

START
2397
CASE

Friday, Jany. 11, 1918.

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COURT OF GENERAL SESSIONS OF THE PEACE
IN AND FOR THE COUNTY OF NEW YORK
PART TWO.

THE PEOPLE OF THE STATE OF NEW YORK : Before

-Against-

HON. CHARLES C. NOTT, JR. J.,

WALTER B. SEVERANCE

and a Jury.

New York, Friday, January 11, 1918.

THE DEFENDANT IS INDICTED FOR PERJURY.

INDICTMENT FIELD NOVEMBER 19, 1917.

Appearances :-

JAMES M. DONOHUE, ESQ., Assistant District Attorney,

For the People.

MESSRS. EMBREE & FABRICANT,

By MR. EMBREE,

For the Defendant.

Amos G. Russell,

Official Stenographer.

(A jury is duly impaneled and sworn.)

THE PEOPLE'S CASE

(Mr. Donohue opened the case to the jury on behalf of the People.)

SAMUEL WOLF, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONHOUE:

Q You are one of the Clerks of the Court of General Sessions, are you not?

A Yes, sir.

THE COURT: Can't there be a commission made on the record embodying this technical evidence?

MR. EMBREE: Yes, sir.

THE COURT: Let me see if I sate correctly what you are going to concede. It is conceded on the record that on the 29th day of October, 1917, there was on trial in the Court of General Sessions of the Peace in and for the County of New York, before the Honorable James T. Malone, one of the Justices of the said Court, an action pending between The People of the State of New York, plaintiff, and Walter B. Severance, Defendant, upon a certain indictment then pending in said defendant with the crime of grand larceny in the first degree. Is that correct?

MR. EMBREE: That is right, yes, sir.

THE COURT: I don't think it is necessary to spread on

The record just what the indictment contained. The indictment can be put in evidence.

MR. EMBREE: Yes, sir; it should appear somewhere what the issues were.

THE COURT: The indictment can be put in evidence.

MR. EMBREE: Yes.

THE COURT: That a jury was then and there duly sworn; that the defendant then and there appeared as a witness in his own behalf, and was then and there duly sworn before the said Judge, that the evidence which he, the defendant, should give to the said Court and jury touching the matters then in question should be the truth, the whole truth and nothing but the truth, the said Judge at that time having sufficient and competent power and authority to administer the said oath. Is that conceded?

MR. EMBREE: That is correct.

THE COURT: Now, you can identify the indictment and put that in evidence.

MR. DONOHUE: All right.

THE COURT: It does not appear by that who administered the oath.

MR. DONOHUE: Now, I offer the indictment in evidence, if your Honor pleases.

THE COURT: Received.

(Paper received in evidence and marked People's)

Exhibit No. 1, of this date.)

THE COURT: It is conceded that the paper produced is the indictment in question?

MR. EMBREE: Yes, sir.

THE COURT: Now, you might read such parts of that to the jury as you wish, so the jury may understand clearly what the issues are.

MR. DONOHUE: May I read the indictment we have just offered in evidence to the jury?

THE COURT: Yes.

MR. DONOHUE: "Court of General Sessions of the Peace, "in and For the County of New York. The People of the "State of New York, against Walter B. Severance. The Grand "Jury of the County of New York, by this indictment, "accuse Walter B. Severance of the crime of Grand Larceny in "the first degree, committed as follows:
"The said Walter B. Severance, late of the Borough "of Manhattan, of the City of New York, in the County of "New York aforesaid, on the 16th day of September, in the "year of our Lord One Thousand nine Hundred and Seventeen, "in the night time of the said day, at the borough and "county aforesaid, with force and arms, one finger ring of "the value of five hundred dollars, and one other finger "ring of the value of three hundred dollars, of the goods, "chattels and personal property of one Edward R. Richter,

"on the person of the said Edward R. Richter then and there "being found, from the person of the said Edward R. Richter "then and there feloniously did steal, take and carry away, "against the form of the statute in such case made and pro-"vided, and against the peace of the People of the State of "New York and their dignity."

Second count of the indictment:

"And the Grand Jury aforesaid, by this indictment, "further accuse the said Walter B. Severance of the crime of "criminally receiving stolen property, in the first degree, "committed as follows:

"The said Walter B. Severance, late of the borough "and county aforesaid, on the day and in the year afore- "said, at the borough and county aforesaid, the same goods, "chattels and personal property mentioned, described and "set forth in the first count of this indictment, to which "reference is hereby made, of the value mentioned and set "forth therein, of the goods, chattels and personal Property "of one Edward R. Richter, by a certain person or persons "to the Grand Jury aforesaid unknown then lately before "feloniously stolen, taken and carried away from the said "Edward R. Richter, unlawfully and unjustly did feloniously "receive and have, the said Walter B. Severance then and "there well knowing the said goods, chattels and personal "property to have been feloniously stolen, taken and carried

"away, against the form of the statute in such case made "and provided, and against the peace of the People of the State of New York and their dignity.

"Edward Swann, District Attorney."

LUDWIG LUTZ, called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Lutz, you are one of the stenographers of the Court of General Sessions?

A Yes, sir.

Q And were you one of the stenographers in the month of October, 1917?

A Yes, sir.

Q And did you take the stenographic notes in the case of the People against Walter Severance, tried in General Sessions, Part Two, on October 29, 1917?

A Yes, sir.

Q And did you at my request make a transcript of that testimony of Walter B. Severance?

A Yes, sir.

Q And have you produced it at my request?

A Yes, sir.

Q Is that it?

A Yes, sir (Producing paper)

BY MR. EMBREE:

Q Have you looked it through, Mr. Lutz?

A I compared this copy with my notes.

Q You did?

A Yes, sir.

Q And that is a correct transcript, is it?

A Yes, sir.

MR. DONOHUE: Now, if your Honor please, I offer this in evidence.

THE COURT: You don't insist on his reading from his original notes?

MR. EMBREE: No, your Honor.

THE COURT: Very well. You waive any objection to this being secondary evidence?

MR. EMBREE: We waive that objection. I would like to reserve the right, however, if any contest comes up to refer to the original notes. I don't anticipate there will be any such necessity.

THE COURT: All right.

MR. DONOHUE: Now, may I read?

THE COURT: Yes, you may read any part that you wish.

MR. DONOHUE: With his Honor's consent, I am going to read the testimony of Walter B. Severance which was taken at the last trial, on which this perjury charge is based:

"COURT OF GENERAL SESSIONS OF THE PEACE

"CITY and County of New York, Part II.

"THE PEOPLE OF THE STATE OF NEW YORK

"-agaisnt-

"WALTER B. SEVERANCE.

"Before :

"HON. JAMES T. MALONE,

"Judge.

"New York, October 29, 1917.

"The defendant is indicted for grand larceny.

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"in the first degree and receiving in the

"first degree

"Indictment filed October 3, 1917.

"APPEARANCES:

"For the People: ASSISTANT DISTRICT ATTORNEY DONOHUE, ESQ.

"For Defendant: HERMAN H. LEVY, ESQ.

"The jury is duly impaneled and sworn.

"New York, October 30, 1917.

"DEFENDANT'S CASE.

"WALTER B. SEVERAQNCE, OF 805 Lafayette Avenue, "Brooklyn defendant called in his own behalf, being

"duly sworn, testified as follows:

"DIRECT EXAMINATION BY MR. LEVY:

"Q How old are you?

A Sixteen, going on seventeen.

"Q Where do you live, in Brooklyn?

A Yes, sir.

"Q With your father and mother?

A Yes, sir.

"Q And brothers?

A Yes, sir.

"Q And sisters?

A Yes, sir.

"Q Are your father and mother both here in court?

"A Yes, sir.

"Q Do you know Frank Carroll?

A Yes, sir.

"Q Do you remember Saturday evening September 15, 1917.

"A Yes, sir.

"Q Were you with Frank Carroll that evening?

A Yes, sir.

"Q You had come over from Brooklyn?

A Yes sir.

"Q What part of the city were you and Frank Carroll at?

"A Sixth Avenue and 47th Street.

"Q Where did you meet the complaining witness?

A At "Sixth Avenue and 47th Street.

"Q Was he going uptown or downtown?

A Downtown.

"Q Which way were you going?

A I Was going uptown to "50th Street, to take the subway, but I was going home. I "was going two or three blocks to take the subway downtown.

"Q The complainant was coming your way?

A Yes.

"Q With whom was the complaining witness with at that time?

"A With three gentlemen.

"Q Were they well dressed?

A No, sir.

"Q Can you describe the clothes the three gentlemen had?

"A Two had soft hats on and one had a cap on.

"Q After you saw these three gentlemen and Richter "what happened?

A Richter asked us to have a drink, He "grabbed hold of my arm and would not let go, so we took him "to the elevated.

"Q What did he say to you?

A He said, 'Come on, join "my gang, join my crowd.'

"Q Did he appear to be intoxicated?

A Yes, sir.

"Q What were the three men doing?

A Two had him by the "arm. The other was walking on the side towards the sidewalk.

"Q What did you say when he said join the party?

A I "said, 'Let go my arm.' Frank Carroll said to me, 'What is the

"matter with him anyway?' He said, 'Let go my friend's arm.' He "said, 'Oh, be a good sport, have a drink.' Then we walked "up as far as 48th Street and Richter said 'Come on, come have "a drink,' I said, 'I don't drink.' He wanted to pull me "in the saloon on the corner. I said No. He was talking "about 'Shimmie McCoo', I didn't understand him, and we took "the elevated.

"Q Where had the three men been at that time?

A We had "gone to the drug store. I said, "Get something to sober you "up'. I took him in the drugstore, and he gave him some kind "of mixture. When I came out of the drug store the three men "had gone.

"Q Do you know what the drug clerk had given him?

A No, sir

"Q What did the substance look like?

A Like a brownish "color, white.

"Q The three men had left when you become out?

A Yes.

"Q Was Frank Carroll with you in the drug store?

A Yes.

"Q Did you touch any of the glasses at that time?

"A No, sir. There was only one glass on the counter.

"Q Did the drug clerk give it to him himself?

A Yes.

"Q Coming out of the drug store what did you do with "him?

A He said, 'Come on, we go uptown, take me home, I "don't feel good.' 'Take me home.'

"Q Was there anything about his clothes that you noticed?

"A His trousers were torn here (indicating). He was dressed

"very poorly. His suit was dirty.

"Q He said, 'Take me home?'

A Yes. We went up the "elevated with Mr. Richter, Frank and I, and we rode up one "station, and he got sick. He was vomiting, in the ar, so he "got out of the car at the next station. He said, 'Get me a "taxi cab'. So the first car came along I raised my hand. I "said, 'How much will you charge to take us up to 107 Street.' "We asked him what the address was. He told us. So we got into "the car. Well, we went up to the house.

"Q Tell the Court and jury what happened in the taxi-cab.

"A Richter was sitting on the middle and Frank on the right hand "side and I on the left hand side. Richter lay his head down "on my lap and tried to open my trousers.

"Q What did he say or do?

A I said to Frank, 'What the "h- is the matter with this fellow?' Then I pushed him over "towards Frank's side. Frank pushed him over to my side. I "said, 'Sit up there.'

"Q Were you laughing or joking?

A Yes.

"Q What were you saying to Frank?

A I said, to Frank, 'What the h- is the matter with this fellow?' He said, 'He "'is a fairy.'

"Q You pushed him from side to side?

A Yes.

"Q When you got up to the house who got out first?

A I "got out first and helped Richter out, and Frank After.

"Q What did he talk about in the taxicab?

A 'Shimie "McCoo.', laughing and rolling his head around.

"Q You say you helped Richter out of the taxi-cab; he "fell coming out?

A Yes.

"Q Did you and Frank help him upstairs?

A Yes.

"Q When you got upstairs to the floor that he lived on, "what happened?

A It took him quite a time to get upstairs. "He had a bunch of keys and tried to get in, and his sister "opened the door for us.

"Q When you got into the apartment what did his sister "say to you and what did you say to her, and what did "complainant say?

A She said something to him about coming home. "She said it was very low. He said, 'I have to friends of mine. "So he went in the parlor and turned on the light, he said, "'Have a seat.' He took us by the shoulders and pushed us in "a chair. Then he place a Victrola record. I asked him if "he had 'Tosca's Good-bye,' a piece we have home. So he "said he would look for it. He went around looking for it "and I was sitting on the davenport, then he said to Frank 'Can you "play the piano?' Frank said Yes, and Frank played the piano. "Richter opened it.

"Q What time was this about?

A When the record "was nearly finished it struck one o'clock.

"Q After Frank played the piano and the record was played, "what did Richter do?

A He said, 'Come on, have a drink,' "he went in to the kitchen. Then Mrs. Schoenemann came into the "room. At the time she came he said, 'Get the hell out of here.'

"Q Did he speak in a gentle tone of voice to her?

A No, "rough.

"Q Did he say, 'please go to bed?'

A He said, 'You "go to bed'.

"Q What did he do with his hands?

A He closed the "door, and all the doors, ever one he closed, and she sat in "the kitchen. He said, 'What do you want, why don't you go to "bed?' And he closed all the doors.

"Q Did he pour out a drink into the tray?

A He brought "in the tray with some kind of a bottle of Scotch whiskey, "and a syphon and three glasses.

"Q Do you drink whiskey?

A No.

"Q Did you ever drink whiskey?

A No.

"Q What happened when he poured the whiskey out?

A He "poured about that much whiskey in the glass (indicating) and "The rest seltzer. I poured my glass, and I handed Frank my "glass, and I took Richter's glass and filled it with seltzer, "I said to Frank 'He better not drink any more, he has had "enough now.' He drank it. He made a funny motion with his "face. He said it tasted rotten. Frank, he said, 'You have "been drinking too much, that is why.'

"Q Then what happened?

A We went into the parlor and "played another song. He said, 'Have another drink.' I said, "All right, I intended to pour it back into the tray again. "It was nearly half full with the water and whiskey, the tray.

"Frank did not say, 'All right.' He said, 'No, we don't want "any more.' He said, 'You are not good sport, you get the "hell out.' He took Frank's coat and hat that was lying on the "chair and pushed him out. 'There is the door.' This was a "door going to the street. He put Frank out. He held his "hand against the door this way (indicating) and I tried to get "by but he would not let me by.

"Q Did you ask him for your money for the taxicab?

A "Yes, downstairs I asked him. It was three dollars for the taxi can fellow. Richter put his hand in his pocket. He said, 'I "got nothing, I lost everything.' I said, 'All right, I will "have to pay it.' So I Paid the bill. He said, 'I will give "it to you back.'

"Q After you had poured out the second drink on the tray "and after he had put Carroll out, what happened?

A I sat "down in the parlor and his sister came into the room. He told "her to get out, and closed the door. Coming back he tripped "on a small piece of wood on the door, a raised small piece of "wood and he fell on his nose. His sister said to me, 'What is "the matter with him?' She came in again I said, 'Go is all "right.' I said, 'Go into the bathroom, I will fix your "nose.' They said all right. I put hot water on his nose "in the bathroom and told him to hold his hand his hand up. I said, "'You better go to bed.' She said, 'You go in there with him "and after he falls asleep I will let you out, I have your coat

"and hat.' He came into the bed. He said, 'Stay until "morning, why do you have to go home anyway.' I said, 'I "have to go to the country.' He said, 'Go home tomorrow.' "I said, 'I live in Scarsdale, New York.' He said, 'You go to "Scarsdale tomorrow.'

"Q Did you tell him you had to take the 3:26 train?

"A No, I did not tell him that.

"Q After that what happened?

A I did not want to get "undressed. I wanted to go home. I was going to sit on the "edge of the bed until he should fall asleep. He pulled me on the "bed, pulled my trousers off, and ripped them off with my "Shoes. My shoes came off with my trousers. I had low shoes "on. He said, 'You better get undressed.' I left the room" a number of times, because he tried to do several things in "the room. He tried to get down on me in the room. I said, "'Wait a minute, I am going in the bathroom, I will be back.' He said, 'Come back again,' I went in the bathroom three or "four times Mrs. Schoenemann stood in the hall all the time. "The door was open. I put the lights on and Richter turned "them off.

"Q Tell us about the incident with the bird?

A I "said, 'I am going into the bathroom.' I went into the hall. "Mrs. Schoenemann's niece called me into the room, she said, "'Come in, there is something underneath my bed.'

"Q Did she come out and call you in?

A She was "standing

there. Bathroom was about fifteen feet away from her "bedroom. She came in. I went over to Mrs. Schoenemann. I "said, 'I have to go home.' She said, 'Stay until he falls "asleep'. She told me about the bird. She said, 'It is a "bat'. I said, 'I will get it.' The niece was standing up. "She was standing in her night-gown, the niece. I had Mr. "Richter's bathrobe on, because I was not coming into the hall "with nothing on. I went into the room and I grabbed hold "of some kind of a cloth and picked up the bird. It was a "little brown bird. I took it out and held it by the feet. I "said to the niece, 'Nice little bird.' She said, 'Pretty.' "I said, 'Do you want to keep it?' She said, 'No, I am afraid' "Then I heard Richter's voice, he said, 'Where are you?' 'Shimie "McCoo', and all that. I stood against the door. She said, 'Don't let him in.' 'He will be looking into my bedroom.' "I held my back against the door. Mrs. Schoenemann put out "the light. I said, 'Put up the light.' She turned it up. He "thought the door was open. He pushed against it and could "not open it. He thought it was locked and he turned the key., "and looked us in. I banged on the door and I said, 'Here I "am.' She said, 'That is all right, I closed the door quick "so that he would not see in the room'. After while he fell "asleep inside. Mrs. Schoenemann meanwhile came in and took "my trousers and shoes and left them in the next room. She "said, 'You can get dressed in this room.' A sort of a pantry.

"I got dressed in there. She said, 'What is the trouble, he "comes home and he is always getting me excited; he is always "drinking.' I said, 'I suppose he wants to be a good fellow.' "I said, 'Mr. Richter has my money for the taxicab.' She said, "If you 'phone tomorrow you will get your money. Mr. Richter "gets up early, about half past seven. You 'phone and you will "get your money.'

"Q How much was that?

A I gave the taxicabman five "dollars, the bill was three dollars. He only had a dollar "ten cents in change, No stores were open so I had to give "him three dollars and ninety cents. Mrs. Schoenemann said, "'God bless you; thank you for all you did,' and kissed me on "the forehead and I left the house. I 'phoned that next day.

"Q What time did you leave the house?

A A little after "two, about half past two.

"Q You say you 'phoned the next day?

A Yes.

"Q For what?

A To get my money. I was going to try to "make an appointment to get my money.

"Q Did you look up the number in the book?

A Yes.

"Q Did you speak to him on the telephone?

A Yes.

"Q Did you recognize his voice?

A No, sir.

"Q What did you say?

A I said, 'Is Mr. Richter there' "and he said, 'This is Mr. Richter.' I said, 'This is the "Young fellow helped you home last night.' He said, 'Oh, I "remember.' He said to me, 'You know, I lost quite a bit of

"stuff.' I said, 'Yes, what did you lose?' He said, 'A "lot of stuff, I would like to find it. I am going to see my "friend in the Knickerbocker Hotel and talk things over with him. "Probably we can make an investigation quietly and find the "culprits.' I said, 'When you were with me you were with three "fellows that did not look very well, not well dressed, not "the company you ought to keep,' according to how his house "was. Richter said, 'Can you come up tonight or meet me "down town?' I said, 'I don't go out every night.'

"He said, 'When can you come up?' I said, 'Any time during "the week.' He said, 'Come Wednesday night.' Frank 'phoned "me Wednesday, he said, 'Are you going over to town?' I said, "'No, I will stay home. I was going to Richter's house but "I telephoned and his sister told me he had gone out, to a dinner "or something.'

"Q You wanted Frank to go with you?

A Yes.

"Q For what?

A He told he thought my friend took "the things. I told Frank and he said he is got a H-of a "nerve to tell me that.

"Q So you 'phoned Frank?

A Frank 'phoned me and I told "him to come along. I telephoned Wednesday night. I said I am "coming up. I said, 'Is Mr. Richter there?' She said, 'He "has gone to a dinner.' I said, 'Will he be out tomorrow night?' "She said, She is going to the theatre Thursday night. That "is what the lady said.

"Q Mrs. Schoenemann?

A No, a much younger person., "the way the voice sounded. I said, 'What night shall I come "up?' She said, 'Friday or Saturday.' I said, 'I will "telephone Friday or Saturday just before I come up.' "Saturday night I came to meet Frank in New York, and Mrs. Richter "stopped me on the street.

"Q What was the time the detective was with him?

A He "was on the sidewalk. Richter stepped into the gutter, about "four or five steps, and took my arm. He said, 'Hello'. I "said, 'Hello'. He said, 'Are you the young fellow that took "me home?' I said, 'Step on the gutter, you will get run "over'. He stepped up. This detective was standing next. I "said, 'Be careful you are obstructing traffic.' So we walked "up to a haberdashery shop, towards sixth Avenue. He kept "asking for his rings, I said I did not have them. He said, "'I am going to have you arrested for taking my rings.' I "said, 'After all I done for you, you know I did not take "your rings.' He said, 'I am not saying you took them, but "I will have you arrested.' I said, 'Do you know what happened in the night.' I was afraid to tell my mother. You "sprained my wrist,' and I was afraid to tell my brother what "he done to me. He had bit me in the arm and up here ("indicating.)

"Q what did Richter say to that?

A He said, 'I was "intoxicated, that takes everything away.' 'That covers up

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"everything."

"Q Did you see any rings on his fingers when you met him?"

A No.

"Q Did you see any rings on his fingers when he was "up at the apartment?"

A No, sir.

"Q At any time that evening did you see any rings on his "fingers."

A No, sir.

"Q Is there anything you forgot to tell?"

A Not that I "can remember.

"Q How many times in all did you call Richter up after "you left that apartment?"

A Once.

"Q After this Saturday night how many times did you call "Richter up?"

