he started in just around three o'clock, if I ain't mistaken, in the afternoon, on Sunday.

Q Did you see anybody working there with him?

A A couple of his friends, I think.

Q You saw a couple of boys there? A Yes.

Q Have you seen those boys here, to-day, any of them? A I did, yes.

Q You are not the janitor there any more? A I was there for a little while, and then I moved out.

Q And how long were you janitor there? A Two weeks.

Q And you had never seen the defendant before?

A No, sir.

Q And you have never seen him since, until you saw

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him in Court? A No, sir.

Q Now, do you know how long he worked there, that afternoon? A He worked there for me several hours.

Q Well, it is very important, if you can fix the time that he stopped working? A Well, I think it was pretty near around ten minutes to eight, or a quarter to eight, something like that.

Q How do you fix that time? A Because I went up to the house, to look at the time, because I had to go somewheres.

Q Where were you going? A Just a party above. I made a little appointment up there.

Q Well, I don't want to pry into your affairs --

MR. CAMPBELL: Your witness, Mr. O'Connor.

CROSS-EXAMINATION BY MR. O'CONNOR:

Q Were you the man that hired the defendant to clean out the cellar? A Yes, sir.

Q Were you the one mentioned as the agent? A I was not the agent. I was only the janitor.

Q And who was to pay? A The agent.

Q And who hired him to clean out the cellar? A I did.

Q And what's the agent's name? A Kurtz.

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Q Where is his office? A Well, he lives there, just the house below, 202.

Q He lives at 202? A Yes, sir.

Q And where were they cleaning out? A 202; on the same block.

Q Now, you didn't remain there all the time while they were cleaning out? A Well, I use to go down and go up, and I was there quite a long time.

Q Where were you living at that time? A Across the street.

Q 201? A Yes, sir.

Q And what time did you go out of the cellar, after they made the bargain to clean it up? A Just about a quarter past three, or between three and four.

Q And what time did you go back there? A I went back there three times. I was there at six o'clock, and at half past seven, when I gave the defendant the key. I guess he has got it now, if I ain't mistaken.

Q When did you leave the basement? A I left the basement, as I said before, at ten minutes or a quarter to eight. I gave him the key to clean up the rest of it, and returned the key.

Q Now, when did you first hear about this case, this case? A The defendant's sister come around and told

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me about it.

Q When? A Just a couple of days after.

Q Just a couple of days after? A Yes, sir.

Q And you remembered then -- Well, a couple of days after when? A Well, after he was arrested; that I had to be in Court.

Q And did you go up to Court? A Yes, sir.

Q And you said up there, that it was a quarter to eight when you left the basement? A Yes, I think so.

Q But you are not positive of the time; are you?

A Well, I believe it was around that time.

Q Did you pay them any money? A No; the agent did.

Q Were you present at the time they were paid?

A No, sir.

Q Then you don't know whether they got any money or not? A No; I couldn't say.

Q Now, what I want to find out from you is the time. How do you fix it at the time you have named?

A Well, when I went across the street to my own place, I wanted to see what time it was, because I had a little appointment, as I said before.

Q Now, did you look at the clock on Monday night?

A This was on Sunday night.

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Q Well did you look at the clock on Monday night?

MR. CAMPBELL: Objected to.

THE COURT: Allowed.

MR. CAMPBELL: Exception.

A No I didn't; not on Monday night.

BY MR. O'CONNOR:

Q Did you look at it, on Tuesday night? A Yes, generally I looked at it, before I went to bed.

Q And on Saturday night? A Yes; generally when I am going to bed.

Q You only looked at it when you went to bed?

A Yes sir.

Q And what time was it when you looked at it, on Saturday night? A On Saturday night?

Q Yes. A Well I couldn't say exactly.

MR. CAMPBELL: Objected to, as immaterial, irrelevant and incompetent. He didn't have any special occasion to look at it on Friday night or Saturday or Monday night.

THE COURT: Overruled.

MR. CAMPBELL: Exception.

BY MR. O'CONNOR:

Q Did you look at the clock, on Saturday night?

A I don't know. I looked at it then when I wanted to go to

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bed.

Q Did you look at any time during that week? A I didn't have no occasion to do it.

Q You didn't have any occasion to do it? A No sir.

Q And the only time you did look at it was on the night of January 13th and then it was just exactly a quarter of eight?

MR. CAMPBELL: Objected to.

THE COURT: Overruled.

MR. CAMPBELL: Exception.

A Well I had to go upstairs to an uncle of mine that lived on the second floor above me, and I looked at the clock.

BY MR. O'CONNOR:

Q Yes; just because you had to go up to see your uncle? A Yes sir.

Q And you had been going back and forth between your house and the house where the defendant was working, as you say, from about three o'clock in the afternoon? A Yes sir.

Q And it was two days afterwards that the defendant's sister came to see you? A Yes.

