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COURT OF GENERAL SESSIONS OF THE PRACE,  
City and County of New York.

Part III.

TIPE PEOPLE Before

VS.HON. RUFUS B, COWING, J.,

FRANK G. FLETCHER. and a Jury.

Indicted for Grand Larceny in the 1st Degree.

Indictment filed January 31st, 1905.

Tried New York February 10th, at seq, 1905.

APPEARANCES:

ASSISTANT DISTRICT ATTORNRY CHARINS C. Nott, for the  
People.

WAUHOPE LYNN, BSQ, for the Defense.

TRIAL RESUMED.

New York, February 1st, 1905.

THE PROPLER'S TESTTMONY.

W I L L I A M J. L O Y, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. NOTT:

Q. Mr. Loy, what is your business, please? A Clerk, in the employ of William Bradley.

Q. In the employ of William Bradley? A Yes, sir.

Q. What is the business of Mr. Bradley? Is he conducting business for himeself, or is it a firm? A He is in the employ of the City.

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Q. Well, I mean, he is a Contractor on his own account?

A Yes, sir.

Q. And conducting business as such? A Yes, sir.

Q. How long have you been employed by him? A Since the snow contract was issued, December 1st.

Q. December of last year? a Yes, sir; last year.

Q. And in what capacity are you employed?

A. Why, I am--I have charge of all ticket men.

Q. of all the ticket men? A Yes, sir; and dock men.

Q. Now will you kindly explain to the jury what you mean by dock men? A A dock men is a man given tickets to issue on the street to drivers, having as art loaded with snow.

Q. Does a ticket man accompany each gang of laborers?

Q Yes, sir; accompanies each loading gang.

Q. And when a cartload of snow is loaded on to a cart what does the dock man do? A Why, he will give him one, two or three tickets, according to what his truck will hold.

Q. That is, some stocks are entitled to one, two or three tickets according to the capacity of the truck and the size of the load? A Yes, sir.

Q. Then, when a load is loaded, and the driver receives his ticket or tickets, what does he do? A He goes to the

dump designated for that gang. Rach gang has ascertain dock, and he goes to that dock, and dumps his load of snow, and if he presents three tickets, he gets three tickets, pay tickets in return.

Q. That is to say if he presents three loading tickets?

A. Yes. The dock man is supposed to exchange ticket for ticket, a pay ticket for a loading ticket.

Q. Well, now, state whether or not the dock man can issue a ticket to the driver unless he goes a loading ticket?

Q Each loading ticket must be accompanied by a load of snow. If he goes to the dock without a cartload of snow, he doesn't receive a ticket. The dock man has to see the load of snow dumped.

Q. Well, I will come to that later?

MR. LYNN: Well, I think that is very essential, I want all that.

THE COURT: Well, it is all on the record now, I think, all about that subject.

BY MR. NOTT:

Q. Well, will a pay ticket be issued unless in exchange for a loading ticket? A No.

Q. And you say, also, that in addition to the loading ticket, the dock man must see that a load of snow accompanies a loading ticket? A Yes, sir.

Q. On the other hand, if doc kman were to at end in with anybody, is there anything to prevent----

MR. LYNN: Objected to.

THE COURT: I will hear the question, Mr. Lynn.

BY MR. NOTT:

Q. Could the doc man exchange a pay ticket for loose or odd loading tickets?

Mr. Lynn: Objected to, what a dishonest person might or could do.

THE COURT: Is that proof positive that he could? He could deliver all of them if he chose to, without getting a pay ticket or loading ticket.

I think that is self evident.

MR. LYNN: Yes, sir. We could all commit murder, but we are not going to do it.

BY MR. NOTT:

Q. Now on the 27th day of January, 1905, was there a man, a ticket man, so-called, in the employ of William Bradley, by the name of Julius Bendt? A Yes, sir.

Q. And in what section was he? A Fourth District.

Q. I mean District. What District is that? A That includes from Broome street to 12th, I think, but I ain't sure about that.

Q. On the east or west side? A On the east side.

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Q. Now, on the 27th of January, 1905, did you issue any tickets, in the afternoon, Bendt? A I deliver about 2,000 tickets to him, about six O'clock on that evening.

Q. How did they come? A 100 in a pad, and each 500 was tied in a bundle.

Q. That is, each 500 pads? A Yes, sir.

Q. or 500 tickets? Which? A 500 tickets, I meant to say.

BY THE COURT:

Q. You delivered them, you say, in the afternoon, about six O'clock? A Yes, sir.

BY MR. NOTT:

Q. Now, will you look at this article which I show you, and state whether that is one of the pads of snow or loading tickets issued by William Bradley?

A Yes, sir.

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

MR. LYNN: I suppose he will connect it later?

MR. NOTT: Yes. I will show, later, that it is one of the stolen pads.

MR. LYNN: And, if it is not connected, your Honor, I suppose my motion to strike out will be proper?

THE COURT: Yes.

MR. NOTT: I will offer both of those pads in evidence.