A Once, on a Sunday, once on a Wednesday, and "I was going to call him on a Saturday night, and just before "I was crossing the street, to telephone they arrested me.

"Q Have you ever been convicted of a crime?"

A No.

"Q Have you ever been in any court in your life?"

A No.

"Q You never had any trouble?"

A No.

"Q Who do you work for?"

A I was taking a new position "with Frederick Pierce Company, 18 Rose Street, New York.

"Q Just before that who were you working for?"

A "With my brother. He is a chauffeur on automobiles.

"Q Does your brother have charge of several cars in the DeKelb Avenue garage?"

A Yes, I helped my brother around "the cars, washing them. My brother gave me money, some

"money, whatever he gave me, one or two dollars every week "to spend.

"Q Before that did you work for Mr. Ball who is in court?

"A Yes.

"Q How long?

A A year and a half.

"MR. LEVY: That is all.

"CROSS-EXAMINATION BY MR. DONOHUE:

"Q What did you do for your brother?

A Helping washing "cars for him.

"Q Were you working on this day you went to New York?

"A Which day?

"Q The day you met Mr. Richter?

A That was Saturday, "I did not work.

"Q Did you work for him Friday?

A Yes.

"Q Washing cars?

A Yes.

"Q Washing and cleaning around cars?

A Yes.

"Q How long have you been working there?

A About six "months or so.

"Q Washing cars and generally fixing automobiles?

"A Yes.

"Q Let me see your hands (witness showing hands to counsel)

A Yes.

"Q Show your hands

"(Witness showing his hands to the jury.)

"Q How long did you work for your brother?

A Six months "or so.

"Q Which brother?

A Frederick.

"Q What is his business?

A He takes care of a few cars around the garage.

"Q Does he own them?

A They are private cars.

"Q Is he the owner of a garage?

A No. I don't understand his business around there but he had his cars around there.

"Q What does he do?

A Keeps them in shape, washes and cleans them, to see if there is any trouble, and adjusts the engines. I help wash the cars.

"Q On some of them?

A Yes.

"Q What does your brother do with the cars?

A He gets paid by the men around there for the cars.

"Q He takes care of them in this particular garage?

A Yes.

"Q And you help him washing and cleaning them?

A Yes.

"Q How much does he give you for that?

A One or two dollars a week, spending money.

"Q Do you do anything else?

A Polish them.

"Q Just two cars?

A There are three or four cars.

"Q How many cars do you take care of?

A Three or four cars. I took care of three, and I used to do a little extra work for the other chauffeurs and they used to give me a quarter or half a dollar; whatever money they made.

"Q Who is Mr. Ball?

A My former employer. He is in

"the drug business, 607 DeKalb Avenue, Brooklyn.

"Q Is that a drug store?

A Yes.

"Q What did you do for him?

A I attended the store, "waited on people, rung up cash. Filled different little "things, salts, and the like.

"Q You first met Mr. Richter at 47th Street and Sixth "Avenue?

A Yes.

"Q You were with Carroll?

A Yes, sir.

"Q And Richter was with three other men?

A Yes.

"Q And dressed very poorly?

A Yes.

"Q Richter was dressed poorly?

A His cloths were "dirty and his trousers torn.

"Q You said before that he was dressed poorly?

A "According to my estimation yes, sir.

"Q He was dressed very poorly?

A Yes.

"Q There is nothing about him to indicate he was a man "of refinement?

A Yes, sir, you could see the quality of "his clothes were all right. He had a nice tie and that, but "he was dirty.

"Q You came along on the same side of the street with "him?

A He was coming down, I was going up.

"Q As you came along he grabbed you by the hand?

A As "I was going down the gutter he was going up. He said, 'Join "my gang, my crowd, have a drink.'

"Q What time was that?

A Around towards eleven o'clock.

"Q Where were you going?

A I was going to take the "subway at 50th Street and Broadway. I had been out with "Carroll to the Rialto Theatre.

"Q How did you happen to get to 47th Street and Sixth "Avenue?

A Because Frank Carroll and I had taken a young "lady Helen to the car. We walked with her as far as Sixth "Avenue and 42nd Street.

"Q Well, you got to 47th Street then?

A Yes.

"Q Why didn't you take the subway in 42nd Street?

"A We were going to take a walk up Sixth Avenue, looking in "the stores.

"Q Did you ever see any other fairies on Sixth Avenue?

"MR. LEVY: Objected to as improper.

"Question withdrawn.

"Q Did you say the complaining witness was a fairy?

A No

"Q Do you say so now?

A No, isr.

"Q You had been to the Rialto Theatre with Frank Car-"roll?

A Yes, and a young lady.

"Q And the young lady wanted to take the 42nd Street "car?

A Sixth Avenue car.

"Q You walked to 42nd Street and Sixth Avenue and put the "young lady on the car?

A Yes.

"Q Then you and Frank wanted to take the subway?

A Yes.

"Q Instead of walking over to Times Square subway station" you decided to walk to 50th Street, and Broadway?

A Yes.

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"Q Ad you decided to go up Sixth Avenue?

A Yes, "to look in the shop windows. I was going to by a pair of shoes "the night.

"Q At eleven o'clock at night?

A Yes.

"Q And you had just five dollars in your pocket you saved "up for that purpose?

A Yes.

"Q And as you were walking along you me the complaining "witness and these three men?

A Yes, sir.

"Q The complaining witness grabbed you by the arm?

"A Yes.

"Q Did that strike you as being peculiar?

A No, because "he was intoxicated.

"Q Did you know at that time what he wanted with you?

"A No.

"Q Did you have any idea what he wanted?

A No.

"Q You took him into a drug store then?

A Yes.

"Q What happened to the other three men?

A They had "gone when we came out. They did not go into the drug store. "They stayed outside.

"Q Did they talk to him at all there while you were present?

"A They were talking about this stuff and that.

"Q What stuff?

A About drinking and about him being "such a good sport and they had a good time, - on that order.

"Q You had this drink in the drug store with him?

Yes.

"Q You Came out in the street and you found yourself alone

"with Carroll?

A And Richter.

"Q Why didn't you go home?

A Because Richter asked "me to take him home, he was not feeling good.

"Q Was he able to walk?

A Fairly well. He was "staggering.

"Q He could walk?

A He really did not talk. He talked "about "Shimie McCoo.'

"Q How did you know where he lived?

A I asked him "Where he lived and he said, 472 Central Park West. He gave "the address.

"Q And you decided to take him in the train?

A Yes.

"Q Why didn't you go home then?

A He asked us to "accompany him home. He said he don't feel good.

"Q Where did you get on the station for the train?

"A 50th Street.

"Q How far did you go?

A One station.

"Q During this time the complaining witness was intoxicated?"

A He vomited in the car.

"Q You made no attempt to get a policeman and place him "under arrest?

A No, because I did not want to have the "man arrested.

"Q You never knew him before?

A No.

"Q Then you got off the elevated?

A Yes, at 58th Street, "or 59th Street, whatever the station is.

"Q Then you got into the taxi-cab?

A Yes.

"Q While you were in the taxicab he attempted to as sault"

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You?

A Yes, sir.

"Q What did he try to do?

A He laid his head in my "lap and was opening my trousers. I said, 'What in the hell "is the matter with you?'

"Q Didn't that strike you as funny?

A Yes, I pushed "him over to Carroll.

"Q Did you call a policeman?

A No.

"Q Did you make an outcry?

A No.

"Q Did you tell the chauffeur?

A No, sir. I told Carroll. "I asked him what was the matter with him.

"Q Despite the fact he tried to assault you in a taxicab, "you went into his apartment?

A I had to get my money. I "asked him for the money down on the street.

"Q Did you make nay outcry when you got out of the taxicab?"

A There was nobody there.

"Q Did you tell anybody?

A Carroll knew it.

"Q You knew what his purpose was in bringing you home?

"A He did noy intend to bring me home. I wanted my money.

"Q When you went home into his apartment you knew he was a "degenerate, you say?

A Yes.

"Q You knew what he would do to you?

A I did not "expect that.

"Q He tried to do it in the taxicab?

A I thought "he would stop after that. I said, 'Keep to yourself'.

"Q Wasn't that your very purpose in going to the apartment with him?"

A No, sir.

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"Q Despite the fact that man had attempted to "get down on you as you say, you went up to his own apartment "is that so?

A Yes, I went upto get my money.

"Q Did you go up in the elevator?

A No.

"Q How did you get?

A The stairs.

"Q Did you meet anybody going up?

A No.

"Q Did he drag you up?

A No, I helped him up.

"Q You went up of your own accord?

A Yes.

"Q What time was this?

A After twelve, it must have "been. It struck one o'clock by the clock in the parlor.

"Q You and Carrolls went up together?

A Yes.

"Q How old is Carroll?

A Around 18.

"Q Had you and Carroll been travelling together for some "time before this?

A Not long.

"Q Had't you been out before with Carroll and picked up "drunks?

A No.

"Q Isn't that all you do for a living?

A No.

"Q Had any man tried to do this you before?

A No.

"Q Then you were very much surprised when this man tried it?

A Yes.

"Q You told us before you were not surprised?

A I pushed him up. I did not understand the man. I said, 'What "the hell is the matter with him,' to Carroll.

"Q When he tried to open your trousers you did not know "what he was trying to do?

A I did know.

"Q Then it did not surprise you?

A I had heard of those

"people before.

"Q You had never seen one before?

A Yes, I did.

"Q Did anybody ever try to do that to you before?

A No.

"Q That was the first time?

A Yes, sir

"Q Of course, you were very indignant?

A You could "not be indignant in a taxicab.

"Q Were you?

A In a way. In one way I was and in one "way I was not.

"Q You thought he was a bad man.

A Yes.

"Q And despite that fact your went up to his own apartment with him?"

A Yes, to get my money.

"Q When you go into the apartment you had a drink and "you played the Victrola?

A I had not drink.

"Q He attempted to give you a drink?

A He played the "Victrola.

"Q How long were you in before Carroll left?

A Carroll "must have been there over half an hour.

"Q So Carroll left about half past twelve, is that right?

"A It struck one o'clock by the clock.

"Q And you stayed on with him?

A I tried to get away "with Carroll. I had picked up my hat.

"Q Did you tell Carroll when he was leaving you what to "do when he got on the street?

A I said to Frank, 'He will "not let me out.' I pushed with my hand. Richer had his "hand on the door and would not let me out. I tried to push "his hand away. He seemed to have superhuman strength. I

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"could not push him.

"Q Did Carrol come back after that?

A No.

"Q Did you tell him you wanted a policeman or anybody "else to take you out of that apartment?

A No. Richter "closed the door too quick, clammed it in Carroll's face, and "put on the bolt.

"Q After Carroll left you say Richter brought you into the bedroom and pulled off your trousers?

A I was in there "and I took him into the bathroom.

"Q He tore your trousers?

A Took them off.

"Q And pulled your shoes off with them?

A Yes.

"Q Did you make any outcry?

A I grabbed hold of my trousers.

"Q Did you make any outcry?

A No, sir, it would not have done me any good.

"Q After that you left the apartment about three-twenty?

A No, sir; about half past two.

"Q You fully realized what Richter attempted to do to you?

A Yes.

"Q Did you make any complaints to any policemen at that "time?

A There was no policeman around.

"Q Did you go to the station house?

A No, I took the "car home.

"Q Did you complain to anybody?

A No, sir.

"Q What name did you give that night?

A No name.

"Q Didn't you tell us before, you gave the name of "Carroll?"

A No.

"Q What name did you give?"

A Which night?"

"Q The night you were at Richter's apartment?"

A He "did not ask me my name.

"Q Did he give you anything at all?"

A No, he said, 'Come "over here.'

"Q When you called up the apartment the next day what name "did you give?"

A I said, 'This is the boy that took you "home last night.' I did not give any name.

"Q Did you at any time give any name to Mr. Richter?"

"A No, sir.

"Q You say you and Frank were laughing in the taxicab "when Richter was trying to open your trousers?"

A I laughed "at that time, I said, 'What the hell is the matter with him?'

"Q Did I understand you to say that Mr. Richter attempted to go into his niece's room?"

A Yes.

"Q And you protected her?"

A I held the door.

"Q And she appealed to you for protection?"

A No, sir, but she said, 'Don't let him in.' Mrs. Schoenemann said, that.

"Q He threw Frank out?"

A He pushed him out, took him "by the hand and said, 'You are no good sport, get the hell "out,' and slammed the door. I was going to say something to "Frank then.

"Q Had you ever been on Sixth Avenue in the neighborhood

"of 47th Street before this?

A No, sir.

"Q Never in your life?

A I bought things in a store towards that way, shoes.

"Q You had been there, however?

A Very seldom.

"Q Did you know these men you met with Richter, "on Sixth Avenue?

A No, sir, I never saw them before.

"Q Were you in the Knickerbocker Hotel that night?

"A No, sir.

"Q You were the night you were arrested?

A No, sir.

"Q You were outside of it?

A I came out of the "subway.

"Q It happened to be a mere coincidence that you were "there?

A The subway is on the corner of the Knickerbocker.

"Q Did I understand you to say before that you were "nefver arrested?

A Yes, sir.

"Q Is that true?

A Ye s, sir.

"Q Sure?

A Yes, sir.

"Q Mrs. Schoenemann was around the apartment most of the time you were there, wasn't she?

A Yes, sir.

"Q Did she say anything about what Mt. Richter attempted to do you?"

A No, sir, not that I know of.

"Q Did you make any complaint to her?

A No.

"Q Did you tell her anything about it?

A No, sir.

"Q Did you see these rings on Mr. Richter's fingers at "all?

A No, sir.

"Q You never saw them?

A No.

"Q What was your idea in saying you lived at Scarsdale?

"A Because Richter said to me why I had to go home I said "I had to go to the country.

"Q Did you tell Mr. Richter your name was Bobby Carroll, "of Carroll Cliff, Scarsdale, New York?

A No.

"Q When you called up next day didn't you tell him your name was Bobby Carroll?

A No, sir.

"Q You never gave him any name at all?

A No, he did not know my name, until he asked me that night.

"Q Were you ever out at three o'clock in the morning "before this morning?

A No, sir.

"Q What was the latest you ever were out?

A A littler "after twelve.

"Q That is the latest?

A Yes.

"MR. DONOHUE: That is all.

"REDIRECT EXAMINATION BY MR. LEVY:

"Q Are these the trousers that were ripped (showing the "trousers to the witness).

A Yes.

"Q Look at them.

A Yes, sir, those are mine.

"THE COURT: What are you doing with those trousers?

"MR. LEVY: Just showing them to the jury.

"THE COURT: You know that is not proper.

"MR. LEVY: Well, I offer them in evidence.

"MR. DONOHUE: I object and I also ask that the jury

"be instructed to Disregard that.

"THE COURT: Yes the jury will disregard that.

"MR. LEVY: Exception, please.

"BY MR. DONOHUE:

"Q What train did you take?

A I took the subway.

"BY JUROR NO. 6:

"Q What elevated train?

A The elevated.

"Q What train, the harlem train?

A I did not "notice the train, I was on. I had never gone on the Sixth "Avenue line before. I got on at 50th Street. He said, "Take the elevated here.'

"Q Did you get off at 58th Street; did you all have to "get of the train?

A I got off at the next station.

"BY MR. LEVY:

"Q You live in Brooklyn?

A Yes.

"Q Do you know very much about New York?

A No.

"Q How long have you lived in Brooklyn?

A About twelve "years.

"BY THE COURT:

"Q Did you go from Brooklyn to New York with Carroll "that night?

A I met Carroll at the Atlantic Avenue subway station in Brooklyn."

"Q Is he a Brooklyn man?

A Yes.

"Q You knew him in Brooklyn?

A Yes.

"Q How long have you known him?

A A few months. "He used to telephone up to the corner.

"Q Then you started out for New York that night?

A Yes.

"Q When did you quit work?

A I had no work Saturdays.

"The bad cars had been cleaned Friday.

"Q When did you start for New York?

A Around, going "on seven o'clock.

"Q What brought you over to New York from Brooklyn?

"A I went to meet this girl. Frank was going to introduce "me to a lady friend that had been working downtown with him.

"Q You did not go over there to buy sheos?

A I had "that in my mind, too. Frank said the young lady will leave "us early and I was to buy my shoes.

"Q The main reason was to meet this girl?

A Yes.

"Q When you reached Manhattan where did you go?

A We "Went to the Rialto Theatre.

"Q With the girl?

A Yes, sir.

"Q Did you know her before?

A No, sir. I just got "introduced to her that evening.

"Q When did you leave the theatre?

A About eleven "o'clock.

"Q Where did you go then?

A We walked over to Sixth "Avenue With this young lady and Mr. Carroll, across 42nd "Street, so that the young lady could take the car home.

"Q You didn't go home with this young lady?

A She "said, 'You go ahead and buy your shoes; no use of your "coming all the way with me.' I said, 'Frank, you go and

"take her home.' She said, 'No, Frank, I will see you Monday "downtown.'

"Q So you left her?

A Yes.

"Q What time was that?

A A little after eleven.

"Q What time was that?

A A littler after eleven.

"Q At what point did you leave her?

A On 42nd Street, "near the park there.

"Q Then what did you do?

A We walked up Sixth Avenue "looking in the windows.

"Q To buy shoes?

A Yes, sir.

"Q Did you go into one of the stores?

A I looked on "the outside, into one store, I think near 44th Street. I did "not like the shoes from the outside.

"Q Well, you did not buy any shoes?

A No, sir.

"Q After you made your inspection of the windows where "did you go?

A We crossed over to the Hippodrome, looking at "the bill-boards there.

"Q How long did you stay there?

A About five minutes "or so, then we walked up again until we struck 47th Street.

"We were going to take the subway at 50th Street.

"Q At the corner of Sixth Avenue and 47th Street you met "these men?

A Yes.

"Q Did you know any of them?

A No, sir.

"Q Did Carroll apparently know any of them?

A No.

"Q And you picked up a conversation with them?

A Richter "grabbed hold of my arm, he said, 'Come on.' He lurched forward"

as he was coming up the gutter, so I helped him up with "one step on the gutter. He said, 'Have a drink.' I said, "I don't drink.'

"Q You don't drink?

A No, sir.

"Q Does Carroll?

A No, sir.

"Q Why didn't you go away then?

A He held on to my arm.

"Q Could you not leave?

A Yes, but if I had left go "his arm he would have fallen in the gutter.

"Q At that time of night were there others on the "avenue?

A There were a few people on the avenue.

"Q It was Saturday night?

A Yes.

"Q At 47th Street and Sixth Avenue?

A Yes.

"Q You did not want to drink?

A No.

"Q And you did not like the company very much?

A No.

"Q It did not appeal to you very much?

A No.

"Q They were dirty looking and apparently had been drinking, and you were on your way home to Brooklyn?"

A Yes, sir.

"Q Did you stay with them; did you go into the same place?

"A No, sir. They wanted me to go into a saloon on a corner "and I would not. I don't think I would be allowed in a saloon.

"Q When you lifted this man up why didn't you go homr "then? What further attraction did this company have for you?

"A He said, 'Help me home, will you?' One of the other fellows left his arm. He had me by the left arm and by my coat "and I could not leave go. He had ripped my coat.

"Q Did you say to your friends, 'I am going home to "Brooklyn?'

A I said, 'am on my way home.' He said, "Oh, Schimie McGoo.'

"Q But you did go along with him?

A I bought him in "the drug store.

"Q When you come out of the drug store why didn't you "then go home?

A There was nobody to help him along.

"Q Nobody on the street?

A His friends had gone.

"Q Wasn't there anyone you could have turned him over "to?

A There was no one in sight.

"Q What interest did you have in this man?

A I "thought I would help him home and do something good. I "thought I was doing good. I did not think I would get into all "this trouble by helping him home.

"Q Did you suggest the taxicab?

A No, sir. Richter "suggested it.

"Q And you went in with Richter into the taxicab?

"A Yes.

"Q You say he made some effort to assault you in the "taxicab?

A Yes, sir.

"Q Did you try to attract the attention of the man "driving the car?

A No, the man driving the car had his "attention on the car. It seemed to be a limousine.

"Q Did you make any effort to attract his attention, "that you were being assaulted, or about to be assaulted?

"A I took it as a joke and I laughed and Carroll laughed.

"BY MR. DONOHUE:

"Q What is the girl's name?

A Helen something. I "don't remember the last name.

"Q She is a friend of Carroll's?

A Yes.

"Q What picture was playing at the Rialto?

A Taylor Holmes, if I am sure. I think it is in 'Fishing the Sea.' "or something.

MR. DONOHUE: That is all."

MR. EMBREE: May the witnesses be excluded?

THE COURT: Yes.

(All witnesses are excluded from the court room.)

FRANK CARROLL of No. 1140 East Thirty-fifth Street, Brooklyn called as a witness on behalf of the People, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Carroll, how old are you?

A I will be twenty in February.

Q Talk up so everybody can hear you.

A Twenty in February.

Q And where are you working now?

A Fire Department.

Q Of the City of New York?

A Yes, sir.

Q As what?

A Telephone operator.

Q And during the months of October and September of 1917 where did you work?

A Baker, Carruthers & Pall.

Q What kind of business are they in?

A Brokers.

Q What was your position there?

A Order clerk.

Q How long were you there?

A I was there three years.

Q Do you know this defendant, Walter B. Severance?

A Yes.

Q About how long do you know him?

A About three months.

Q And do you recall the first time you met him?

A I was introduced to him on Broadway.

Q You were introduced to him on Broadway?

A Yes, sir.

BY THE COURT:

Q Do you mean you know him three months from now, or three months before this thing happened?

A Three months before this thing happened.

BY MR. DONHOUE:

Q About when was the first time you met him?

A It was in the summer some time, in the latter part, around July.

Q And did you see him very often after that?

A Yes, sir.

Q And were you with him on September 16th, 1917?

A Yes.