Q And what did she say to you? A If I would mind to go up to court, that her brother was arrested.

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Q And that is all she said? A Yes sir.

Q And you didn't know what you were going up there for? A Well when she told me; not before, I didn't know it; after she told me what the case was.

Q Well what did she tell you about the case?

A That he was arrested.

THE COURT: It is a declaration, Mr. District Attorney, in the absence of the defendant.

MR. O'CONNOR: Yes sir; I will not go any further with it.

BY MR. O'CONNOR:

Q Now, you went up to Court? A Yes sir.

Q And you said there that it was ten minutes before eight? A Yes sir.

Q And that was the time that you didn't forget that you looked at the clock? A Yes sir.

Q Now will you swear that it wasn't ten minutes of seven, Mr. Samuels? A Well I wouldn't swear, but I think it was ten minutes to eight.

Q Well will you swear that it was exactly a quarter to eight? A Well I swear only what my idea is, that it was ten minutes to eight.

Q Now you are guessing at what time it was; aren't you? A Yes .

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Q Aren't you? A Yes.

BY THE COURT:

Q Now, Mr. Samuels, how long have you known the defendant? A Just one day, just what I see him, what I hired him.

Q Never knew him before? A No sir.

Q Where did you go to hire this defendant? A I find him down in the cellar, with the old janitor.

Q Oh, you found him in the cellar? A Yes; with the old janitor.

Q And did you hire him, or did the old janitor?
A I hired him, because I was going to take charge of the house.

Q What is your business? A Tinsmith.

Q Where did you live? A I live now, 629 Clinton Avenue.

Q And then? A 201 East 97th Street.

Q With whom? A With my family.

Q What floor? A The first floor.

Q Were you the housekeeper of that house? A Yes sir.

Q Well what occasion had you -- when did you make arrangements as to taking over the janitorship of this house?

A I made arrangements -- I don't exactly remember when I

made the arrangement -- a couple of days before that, if I ain't mistaken, with Mr. Meyers, with the landlord, and then with the agent.

Q And then you saw the defendant, that afternoon, doing work there, about three times? A Yes; after I hired him.

Q How was the defendant dressed, when you saw him first? A This I couldn't exactly remember. I think he wore a black coat, if I ain't mistaken.

Q A balck coat? A Yes sir.

Q And did he have on a collar and tie and shirt, or a sweater? A I believe he had a collar and tie on.

Q What kind of a tie? A This I couldn't say. I know he had a collar on.

Q A standing collar or a laydown collar? A I think he had on a lay down collar.

Q Well are you thinking of an answer or do you remember? A Well I didn't exactly size up the man, your Honor.

Q And did you see him take the ashes out into the yard? A Yes sir.

Q How many barrels? A Oh, there was about half a dozen.

Q About half a dozen barrels? A Yes sir.

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Q Did you count them? A Yes. There was half a dozen, to my estimation.

Q Who furnished the barrels? A The barrels belonged to the house.

Q And did you see where the defendant got the barrels?
A He got them from the next house; I suppose he must have.

Q Did you supervise the work? Do you understand the word supervise? A Yes.

Q Did you see them do the work? A Yes.

Q And when did you last go into that cellar? A Half past seven.

Q Did you look at the clock? A I looked at the clock.

Q What clock did you look at? A At my own clock.

Q In your own house? A Yes sir.

Q And did you have a timepiece with you? A No sir.

Q What time did you have your dinner, that night?

A I just had my supper.

Q When? A Half past six.

Q And what time did you finish your dinner?

A Well around seven o'clock.

Q Did it take you an hour or half an hour for supper? A Sometimes I sit and talk.

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Q No, that night; how long did you take? A I don't exactly remember.

Q You don't remember? A No sir.

Q What time did you sit down to dinner? A I was up in the house after six o'clock.

Q What time did you sit down to take dinner, on that Sunday night? A Well just I couldn't exactly remember.

Q Was it six o'clock or half past six? A It was half past six o'clock.

Q Well, are you sure? A Yes sir.

Q Did you look at the clock? A Yes sir.

Q Well why did you look at the clock? A Well, I wanted to see just what the time was. Well I don't know if I looked at the clock or not.

Q Then do you remember what time you sat down to dinner? A I don't remember, your Honor.

Q Now, how long prior to taking dinner had you been in the cellar? A It must have been half past seven o'clock.

Q Before you took dinner, what time did you go to the cellar?

MR. CAMPBELL: Do you mean dinner or supper?

THE COURT: Supper.

BY THE COURT:

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Q When I say dinner, do you understand what I mean?
Your evening meal? A Well I take my supper between six and seven.

Q And before that had you been in the cellar?

A Yes.

Q At what time? A Well between five and six.

Q Now what did you see this defendant do there, between five and six? A He was cleaning up the cellar.

Q Were they still putting ashes in the barrels?

A Yes sir; gathering up.

Q And how many barrels of ashes had you seen at that time? A I seen six, and there were still more there.