THE COURT: They may be marked in evidence.

(They are marked respectively, People's Exhibits 1 and 2 in evidence.)

BY MR. NOTT:

Q. Now, when these tickets are issued to the ticket man, are they detached from the stubs? A Yes, sir, when given to the loading man.

Q. And the ticket man keeps the stubs? A Yes; and returns them to the office.

Q. And this large figure 4, that refers to the section or district? A Yes, sir.

Q. Now, each of these tickets bears its own number, does it not, from 1 to 100? A Yes, sir.

Q. And each pad has its series number? A Yes, sir.

Q. For instance, this series is No. 743, and the tickets are from 1 to 100? A Yes, sir.

Q. And the series number is on the pad--on the stub and on the ticket? A Yes, sir; on the stub and on the ticket.

Q. Did you keep a record of the series number on the pads issued by you on that occasion to Mr. Bendt?

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A Yes, sir.

Q. I show you a memorandum. Is that in your handwriting?

A Yes, sir.

Q. And was that made by you?

A Yes, sir.

Q. And is it correct?

A Yes, sir.

MR. LYNN: Well, it seems to me, if your Honor  
Please, that, if this memory is worth anything,  
we ought to have that.

BY MR. NOTT:

Q. Can you, without refreshing your memory, state whether  
or not these two pads marked in evidence were two of the  
pads issued by you to Mr. Bendt on this occasion?

A Yes, sir.

Q. You can?

A Yes, sir.

Q. Well, then, will you look at series Numbers and kindly  
so state?

A Yes, sir; those are two of the pads.

Q. And what were the series numbers that were issued to  
him on that afternoon; from what to what, inclusive?

A From 741 to 760, inclusive.

MR. NOTT: It appears, if your Honor please,  
on the pads that have been offered in evidence here,  
that their series numbers are 742 and 743.

BY MR. NOTT:

Q. Now, at what time of the day or night did you issue

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those tickets to Mr. Bendt?

A About six O'clock.

Q. Morning or evening?

A Evening; about six o'clock, evening.

Q. That is to say, twenty of these pads?

A Twenty pads.

Q. And you say Mr. Bendt was, at that time, employed as a ticket man?

A Yes, sir.

Q. Now, where did he put them?

A I delivered them to him in a bag.

Q. In what kind of a bag?

A A canvas bag.

Q. Furnished by the contractor?

A Yes, sir.

THE COURT:

Q. That is, you delivered these 2,000 tickets to Mr. Bendt?

A Yes, sir.

Q. In a canvas bag?

A Yes, sir; in a canvas bag.

BY MR. NOTT.

Q. And when did you deliver them to him-- where, I mean?

A at 154 East 24th street.

Q. In the country of New York?

A Yes, sir.

Q. Now when did you see Mr. Bendt again? after that?

A I should say, about 9 O'clock, on the same day.

Q. And where did you see him?

A At the same place.

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Q. At the office?

A Yes, sir.

Q. And will you state to the jury what his condition was as to sobriety, at that time?

A Mr. Rendt returned about nine o'clock, in the evening, very drunk, and he tried to tell me that I only gave him 1100.

THE COURT: No. Do not state what he said.

BY MR. NOTT:

Q. You had a conversation with him?

A Yes, sir.

Q. And, in consequence of that conversation, did you examine this bag?

A Yes, sir.

Q. He had the same bag with him?

A Yes, sir.

Q. Did you find any of the pads or tickets which you had given to him at six O'clock missing?

A Yes, sir.

Q. Can you state what ones you found missing?

A Now 741 to 745, inclusive, 750, 753, 756 and 757.

Q. That is to say, nine altogether?

A Yes, sir, nine pads.

Q. That, you say, was about ten o'clock, on that same evening?

A About nine o'clock, I should say.

Q. Do you know Mr. Walsh?

A Yes, sir.

Q. Is he a foreman?

A He is a dock foreman.

Q. Employed by Mr. Bradley?

A Yes, sir.

Q. Did you, later, receive any report from him?

A Another gentleman in the place received the report.

Q. When was that?

A Why, I couldn't exactly say what time it was.

Q. Now, a part from the two pads, People's Exhibits 1 and 2, have you ever seen any of those missing pads?

A No, sir.

Q. You have never seen them since?

A No, sir.

Q. When did you see these two pads next?

A The first I seen of them was in the District Attorney's office.

Q. And how long ago?

A January 31st.

BY THE COURT:

Q. People's Exhibits 1 and 2 are the only ones you have ever seen?

A Yes, sir.

Q. Since they were missed?

A Yes, sir.

BY MR. NOTT:

Q. Now, Mr. Loy, I will ask you what the value is of each of these tickets?

A Each ticket represents 33 cents.

MR. LYNN: Well, I object to it, your Honor, what it represents. That is not the value.

MR. NOTT: The value is a representation, I think.

THE COURT: Each of these tickets is of the value of 33 cents; is that it?

THE WITNRSS: Yes, sir.

MR. LYNN: But he say it represents the value.