Q Do you mind telling us where were you about 10:00, 11:00 or 12:00 o'clock that night, just describe the places?

A We had been to the Hotel York, and we had gone to Drake's for something to eat, and we had take a walk on Broadway, and we had gone back to the hotel and come back again, and we were around the Knickerbocker Hotel about that time.

Q And did you meet a man whom you subsequently identified as Mr. Edward R. Richter that night?

A Yes, sir.

Q Where did you meet him?

A In front of the Knickerbocker Hotel, on Broadway. Hotel, on Broadway.

Q And where did you go with him from there?

A We walked - he went over as far as Sixth Avenue, and we followed him over as far as Sixth Avenue and Forty-second Street.

Q When you say, "we" who do you mean?

A Walter Severance and myself.

Q You were a witness for Mr. Severance at the trial in which he was charged with grand larceny of some rings from Mr. Richter?

A Yes, sir.

Q Will you tell us how you happened to be a witness for Mr. Severance upon that trial?

A I had gone down to the Tombs to get my overcoat that I had loaned Walter, and I couldn't get the coat, and I went away, to make him a visit the day after.

Q The day after what?

A I had gone down on Saturday, in the afternoon, and I couldn't get my coat, and there was no visits that day, or they were over, and I went down a couple of days later and saw him.

Q Where was he when you saw him?

A In the Tombs.

Q The City Prison?

A Yes, sir.

Q And you had some talk with him?

A Yes, sir.

Q And did he tell you what he was being detained there for?

A He told me Mr. Richter had accused him of taking some rings.

Q And did he tell you who Mr. Richter was at that time,

or did you know who Mr. Richter was?

A I didn't know who he was, no, sir.

Q Did he tell you it was a man you and he had been out with the night before?

A Yes, sir, I knew it was the gentleman we had been out with; I knew it was Mr. Richter.

Q You had some talk at that time about his trial, did you not?

A Yes, sir.

Q Did he ask you to be a witness for him?

A He said his lawyer would call me as a witness, yes, sir.

Q Did he ask you what you were going to say when you took the stand?

A He told me what he was going to say, and wanted me to corroborate him.

Q Tell what he said about your testimony that you were to give at that trial?

A He said that we were to tell the story that we had met in the subway at Brooklyn, that we had come to New York together, that we met this girl, and that we had gone to the Rialto, that we had left there early and had taken the girl as far as Sixth Avenue and Forty-second Street and left her there; that we had walked a littler way on Sixth Avenue, when Mr. Richter came towards us with three men, and that Mr. Richter said something to us, and after a while the three men left us, and we took Mr. Richter in a drug store, and that he suggested taking an elevator; we were supposed to take the elevator; I don't know what station it was at, and rode up one station and got out and went downstairs, and we were supposed to

have seen a machine coming along Sixth Avenue, and we were supposed to have stopped it and this gentleman home to his house, in One Hundred and Seventh Street and Central Park West; and he said I was to say that Mr. Richter had attempted to put his head down on his trousers, and that we were pushing him from side to side, and that we had got out at his house, that he paid the bill, and we went upstairs, and that I was to say we had gone upstairs for the purpose of getting the money back, and we got upstairs.

Q What did he say you were to say happened in the apartment?

A When we got upstairs he said I was to say Mr. Richter had attempted to go down on him once while he was on the Davenport, and he also said Mr. Richter had gone down on him after I had left, and that is about all.

Q And did he say what you were supposed to say about the payment of the taxicab at the door?

A About what?

Q About the taxicab bill? Did he say anything about what you were to say about the taxicab bill?

A That we had gone up there to get the money.

Q What else did he ask you to do, anything else - asked you to say when you took the stand?

A To say I had met him the first time in the subway, that I had picked up a paper for him, and that is the way we had become acquainted.

Q Did he tell you to say that you had been to the Rialto Theatre?

A Yes, sir.

Q Did he also ask you to say what happened in the taxicab?

THE COURT: He has testified to that.

Q Now, tell us about what happened the next day, the next day after you had been to Mr. Richter's apartment?

A I was at the Hotel York, and he came in, in the afternoon.

THE COURT: I don't know whether he is testifying about what really happened, or what he has been told to say.

MR. DONOHUE: Up to now he is testifying to what he was told to say.

THE COURT: You better go back to his meeting Richter, and let him testify to what he says happened.

Q Go back and tell us what really did happen from the very first time you met Mr. Severance?

A I had met him in the afternoon.

Q Where?

A In the Hotel York, in the neighborhood. I had been down to business with this girl who works as a telephone operator where I am working, and we had lunch up around Fiftieth Street. Then we went up to the Hotel York, and I introduced Walter Severance to this girl, Miss Handybold, in the lobby of the hotel. We walked up as far as Forty-fourth Street, to some apartment house, where he went in and got some money; that is the place where he worked; and then we went to Churchill's, and we had a couple of dances, and I believe we had some port wine. Then we left this girl. We walked down from Churchill's down to Forty-second Street, and she took the subway home.

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Q Subway where?

A At Forty-second Street and Broadway.

Q Times Square station?

A Yes, sir.

Q And what did Severance do?

A (No answer).

BY THE FOREMAN OF THE JURY:

Q You didn't go to a show at all that night?

A No, sir.

BY THE COURT:

Q Was that the time you saw Richter, after you left the girl at Forty-second Street and Broadway?

A After we left this girl we went back to the Hotel York, and we stayed there a little while; I think we had a little sleep; and then we got washed and we came out and went up to Drake's and had something to eat, and we went back to the hotel again, and we came out and met Mr. Richter, about eleven o'clock, in front of the Knickerbocker Hotel.

Q What time did you leave the girl?

A It was early, about half past five.

BY MR. DONOHUE:

Q And where did you leave her?

A Forty-second Street subway.

Q And you went back to the hotel and had something to eat?

A Not there. We went back to the hotel and came back and went to Drake's restaurant.

BY THE COURT:

Q Did you sleep at the Hotel York?

A Yes, for a while.

Q Did you engage a room there?

A I had a room there form

The day previous.

Q You had a room?

A Yes, sir, had a room there.

BY MR. DONOHUE:

Q What time was it you met Mr. Richter that night?

A It was about eleven o'clock.

Q And where did you meet him?

A In front of the Hotel Knickerbocker.

Q Tell us what happened after that?

A Mr. Richter walked along Forty-second Street as far as Sixth Avenue, and we walked over and stood in front of the park. Mr. Richter was on the opposite side of the street, with a couple of soldiers then, and then he walked over to where we were standing, and he fell, and we picked him up, with a couple of others and Mr. Richter went up one side of the elevated, and we went up the other side, and we paid our fare and got on the same train, and I think we rode two stations. In the meanwhile we had been talking to Mr. Richter on the station. We rode two stations with him, and we went downstairs and went in the drug store, and we walked a littler way and came to a private garage and got a machine there and took Mr. Richter home.

Q Did he at any time while in that taxicab attempt to open your trousers or Severance's trousers?

A No, sir.

Q Did he make any attempt to assault you in any way at all?

A No, sir.

Q What happened after that?

A We got home, and Walter

Severance paid the taxi bill, paid about three dollars.

Q Where did he pay that?

A At Mr. Richter's door, and we went upstairs, we helped Mr. Richter upstairs; we got inside and sat down in the parlor, and his sister came in, and he told her to go outside, and then he played one Victrola record for us, and I played the piano, and he had asked us to have something to drink previously, and I refused. He set up the drinks. I think he had one himself. And after I had played the piano he asked me to have some more, and I refused, and he told me I was a bum sport and said I would have to go.

Q Who said that?

A Mr. Richter; and I asked for my hat and coat, and went.

Q Leaving Mr. Severance in the apartment with Mr. Richter and who else?

A Mr. Richter, and, as far as I know, his sister.

Q Did you see Mr. Richter make any attempt to assault Severance at any time?

A No, sir.

Q Did he make any attempt to assault you?

A No, sir.

Q Did you notice whether Mr. Richter had any rings on his fingers at that time?

A Yes, sir.

Q Describe those rings?

A He had one ring, I believe a Gypsy setting, with one stone, and platinum, and one ring which had the appearance of two, a double ring.

Q Did you see those rings on Mr. Richter's hands when you left the apartment?

A I had seen them when Mr. Richter was opening the door, when he was putting the key in the latch, and

I not iced them in the apartment also.

Q When was the last time you saw them in the apartment?

A I believe when he was trying to get a record out of an album, a Victrola record.

Q When was the next time you saw those rings?

A I saw them the day after.

Q Who had them?

A Walter Severance.

Q And what did he say about them?

A He said he had stayed with Mr. Richter for a while and had sucked them of his fingers.

Q Did he say at that time anything about Mr. Richter having assaulted him or gone down on him?

A He said that Mr. Richter had hit him, I think he said he had bit him up on the shoulder somewhere, and he had bit him on the hand, and had torn pants, and if Mr. Richter made any trouble for him he would say that he had done this to him, and that he would make this charge against him.

Q Tell us what happened after that with reference to those rings, what Walter Severance said about them, or did with them?

A What he told that same day? We went home that night, and a couple of days after I met down at Brooklyn Bridge, I believe, and he told me that he had been trying to sell them, first to a saloon keeper that he knew out his way, and that some woman whose house he had been to had wanted to buy one of them of him, but he said he wasn't going to sell them he was going to wait until all the trouble passed away, and that

he had hidden them somewhere.

Q How far - where did you walk that night from the time you met Mr. Richter? You say you met him outside the Knickerbocker Hotel, you saw him outside the Knickerbocker?

A Yes, sir.

Q And he was intoxicated at that?

A Yes.

Q Staggering around?

A Yes, sir.

Q And you saw him walk down to Sixth Avenue?

A Yes, sir.

Q And he got on an elevated station?

A At Sixth Avenue and Forty-second Street.

Q Did you at any time that night walk up Sixth Avenue with the defendant, Severance?

A No, sir.

Q As far as Forty-seventh Street?

A No, sir.

Q And did you have an appointment with him that night to meet this young lady?

A I had been in the hotel with him in the morning that I had gone down to work, but I had told him that I would stop in in the afternoon.

Q Did you tell him that you were going to bring this girl up with you?

A Not at the time, no sir.

Q During all the time Mr. Richter was in the taxicab, will you tell us what he was doing and what you two were doing?

A He kept repeating some expressions about Jimmie Because; I don't know the name; we were laughing and carrying on, and Mr. Richter wasn't saying much; he couldn't he was half off the street and we were talking among ourselves, I don't know exactly what about.

Q You didn't meet Severance at the Atlantic Avenue subway

Station that night, did you?

A No, sir.

Q And did you ad Walter Severance walk from Broadway and Forty-seventh Street and Sixth Avenue with this girl named Helen?

A No, sir.

BY THE COURT:

Q Was anything said between you and the defendant before you took the taxicab as to any purpose you had in taking the man Richter home?

A I believe at the Forty-second Street station we noticed that Mr. Richter - we saw that he had the rings, and Walter Severance said that we would go home with him. At first I didn't want to go and he said, "Let's go and he said, "Let's go home with him, anyway".

Q Did he say why?

MR. DONOHUE: If your Honor will let me proceed along other lines I can bring that part of the situation out.

BY MR. DONOHUE:

Q Mr. Carroll, how long do you know this man?

A Walter Severance?

Q Yes.

A I knew him about three months before this happened, before September.

Q And how often would you meet him in that three months?

A About three or four nights a week.

Q And where would you meet him?

A Broadway and Forty-Second Street.

Q And about what time of the night would you meet him?

A About half past eight or nine o'clock.

Q And how would you make arrangements to meet him at that particular place at that time?

A Sometimes he was up there around that section and other time I would call him up at some "Bedford" number.

Q And you would make arrangements to meet there?

A Yes.

Q And you met there about three nights a week?

A Yes, sir, about that.

Q After you arrived there, what would you do?

MR. EMBREE: Now, I object to that, your Honor. I don't see how that can have any relevancy to this perjury charge. There are seen distinct allegations in the perjury charge. I don't see what this has to do with it.

MR. DONOHUE: I will show why they took this man home this night, the reason for Severance getting into the cab with this man.

THE COURT: You may ask that. I don't think a general course of conduct would prove that. That might be material on the larceny transaction.

Q You had gotten into cabs other times with this defendant, had you not?

MR. EMBREE: I object to that.

THE COURT: Yes, objection sustained.

Q Well, you and this defendant had picked up people in

The street that you didn't know?

MR. EMBREE: I certainly object to that, your Honor.

THE COURT: The same ruling.

BY THE COURT:

Q Was anything said between you this defendant on the night in question as to the purpose in taking this man home, or was anything said about these rings between you and him before you got to the apartment?

A He said he liked the man, that the man, Mr. Richter, was taking to him all the time, and he wasn't paying attention to me, and Walter Severance said he would go home with him, that he liked him.

BY MR. DONOHUE:

Q Who said that?

A Walter Severance.

Q Said that he liked who?

A Mr. Richter.

Q And why did you go home with him?

A I was with Walter Severance at the time.

Q Did that ever happen before between you and Walter Severance?

MR. EMBREE: I object to that.

THE COURT: Objection sustained.

MR. DONOHUE: Your witness.

CROSS-EXAMINATION BY MR. EMBREE:

Q How old are you, Carroll?

A I will be twenty in February.

Q And Severance is sixteen, isn't he?

A Yes, sir, to my knowledge.

Q You have only known him for about three months?

A About that, yes, sir.

Q About three months before this happened?

A Yes, sir.

Q About three months before this happened?

A Yes, sir.

Q And this happened in September?

A Yes, sir.

Q Will you tell us again where you are working now?

A For the Fire Department, for the City.

Q In what capacity?

A Temporarily, as a telephone operator.

Q How long have you been there?

A About a little over a month.

Q Where did you work before that?

A Baker, Carruthers & Pell, brokers.

Q How long did you work for Mr. Baker?

A Three years.

Q Three years?

A Yes, sir.

Q In what capacity?

A As an order clerk.

Q As what?

A Order clerk.

Q Now, you told us that you did have a room at the York Hotel on one occasion?

A Yes, sir.

Q What was that date?

A I believe it was the 15th of September.

Q The day you met Richter?

A That I had the room there?

Q The day you met Richter.

A Yes, sir.

Q And you had a room at the York before, had you, occasionally?

A Yes, sir, a couple of times.

Q How many times?

A I don't remember exactly; once or twice, when I had been out late and I didn't want to get down

too late to business, I would take a room there.

Q And occasionally in the course of your work had you had rooms at other hotels?

A No, sir.

Q You stopped once at the Biltmore, didn't you?

A At one time, yes, for one night.

Q About when was that, Mr. Carroll?

A That was in the early part of September, I believe.

Q Did you occupy room 208 there?

A I don't remember the room number.

Q It may have that number?

A It may have been, yes.

Q The young lady that you mentioned had been employed at Mr. Baker's firm, had she?

A Yes, sir.

Q And her first name is Helen, is it?

A Helen, yes, sir.

Q And you saw her then on the day that you met Mr. Richter?

A At business, yes, sir.

Q And it is true, is it not, then, at the time that Walter was tried, in the month of October, you appeared as a witness?

A Yes, sir.

Q And you now say that that testimony which you gave there was false; is that true?

A Yes, sir.

Q Now, I want to ask you about two or three things that you gave in your testimony there.

A Yes, sir.

Q For the stenographer to take down; it is a matter of record; and I am not asking you what is the truth, but I am asking you what you said at that time?

A Yes, sir.

Q Now, at that trial, you did say, did you not, that you did not see the rings at all?

A Yes, sir.

Q And that was false?

A Yes, sir.

Q They asked you about that, didn't they?

A Yes, sir.

Q And you said you didn't see any rings on this man's hands?

A Yes, sir.

Q And they asked you if you knew whether Severance had taken any rings and you said as far as you knew he had not.

A Yes, sir.

Q You testified to that?

A Yes, sir.

Q They also asked you, did they not, the circumstances under which you met Walter?

A Yes, sir.

A And you said you met him in the subway?

A Yes, sir. I told that at his brother's suggestion.

Q At any rate you told it?

A Yes, sir, that I had met him in the subway, that I had picked up a paper for him.

Q And you testified to that?

A Yes, sir.

Q But you now say you met him on Broadway?

A Yes, sir, I was introduced to him.

Q Do you live home with your parents?

A Yes, sir.

Q Where is that?

A 1140 East Thirty-fifth Street, Brooklyn.

Q That is -

A In Flatbush.

Q And in the month of September, this year, what salary were you receiving?

A Seventeen dollars.

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Q Seventeen dollars a week?

A Yes, sir.

Q And have you always resided home with your parents?

A Yes, sir.

THE COURT: I think this will be a good place to stop and take a recess.

MR. EMBREE: Yes, I will be glad to stop here.

THE COURT: (To the jury) Gentlemen, please do not form or express any opinion as to the defendant's guilt or innocence until the case is finally submitted to you. Please do not discuss the case among yourselves, or allow others to discuss it in your presence. We will take a recess until two o'clock.

(The Court then accordingly took a recess until tow o'clock P. M.).

AFTER RECESS.

FRANK CARROLL, resumes the stand.

CROSS EXAMINATION (continued) BY MR. EMBREE:

Q Carroll, do you know Mr. Donohue, the Assistant District Attorney?

A Yes, sir.

Q And you visited him on several occasions in his office, didn't you?

A Yes, sir.

Q And did you there make some statements to him?

A Yes, sir.

Q About this case?

A Yes, sir.

Q Can you give us the date on which you first saw Mr. Donohue?

A I don't remember the date.

Q Give it to us you can?

A I believe I saw Mr. Donohue for the first time on the night that I was arrested.

Q O the night you were arrested?

A Yes, sir; I don't remember the date.

Q That was the night after Severance had been tried and acquitted, was it not?

A Yes, sir; yes, sir.

Q On that night you were arrested?

A Yes, sir.

Q And charged with that larceny?

A Yes, sir. No, I was not charged with the larceny. I was committed for perjury.

Q Are you sure about that?

A Yes, sir.

Q Do you know whether or not the records show that you were committed for grand larceny?

A I believe the papers

were twisted and I believe they were straightened out at the time that I was bailed. At the time I was bailed the papers were twisted, and they straightened them out.

Q At the time you were bailed out they did read grand larceny?

A What say?

Q At the time you were bailed out they did read grand larceny?

A Yes, sir.

Q Then you were arrested the night after the trial?

A I was arrested the same day.

Q The same day?

A Yes, sir.

Q And you remained in the City prison until the 17th day of November?

A Yes, sir.

Q And then you were bailed out by Mr. Baker?

A Yes.

Q Well, now, perhaps we can get at the date this way: How soon after the trial, which occurred on October 30th, I believe, how soon after the trial did you have a talk with Mr. Donohue?

A I was arrested the day that Walter Severance was acquitted. I saw Mr. Donohue that evening, and I believe I had a talk with him the following day, if I am not mistaken, I believe it was the following day or the day after.

Q That evening did you talk to him in his office?

A No, sir.

Q Where?

A Down stairs, in the office of the tombs.

Q In the office of the city prison?

A Yes, sir.

Q And who was present?

A Mr. Baker and Mr. Donohue

and a friend of Mr. Baker's, I believe.

Q Do you remember his name?

A Mr. - I believe it is McDermott. No, I don't remember the name. He is with Harriman and Company. He is a friend of Mr. Baker's.

Q How soon after that did you see Mr. Donohue?

A I saw him the next day, I believe.

Q The next day?

A Yes, sir.

Q When he talked with you in the city prison, was there a stenographer there and took down what you said, or did he just talk to you informally?

A Just informally, the night.

Q Now, the next day you saw him in his own office, did you?

A Yes, sir, I believe it was the next day.

Q One of the keepers brought you over?

A Yes, sir.

Q And who was present at that time?

A Mr. Baker and I believe Detective Haron, Mr. Donohue, and I believe there was a stenographer there at the time.

BY THE COURT:

Q Who is Mr. Baker?

A Mr. Baker, my employer, former employer.

BY MR. EMBREE:

Q And about what hour was that, can recall?

A I believe it was around lunch time, around eleven o'clock, if I remember correctly.

Q Did you see Mr. Donohue again after that?

A Yes, sir, I saw him in the afternoon, I believe.

Q Who were present then?

A The same people.

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Q The same people?

A Yes, sir.

Q And did you see him again after that?

A Yes, sir.

Q When?

A I believe I saw him a couple of days after that, when I made a statement.

Q When you made a statement?

A Yes, sir.

Q And a stenographer was present and took it down?

A Yes, sir.

Q Were you brought over from the city prison that time by a keeper?

A Yes, sir.

Q And do you recall who were present on that occasion?

A I believe Mr. Baker and a detective by the name of Von Twisten, and Mr. Donohue and the stenographer and myself, and my mother was outside.

Q On the last occasion, did you tell Mr. Donohue substantially the same as you have told us here?

A Yes, sir.

Q That is, on the last occasion?

A Yes, sir.

Q On the first occasion you didn't tell him at all, did you?

A I didn't say anything on the first occasion.

Q On the second occasion you didn't make a full statement, did you? I am trying to bring out for these gentlemen here why it was necessary for you to appear several times?

A I started to, but I believe I started to cry, or something like, and I didn't make any statement at all.

Q Well, at any rate, you didn't tell Mr. Donohue on the first occasion when you were in this office all that you told us now?

A I told Mr. Donohue the first evening that

Walter Severance had taken the rings. I told him that in the office of the city tombs, but I didn't make any statement. I told him that Walter Severance was the one that had taken the rings on the day I was arrested, and I told him that in front of Mr. Baker and this other gentleman and Mr. Donohue, down stairs, that Walter Severance had taken them and had shown them to me.

Q That was the night after the trial?

A That was the same night.

Q It is true, is it not, then, that on the night of September 15th, the day alleged in this indictment, you did meet Severance?

A The ninth?

Q I am speaking of the 15th day of September?

A The day that I met Severance, the night we met Mr. Richter?