Q You are positive about that? A Yes sir.

Q You can't be mistaken about that? A No sir.

Q And you counted the barrels? A Yes sir.

Q Were they tin or wooden barrels? A Ash cans and wooden barrels, too.

Q How many wooden barrels? A Two or three.

Q And ash cans; how many? A Six, anyway.

Q And there was still refuse there besides? A Yes sir.

Q And then you had your dinner? A Yes sir.

Q And you went home, and made arrangements about

keeping your engagement? A Yes sir.

Q Why did you go back to the place, after dinner?

A I wanted to see that they cleaned up everything.

Q Well, was the work complete, when you went down after dinner? A Not quite.

Q Well what was the defendant doing, if anything, at that time? A Well just cleaning up the basement there.

Q Well, had the cellar been cleaned out, the ashes and refuse? A Well, first they started to clean up the house, the stairways, the hall and everything, and then they started in the yard.

Q Now, when you got there about half past seven, were there additional barrels full of ashes put out in the yard? A Well, this I didn't notice. I know they were sweeping up some parts of the cellarsthere, what belongs to the people, the empty ones.

Q Well, when was that? A The last time I was down there, according to my knowledge, it was ten minutes or a quarter to eight.

Q Now, after you got through with supper, did you look at the clock? A I think I did.

Q Well did you? A Yes sir.

Q What time was it? A It was after seven, I think.

Q How much after seven? A About five minutes.

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Q And how long did it take you to go down into the cellar of 202? A Oh, about five minutes.

Q And what did you do there? A Oh, I was talking down there.

Q How long? A About 35 or 40 minutes; somewhere around there.

Q And the defendant then left you? A Yes sir.

Q And were they through with their work? A They had a little in the engine room yet left.

Q Did you take the defendant anything to eat?

A No sir; I couldn't wait so long, and I gave him the key to lock up the place, and return the key to me.

Q And this was the first time you had ever seen the defendant? A Yes sir.

Q And when you got upstairs in your own house, you looked again at the clock? A Yes.

Q In your own house? A My own house.

Q And you had your street clothes on then, when you left the house, at ten minutes after seven? A Yes sir.

Q And then did you have any occasion to go back to your house, except to see the time? A That's all.

Q And you say that to find the time only you left this basement, and went up to your own house? A Yes.

Q To look at the time? A Yes.

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Q And for no other purpose; is that right? A Yes sir.

Q And do you know this tailor shop on that block, next to the corner house? A Yes sir.

Q Is there a clock in the window there? A I didn't notice any clock.

Q Do you not know that there is a clock there?

A I didn't notice it, your Honor.

Q How long had you been living in the neighborhood?

A I lived there for five or six years.

Q And you went up to the house to see the time, and saw that it was 20 minutes to eight? A Yes sir; by my clock.

Q And then you left your own house? A Yes.

Q And where did you go? A Upstairs.

Q Well, then, you had an appointment upstairs?

A Well, it is my own people live up there.

Q And you had an appointment with your relatives?

A Yes sir.

Q What appointment did you have with your relative?

A Oh, just playing a game of pinochle; that's all.

Q And you got up there at what time? A Well around a quarter of eight, I think.

Q Did you look at the clock then? A Yes sir.

Q And how long did you remain in your relative's house? A Oh, a couple of games I played; around ten o'clock; and then I went to bed.

Q Was there any appointed hour at which you were to go up and play pincochle with your relative? A No sir.

Q And you want the jury to understand that you went out of the basement, and went up into your own house, to look at the clock, to see the time, because you had an appointment, that night? A Well, just to go upstairs.

Q Well, but didn't you say that you had an appointment, that night? A Well, just to go upstairs, to play pinochle.

Q Didn't you say that you had an appointment, that night? A Yes sir.

Q Now, what time was this appointment for, to play pinochle? A Well when I got there, when I have a chance to get there.

Q What time? Did you have any definite time in which you were to meet your relative, to play pinochle? A No sir.

Q No definite hour? A No sir.

Q Now, when did you learn of the defendant's arrest?

A His sister come around to my house.

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Q When? A That week.

Q What part of the week? A This was on a Saturday night, the following week, on a Saturday night.

A Week afterwards? A I believe so, your Honor.

Q What time of the day or night? A This was on Saturday night.

Q What time? A I don't exactly remember.

Q Had you been in any court, before coming here?

A No sir.

Q Is this not your first appearance in this case?

A Yes sir.

RE DIRECT EXAMINATION

BY MR. CAMPBELL:

Q Have you any interest in this defendant? A No sir.

Q Is he a friend of yours? A No sir.

Q Now, you have told me and you have told the District Attorney and his Honor that, on that Sunday night, you looked at the clock? A Yes sir.

Q When these boys came out of the basement? A Yes sir.

Q And you went right from the basement into your own rooms and looked at the clock? A Yes sir.

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