A Yes.

A Yes, sir.

Q It is true you did meet Severance that afternoon?

A Yes, sir.

Q And while you and Walter were together you did see Richter, didn't you?

A Yes, sir.

Q And that was the first time that you and Walter had seen Richter, wasn't it?

A Yes, sir.

Q And you told us a while ago, as I recall it, that when you first saw Richter he was with some other men?

A That was the statement that I made at Walter Severance's trial.

Q At the trial?

A Yes, sir; when we saw Mr. Richter he was alone; when we met Mr. Richter he was alone; he was coming out of the Knickerbocker Hotel.

BY THE COURT:

Q You didn't meet him then, did you? You said nothing to him?

A Oh, when we met Mr. Richter, Mr. Richter came out of the Knickerbocker, and he walked over to Sixth Avenue and 42nd Street, and we followed him over there,

BY MR. EMBREE:

Q You told us a while ago, did you not, that before he went up the Elevated steps he was with some other men?

A Mr. Richter fell, and two men picked him up, along with Walter Severance and myself.

Q Two men?

A Yes, sir.

Q Was it two, or three?

A Two men.

BY THE COURT:

Q Were they the soldiers you speak of?

A No, the two soldiers were a standing on this side of the street, and Mr. Richter left them and crossed over.

Q You did see him with two soldiers?

A Yes, sir, he had been talking to two soldiers on this side of the street, and he walked over, and he fell right where we were standing, and two fellows picked him up.

BY MR. EMBREE:

Q After he left the soldiers, as you say, did the two fellows walk across with him?

A Mr. Richter went up the stairs on one side, and we went up on the other side.

Q After he left soldiers, did he walk across the street with these other two?

A No, sir, Mr. Richter walked across the street himself, he walked across the car-track, and he fell about where we were standing, and these other two fellows must have been standing around the machines that were there, and they picked him up, and we were standing there, and with the two of them we helped pick him up also.

Q What did the other fellows do after they picked him up?

A We went up one side; Mr. Richter had gone up this side, and we crossed over and went up the other stairs, and these two men came up the same stairway as Mr. Richter did, and the five of us were up on the same platform.

Q That was at the corner of 42nd Street and Sixth Avenue?

A Yes, sir.

Q Now, after you had ridden up on the L. for a ways you got off the, is that right?

A Yes, sir.

Q And you and Walter and Richter all got in a taxicab?

A After we had gone into a drug store, yes, sir.

Q Yes, after you had gone into a drug store?

A Yes, sir.

Q And then you and Walter and Richter rode from there to Richter's home?

A No, sir; we walked to a garage, we walked on, I don't know that Avenue it was along---I don't know whether along Seventh or Eighth Avenue, in the colored section, we walked and we walked up as far as sixty some odd street to a private garage, and we got a machine there.

Q After you got in the machine you rode, the three of you together, in the machine up to Richter's home?

A Yes sir.

Q And Richter was very drunk at the time, wasn't he?

A Yes, sir.

Q And while he sat in the cab didn't he roll about somewhat?

A Yes, sir.

Q As a drunken man would?

A Yes, sir.

Q And on the trial you testified--- I am not asking for the fact, but what you testified---on the trial you testified that Richter did make an attempt to open Severance's pants?

A Yes, sir.

Q He did put his head in Severance's lap?

A That is what I testified, yes, sir.

Q Now, I am not asking for the fact again, but I am asking for what you testified to. On the trial you did testify that you didn't see the rings?

A Yes, sir.

Q And you also testified that you didn't see any rings in the apartment, did you not?

A Yes, sir.

Q And you have told us that on that afternoon, at any rate, you and Walter had been in the company of a young woman?

A Yes, sir.

Q That was the same afternoon, was it?

A Yes, sir.

Q And wasn't her first name Helen?

A Helen, yes, sir.

Q Did you on the trial say that you and Walter and Helen had been to the Rialto Theatre?

A No, sir, I said that we had not.

Q On the trial?

A Yes, sir.

Q Did you on the trial say that you had walked with the girl Helen and Severance over as far as 42nd Street?

A Yes, sir.

Q And Sixth Avenue?

A Yes, sir.

Q Now, you told us a while ago that you talked this matter of what you would say on the trial of Walter, that you talked that matter over on one day when you visited Walter in the city prison?

A Yes, sir.

Q And I understood you to say that is the only time you talked to him about it; is that true?

A When he called up---he called up Mr. Richter that time, and he gave me name, and at that time he said that if he ever got in any trouble that he would say that we had been out with this girl and we had left her and we had been walking along Sixth Avenue, or whatever it was, and we had met Mr. Richter with these men, and then when I went down to the tombs to get my coat he told me that he was going to tell that story, that was the story he had told his lawyer and he wanted me to corroborate it.

Q When was it he first told you this, over the telephone?

A The night he called up Mr. Richter, he was in Gray's drug store. He was talking with Mr. Richter, and after the telephoned he told me that.

Q Do you recall that was Sunday night?

A I don't remember.

Q Do you recall whether it was Sunday night, the next

Night after you had met Richter?

A No, sir, I don't believe it was.

Q Well, give us your best recollection of when it was, then?

A Yes, sir, I think it was the next night that he called up Mr. Richter and said that he wanted to come up and see him, or something like that.

Q And it was right after he had been talking to Mr. Richter on the telephone that he told you that he would tell this story if any trouble came up?

A That he thought he would. He was not sure about it, but that is what he said, he would say some story like that.

Q Did you hear what he said to Mr. Richter over the telephone?

A I did not. I heard some of what he said, yes, but I didn't hear anything of what Mr. Richter had intimated that there would be any trouble, did he?

A He said Mr. Richter had accused his friend, he said, of talking the rings.

Q His friend?

A He said Mr. Richter had accused his friend, he said, of talking the rings.

Q His friend?

A He meant me. Walter told me Mr. Richter said he thought Walter's friend had taken them. That is what he told me.

Q So Walter told you then that Richter had suspected you?

A Yes, that is what he said, yes, sir.

A And he said that if he, Walter, got in any trouble, he would tell this story?

A Yes, sir, that is what he said.

Q Did he suggest to you at that time any story that you

had better tell you got into trouble?

A No, sir.

Q He did not?

A He said that if he got into any trouble he would tell this story, and he said I was there with him at the time, and I had better stick to the story, if he got in any trouble, and then he told me he had told this story to his lawyer the day I went down to the prison, he told me he had told this story to his lawyer.

Q I am talking about this first visit. I haven't come down to that yet. Now, will you just tell us again what story he told you he would tell this night after he had finished tale phoning to Mr. Richter?

A That we had been---first he said to say that he had met me at the Atlantic Avenue station, and that we had come over to New York together, and that I was to meet this girl and was to introduce him to her, that we were to go to the Rialto Theatre, and that after we had come out from the Rialto, that we had left early, we had walked along Broadway over as far as Sixth Avenue, and that we had left the girl there somewhere, and that we had walked up towards 47th Street; that he had some money in his pocket, and he was going to buy a pair of shoes at some store, and when we got there that I was to say that Mr. Richter had been coming along with three men, and one of them had a cap on and two had slouch hats, and that Mr. Richter had grabbed hold of him and asked him to join the party and be a good sport and come and have some drinks with him, but we did, as a matter of fact, take him in the drug store, but he said to say we had

taken him in the drug store and got him something to drink, and got in the L. and rode one or two stations, and we had come down and had taken a machine that was passing along the street and brought him up to his house, and that when we got up there Mr. Richter fumbled around for his money down stairs, and that Walter had paid the bill, and that he was going up to the house to get the money.

Q Let us not have any misunderstanding about it. He told you all this immediately after he had telephoned to Mr. Richter on that Sunday night?

A No, sir, he didn't tell me all this at all, then.

Q That was my question. I want you to tell me just what he told you on this particular Sunday night after he had finished talking to Mr. Richter?

A I understand now. I misunderstood you at first.

Q Tell us what he did tell you on that Sunday night?

A He said he would tell some story like this: That we had been out with this girl, that we had gone to the Theatre and had left her at 42nd Street, and were walking up Sixth Avenue, and he was going to buy some shoes, and this man had come up to us and asked us to go home with him.

Q Is that as far as the story went on this Sunday night?

A He said if Mr. Richter made any trouble for him he would make this charge against him of having gotten down on him.

Q Is that all that he said Sunday night?

A And that he would produce the marks, he said, that Mr. Richter had made on him.

Q He said that Sunday night?

A Yes, sir, to the best of my knowledge.

Q Now, you didn't see Walter during the seventeen days that you were in the city prison, did you?

A No, sir.

Q And you didn't see him until after he had been arrested in November, later?

A I didn't see him at all.

Q Well, you saw him in the city prison after he had been arrested?

A Just that once, one visit.

Q You recall, don't you, that Walter was arrested about November 23rd?

A I don't remember the date.

MR. DONOHUE: Which arrest?

MR. EMBREE: I am speaking about the arrest on this perjury charge.

Q About November 23rd he was arrested?

A About that. I don't remember.

Q What?

A I don't remember the date, but it must have been around then.

Q And how soon after that was it that you saw Walter in the City prison?

A Since he has been arrested again?

A I haven't seen him.

Q Well, didn't you go down and see him about your coat?

A No, sir, not the second time.

Q You didn't see him?

A No, sir.

THE COURT: That was before the trial for larceny.

MR. EMBREE: Yes, that is my impression.

Q How soon after his first arrest did you see him?

A A bout a week after, I believe.

Q About a week after his first arrest?

A Yes, sir. I went in under the name of Ralph Severance, I believe, at his brother's instructions. He told me they wouldn't let me in---

Q Never mind, I didn't ask you that. Now, when you went to see him where did you visit him, I mean in the City prison?

A Where the visitors go in.

Q What floor is that?

A I believe it was box 17, something like that.

Q Up-stairs?

A It was one of the tiers, anyway.

Q On one of the tiers?

A Yes, sir.

Q And visitors there---between the visitor and the man who is locked up there are two screens, are there not?

A Yes, sir.

Q Eighteen inches or two feet apart?

A No, sir, not as much as that.

Q Tell us how far apart they are?

A About this far apart (indicating).

Q About that far apart?

A Yes, sir.

Q And you have to talk through those two screens?

A Yes, sir.

Q And you talked to Walter then?

A Yes, sir.

Q And you say it was then that the told you the kind of

a story he was going to tell and what he wanted you to tell?

A Yes, sir.

Q Now, I want you to tell these gentlemen in great detail everything that Walter told you?

A That day?

Q That day?

A He told me that---this was the story that he had told his lawyer: That we had - that I had - that I was going to bring this girl up-town to introduce him; that I had met him in the subway at Atlantic Avenue, and that we had met the girl; that we had gone to the Rialto, and that we had left there early and that we had walked along 42nd Street as far as Sixth Avenue and had left the girl there; that she had taken some car there; and that we had walked to 47th Street, up around Sixth Avenue, and that we had met Mr. Richter coming along towards us with three other fellows, and Mr. Richter had grabbed hold of Walter's arm and had said, "Hello there, Kid", or some thing, "Join us, join the gang and have a drink", and at first he had refused, but that we had finally gone with them, and that we had taken him into a drug store or something, into a drug store to get him something to drink to sober him up, and that when we came out the three men were gone, and that we had taken him up in the Elevated, that we had ridden a couple of stations, and that Mr. Richter had got sick, and that we had gone down, and that we had taken a taxicab that was passing by, and that while we were in the cab that Mr. Richter had attempted to go down on him, had pushed his head down in his lap and tried to open his trousers, and he said

for me to tell the same thing, that he had tried to open my own also, and that we were pushing him from side to side, and that he kept repeating "Jimmy McGrue" all the time, and that we had got out at 107th Street, and that Mr. Richter had no money, and he paid the bill, and we had gone up stairs, and Mr. Richter asked us to have a something to drink, and that he had refused after we had one drink - after we had the drink we had reffused the rest, and that Mr. Richter had made attempts to go down on him once or twice while he was on the davenport, and he said to say that Mr. Richter didn't like me because I wasn't fooling around him as much as he was.

Q Speak up louder?

A That after he asked me to drink that he put me out, and that I was to say that I hadn't seen any rings while I was up there at all, that I had never seen them, and also I was to say that Mr. Richter had got down on him in the taxicab, and he also told me that Mr. Richter had got down on him while he was up in the house. That is about all I can remember.

Q About how long were you up there?

A About three quarters of an hour, I believe.

Q In the city prison?

A Oh, no.

Q I mean in the city prison?

A How long was I in the city prison?

Q Yes, while you were talking to Walter?

A About half an hour.

Q You were there about half an hour?

A Yes, sir.

Q He told you on this occasion then, did he, in the city prison, that this was the story that he had talked over with his lawyer?

A Yes, sir.

Q It is just the same story he told you that Sunday night, isn't it?

A Yes, sir, practically.

Q I understood you to say that you had seen the rings in Severance's possession?

A I did see the rings.

Q You say that now, do you?

A Yes, sir.

Q How?

A I saw them the day after in the hotel, yes, sir.

Q You say that was at hotel where you had a room?

A At the hotel York, yes, sir.

Q Where you had a room?

A Yes, sir.

Q How much money did you have in your pocket that day?

A I think I had about fifty cents, if I remember right.

Q Fifty cents?

A I had some change anyway; I don't know what it was.

Q And do you know how much money Walter had?

A He had about five dollars, I believe. I believe he had a five dollar bill.

Q Do you think he had that much money?

A Yes, sir.

Q Did you ever tell anybody that you had about ten cents that day, and, so far as you knew, Walter didn't have any money, either?

A No, sir, not to my knowledge. He paid taxi bill out of his five dollars, paid a three dollar taxi bill.

Q I am talking about the day you say you saw the rings. Did you see the rings in Walter's possession before he paid the taxi bill?

A You mean the day I saw the rings in the hotel York?

Q The day you say you saw them, yes, sir?

A I had no money then. I think I had some change in my pocket, and I don't think Walter had anything.

Q How much do you say you had in your pocket that day?

A I don't know exactly; I had some change; not much.

Q And you think Walter didn't have any money?

A I don't think he did, no, sir.

Q Did you or Walter, either of you, say anything about realizing any money on these rings, pawning them, or anything of that sort?

A He said he thought---first he said he thought he would pawn them.

Q He said that?

A He said he thought he would.

Q Did you ever tell anybody that Walter said he thought he would pawn the rings before just now?

A I don't believe so, no, sir.

Q Think about that pretty carefully. You don't think you ever did?

A No, sir, I don't think I did.

Q Did Walter let you look at those rings there in the hotel where you had the room?

A Yes, sir, I saw them.

Q You had them in your hand?

A Yes, sir.

Q Well, now, how long did you have them in your hands?

A For a little while. I had them on for a few minutes, and

gave them back to him.

Q Well, about how long do you think you had them all together?

A I don't know. About - a couple of minutes. I had them on while I was in the room, and I gave them back to him.

Q This was in your room in the Hotel York, was it?

A Yes, sir.

Q About what hour was it?

A It was in the afternoon that he came up; it was about half past four, I believe, or around five o'clock, that he came to the room there.

Q Half past four or five o'clock?

A Yes, sir, If I remember right.

Q And what day of the week?

A I believe it was a Sunday.

Q I understood you to tell these gentlemen a while ago that you occasionally took a room in New York when you were detained here late?

A Yes, sir.

Q If you are living with your father and mother in Brooklyn, why did you get a room here in the middle of the afternoon in the hotel York?

A The room was there from the previous day. The time was not up on that. I think the time was up that evening.

Q You didn't go home?

A Not that day, no, sir, The time was not up on the room.

Q You stayed in this hotel room during the day?

A Yes, sir, during the day.

Q You didn't have an appointment to meet Walter that Sunday afternoon, did you?

A An appointment to meet him?

Q Yes?

A No, sir.

Q He had not told you that he was going to come down to your room to see you that afternoon, had he?

A No, sir.

Q He just happened in?

A He just came in, yes, sir.

Q How much did you pay for your room in the Biltmore?

A I didn't pay for the room.

Q Oh, I see. You were there with some one else?

A Yes, sir. I was alone in the room, but the room was paid for by some one else.

Q Can you give us the name of the gentleman who paid for it?

A Yes, sir; his name is Mr. W. R. Morris.

Q W. R. Morris?

A Yes, sir.

Q Do you happen to know how much Mr. Morris paid for that room I the Biltmore?

MR. DONOHUE: Oh, I object to that, if your Honor pleases.

THECOURT: How is that material?

LMR. EMBREE: Well, I think it will affect this man's character.

THE COURT: I don't see how the price of the room would affect his character.

Q Didn't you have this room in the Biltmore paid for by this man in order that you might have immoral relations with this man?

A No, sir.

Q Then, will you tell these gentlemen here why you did have a room in the Biltmore paid for by Mr. Morris?

A Well, I told you that several times I had business early in the morning. I had been getting in late. I knew this gentleman, Mr. Morris. He comes from Cleveland, and he was stopping at the Biltmore at the time. I wouldn't have a room at the Biltmore. I would take a room somewhere else. And he suggested my taking a room there, because he was stopping there. Mr. Morris was on the seventh or eighth floor, I believe, and he had a single room. Otherwise I would have shared his room.

Q How did you happen to know Mr. Morris so well?

A I was introduced to him by a friend of mine.

Q Just a casual acquaintance?

A I have known him for quite some time.

Q Never worked for him, or anything like that?

A No, sir.

Q Now, when you arrived at Mr. Richter's house, you say a piece was played on the Victrola?

A Yes, sir.

Q And you played the piano?

A Yes, sir.

Q And did you see a woman who was said to be Mr. Richter's sister?

A Yes, sir.

Q She was there?

A Yes, sir.

Q Did you learn her name?

A No, sir.

Q Didn't learn it?

A I didn't know her name, no.

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Q Did you see a younger woman there also?

A No sir.

Q Just saw this lady who is said to be the sister?

A Yes, sir.

Q Ad then you afterwards left?

A Yes, sir.

Q Ahead of Walter?

A Yes, sir.

Q That part of it is true, is it?

A Yes, sir.

Q You have not been indicted for swearing falsely on the other trial, have you?

A Not to my knowledge, no, sir.

Q You understand, do you, that what you are doing now, testifying here, is what is called turning state's evidence, testifying here, is what is called turning state's evidence, testifying against the man that is charge with the same crime you are?

A Yes, sir.

Q When you appeared before the grand jury, I presume you told the same story there that you finally told to Mr. Donohue, didn't you?

A Yes, sir.

Q Do you remember how soon after you had told the story to Mr. Donohue you went before the grand jury?

A I believe it was about ten or eleven days after; I don't remember; I know it was some time after; it was more than a week.

Q You were still in the city prison at the time?

A Yes, sir.

Q So that you came from the prison to the grand jury to give your testimony?

A Yes, sir.

Q And after you had testified before the grand jury do you recall how long it was before you were released on bail?

A I believe it was two or three days.

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Q Yes.

A Something like that.

Q And as you understand it you are still on bail on that charge?

A Yes, sir.

MR. EMBREE: That is all.

RE DIRECT EXAMINATION BY MR. DONOHUE:

Q You are out on bail now, are you not?

A Yes, sir.

Q How long did you work for the broker's firm?

A More than three years.

Q Three years?

A A little over three years.

Q Up to when?

A Up until the day that I was arrested.

Q And what is the name of that firm?

A Baker Caruthers & Pell.

Q And what was your occupation there?

A An order clerk

Q And what did you do before you went there?

A I worked for Boothby Baldwin and Hardy, lawyers.

Q Is this the lady you speak of as Mr. Richter's sister (indicating Mrs. Schoenneman)?

A Yes, sir.

MR. DONOHUE: That is all.

EDWARD R. RICHTER, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DONOHUE;

Q Where do you live?

A 472 Central Park West.

Q Mr. Richter, what is your business?

A Travelling salesman.

Q Traveling salesman?

A Yes, sir.

Q For whom?

A For Devlin, Gardner & Company, 15 West 34th Street.

Q How long have you been employed by that firm?

A Over six years.

Q And who were you employed by before that?

A A firm by the name of K. L. Carey & Company.

Q How long were you employed by them?

A Eight years.

Q Do you remember the night of September 15th, 1917?

A Yes, sir.

Q Do you remember going into the Knickerbocker Hotel?

A Yes, sir.

Q Will you tell us what happened to you in the Knickerbocker Hotel, what you did, and the events that happened after that?

A I was going down to a Turkish bath, about a quarter of eight, and I went into the Knickerbocker Hotel for a drink; I had a cold, and I was going over to the Turkish bath, and I met while I was there two gentlemen in the Knickerbocker hotel, and they finally got into conversation with me, and they asked me if I would have another drink. I said, "No, gentlemen; I have an appointment; I am going on my way". Well, one of the fellows came over to me, and he insisted upon my having a drink. There were three of them, in fact. One man was a little bit under the weather, and this fellow says, "Well, now, you better join us and have a drink, otherwise this fellow will be offended", so I took another drink with

him, and I finally had them take a drink with me, which was the third drink, and after that I don't remember anything until I was rolling along in this taxicab, going up home.

Q You had three drinks in the Knickerbocker Hotel that night?

A That is all I remember.

Q And what were they?

A Scotch highballs.

Q And had you had any drinks before you went to the Knickerbocker Hotel that day?

A No, sir, I just came down from a hearty dinner.

Q That is all you had to drink that day?

A Absolutely.

Q While you were drinking, did you see any one of those men you were talking to do anything?

MR. EMBREE: Well, I object to this. I don't see how this has any bearing on my client' case.

THE COURT: These men, are they supposed to be the defendants and Carroll?

MR. EMBREE: I don't understand so.

MR. DONOHUE: No, sir, I do not. At least, we don't know them as such at this time.

THE COURT: What is this addressed to? As to whether they took any property from him?

(Mr. Donohue and Mr. Embree confer with the Court)

Q (Question read by the stenographer as follows: "While you were drinking, did you see any one of those men you were talking to do anything?")?

MR. EMBREE: NO objection.

A I observed the tall man came over to me and manipulated the glasses, the two glasses there, and while I didn't pay any attention to it, he as handling them in a peculiar way, and I am under the impression that he put some drug in that third drink.

Q That was at the third drink you saw the manipulation going on?

A Yes, sir.

THE COURT: The answer is not competent if it is objected to.

MR. EMBREE: No, I don't object.

Q And it was after that third drink that you found yourself -- the next thing you knew you were in this taxicab?

A I don't know much of anything shortly after that until I was going along in this taxicab, and I have very little recollection of that until I got up to the house.

Q And do you recall telling these men where you lived?

A Absolutely not.

Q But you finally arrived at your house?

A I did.

Q And what happened from that time on?

A Well, I got in the apartment, and these two men were in the apartment with me, and I put up the electric light; there was just my sister up at the time; my niece had been in bed; and I believe this one fellow asked me if I would pay one of the records on the Victrola.

Q Who asked you that?

A This severance; and I got

one of the records and played it, and in the meantime I offered them a drink, and I went in the ice box and got a syphon of vichy and some scotch whiskey and poured it out, but I didn't drink any of it.

Q Go on.

A And after that I fell on the floor, in a rather mysterious way, and my nose bled shortly after, and Severance came in the bath room and wiped my nose; the blood was straming down; and came out again. Shortly after that I went in my own room and I undressed, apparently got all undressed, went to bed, and while I was in this sort of semiconscious condition --

MR. EMBREE: Just one moment. May I ask the witness if what he is testifying to now is his recollection?

THE WITNESS: Yes, my own recollection, to the best of may ability, my own recollection.

Q Tell us what happened after that?

A Well, while I was lying on the bed I noticed this electric light going up and down rather frequently, and I also have a recollection of my fingers being moist and the two rings taken from my fingers, but for some reason or other I couldn't seem to resist it.

Q Who was in the room at that time?

A Severance was in the room only.

Q And about how near was he to you at that time, would you say?

A Well, I was laying on the bed, and I don't know

whether he was on the bed or at the edge of the bed.

Q He was right close to you?

A Right in my room.

Q When you felt this sucking, as you call it?

A Yes.

Q On your fingers?

A Yes, sir.

MR. EMBREE: I didn't understand him to say, "sucking".

Q Tell us what happened?

A Well, I must have gone to sleep after that, and I had a gold appointment on Sunday morning, and when I came out to breakfast in the morning, the first thing my sister said to me, she said, "Where are your rings"? I said -- I had realized that they were gone. I said "they must be gone". She says, "then that fellow has got those rings, because I saw them on you the night before".

Q What did she say?

A My sister said, "That fellow" -

MR. EMBREE: I object to that.

THE COURT: What she said is immaterial.

THE WITNESS: Never the less--

Q Mr. Richter, when you started out that night to go to the Knickerbocker Hotel, did yo have some rings with you?

A Yes, sir, I had my two rings.

Q Describe them to the jury, the color and shape of them?

A One was a platinum ring with a single stone in it, nearly a two carat ring, and the other was a double ring, that is, two rings in one, with a saphire and a diamond, and where the saphire was there were small diamonds, and where the diamond was there were small saphires.

Q And did you have them on in the taxicab, do you know?

A Absolutely.

Q When was the last time you saw those rings?

A Well, to the best of my ability, when my nose was bleeding I somewhat revived a little in the bath room, and I took my handkerchief and held my nose that way (illustrating), and I remember in the mirror seeing this ring on with the sapphire and the diamond; I was holding my nose that way (illustrating), and I saw that ring.

Q And was that the last time you recall seeing them?

A Absolutely.

Q Who do you live in that apartment with, Mr. Richter?

A My sister and my niece. My niece has since been married.

Q And where is she living now?

A In California.

Q And when you came in that night to this apartment do you recall who opened the door for you?

A My sister opened the door.

Q And do you recall whether or not she was about the house, in and out of the rooms, while the defendant, Severance and Carroll were there?

A She was up all the evening, because she had a very severe headache.

Q I mean, she was there?

A Yes, sir.

Q You recollect that?

A Yes, sir.

Q Did you at any time, Mr. Richter, attempt to assault the defendant in this taxicab or automobile that you were in

with him that night?

A Absolutely not.

Q Did you attempt, to use the expression, to go down on him, and open his trousers?

A Absolutely not.

Q Did you attempt anything to his person that night whatsoever?

A Absolutely not. May I say another word in behalf of myself?

Q No, Mr. Richter, just answer questions, please. Did you, while you were in your apartment that night, commit any assault upon his person?

A Absolutely not.

Q Did you invite Severance and Carroll to ride in this taxicab you that night?

A I did not.

Q You don't know where it was you first met them, do you?

A My recollection is, just when they were in my apartment, up stairs, in the apartment.

Q I mean, when you first met them?

A No, I do not.

MR. DONOHUE:

CROSSED EXAMINATION BY MR. EMBREE:

Q You are an unmarried man?

A I am.

Q I don't want to ask an impertinent question at all, but for information, whether you had ever been drunk on previous occasions?

A I had not.

Q The first time you were over drunk?

A Not absolutely intoxicated, no.

Q You are not a total abstainer?

A Not absolutely, no sir.

Q And you do drink highballs and things of that sort,

occasionally?

A Occasionally, yes, sir.

Q Will you decide for these gentlemen the three men you met in the Knickerbocker bar?

A Two were tall men, one was rather a short man, and when I went in the Knickerbocker hotel I was absolutely sober, and, to the best of my recollection, they were very well groomed men, and one was dark; in fact, both were dark, and wore a soft hat, and the third gentleman was rather a short man, and wore a sport hat. That is the best of my recollection.

Q One of them you did know by sight, did you?

A No, I had never met any of them.

Q Total strangers to you?

A Absolute strangers.

Q But one of them came to you and said unless you did have a drink with these boys that the others would be insulted?

A This one man would be offended, yes.

Q Can you give me some idea of about what hour this was?

A When I went in the Knickerbocker?

Q Yes.

A I should judge about a quarter of eight, or ten minutes of eight.

Q And your recollection of what occurred next was when you found yourself in your own apartment and with these two young men?

A Well, I remember being in the Knickerbocker and having some conversation with these men after a while, and when this man came over and asked me to have another drink some little time elapsed, because we were discussing the war and we were discussing plays, and I should judge while I looked--

there is a large clock in the Knickerbocker grill room; I looked at the clock there about ten minutes past eleven, and up until that time I had only two drinks, and the third drink I had there I don't remember anything.

Q Now, you have a faint recollection of the wheels of the taxicab rolling along?

A Yes, I have.

Q And you recall being in your apartment and seeing this young man and another one with him?

A Yes, I remember that.

Q And that, so far as you know, was the first time that you had ever seen these two fellows, this man and Carroll?

A Absolutely.

Q About what hour was that, do you know?

A Well, I should judge that was around eleven or eleven thirty.

Q Do you recall that there was same music played there?

A I remember the piano being played, but I don't remember the selection. In fact, I don't know as there was any selection.

Q Who played the piano, do your recall?

A Mr. Carroll played the piano.

Q Well, do you recall that independently, or do you recall it from having heard his testimony read?

A No, I remember that he was sitting there on the bench of the piano, and, in fact, he never left that bench, except to go in the dining room.

Q Do you recall -- Mrs. Schoeneman is your sister?

Q Yes, sir.

Q Do you recall her coming into the room where you were once or twice?

A Yes, I do.

Q Do you recall asking her to withdraw?

A No, I don't remember that.

Q You don't recall that?

A No.

Q Do you recall any conversation which occurred between you and your sister while these young men were there?

A Why, no:

Q She came in occasionally, but there was no conversation?

A As I said before, she had a very severe headache that day, and she was up; she couldn't go to sleep, and she remained up practically until I went to bed.

Q What is your recollection as to the length of time these young men stayed there?

A I haven't any positive recollection of that> I believe one man went away, Mr. Carroll went away before, and Severance went away after, but I don't just remember when Severance left the apartment. He was the last one to leave it.

Q Now, I want to ask you about your testimony at the last trial. I simply mean by that I want to know not what the facts are, but what your testimony was then, so far as it was asked. On the trial, when this young man was tried for the larceny of the rings, you didn't state on the record, did you, anything about your nose being injured?

A I believe that was brought up.

Q It is very important for us to know. Do you recall whether you yourself testified that your nose was injured?

A Well, my nose was not injured, only it bled severely; it was not injured to any extent.

Q Do you recall whether you did, or did not?

A Voluntarily, myself?

Q No, was it brought out?

A I believe it was brought out in the testimony some where.

Q But you are not sure of that?

A I am not positive.

Q The young man testified to that, but I want to know if you were asked that and if you testified that your nose bled?

A I believe I did. You see, that is a matter of seven weeks ago, and I have been rather busy since that time.

Q This proceeding is very important to this young man, and I want to know the facts?

A Absolutely.

Q Don't you know, as a matter of fact, you were not asked about that, and that you did not testify about your nose bleeding?

A No, I am not sure about that.

Q Isn't it a fact, Mr. Richter, that you were not asked and nothing was said on the other trial about your having raised your hand and seeing your rings in the mirror?

A That I don't recall, as far as the testimony is concerned, either. There was certainly some mention made of them, though.

Q By other witnesses. I am asking you?

A No, I think some testimony came up where Severance went in the bath room

with me to wipe the blood off my nose.

Q I am asking you whether or not on the other trial you gave that testimony, that you raised your hand to your nose and saw the rings in the mirror?

A That I don't recall.

Q Now, does your statement that you remember the rolling of the taxicab wheels about tell all that you recall of what happened in the taxicab?

A Well, I think it tells a great deal more, for the simple reason that If I was under the influence of some drug or liquor do you suppose for one moment that I could do such as that rascal tells that I could do?

Q What I want to know, for the benefit of these gentlemen, is whether you have any distinct recollection of what occurred in the taxicab?

A Absolutely none.

Q Now, do you remember the young man telephoning to you on the following Sunday night?

A Perfectly well. I just got back from my gold appointment, and I had just finished my dinner when the 'phone rang. In fact, it had rung several times during the day, and my sister answered the 'phone, and when I came home, about seven thirty, or a quarter of eight, after I had finished dinner, the 'phone rang, and I happened to answer the 'phone, so I said, "who is this?" He said, "Don't you know me? This is Bob Carroll." I said, -- He said, "I am the fellow that was up to your apartment last night". I said, "Is that so"? He said, "Yes. When Can I see you? I have got some important information for you".

I said "well, please meet me to-morrow night at the Knickerbocker Hotel". He said, "I couldn't meet you to-morrow night, I am too tired, but I could possibly meet you Tuesday or Wednesday". I said "Where can I get you?" He said, "You just ask for Bob Carroll of Carroll Cliffs, Scarsdale", but I rather thought that was fictitious, because I had a letter in my pocket; I know some people in Scarsdale; and I had this letter in my pocket, and I didn't see that letter the next day. After I looked up the telephone book and I saw there was a Carroll Cliffs, but it is in Yonkers, not Scarsdale, and I was convinced that both the name--

Q I am not asking you for the operation of your mind. What else did you and he say over the telephone?

A He said, "I can't meet you to-morrow night; I will probably meet you Tuesday or Wednesday", and he laid very strong emphasis on the fact that he had some important information for me; and I had to go to Pittsburgh the following Monday night, I knew that, and I attended to my business and came back on Thursday night, and Wednesday night my sister says, "The 'phone rang again, and he also express the --"

Q You didn't talk to him then?

A No, I did not.

Q She told you that somebody had called up?

A Yes sir.

Q And did you have a telephone conversation with him after that?

A I did not.

Q Will you tell us when you reported the matter to the police?

A I left for Pittsburgh, and I got back either

Thursday of Friday night of that week, and the following Saturday morning I went down precinct and met detective Baron; at least he was assigned to the case; and I told him of the case. He said, "This is Saturday;" he said, "supposing you meet me to-night, and we will go over to Broadway and see if we can see any of these fellows". I said, "All right." I went him --

Q I think that answers my question. Tell us when you reported it?

A Saturday, the 22nd of September.

Q Where did you say you met detective Baron?

A At the second precinct, 43rd Street and Lexington Avenue, the first time I saw him.

Q Will you tell us -- you say you have some recollection of moisture on your fingers?

A Yes, I did, and that seems all the more strange to me that I was not able to resist it.

Q I didn't ask you that. You felt some moisture on your finger?

A Absolutely.

Q That is about the only sensation that you can recall, is it?

A I felt these rings sort of being pulled off my fingers, and one was rather tight. In fact, the next morning when I woke up that finger was bruised.

Q Well, now, did you recall it enough to recall that it was -- did you realize that it was your ring that was being pulled off?

A Yes, I think so, yes.

Q Not sure about that, though?

A Yes, I am, more or less, because, as I say, this moisture and this pulling--

this ring came off rather readily, and this ring was rather tight, and I have a recollection of that ring or both of them being pulled off.

Q Can you associate that sensation with any particular hour, of the night or the morning?

A Well, that was before I had finally gone to sleep, that must have been around half past one or two o'clock.

Q You didn't consult any time piece, did you?

A No, I have my own time piece.

BY THE COURT:

Q That was after you were in bed?

A Yes, sir.

Q And that was after Carroll had gone?

A Yes, sir.

BY MR. EMBREE:

Q You didn't consult any time piece, you say?

A No, I did not.

MR. EMBREE: That is all.

KATE SCHOENEMANN, of No. 472 Central Park West, called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mrs. Schoenemann, you are the sister of Edward R. Richter, the witness who was on the stand before you?

A I am.

Q Do you live with him?

A Yes, sir.

Q Where?

A 472 Central Park West.

Q And who else lives there, or did live there?

A My daughter.

Q Did she live there with you in September of 1917?

A Yes, sir, she did.

Q And where is she living now?

A In California.

Q Your household consists now of you and your brother?

A That is all.

Q How many rooms have you got there?

A Eight rooms.

Q Do you remember the night of September 15th, 1917?

A I do.

Q Will you tell us that you recall about your brother, coming in with the defendant, Walter B. Severance, on that night?

A I was sitting in the dining room, and I heard a noise, I thought I heard a nose, and I went to the door and opened it, and my brother stood there, and he was a little further back.

Q When you say "he", who do you mean?

A Severance, the prisoner, and another young man who was here to-day.

BY THE COURT:

Q What time was that?

A A little after eleven, about half past eleven. And my brother came in, and I looked at those two, and my brother said, "all right", and they walked in.

BY MR. DONOHUE:

Q Where did they go, what room?

A The music room, that is right off the hall as you go in.

Q Did you hear any music after that?

A Yes, sir.

Q Did you see them in the room?

A Yes, sir.

Q Were you in and about the apartment all the time they were there?

A In the apartment.

Q Did you see Mr. Carroll leave the apartment?

A Yes.

Q About what time did he leave?

A He left near one.

Q And when your brother was in the apartment, before Severance finally left, did you see any rings on his fingers?

A Yes.

Q When did you see those rings?

A He went to get a bottle of vichy, and I saw the rings then, and then I was sitting in the kitchen, looking out in the dining room, and he came in there and was going to turn up the electric light, and I said, "I will turn it up", and he said, "Aren't you to bed? Go to bed. I think you ought to go to bed. It is all right"; and he wanted to assist me to get up, and he scratched me with one ring, and I happened to look down and saw it.

Q Did you see Walter Severance and your brother in the room that night, the bed room?

A In his bed room, first in the bed room.

Q Tell us about that, please?

A He fell, and then when he fell, I was watching them. I said "Well, if you men would only go now he would go to bed", and Carroll walked right out, and he stayed. He said "I will help in the bath room; I will wash his face"; and then he went on in the bath room with him.

Q And did you see Walter Severance near your brother while he was on the bed?

A When I went to go in the room he would come forward too.

Q Who would come forward?

A Walter Severance.

Q And who was in the room then?

A My brother.

Q Just your brother alone with him?

A Just my brother alone with him.

Q And did you try to get him to the room?

A Yes, sir.

Q What happened?

A Because the telephone rang --

Q Tell us what happened?

A I didn't see anything happen.

Q I mean, why didn't you go in the room?

A I didn't go in the room because before that my brother started to get up, and my brother was naked, and I didn't want to go in the room; that was the reason I didn't go in there.

Q And how long before you saw your brother in the room and Severance did you see those rings, how long a time was it?

A About half an hour before that.

Q Your brother was under the influence --

BY THE COURT:

Q How long was Severance there after Carroll left?

A Only an hour.

BY MR. DONOHUE:

Q And about what time would you say that Severance finally left the apartment?

A About twenty minutes after two; it was after -- he wanted to get a twenty minutes to three

train for Scarsdale, he told me.

Q How did you know he wanted to get that train?

A He told me; he said that was the reason he wanted to go, he wouldn't have to stay.

Q How long a time was it that Severance was in the room with your brother when you couldn't see the two of them? Was it very long?

A Yes, for a good twenty minutes; I went out in the dining room; I had a severe headache, and I walked away.

MR. DONOHUE: That is all; your witness.

CROSS EXAMINATION BY MR. EMBREE:

Q May I know how old you are, Mrs. Schoenemann?

A How old? Fifty-two.

Q Fifty-two, and how long have you worn glasses?

A I guess about fifteen years, all together.

Q Fifteen years?

A Yes, sir.

Q Do you keep house for your brother?

A I keep house for my brother.

Q He supports the establishment?

A Runs the apartment, yes.

Q And, as a matter of fact, you are dependent on him for support?

A He pays the bills and I do the work for him.

Q He pays all the bills?

A Every bill, yes.

Q Now, you recall, do you not, what you testified to at the time this young man was on trial charged with stealing the rings?

A Everything I said I remember.

Q You recall it?

A Yes, sir.

Q Do you recall saying to the twelve men who sat in the jury box at that time that you thought you saw the rings?

A I know I saw the rings.

Q I know that. We will take you word now. I want to know if you recall saying in the other case that you thought you saw the rings on your brother's hands?

A I don't know that -- I said I recalled seeing them, for I saw them.

Q I don't ask you that. I am going to take your word that you saw them?

A Yes.

Q All I am asking you now, Mrs. Schoenemann, is for your best recollection of what you told the other twelve men. You can make any statement here you life?

A Yes, sir.

Q Don't you recall you said to the other twelve men that you thought you saw those rings on your brother's hands?

A No, I said I was sure I saw them; I couldn't say anything else; I saw them.

Q I am asking you what you said?

MR. DONOHUE: She has told.

THE WITNESS: I saw those rings.

THE COURT: You are not asked what you saw. You are asked what you told the other jury?

THE WITNESS: I am sure I saw them, when I told them I saw them.

Q Do you recall whether you used the word "think"-- and "I think I did"?

A I don't think I said that, because I saw

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them.

Q Is that the reason why you think you didn't say that you think?

A I don't see how I could when I saw them--that I think I saw them.

Q As a matter of fact, don't you recall that the young man Carroll had left the apartment before your brother fell?

A No, he fell, my brother fell, then I was sitting where I saw them all the time, before my brother went to his bed room.

Q And your recollection then is that Carroll went after your brother had fallen?

A Yes, directly afterwards.

Q When you say your brother was naked, you don't mean that he had his underwear off, do you?

A Everything off him.

Q His underwear was off, too?

A Everything.

BY THE COURT:

Q Did you observe any damage or disorder to this defendant's clothing?

A No, sir, because they were in the back parlor, and they were not -- not that I saw. I didn't examine them.

Q Nothing that attracted your attention to his trousers as being torn or damaged?

A No, he did not attract my attention.

BY MR. EMBREE:

Q Did you see them torn?

A No, but my brother's were torn.

Q Your brother's were torn?

A Yes, sir.

Q Your brother's, one of them was torn on the knee, was it not?

A Yes.

Q You don't know how it got torn there, do you?

A No.

Q Was there a part of the time that evening when you had this young man's -- I mean, when you were taking care of this young man's trousers and shoes?

A Just -- first he left his hat and coat in the music room, and then he went back into the room later on, and he put out his trousers and his low shoes in the room next. I walked on into the kitchen and dining room. I never go to bed until--

Q After that, did you have his trousers and shoes in your hands?

A No.

Q Didn't you on one occasion hand them to him?

A No, I didn't hand them to him.

BY THE COURT:

Q Whose trousers were they?

A The prisoner's.

Q He took his trousers off?

A They were off.

Q What did he do with them?

A I don't know.

Q What room did he do that in?

A He said, "I am not going to stay with him; he wanted me to stay, but I will leave them in the room so I can get out when I went to".

BY MR EMBREE:

Q You say he said he must catch this particular train for Scarsdale?

A Yes, sir.

Q And he gave that as the reason why he must go?

Q Yes, sir.

Q Then he wanted to go, apparently?

A He wanted to go.

Q I show you this pair of trousers and ask you if they look in a general way like the trousers the young man had that night (handing clothing to witness)?

A I couldn't tell you. I didn't look at the trousers.

Q His shoes were low shoes, were they not -- low shoes?

A Yes, the shoes, I did look down, sitting there, the shoes looked like low shoes.

BY THE COURT:

Q Did you see him when he took these trousers off?

A Why, no; he went in the bed room with my brother; I didn't see him when he took them off. He had my brother's wrapper around him.

Q Then he handed you the trousers?

A No, he put them in the room next to my brother's room, which is used as a store room.

BY MR. EMBREE:

Q How do you know he put them in there?

A He said, "Shoe me the next room, to put these in, that I can get out quickly".

Q And did you show him where to put them?

A Yes, and I walked away, naturally, thinking he was going in there to get dressed.

Q And he said he wanted to get out quickly?

A He said he wanted to get out.

Q Your brother had asked him to say?

A Yes.

Q And when he went you thanked him, didn't you? This young man here?

A I said -- he said -- he told me he had paid the taxicab, and I asked him how much it was, and when he told me I said "I will tell Mr. Richter, so he will pay you"? He said, "Don't mention it to him, it is only a trifle". Then I was suspicious.

Q I didn't ask you that?

A I know it.

Q Did you thank him when he left?

A No, I hadn't time to thank him.

Q I see you don't want to tell us that, but tell us, did you thank this man when he left?

A No, I said, "good night".

Q "Yes", or "no"?

A No.

Q Well, now, what did you say to him as he left, not what did he say to you, but what did you say to him?

A He almost took my breath away.

Q I didn't ask you that?

A I didn't say anything to him. I was asked that before, and I didn't say anything to him.

Q Did he say "good night"?

A Yes, he said, "good night", and he came to me and kissed me on the forehead and said "good night, Mother", and ran.

Q And what did you say to him?

A I said "good night", and then I asked him about the cab, the money. Then he told

me. Then he walked away.

Q Then he said "good night", Mother", then you asked him about the cab?

A I did.

Q You had heard the music in the other room?

A Yes.

Q The Victrola and the piano?

A Yes, sir.

MR. EMBREE: That is all.

RE DIRECT EXAMINATION BY MR. DONOHUE:

Q When he came out of this room, Mrs. Schoenemann, when you say he asked you where he could put these trousers, did he have a bath robe on?

A Yes, sir, he had a bath robe on, laid across his shoulders; he didn't have it on; he had it thrown across his shoulders.

MR. DONOHUE That is all.

JOHN P. BARRON, police officer, attached to the second branch detective bureau, shield No. 296 called as a witness on behalf of the people, being first duly sworn, testified as follows:-

DIRECT EXAMINATION BY MR. DONOHUE:

Q How long have you been in the police department of the City of New York, Mr. Barron?

A Going on fifteen years.

Q And you are a detective now, assigned to the second branch detective bureau?

A Yes, sir.

Q When was your attention first called to Edward R. Richter in this case, the complaining witness?

A When?

Q Yes.

A The day I arrested this defendant the first time, that was on September 22nd, 1917.

Q Did you have a talk with Richter on that day?

A Yes, sir.

Q And as a result of that talk did you arrest the defendant, Severance?

A Yes, sir.

Q Did you have any talk with him when you arrested him?

A Yes, sir.

Q Will you tell us what he said and what you said?

THE COURT: When and where did you arrest him?

THE WITNESS: At about eight thirty P.M. on September 22nd, 1917, in front of the Knickerbocker Hotel, on 42nd Street and Broadway. I was in company with Mr. Richter when the defendant was walking by the Knickerbocker. Mr. Richter recognized him and stepped up and touched him on the shoulder, and then I stepped up, and the three of us went over on the sidewalk in front of the Knickerbocker, and Mr. Richter accused the defendant of stealing a couple of rings, and the defendant denied that he had stolen the rings, but admitted that he had been up in Mr. Richter's apartment; so as soon as he admitted that he was the man that was in Mr. Richter's apartment on that night I told Mr. Richter that I was going to arrest him, so Mr. Richter said he had a little matter to attend to in the Knickerbocker Hotel, and he stepped in there, and I told him to meet me later over in our office at the Second Branch detective bureau, 43rd Street and Lexington Avenue, and I started on walk east on 42nd Street over to Lexington Avenue, and between Fifth -- or

between Broadway and Sixth Avenue, walking east, the defendant said to me, he says, "If he makes a charge against me like that I will make a charge against him". Si I said "what will you charge him with?" Well, he says, "I will charge him with getting down on me". I said, "did he go down on you", he says, "I am going to say he did".

Q What was that? I didn't hear that?

A He said, "I am going to say he did". So I said, "Oh, that is the kind of guy you are", and I continued to walk over to Sixth Avenue, and got on the 42nd Street car, east bound, and rode over to Lexington Avenue, and went into the second branch detective bureau, and I searched him, and he was booked, and I took him to headquarters.

Q And you were present at the trial, were you?

A Yes, sir.

Q When he was charged with larceny?

A Yes, sir.

Q And did you afterwards arrest him again?

A Yes.

Q And when was that?

A November 23rd, 1917.

Q When did you arrest him this time?

A Right over near where he lived, 805-A Lafayette Avenue, Brooklyn, on a warrant issued.

Q Did you tell him what he was being arrested for?

A Yes, sir.

Q What did you tell him?

A When I approached him he started to run, and I grabbed him, and he and I struggled around the street there, and I told him that I had a warrant

for him, and he kept trying to get away from me, and finally I had to throw him down on a stoop there, and I kept telling him all the time that I had a warrant for him, and he kept saying "show it to me", and every time I would go to put my hand in my pocket to get it he would try to get away, and finally I got the warrant out, a crowd collected, and I told him what he was charged with, and showed him the warrant.

Q What did you tell him he was charged with?

A I told him he was charged with perjury, so I got the officer on post, and he assisted me to the station house with him, and I waited for a patrol wagon and brought him back to New York headquarters, and he was booked there. Then I took him down to the tombs and turned him over to the keeper here, and that is the last I saw of him until to-day.

Q Did you have any -- did he make any reply when you told him he was arrested for perjury?

A Yes, sir.

Q What did he say?

A Well, he wanted to know what Carroll said about him and what I knew about the case, so I told him that Carroll went before the grand jury and told the truth about what happened on that night, and he said, "I thought that bitch would squeal as soon as it was put up to him", and said it was a good thing that we didn't get Carroll before, and he admitted that he framed up this story.

Q What did he tell you exactly, officer?

A He said Carroll called on him in the tombs while he was awaiting trial, and that he told Carroll what to say when he was called as a

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witness.

Q Did he tell you what he told Carroll to say?

A Yes.

Q What did he say?

A He told Carroll -- he said he told Carroll to accuse the complainant of getting down on him.

Q What was the word he used?

A Well, that was it, that is the word he used.

Q Getting down on him?

A Yes, in the cab.

Q Was there anything else he said at that time, officer, or any other time?

A No, that is about all.

MR. DONOHUE: Your witness.

CROSS EXAMINATION BY MR. EMBREE:

Q Detective Barron, this boy was sixteen years old in August, wasn't he, so far as you know?

A That is what he said.

Q He didn't make any attempt to resist arrest, did he, the first time, when he was charged with larceny?

A The first time, no.

Q But on the occasion when he was charged with perjury he resisted arrest?

A Yes.

Q And then afterwards in conversation with you he admitted this perjury, you say?

A He admitted that he told Carroll--

Q Did he admit that he had falsely testified on the previous trial?

A Yes, sir.

BY THE COURT:

Q Did he admit that the defendant had falsely testified, or did he admit that he had told Carroll to falsely testify?

A He admitted that they both testified false, on the way over in the patrol wagon from Brooklyn, and he said that --

BY MR. EMBREE:

Q No, I just asked you that question?

A All right.

Q How long did you say you have been a detective, officer Barron?

A That was not asked me, Mr. Embree. He asked me how long I was a police officer.

Q How long is that?

A A police officer?

Q Yes.

A I will be fifteen years in August.

Q And how long a detective?

A Over seven years. I think it is around seven years.

Q You have had frequent cases in these Courts, haven't you?

A Yes.

Q And frequently have had cases with the different District Attorneys?

A Yes, sir.

Q So that you are a pretty good lawyer yourself?

A I have had very few of mine go before a jury, in all my time, every time I bring a man down here they generally plead guilty, about three men that ever stood trial, that I ever got this far.

Q You know a rule of law, don't you, that no man can be convicted on the uncorroborated testimony of his accomplice, you know that general rule, don't you, that you must have some

other testimony other than the accomplice's story?

A Yes sir.

Q That is a rule of law. And you realize, don't you, that in this case the whole case depends on Carroll's story, and that Carroll is an accomplice, and that without the testimony from you that this boy admitted that he committed perjury, that there is no case here in law?

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

THE COURT: Yes, I will sustain the objection. I am not prepared to say there would be no case at all without his testimony.

MR. DONOHUE: There is other evidence here besides this officer and Carroll's statement.

Q But you say you do know that general rule of law, that the testimony of an accomplice has to be corroborated?

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

THE COURT: Well, he has already said so.

Q When you searched the boy you didn't find any pawn tickets on him?

A No, sir.

Q Or anything else that led toward the rings?

A No, sir, I didn't

MR. EMBREE: That is all.

MR. DONOHUE: That is the people's case, if your Honor pleases.

THE DEFENDANT'S CASE

WALTER B. SEVERANCE, the defendant herein, residing at 805-A Lafayette Avenue, Brooklyn, called as a witness on his own behalf, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. EMBREE:

Q How old are you, Walter?

A Sixteen past.

Q When were you sixteen?

A August.

Q And where was your last place of employment?

A The last place I worked was for my brother.

Q What wages did you receive there?

A He used to give my mother my board and used to give me some change at the end of the week.

THE COURT: Now, speak louder and speak slower, so we can all hear you.

THE WITNESS: Yes, sir.

q How long were you with your brother?

A About seven months.

Q Where else have you worked?

A I used to work for Joseph Ball.

Q Mr. Joseph Ball?

A Yes, sir.

Q He is a druggist?

A Yes, sir.

Q How long did you work for Mr. Ball?

A A year and a half.

Q Was he in court when you were tried before?

A Yes, sir. He was.

Q Did he testify?

A Yes, sir.

Q Did you send a message for him today?

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

THE COURT: Yes, objection sustained.

Q Where did you work other than that?

A I was at school then.

Q You were at school before that?

A Yes, sir.

Q I don't know whether I asked you what were your wages when you were with Mr. Ball for the year and a half?

A Seven dollars.

Q Seven dollars a week?

A Yes, sir.

Q How long have you known Mr. Carroll?

A A few months.

Q And did you frequently meet him over in Brooklyn and come to New York with him?

A Yes, sir, I did.

Q And where did you usually meet?

A At the Atlantic Avenue subway station.

Q On the night of September 15th, 1917, did you meet him there?

A I did.

Q Now, is that place, the Atlantic Avenue subway, more or less midway between your home and his?

A Judging from where his home is and where my home is, it is about equal distance, and he used to come from Flatbush, and I came from upper Brooklyn, and we used to meet at the Atlantic Avenue subway station.

Q Speak up so the jury can hear, and tell us what happened?

A I met Frank Carroll at seven o'clock; I had an appointment at seven o'clock, and he didn't come until a quarter after seven, and we took the car up to Grand Central and transferred to Forty-second Street, and we met this Helen Handybolt at Gray's drug store, and went to the Rialto Theatre, and we saw the show, and I think it was the first show, and we got out at eleven o'clock, we left the Rialto Theatre at eleven o'clock, and we went across Forty-second to Sixth Avenue and put Miss Handybolt on the car. Then we continued walking up Sixth Avenue and was looking in the shop windows, and we went over towards the Hippodrome, looking at the bill-boards, and we walked up to Forty-seventh Street, and as I was stepping down in the gutter Mr. Richter was stepping up from his gutter; he had three gentlemen with him, and he grabbed hold of my arm and said, "Hello, there," and he said, "Shimie McCoo," I said, "What is the matter with him?" So Frank laughed and he said, "I guess she is stewed;" so we walked - he says, "Come on and have a drink." I said, "I don't drink; I am not allowed in a saloon; they don't sell me any drink." He said, "Come on, be a good sport anyway." I said, "No." I said, "I am going up this way". They went up that way with me, and went in the drug store. I said, "I will get you something to sober you up." We brought him in the drug store, and the druggist gave him something to drink. Then we got on the elevator. He vomited in

the elevator.

BY THE COURT:

Q When you got in the drug store what did you tell the druggist?

A I said, "Will you fix this man up?"

Q Did you say that, or did Carroll say that?

A I said that.

Q You asked the druggist if he would fix this man up?

A Yes.

Q Did you say in what way?

A No, sir; I said, "He is drunk." He said, "All right, I will do that".

BY THE FORTH JUROR:

Q Will you kindly tell us where that drug store is?

A It is on the corner of Fiftieth Street and Sixth Avenue.

BY MR. DONOHUE:

Q Go ahead.

A And we went in the elevator, and he vomited in the elevator. We got off at the next station, and meanwhile the three men had left when we came out of the drug store and there was nobody there. He said, "Take me home; I am not feeling good." We got off at the next station, and he said, "call me a taxi," so I raised my hand, and car came along, a fellow had a limousine, driving for a private family, and I said, "How much will you charge to take us up to One Hundred and Seventh Street?" I had asked Mr. Richter where he lived, and he said One Hundred and Seventh Street and Central Park West. We got in the car, and when we got to One Hundred and Seventh Street the driver said, "Where is my money?" Mr. Richter said, "Everything

is gone I have got," and so he says, "You pay it and I will give you the money back;" so I had the five dollars I was going to buy my shoes with, so I gave the driver the five dollars, and he only had one dollar and ten cents change, he not being a chauffeur, he could only give me a dollar and ten cents, so I said, "That is all right," so, Mr. Richter said, "Come on upstairs." I said, "Where is my money?" He said, "Come on up and I will give it to you;" so we helped him upstairs; he was fooling around for his keys, and he couldn't open the door.

BY THE COURT:

Q On the way up in the cab did anything happen?

A Yes.

Q Tell it as you go along?

A As we were in the cab Mr. Richter laid his head in my lap this way (illustrating), and he had his head in my lap, and he tried to get his two or three fingers in my trousers, and tried to open my trousers, so I pushed him over to Frank Carroll's side, and he pushed him over to me, and I turned my head and looked out of the window of the limousine; so when we got up there he asked about the money, and he said, "Come upstairs and I will give it to you;" so, when we got upstairs, Mr. Schoenemann opened the door and said, "Who is here?" He says, "Two good friends of mine." So we went in and he lit the gas - the electric light, and said, "Have a seat," and he took me by the shoulders and put me on the davenport, and he sat Frank in another chair; so then he went over the records and kept fumbling around the records, and he put a record on. I

said, "Have you got 'La Tosca's Good-bye'?", and he said, "I think I have."

BY MR. DONOHUE:

Q These gentlemen say they don't here you. Speak slower, please.

A Then he says to Frank, "can you play the piano?", and Frank says, "Sure," so, he sat down and played the piano, and Mr. Richter said, "Wait a minute, I will be right back." He went in the kitchen, and Mr. Schoenemann came in, and he said, "You get the hell out of here; go to bed;" and she came in three or four times, and he told her that. I said, "Sit down and be quiet;" so, he said, "Wait a minute, I will be right back." He came in the dining room and lit the electric light, and he had a tray with him with some Scotch whiskey and a bottle of seltzer, and he said, "Here," he poured out a drink of whiskey, and he got a new record for the Victrola, and I took my whiskey and poured it in the tray, and I took his whiskey and poured it in the tray, and I took Frank's whiskey and put it in the tray, and I poured out a glass of seltzer for Mr. Richter, so when he tasted the drink he said, "That tastes rotten." I said, "You have been drinking too much. After a while he said to Frank, "Have a drink." He said, "I don't want any." He said, "You are a hell of a sport," and he took his coat and hat and pushed him out. I said, "I am going, too, if he goes," and he said, "No," and he closed the door and put the bolts on, two or three bolts, and he was just coming across the doorway

and he fell and hit his nose. I said, "Come here and I will fix your nose." I put some hot water and a cloth on his nose, to stop it from bleeding; so his sister came near the bathroom and went this way to me (illustrating); she said, "You stay with him until he falls asleep, and I will wait up for you; I have some heart trouble; I will wait for you and let you out; I have got your coat in the dining room." I said, "I have to go home." She said, "He will fall asleep pretty quick." He went in the bath room and undressed himself and dropped his clothes on the floor. He said to me, "You undress and stay overnight." I said, "I can't; I have to go to the country." He said, "what part of the country?" I have been up in WhitePlains and Scarsdale, and the first place that came to my mind was Scarsdale, and I said, "Scarsdale." He said, "You don't have to go up there. Stay and have breakfast and take the train tomorrow morning." I said, "No, I can't stay away from home." So he says, "You stay here," and he pushed me on the bed and took hold of my trousers and tore my shoes off; they were kind of loose, and they come off with my trousers. I said, "No, I have to go home." He said, "You stay here." So Mrs. Schoenemann came over near the door and says to me, "You stay with him", again, "you stay until he falls asleep, and I will take your clothes and put them in this room." She took my trousers and put them in a little

storeroom.

BY THE COURT:

Q Where were you when you say he tore your trousers off?

A I was in the bed room. I didn't want to get undressed.

Q Were you standing, or lying down?

A I was standing right near the bed.

Q Did you have any suspenders on, or a belt?

A I had a belt on.

Q Did he undo the belt?

A Yes, he grabbed the belt and all.

Q Did he undo the belt?

A Yes, sir.

Q Unbuckled it?

A All he had to do was to take the slip off.

Q Then he pulled the trousers down?

A Then he pulled the trousers down, and he ripped them on the side.

Q And your shoes came off with them?

A Yes, low shoes.

Q You were standing on your feet?

A He had pushed me over the bed, took my arm this way (illustrating) and pushed me on the bed.

Q He pushed you on the bed?

A On the bed, and I was lying on the bed, that way (illustrating).

Q And then he pulled your trousers off?

A Yes, sir, then he pulled my trousers off.

Q And your shoes came off with them?

A Yes, sir.

Q Were they lace, or button, shoes?

A Oxfords, very loose.

Q Lace, or button?

A Lace.

THE COURT: Proceed.

BY MR.EMBREE:

Q Go ahead.

A He gave the grousers to Mrs. Schoenemann. Mrs. Schoenemann took my trousers and put them in the storeroom, and she says, "All right, you lie down with him until he falls asleep, and I will give you your clothes."

THE TENTH JUROR: I can't hear; he is too quick altogether.

THE WITNESS: She took my trousers and shoes, and she said, "I have your coat out in the dining room, and I will give you everything; I will sit up for you and wait for you and let you out." I said, "All right." After a while Mr. Richter fell asleep, and he said something about losing everything, so, she said to me, "What was he talking about?". I said, "He was talking about losing everything." She said to me, "He comes home like this often; he is often drunk that way." I said, "It is too bad." She said, "I think you, my boy", and she says - then we got talking about the taxi bill, and I said, "I paid for it." She said, "If you 'phone tomorrow and tell Mr. Richter, he will give you the money," and she shook my hand and kissed me on the forehead and said, "God bless you," and I left; I telephoned the next day, and Mr. Richter said when I telephoned if his brother got on the

wire and asked me what I wanted of Mr. Richter I should say I wanted to see him personally. I telephoned that Wednesday, and a young lady's voice come on the wire, and I say to her, "Will it be all right to come up tonight? This is the young man who helped Mr. Richter home." She said, "Yes, Mr. Richter told me. Mr. Richter has gone out tonight." I said, "Will tomorrow night be all right?" She said, "No, Friday or Saturday," and I said, "All right," and I was coming up Saturday night, and they arrested me.

Q Were you with Carroll Sunday night when you telephoned to Mr. Richter?

A Yes, sir.

Q And after you had telephoned to Mr. Richter did you have some conversation with Carroll?

A No, sir, not that I remember. I says, "Well, Mr. Richter has told me he thinks you took his rings, unless he means one of the other man," and he said, "I will go with you, to show him I didn't take the rings".

Q Is that all that you said?

A Yes, sir.

Q Did you say anything to him about going to make a charge against Mr. Richter if any trouble came up?

A No, sir, I did not.

Q You were not expecting any trouble?

A No, sir, I didn't expect any trouble.

BY THE SIXTH JUROR:

Q Did you give your name when you telephoned to Mr.

Richter?

A No, I did not. I said, "This is the young man that helped him home."

Q You didn't give your name?

A No, sir, I did not.

BY MR. EMBREE:

Q Had you ever given him your name?

A No, sir, he didn't ask me for it.

Q I want to ask you these questions: Did you on the night of the 15th day of September, 1917 meet Frank Carroll?

A When?

Q On the night of September 15, did you meet Frank Carroll?

A Yes, sir, I did.

Q And were you and he together when you met Richter?

A Yes, sir, we were.

Q That same evening?

A Yes, sir.

Q And when you met them were some other men with Richter?

A Yes, they were.

Q And did you ride in a taxicab with them, you and Carroll and Richter?

A Yes, we did.

Q And while you were in the taxicab he did put his hand on your trousers?

A Yes, he did.

Q Now, did you see any rings on his fingers in the taxicab, or later?

A I did not, no, sir.

Q Did you see any rings on his fingers in the apartment?

A No, sir, I did not.

Q Did you see any rings on his fingers that night at

all?

A No, I did not.

Q On that evening you did meet some young lady through Carroll, did you?

A Yes, I did.

Q And her first name was Helen?

A Yes, sir.

Q Did you see Carroll the next evening after the 15th, that is, the Sunday evening, the 16th, or the afternoon, did you see him in the Hotel York?

A No, sir, I didn't see him in the Hotel York.

Q Did you ever show him any rings?

A No, I did not; I had no rings to show.

Q Did you ever tell him that you had taken any rings from this man Richter?

A No, sir, I did not.

Q Did you ever take any rings from him?

A No, I did not take any rings.

Q Do you recall when Officer Barron arrested you the second time?

A Yes, sir.

Q Tell the jurymen what happened?

A I was going down the street to the candy store.

Q Try this time to speak slowly and loudly, so we can all hear you.

A I was going down to the candy store at the corner to get my little brother Herbert to tell him to come home, my mother wanted him, I was down half a block, opposite the school, and Detective Barron grabbed me by the arm and said, "I have a warrant out for you for perjury." I said, "Give me the warrant." I thought I had to go to Carroll's trial.

Q As a witness?

A Yes, as a witness for Carroll and I said, "Give me the warrant." He said, "You don't get any warrant. Come along with me." I said, "All right." Meanwhile some young boys training in the public school, they are teaching them to be soldiers, and one of the teachers came over and he spoke to Detective Barron and he says to me, "He is trying to get away," so, I was sitting on the stoop, and he was sitting next to me; he had me by the coat, this way (illustrating). I was not trying to get away, so this man says, "Let him alone," and a few other women there said, "He is not doing anything; let him alone," and some woman says, "I better get a policeman." He said, "All right, go get a policeman;" so some one ran around the corner and got the policemen on the beat, and he said, "I am going to take this man. Where is the station house?" He said, "Five blocks up to Gates Avenue;" so they took me to Gates Avenue, and then to headquarters and after that to the Tombs.

Q Did Detective Barron tell you he was a police officer?

A I knew him from last time.

Q Did you have any conversation with him, with Detective Barron, with regard to what your testimony had been on the trial?

A No, sir, I did not; I didn't speak to him; I sat on the edge of the automobile.

Q Did you hear Officer Barron say you did say to him that you and Carroll did agree on a false story?

A I did hear

that.

Q Did you say anything like that?

A No, nothing like it.

Q Sure of that?

A Positive.

Q The only thing that you discussed with him was that he told you that you were charged with perjury?

A Yes, sir, he just told me I was charged with perjury. I didn't see the warrant until I got to the police station.

Q He didn't tell you what the allegations in the indictment were?

A No, sir.

Q Or what it was alleged was false?

A No, sir.

Q Now, do you recall Carroll one day visiting you in the City Prison?

A I do.

Q About when was that?

A About lunch time one day, about two weeks, probably three weeks, after I was arrested.

Q The first time you were arrested/

A Yes, sir.

Q He never visited you but once, did he?

A No, sir, he did not.

Q And where did he see you?

A He saw me in the screen partition there; there is two screens, about that far apart (indicating).

Q In what they call the visiting room?

A Yes, sir.

Q And he talked to you through these screens?

A Yes, sir.

Q About how long was that visit?

A About fifteen minutes, because I didn't get down until late; I was helping on the tier upstairs.

Q Were there other people on that tier at the same time?

A Yes, sir, there was quite a few Italians and Jewish people

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there, and they are all hollering at the same time, and you can't hear very well.

Q It is a noisy place?

A Yes, a very noisy place.

Q And how long do you suppose he was there?

Q It must have been less than fifteen minutes, because I had to run down six flights of stairs, and I had been helping on the tier; I was like overseer of the boys, to see that they swept and mopped up.

Q Have you been assigned to any special duty in the city prison?

MR. DONOHUE: I object to that.

THE COURT: Objection sustained.

THE WITNESS: The second time, coming back, knowing Mr. O'Connor, the keeper--

THE COURT: The objection was sustained.

Q Tell these gentlemen, and go slowly, please, tell these gentlemen what Carroll said to you and what you said to Carroll when you visited with him there through these two screens?

A Carroll said to me, "Hello". I said "Hello", a nice place I am in". He said "Yes". I said "I am here for nothing" He said "yes, I know, but you didn't give them my address, did you"? I said, "No, I don't really remember it, Frank; I don't really know the address". He said, "I don't want to get in this. You know how it is. I am working", and he explained about his home, and he is mostly the chief support home, and he said, to me, "you have other brothers that can help your mother". I said, "You know my brothers have gone away to the army, and my father is in the army now, and I will have to help home", so he says, "please don't give my

address", so I says -- he says, "what is the 'phone number again?" I said "Bedford 10,406 Bedford". He said "I will 'phone your brother and see your brother", so the then gong rang, and he left, and I went up stairs again. That is the only conversation we had.

Q Did you have any conversation with him at all on that day, or at any other time, with regard to what his testimony would be if he was called as a witness?

A I did not.

Q And from the time you were arrested until you went to trial, that is the only time you saw him?

A Yes, that is the only time.

Q Had you sent for him to come to see you in the city prison, or did he come voluntarily to visit you?

A He came voluntarily.

Q You didn't expect him?

A No, I did not expect him.

MR. EMBREE: Will your Honor give me some idea of how much longer you will sit.

THE COURT: I think you ought to complete the direct examination.

MR. EMBREE: Yes.

Q Have you told these gentlemen substantially the same story as you told on the other trial?

A I have.

MR. DONOHUE: I object to that, if your Honor pleases.

THE COURT: I will allow it.

Q Is what you have told here to-day the absolute truth?

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A It is.

Q Is what you told on the other trial the absolute truth?

A It is the absolute truth.

Q I want you to look at these gentlemen, and if there is any point in that story as you have told it to them that is not true, I want you to tell them and admit to them the part that is false?

A No, everything I have said is the truth.

Q I show you these trousers, and I ask you if those were the trousers you were wearing on the night you went to Mr. Richter's apartment? (handing trousers to witness)?

A Yes, they are.

Q I ask you to show us if they are torn as you say they were on that night, the place where they were torn?

A All along there and there (indicating).

Q Show these gentlemen?

A There and there (indicating with trousers to jury)

MR EMBREE: I offer the trousers in evidence.

MR. DONOHUE: I consent to have them go in. I would like to have them go in.

(Same marked Defendant's exhibit A, of this date)

BY THE COURT:

Q Did he unbutton the trousers before he took them off?

A No, sir, one of the buttons is open now.

Q He did not unbutton them?

A No, sir, he just pulled them right off.

Q You have not told us anything he did to you in the apartment. Did he do anything to you there?

A When I was sitting on the edge of the bed he tried to fool around my privates here, and so I took the sheets and put them underneath his arms; his arms were down by his side, so he couldn't move, because any time I sat near him he wanted to get hear my private, and I took the bed clothing and wound it around him, and every time I left the room I would say, "Well, Mr. Richter, I am going to the bath room", and he followed me around.

Q Did he bite you?

A Yes, sir.

Q Tell that to the jury?

A When I was sitting on the edge of the bed he tried to grab me, and he bit me here and here (indicating), and bit me on the shoulder, here (indicating); a little bit later in the night he had bit me on the shoulder; I have the marks here; and I have a cloth on my wrist; my wrist was kind of sprained; I couldn't use it for a little while.

THE COURT: I think we will take an adjournment now. Gentlemen of the jury, please do not form or express any opinion as to the defendant's guilt or innocence, until the case is finally submitted to you; pleas do not discuss the case among yourselves, or allow anybody to discuss it in your presence. We will adjourn until Monday morning.

(The Court then accordingly took a recess until Monday, January 14th, 1918, at 10:30 o'clock A.M.)

THE PEOPLE, ETC. - against WALTER B. SEVERANCE.

New York, Monday, January 14, 1918.

TRIAL CONTINUED

WALTER B. SEVERANCE, the defendant, resumed the stand.

CROSS-EXAMINATION BY MR. DONOHUE:

Q Severance, do you remember testifying at the last trial?

A Yes, sir.

Q Do you remember being asked, after you had been sworn by the Court, these questions, by your own lawyer: "Q Have you ever been convicted of a crime?"

A Yes, sir.

Q Now, wait a minute, please.

"A No.

"Q Never been in court in your life?

A No.

Q You never had any trouble of any kind?

A No." Did you testify to that effect?

A Yes, sir.

Q Those are your answers, are they not?

A Yes, sir.

Q And the very last question Mr. Embree, in this case, asked you, as you were leaving the stand, was to look these jurors in the eye and tell them whether everything you had told them at this trial was the truth, and your answer to that was, "Yes, sir"; is that right?

A Yes, sir.

Q And you repeated in this trial you never were convicted of any crime?

A Yes, sir.

Q And you repeated in this trial that you were never in any court in your life?

A Yes, sir.

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Q Now, is that true?

A That I was never convicted?

Q Is that true; "Yes," or "no"?

A Yes, sir.

Q It is true?

A Yes, sir.

Q Do you know this gentleman (indicating Mr. Lyons)?

A I don't remember.

Q Isn't he the probation officer in the Children's Court?

A Yes, sir, he is.

Q Oh, you know him now, then?

A Yes, I recollect now.

Q How do you know him?

A Because my brother had me placed on probation, in 1914.

Q And under what other conditions do you know him?

A Under no other conditions.

Q Weren't you arrested and charged with burglary?

A No.

Q In February of 1915?

A No, sir, I was not.

Q You deny that?

A Yes, sir; I don't remember being arrested.

Q You don't remember being arrested?

A No, sir.

Q What is your answer? You don't remember, or you don't know?

A I don't know.

BY THE COURT:

Q Can't you tell this jury whether an officer arrested you do not? You must remember that?

A I was away from home three days, and my brother put a charge against me.

Q I didn't ask you whether you were home three days or three months. I asked you whether you remember being arrested

by a policeman.

A No, sir, I do not.

BY MR. DONOHUE:

Q Weren't you arrested by Officer Downey, of the Sixth Branch Detective Bureau, in Brooklyn, and charged with burglary, on February 1, 1915?

A I don't remember.

Q You don't remember?

A No, sir, I do not.

Q You don't remember whether you were ever arrested and charged with burglary, or not?

A No, sir, I don't remember.

Q Do you know Officer Downey, of the Sixth Branch Detective Bureau?

A No, sir, I don't remember.

Q Did you ever see him?

A No, sir, not that I can recollect.

Q Weren't you given a suspended sentence over there in the Children's Court, for burglary?

A I understood that I was.

Q Weren't you given a suspended sentence, for burglary?

A Yes, sir, I was.

Q And weren't you also put on probation for three months because your brother brought a charge against you?

A Because I was away from home, and I didn't know how to get home.

Q So that was two distinct times you were in court?

A One distinct time. I was only in court once.

Q What were you held for?

A I was away from home, and I was near prospect park once, and I couldn't find my way home, and when I really did get home my brother said they

better keep me down there, to frighten me.

Q Weren't you arrested and convicted in the Children's Court on February 5th, 1915 of Burglary?

A No, sir, I don't remember.

Q Your answer is you don't remember?

A Yes, sir.

Q What is your name?

A Walter B. Severance.

Q And what is your father's name?

A Charles Severance.

Q And what is your mother's name?

A Mary Severance.

Q And where did you live in February of 1915?

A 745 Lafayette Avenue.

Q So, you were in court before?

A Well, yes, the Children's Court.

BY THE COURT:

Q How far is it Prospect Park to Lafayette Avenue?

A Oh, it is about three-quarters of an hour's ride.

Q On what?

A On the surface cars.

Q You say it took you three days to get home?

A I lost my way. I couldn't find my way home.

Q Nobody could tell you how to get there?

A No, sir; I was cold and hungry, and a man bought food for me in a restaurant.

Q Nobody could tell you how to get home?

A Some people told me to walk this way, and some people said to go this way.

Q Did you ever get lost when you were over on Broadway at night?

A No, sir.

BY MR. DONOHUE:

Q You never got lost around the Knickerbocker Hotel, did you?

A Not that I remember, no, sir.

Q For the last six months, what have you been doing for a living?

A I have been helping my brother.

Q Doing what?

A Washing cars.

Q And how much would you get paid for that?

A My brother used to give me some spending money.

Q About how much?

A A dollar, two dollars, two dollars and a half, three dollars.

Q Did you during the month of September have an apartment at the Hilldonia Court, under the name of Seeman?

A No.

Q Under what name did you have it?

A I didn't have no apartment.³

Q You had no apartment at the Hilldonia Court?

A No, sir, I didn't have no apartment.

Q Were you there?

A No, sir, I was not there.

Q Were you ever in the Hilldonia Court?

A Yes, I was visiting somebody there.

Q Who?

A A fellow named Robert Seeman.

Q And how many times did you stay there?

A I never stayed there. I visited there.

Q Did you ever stay there all night?

A No, sir.

Q Didn't you, under the name of Seeman, hire the apartment yourself?

A No, sir.

Q Aren't you what is known along Broadway as a fairy?

A I am not.

Q What are you?

A I am nothing.

Q Do you know Carroll pretty well?

A No, I don't know him pretty well.

Q When did you first meet him?

A I was introduced to him by a friend of his who is not in the State Reformatory.

Q By the way, were you ever in a reformatory?

A No, I was not; I was never in no reformatory.

Q Did you ever live at the York Hotel?

A No, sir, I did not.

Q Did you ever have a room there?

A No, sir. I did not.

Q Did you ever go to the York Hotel?

A Yes, sir, one time I met Carroll.

Q Who else did you go with besides Carroll?

A With a friend of Carroll's.

Q Was it Bob Elliott?

A No, sir.

Q Do you know Bob Elliott?

A No, sir, I don't know him.

Q You don't know Bob Elliott?

A I have heard of him.

Q Do you know Bob Elliott is a well-known fairy around Broadway?

A No, sir, I don't know that.

Q Do you know what a fairy is?

A Just by the description I have heard in court here.

Q Only by that?

A Yes, sir.

Q You never heard of one before you came to court?

A I

did, by my brother.

Q What did he say?

A He said he took the place of a woman; that is the only thing I understood about a fairy.

Q Didn't you go up and down Broadway with your face painted and your eyebrows blackened?

A No, I did not.

Q Picking up men?

A No, I did not.

Q Didn't you tell Carroll you did?

A No, sir.

Q Didn't you and Carroll walk up and down Broadway for that particular purpose?

A No, I did not.

Q Were you ever on Broadway?

A I was not Broadway occasionally.

Q About how many times were you on Broadway in the last six months?

A Once in the last six months.

Q When was that?

A One day I went over for a position over there.

Q You were around there in September of 1917, weren't you?

A Yes, I was over there.

Q How many times were you over there then?

A I can't tell you; about once every two weeks, probably once very three weeks.

Q What was your purpose is going over to Broadway?

A I met Frank over there.

Q Where would you met him?

A At the Atlantic Avenue subway station.

Q Then you would go to Broadway?

A No, sir, he took me

to some restaurant in Fiftieth Street and introduced me to a young girl named Frankie Raymond, in Al Reeves Beauty Show.

Q How often were you on Broadway during September?

A Once in two weeks.

Q Once in every two weeks?

A No, not once in every two weeks. Probably a month before I was there again.

Q And what time would you get there?

A About eight o'clock.

Q Now, Severance, I am going to ask you once more, when you were arraigned in the Children's Court, what were you charged with?

A I had been away -

MR. EMBREE: I object to that question. If he has been convicted, there is no one more anxious to know it than I.

THE COURT: I will allow it as introductory. He says he was placed on probation. He must have been convicted of something. I will allow it merely as introductory.

Q (Question read by stenographer, as follow:) "Q Now Severance, I am going to ask you once more, when you were arraigned in the Children's Court, what were you charged with?")?

A Do you want me to answer that?

Q Yes.

A I understood I was arraigned because my brother had me arrested to keep me home and have me frightened, over at the Children's Court.

Q And what would your brother have you arraigned for, to get you frightened? What was his idea in that?

A Because I had been away from home.

Q While you were in the Children's Court did you see Frank E. Downey, a police officer?

A Not that I remember, no.

Q You don't remember Mr. Downey?

A No, sir, I do not.

Q Do you remember an officer making a charge against you at that time, stating, in open court -

MR. EMBREE: I object to what the officer stated in open court.

THE COURT: Yes, I sustain the objection.

Q Weren't you charged at that time by Officer Downey that on February 4th -

MR. EMBREE: I object to that. If he was convicted of it, let us have it quickly.

MR. DONOHUE: I offer the record of the Children's Court in evidence.

THE COURT: That is not competent. What was the date of this occurrence you have just been asking about?

MR. DONOHUE: February, 1915.

THE COURT: That is practically three years ago.

BY THE COURT:

Q How old are you now?

A Sixteen.

Q You were sixteen last August?

A Yes, sir.

Q And you say you were thirteen then?

A Yes, sir.

Q Did you give your age at that time?

A No, my mother gave my age.

Q Did she give it as thirteen?

A I think she did, yes.

BY MR. DONOHUE:

Q During the last six months, Mr. Severance, isn't it a fact you have not been home very much?

A No, sir, it is not.

Q About how many nights a week in the last six months have you been away from home?

A I haven't been away from home at all.

Q Never?

A No, sir, unless when I went to visit my grandfather.

Q How about the night you slept in the York Hotel?

A I didn't sleep in the York Hotel.

Q How about the nights you slept in the Hilldonia Court?

A I never slept in the Hildonia Court.

Q Did you ever stay at the Hilldonia late at night?

A Ye, But I left -

Q How often did you stay late at night?

A Two or three nights a week I went there to visit, and left there late.

Q You left there after one o'clock, usually?

A No; about one.

Q About one?

A A little after twelve.

Q And that happened two or three nights a week?

A I wouldn't say two or three nights a week.

Q What was this friend of your named?

A Robert Seeman.

Q How old was he?

A A young fellow, about twenty-one, I guess.

Q Do you know what his business was?

A No, sir; he was staying at my house for a while.

Q Staying at your house?

A Before he moved over to New York.

Q And he had this apartment at Forty-eight Street and Broadway?

A Forty-fifth Street.

Q Four rooms and a bath?

A No, two rooms.

Q Two rooms?

A Yes, sir.

Q And during that time you were working for your brother, washing automobiles?

A Yes, sir.

Q Getting a dollar and a half a week at the most?

A Yes.

Q Did you know the outside man at the Hotel Continental?

A No, sir, I did not.

Q What made you hesitate about answering that question?

A I can't recollect the Hotel Continental; I don't know where it is.

Q Do you know anybody connected with the Hotel Continental?

A No, sir.

Q Don't you know the man who stands outside the door?

A No, sir.

Q Didn't you eve talk to him, about two or three o'clock in the morning, while you were going along Broadway?

A No, I wasn't out that late in New York, two or three o'clock.

Q You were there until one?

A Before one. As a rule, I struck home about one.

Q Now, let us get down to this night in question. What time did you meet Carroll?

A When?

Q This night we are investigating now, September 15th?

A I met him at seven o'clock, or a quarter after seven; he was lat.

Q Where did you meet him?

A At the Atlantic Avenue subway station.

Q The Atlantic Avenue subway station?

A Yes, sir.

Q And that was the first you had seen of him that day?

A Yes, it is.

Q Positive of that?

A Yes, positively.

Q And that was about what time?

A A quarter past seven I met him.

Q At the Atlantic Avenue subway station?

a Yes, sir.

Q And did you have an appointment to meet him?

A Yes, I had an appointment at seven o'clock.

Q From there where did you go?

A Took the subway into Grand Central and transferred over to Forty-second Street.

Q From there where did you go?

A Went over to Gray's drug store and met Helen.

Q Is this the girl you refer to as Helen (indicating Miss Helen Handibode)?

A Yes, sir.

Q And was that at Gray's drug store?

A Yes, sir.

Q At Forty-third Street and Broadway?

A Yes, sir.

Q Sometime after 7:15?

A No.

Q You met her?

A We met her at 8:15.

Q And where did you go with her?

A Went over to the Rialto Theatre.

Q You saw the show there?

A Yes, sir.

Q What show was there?

A I am sure it is Taylor Holmes in "Efficiency Edgar's Courtship".

Q You recall that very well?

A I am not sure whether it was that week or a week before that, or a week before that.

Q You and Helen and Carroll went to see this show?

A Yes.

Q And stayed there until it was all over?

A Until eleven o'clock.

Q Then what did you do?

A We walked over to Sixth Avenue and Forty-second Street and Helen took a car.

Q And what happened after that?

A Frank and I continued walking up Sixth Avenue until we crossed over on the other side of the street and looked at the billboard of the Hippodrome.

Q Were you in Churchill's that afternoon?

A No, sir, we were not.

Q Weren't you in Churchill's with Helen and Frank that afternoon at about three o'clock?

A No, sir, I was not.

Q And the first you saw the Helen that day was about 8:15, in front of Gray's drug store?

A Yes, sir.

Q You are sure of that?

A Positively.

Q And the first you saw of Frank was 7:15?

A 7:15, at the Atlantic Avenue subway station, yes, sir.

Q Sure of that?

A Yes, sir.

Q No question about that?

A No, sir.

Q You were not with Frank and Helen in Churchill'?

A Not that night.

Q You were not over at the York Hotel that night with Frank, were you?

A No, I was not; no, sir.

Q You arrived at Forty-seventh Street and Sixth Avenue with Frank?

A Yes, sir.

Q What happened there?

A That is where we met Mr. Richter.

Q Mr. Richter came along in an intoxicated condition, with three men?

A Yes, sir.

Q And they were pretty big fellows, the three men?

A No, sir, not very big.

Q And they were dirty?

A Yes, they were.

Q At the last trial you said they were men whom you thought should not be in the company of Mr. Richter?

A Yes, sir.

Q Is that correct?

A Yes, sir.

Q They were what might be called tramps?

A They were not really tramps; they were dressed, but they were not dressed like a gentlemen, at least.

Q They were not dressed the same way Mr. Richter was?

A No, sir.

Q And as they came along were you going up on the same avenue they were going down?

A Yes, sir.

Q And Richter jumped out of the crowd and grabbed you by the arm?

A No, sir; I was going down the curb and he was coming up the curb, and he grabbed hold of my arm.

Q And what did he say?

A He said, "Hello, there," he says, "Shimie McCoo;" then he said to me, "come on, have a drink, join the crowd;" and I said, "No, I don't drink;" so he says, "Come one, we will go in the saloon and have a drink." There is a saloon right opposite there. I aid, "No, sir, I don't drink; they wouldn't sell me no drink in the saloon."

Q And you wouldn't go in and have a drink, in the saloon?

A No, sir.

Q But, instead, you took him in a drug store?

A Yes.

Q And you are sixteen years old?

A Yes, sir.

Q And you took this man to the drug store for what purpose?

A To get something to sober him up.

Q You were not interested in this man at that time, were you?

A No, sir.

Q Why didn't you go on your way home?

A His friends were gone, and he asked me to help him home.

Q He was pretty far gone?

A Yes, he was gone.

Q Why didn't you call a policeman and go on your way home?

A Because I didn't want to see the man arrested.

Q You were interested in him?

A I was interested enough in him not to turn him over to a police officer.

Q You had never seen him before?

A No, sir.

Q And you thought it was your duty to take him home?

A Yes, sir.

Q And you got in an elevated train and subsequently got off?

A Yes, sir.

Q And took a taxicab or automobile?

A A limousine.

Q You and Carroll?

A Yes, sir.

Q And it was in the machine that Richter tried to assault you, you say?

A Yes, sir.

Q Tell us what he did?

A Mr. Richter was in the middle, Frank Carroll was on the righthand side, and I was on the left. He laid his head in my lap, and I was looking at Frank, and Frank looked at me and laughed, so Mr. Richter took his two fingers or three fingers and opened my trousers and tried to get down on me.

Q Did he actually open your trousers?

A Yes, he actually opened my trousers.

Q Did you make any outcry at that time?

A I did not.

Q Did you say anything to anybody about it at all?

A No.

Q Did he get your private parts out?

A Yes, sir.

Q And did he get his head down near them?

A Yes, sir.

Q And then you arrived at his house?

A Yes, sir.

Q And you went upstairs in the apartment?

A Yes, sir.

BY THE COURT:

Q What did you go in his apartment for after he had done a thing like that?

A After I had paid the bill I said, "Where is my money, Mr. Richter?" He said, "Come upstairs and I will get the money," and I went upstairs.

BY MR. DONOHUE:

Q Despite the fact that this man attempted to assault you or go down on you, as you say, you walked into a hallway with him and went upstairs?

A Yes, sir.

Q Into his own apartment?

A Yes, sir.

Q Didn't you at that time know what would happen to you if you went into the apartment?

A No, sir. I told him not to bother me any more. He didn't seem to bother me any more, and he stayed on Carroll's side.

Q Did he attempt to open Carroll's trousers?

A Yes, sir, he did.

Q That was after he attempted to open yours?

A After I pushed him over to Carroll, and he laid in Carroll's lap.

Q And how both went up in the apartment with him?

A Yes, sir, we did.

Q And it was while he was in the apartment that he tore off these trousers?

A Yes, sir.

Q Did you have those trousers on that night (exhibiting trousers to witness)?

A Yes, sir, I had the suit. I had the coat - I had been working in them, upstairs.

Q Do you mean to say you were walking up and down Broadway with a suit on like that?

A That suit was new when Mr. Richter tore it.

Q The suit was new when Mr. Richter tore it?

A Yes; I had been wearing it upstairs, mopping and helping upstairs in the City Prison.

Q Who did this sewing around the crotch?

A My mother.

Q Was that after, or before?

A After.

q You said some of the buttons are still off these trousers?

A The buttonhole is still torn. My mother sewed it.

Q Mother didn't sew the buttonholes, did she?

A She sewed the buttonhole, but it ripped again.

Q Who ripped it again?

A It opened again, by being worn so much.

Q Didn't you tell us at the last trial Mr. Richter tore those trousers just the way they are now?

A Yes, sir.

Q Why didn't your mother sew them, then?

A My mother did sew them.

Q How are they ripped in the same place?

A By all the work I have done upstairs with them.

Q And those trousers now are in the same condition they were the night you had them on?

A No, sir, they are not so much torn as they were when Mr. Richter ripped my trousers.

Q Just where did Mr. Richter rip them?

A When he

pulled them off he had hold of them here, and this tore that way (indicating); there is one of the tears where it was sewed before, and he ripped here (indicating).

Q How about this here, where the patch is (indicating)?

A No, sir, he didn't do that, not where the patch is.

Q Do you remember at the last trial, Mr. Severance, when I asked you to point out exactly the spot that you claim Mr. Richtertore, and do you remember your referring to the part where the hole is now? "Yes," or "no", please; do you remember that?

A Yes, I think I do.

Q And you didn't say anything about your mother sewing your trousers at that time, did you?

A No, sir.

Q If she sewed this part where the patch is (indicating), why didn't she sew where the patch is there (indicating)?

A She did sew it up there.

Q And it has ripped out since?

A Yes, sir, by the wear I had upstairs with it.

Q How long had you been working for your brother?

A Oh, about six months.

Q And how many cabs did he gave charge of?

A He had charge of quite a few, but I only took cars of two or three a day.

Q You took care of washing them?

A Yes, just putting the hose on the cabs.

Q Of putting the hose on two automobiles?

A Two a day,

yes, sir.

Q And that was all you did?

A Yes, sir.

Q And you got a dollar and a half a week for doing that?

A Yes, sir.

Q How long would that take you in a day?

A It used to take fifteen or twenty minutes or half hour, to get the dirt off, the mud.

Q What would you do the rest of the day?

A I used to take care of two or three cars a day, and I used to hand around, and if any of the chauffeurs asked me to clean the inside of the cars they would give me a quarter for it.

Q Didn't you testify at the last trial the only thing you did was take care of two or three cars your brother had at that garage?

A Yes, sir.

Q And all you had to do with those cars was to put a house on them?

A Yes, sir.

Q And after you did that you were through for the day?

A Yes, sir.

Q And that is all the work you did?

A Yes, sir.

Q Do you know a man who has a candy store in your neighborhood where you now live?

A There is two or three candy stores there.

Q Did you show any rings to a man who owns a candy store over in Brooklyn?

A No, sir; I had no rings to show.

Q You never showed any rings to any of those people at

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all over there?

A No, sir, I did not.

Q You went to Public School No. 25, in Brooklyn, didn't you?

A Yes, sir.

Q And the principal's name there was Irving A. Haven, wasn't it?

A Yes, sir.

Q Do you remember how you happened to leave that school?

A I left to get a position.

Q Where were you going to go to work?

A In Gleason, Peters & Company.

Q Is that the only reason you left?

A Yes, sir.

Q Weren't you discharged from school?

A No, sir, I was not.

Q And didn't you tell the principal at that time you were going to run away from home and go to Richmond, Virginia?

A No, sir, I did not.

Q Do you remember that?

A No, sir.

Q I am going to ask you one final question now. Didn't you plead guilty to entering premises 594 St. Marks Avenue on February 4th, 1915, in the County of Kings, and taking certain clothing and jewelry of the value of twenty-five dollars from those premises, in the Children's Court, on February 16, 1915, and weren't you sentenced February 25, 1915, and paroled in the custody of your mother?

A No, I don't remember that, no, sir.

Q Carroll visited you in the Tombs, didn't he?

A Yes,

he did.

Q And you and Carroll before the last trial were very friendly?

A Before this trial here?

Q Before the last trial, before the larceny trial, you were very friendly, were you not?

A Yes, I should say we were friendly, yes, sir.

Q And you had talked over with him what he was going to testify to when he went to the Tombs to see you, didn't you?

A I did not.

Q Did you have any idea what he was going to say when he took the stand in your case?

A I did not.

Q About how many times had he been to the Tombs to see you before he took the stand?

A Once.

Q And you didn't ask him to testify to anything in particular at all?

A No, sir.

Q And you had no idea as you sat there and he took the stand what he was going to say?

A No, I did not.

Q Did you give his name to your lawyer?

A Yes, sir, my lawyer knew his name.

Q Did you give it to him?

A Yes, sir. He asked me did I know Carroll well. I said I knew him about two months.

Q And you are positive that you and Carroll and this girl went to the Rialto Theatre that night?

A Yes, I am.

Q Oh, by the way, what name did you give to Mr. Richter that night?

A Mr. Richter didn't get no name from me at all.

Q Didn't you tell him your name was Bobby Carroll?

A No, sir, I did not.

Q Sure of that?

A Positive.

Q You didn't give him any name at all?

A No, sir, he didn't ask me for any.

Q As I understand you, you say now, Mr. Severance, that Richter pulled the trouser off you while you had your shoes on?

A Yes, sir.

Q And he pulled them right off?

A Yes, he did.

Q And you made no outcry, or never reported this matter to anybody at all?

A No, sir, I did not.

MR. DONOHUE: That is all.

REDIRECT EXAMINATION BY MR. EMBREE:

Q Was there some time when you were in the custody of the Children's Society?

A Yes.

Q How long were you in their custody?

A I don't remember.

Q Give the jury some idea of how long you were there?

A I know it was a few weeks.

Q A few weeks?

A Yes, sir.

Q And then were you on probation under some officer in that society?

A My mother asked me to be put on probation.

Q Then you were?

A Yes, sir.

Q And what was his name?

A I don't remember his name.

Q Did he come to the house occasionally after that?

A No, sir; I used to go down there.

Q How long did you do that?

A I think a few months.

Q And your recollection is you were thirteen years old then?

A Yes, sir.

Q Did you have a lawyer there in the court?

MR. DONOHUE: Oh, I object to that, if your Honor pleases.

THE COURT: I will allow it.

Q Did you have a lawyer in the court, in the Children's Court?

A I don't remember. I know there was some man there, a friend of my mother's.

Q You don't know whether he was a lawyer, or not?

A No.

Q Tell these gentlemen, as nearly as you can, whether or not you did plead guilty of something, and, if so, what you pled guilty of?

A I remember when I was there my mother asked me where I was, and I told her I couldn't find my way home, and she said, "You have been staying out after nine o'clock; I am going to ask the Judge to put you on parole;" and I was put on parole, and I used to be in by seven o'clock, and my parole was taken away from me. That is all I remember.

Q Is that the only time that you were in court?

A Yes, that is the only time.

MR. EMBREE: Your Honor, Mr. Donohue has some papers here which I am not disposed to question at all.

THE COURT: Well, it is not admissible if you object

to it.

MR. EMBREE: I think that is all.

THE DEFENDANT RESTS

REBUTTAL TESTIMONY

HELEN HANDIBODE, called as a witness, on behalf of the People, in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Where do you live?

A 531 West One Hundred and Sixtieth Street.

Q Miss Handibode, what is your business or occupation?

A Stenographer.

Q Ad who are you employed by?

A Baker, Caruthers & Pell.

Q And is that the same firm that employed Frank Carroll?

A Yes.

Q And do you know Frank Carroll?

A Yes.

Q How long have you known him?

A Almost two years.

Q And do you know Mr. Walter B. Severance?

A Slightly, yes.

Q Did you meet him?

A Yes.

Q Do you recall meeting him in the afternoon of September 15th, 1917, with Frank Carroll?

A No, I don't remember the date, but I did meet him with Frank.

Q Did you ever go to the Rialto Theatre with Mr. Severance?

A No.

Q Did you ever meet him in front of Gray's drug store?

A No; I don't remember meeting him.

Q Do you remember the first time you had heard about this case?

A Well, no, I don't remember; I don't remember.

Q Did Walter Severance ever walk from the Times Square subway station over to Forty-second Street and Sixth Avenue with you and Carroll and put you on a Sixth Avenue car?

A No, he never did.

Q How many times did you meet Severance with Carroll, or alone?

A Well, I think about twice.

Q Will you tell us when the first time was, about?

A Well, one Saturday afternoon I met him. I went with Frank from the office.

Q Now, Miss Handibode, will you tell us about when that was, according to your best recollection?

A The time?

Q Yes.

A I should judge from -- maybe from two to three.

Q No, I mean what day of the month?

A It may have been in September; it was in the fall; I think around September.

Q And where did you go with Frank that day?

A Frank and I went to lunch, and then we met - I went to a hotel with Frank, and he went upstairs and met Walter. I stayed down in the lobby. I think that was the first time.

Q Go ahead?

A And he came down and introduced me to Walter, in the lobby of the hotel.

Q Who came down?

A Mr. Severance and Frank together. Frank went up there to the room and they both came down together.

Q About what time of the day was that, Miss Handibode, afternoon, morning, or evening?

A It was afternoon, maybe from three to four, something like that.

Q Frank went upstairs and then he and Severance came down?

A Yes, sir.

BY THE COURT:

Q Do you know what hotel that was?

A The York, I think, some hotel on Seventh Avenue.

Q On Seventh Avenue and what street?

A Around in the Forties, Forty-second, Forty some street.

Q You think it was the York Hotel?

A Yes, sir.

Q And when Frank came down with Severance, where did you go?

A Well, we took a walk, and Walter went to some place, made a stop at some house.

Q Did you have anything to eat at Churchill's that day?

A After that.

Q About what time did you go in Churchill's?

A Maybe around four.

Q And who was with you then?

A Frank and Walter.

Q How long did you stay in Churchill's?

A I guess we left there around five or half past five.

Q And where did you go then?

A They left me at the subway, and I went home.

Q What subway did they leave you at?

A That subway that you go through the building.

Q What street?

A Near Times Square there.

Q And that was one of the times you met Severance with Frank?

A Yes, that is the only time. I think that was the first time, or the second. And the I think I met him once after that. I don't remember that. I either saw him with Frank or met him.

BY THE COURT:

Q That is the time you were introduced to him?

A Yes, sir.

Q Then, it must have been the first time?

A Yes, as far as I can remember.

BY MR. DONOHUE:

Q But you are positive, Miss Handibode, you never went to the Rialto Theatre with him?

A Oh, yes.

Q And you never met him in front of Gray's drug store?

A No.

Q And you never walked from Forty-second Street and Broadway to Forty-second Street and Sixth Avenue, where he put you on a Sixth Avenue car?

A Yes, I am positive.

MR. DONOHUE: Your witness.

CROSS-EXAMINATION BY MR. EMBREE:

Q What did you say your occupation is?

A Stenographer and typewriter.

Q In Mr. Baker's firm?

A What is that?

Q The firm where Mr. Baker is a member of the firm.

A Yes.

Q Are you still there?

A Yes.

Q You are a telephone girl there?

A Telephone girl and stenographer, too.

Q You have known Mr. Carroll for some time?

A Yes, two years.

Q And you frequently have gone with him to the moving picture show or some place?

A Yes, to the theatres and to dinner.

Q And you have been with him to the Rialto?

A Mr. Carroll, yes.

Q Several times?

A Yes, The Strand, and other places, too.

Q Have you been with him to Churchill's, occasionally?

A Yes, sir.

Q You know where the Hotel York is, don't you?

A No, I can't say that I positively know. It is on Seventh Avenue. I know that.

Q You testified when this case was tried before, in which Walter was a witness, didn't you?

A Yes, sir.

Q When this young man was tried?

A Yes, sir.

Q You remember the testimony that you gave at that time, don't you?

A Yes, I guess I do. I told the truth, any how.

Q I didn't ask you that; but you recall, don't you, in

substance, what you testified to?

A What do you say?

Q You recall in substance what you testified to, don't you?

A Yes, I guess I do.

Q Do you recall that on that occasion you said nothing to the jury about meeting Severance at the Hotel?

A Yes. Well, I hadn't remembered it.

Q You hadn't remembered that?

A No.

Q You simply say, "I met him".

A Yes, I guess I did.

Q Now, do you recall that on that occasion - I am not asking for the fact - I am asking your best recollection of what you testified - do you recall that on the other trial that you did say that you walked with Severance and Carroll over to Sixth Avenue and Forty-second Street?

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

There was no such evidence given.

THE COURT: I will allow it.

A No, I said I didn't remember having walked, if I remember correctly, I hadn't remembered.

Q You hadn't remembered it then?

A No.

Q And a moment ago, if I recall, you said to Mr. Donohue, did you not, that you did not remember about Gray's drug store, but you may have met the boys there, or you may have been with the boys there?

A Well, I will tell you, when I said that I thought maybe I might have met them there, but not Walter Severance I did not, no. I said, maybe. I hadn't remembered,

if I remember correctly, that I hadn't remembered meeting him there. That is what I said.

Q Do you know the names of some of these prominent moving picture actors, don't you? You know the name of Taylor Holmes?

A Yes, sir.

Q You have seen pictures in which he played, haven't you?

A Yes, sir.

Q And do you recall seeing a picture in which Taylor Holmes played at the Rialto?

A At the what?

Q At the Rialto.

A No, I can't say that I do.

Q You may have, however, seen a Taylor Holmes picture?

A Yes, I may have, but I don't just recall.

Q Now, about the best you can do on fixing the date is to say it was in the fall?

A Yes, it was in September, I think, as far as I can remember.

Q With whom did you come to court this morning?

A With myself.

Q Did you come with anybody?

A No, I didn't.

Q Who asked you to come?

A Mr. Donohue gave me a subpoena to come.

Q Beg pardon?

A Mr. Donohue gave me a subpoena to come to court.

Q When was that? When did he give you the subpoena?

A Friday.

Q Friday?

A Yes, sir.

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Q And who brought you down to the building then?

A I came myself.

Q I beg pardon?

A I came to the building myself.

Q Yes, but who asked you to come on Friday?

A Mr. Donohue called up and requested me to come.

Q Called up your place of business?

A Yes, sir.

MR. EMBREE: That is all.

REDIRECT EXAMINATION BY MR. DONOHUE:

Q Have you any doubt, Miss Handibode, in your mind about meeting Severance in front of Gray's drug store? You know you did not meet him there, don't you?

A Yes, I think I can say positively that I didn't.

MR. DONOHUE: That is all.

FRANK E. DOWNEY, police officer, shield No. 199, attached to the Sixth Branch Detective Bureau, call as a witness on behalf of the People, in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Officer, you are attached to the Police Department of the City of New York, are you?

A Yes, sir.

Q And how long have you been attached to the Police Department?

A Twelve years.

Q Are you a detective?

A Yes, sir.

Q In the Sixth Branch Detective Bureau?

A Yes, sir.

Q That is in Brooklyn?

A Yes, sir.

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Q How long have you been there?

A Eleven years.

Q Do you know the defendant, Walter B. Severance?

A I do.

Q And did you see him in the Children's Court on February 24, 1915, in Brooklyn?

A Yes, sir.

Q And did you see him before the judge who presided at that court at that time?

A Yes, sir.

Q And did you hear what the judge said to him?

A Yes, sir.

Q And did you make a statement to the judge?

A Yes, sir.

Q In his presence?

A Yes, sir.

Q What did you say?

MR. EMBREE: I object to that.

THE COURT: Objection sustained.

Q Officer, did you at that time make that affidavit (handing paper to witness)?

A (After examining paper) Yes.

Q And is that your signature?

A Yes, sir.

Q And was this in front of you when you were talking in the Children's Court?

A Yes, sir.

Q Did you, on the 5th day of February, 1915, have any talk with this defendant/

A I did.

Q Did you place him under arrest on that day?

A Yes, sir.

Q Did you subsequently arraign him in the Children's Court?

A Yes, sir.

Q On what charge?

A The charge of -

MR. EMBREE: Objected to.

THE COURT: That ordinarily would not be competent,

but this defendant has stated that he has never been in any court or arrested; however - no, I think the first answer binds there, too. The only thing his answer is not binding on is as to his conviction.

Q Were you present in court after all the talk had been given in reference to this particular case on which you arrested him?

A Yes, sir.

Q And did you hear what the judge said to him just before the case was terminated?

A Yes, sir.

Q What did he say?

A He said, "I find you guilty and place you on probation".

THE COURT: What did he find him guilty of?

Q Did he say what he found him guilty of?

A Burglary - juvenile delinquency.

Q Now, before that day in court, had you talked to the defendant about what you were arresting him for?

A Yes, sir, the night before, at his home.

Q Tell us what he said and what you said?

MR. EMBREE: I object to that.

THE COURT: Objection sustained.

MR. DONOHUE: I ask to have this affidavit at this time marked for identification.

THE COURT: It may be marked for identification.

(Same marked People's Exhibit No. 2, for Identification, of this date.)

BY THE COURT:

Q What is the date, Officer?

A February 5, 1915.

Q That is the date of the conviction?

A No, the date is some - I think it was February 5, 1915.

Q Do you remember whether the defendant stated his age at that time?

A No, I don't remember.

CROSS-EXAMINATION BY MR. EMBREE:

Q Don't remember that his age was thirteen?

A I don't recollect.

Q How many hearings were there? More than one?

A There was a hearing on the 5th of February, and then the case was given to Mr. Lyons, a probation officer, to investigate. There was some property that was not returned. He was to look up that property.

Q Was the mother present?

A She was.

Q Was there any lawyer Present for the defendant, so far as you know?

A I don't remember; I don't think there was a lawyer.

Q Your recollection is that he was adjudged guilty of juvenile delinquency?

A He pleaded guilty.

Q Did he use those words?

A He pleaded guilty.

Q You heard that, didn't you?

A Not exactly those words, but the judge questioned him and asked him did he really take the stuff from this man's room, and he said, "Yes".

MR. EMBREE: That is all.

JOHN H. LYONS, of No. 348 First Street, Brooklyn, called as a witness, on behalf of the People, in rebuttal, being first duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. DONOHUE:

Q Mr. Lyons, are you a probation officer detailed to the Children's Court?

A I am.

Q County of Kings?

A Yes, sir.

Q And have you had in your charge the case of Walter Severance since February, 1915?

MR. EMBREE: I object to that.

THE COURT: Well, what is the purpose of this? Was he present at the conviction?

MR. DONOHUE: He was present at the conviction, yes.

THE COURT: Allowed.

Q And were you present in court when the judge said something to this defendant, Severance?

A On or about February 5th this boy was in the Children's Court, 1915. At that time he pleaded guilty to a charge of burglary, otherwise known as juvenile delinquency. He was remanded in the custody of his parents, and I believe he came up a few days afterwards and was then remanded to the Children's Society. On March 5, 1915, he was placed - brought up for sentence and placed on probation under me. His probation period was extended -

Q MR. DONOHUE: That is all. And you had him in your charge for how long?

A December 14, 1915, when sentence

was suspended by Judge Wilkin, of the Children's Court.

MR. DONOHUE: That is all.

CROSS-EXAMINATION BY MR. EMBREE:

Q He was at that time thirteen years old?

A Thirteen, according to the record he gave me, he was born August 22, 1901. I took his pedigree when he was placed on probation.

MR. DONOHUE: The People rest, if your Honor please.

THE COURT: Go to the jury.

(Mr. Embree then summed up the case to the jury on behalf of the defendant.)

THE COURT: (To the jury) Gentlemen, please do not form or express any opinion as to the guilt or innocence of the defendant, until the case is finally submitted to you. We will take an adjournment until a quarter before two o'clock.

(The Court then accordingly took a recess until 1:45 P.M.)