MR. NOTT: Well, a dollar bill represents the value of one dollar.

MR. LYNN: Not unless it is exchanged for some commodity.

BY MR. NOTT:

Q. Do you know where these are printed?

A Yes, sir; the American Bank Note Company.

Q. The American Bank Note Company?

A Yes, sir.

Q. They furnish them to Mr. Bradley?

A Yes, sir.

Q. Did you know this defendant?

A No, sir.

Q. Was he ever a ticket man or dock foreman or employed in any capacity by William Bradley?

A Not as I know of.

Q. Well, you say you have charge of the ticket man and of the dock men?

A Yes, sir.

Q. Was he in your employ?

A No, sir.

CROSS EXAMINATION BY MR. LYNN:

Q. Mr. Loy, what did Bendt say when he came back?

What did he try to tell you about these tickets? He was drunk about nine o'clock, and you stated in to say something

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about his trying to tell you something about the tickets?

Give us that conversation, won't you?

MR. NOTT: Well, I object to the conversation, as hearsay, if your Honor please.

MR. LYNN: Well, I am willing to accept it, if your Honor please, from a People's witness.

MR. NOTT: Well, I don't think that the record should be encumbered by hearsay.

THE COURT: Well, it is a little different on cross examination from the direct examination.

MR. LYNN: Yes, sir.

THE COURT: Yes, What explanation he gave, when he came in, might have some bearing on the case, and I will allow it.

BY MR. LYNN:

Q. What did he say, Mr. Loy?

A He said I gave him 1100.

BY THE COURT:

Q. He told you that you gave him 1100 tickets?

A Yes, sir.

Q. What else did he say?

A That is all he said.

Q. He said that you gave him 1100 tickets?

A And then after I questioned him, and told him it wasn't true---

MY MR. LYNN:

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Q. You had charged him with two thousand?

A Yes, sir; which he had signed for.

Q. Which he had signed for?

A Yes, sir.

Q. And then he came back, drunk, about nine o'clock, with his bag and his tickets?

A Yes, sir.

Q. And had you sent for him?

A No, sir.

Q. Had you sent any messenger for him, at all?

A Not as I know of.

Q. So that he came back, at nine o'clock, apparently voluntarily, came in of his own accord, without being sent for?

A No. I think he was sent for. I think one of the foremen noticed him drunk and telephoned into the office, and whether he was sent for or sent in, I don't know which.

Q. Well, he got there, finally, at nine o'clock?

A Yes, sir.

Q. And you say he was drunk?

A Yes, sir.

Q. Well, did you open the conversation with him? or did he open the conversation?

A He opened the conversation.

He said, "You only gave me 1100 tickets."

Q. And what did you say to him?

A I said, "I gave you 2,000."

Q. How long had you been working for Mr. Bradley?

A Since December 1st.

Q. Now, I want the jury to understand these tickets. and I want his Honor to about them. You have two

character of tickets, haven't you, two kinds of tickets?

A Yes, sir.

Q. Now, look at this sample ticket which I show you, and state whether that is not what is called a snow ticket?

A. Yes, sir; that is a snow or leading ticket.

Q. That is a snow or loading ticket?

A Yes, sir.

Q. Now, will you kindly say what the purpose of that ticket is. when a man on the street, with his wagon, fills it up, loads it with snow, what the purpose of the ticket is? what it is intended for, when he has his load of snow and you give him this ticket? Is it not that he shall proceed to the dump and dump his load and there present this ticket?

A Yes, sir.

Q. Could he, without going to the dump with his load of snow, get another ticket in exchange?

THE COURT: Do you mean a pay ticket?

MR. LYNN: Yes, sir.

BY MR. LYNN:

Q. Must he not come with his load of snow and this ticket to the dump and dump his load of snow, and present this ticket in order to get the pay ticket?

A Well, that depends upon the honesty of the dock man.

Q. Well, I am assuming that they are honest?

A Yes, sir.

Q. Isn't the purpose of the first ticket, Mr. Loy, largely to enable Mr. Bradley to have the snow brought from a given point to the dump, because, if they went to the dump without a ticket, they might gather a load of snow within a block and then offer the load of snow off the dump---

A Yes, sir.

Q. Now, isn't the object to fix it that the load of snow has come from a particular point?

A Yes, sir.

Q. And that enables Mr. Bradley to go to the dump, when he sees this man at the dump with his load of snow and this ticket, to give him back a ticket like this (indicating)?

A Yes, sir; that is what they call a pay ticket.

Q. Now, the tickets which have been marked in evidence People's Exhibits 1 and 2 are not pay tickets, but what we call the identification tickets?

A Yes, sir; or loading tickets.

Q. Or loading tickets?

A Yes, sir.

Q. In other words, this ticket, presented by an honest person, and to an honest foreman, on your dump, without the load of snow wouldn't entitle him to a pay ticket?

A No, sir.

Q. So that the value of this ticket is then largely to identify the person carrying the load of snow, that he has brought the snow from a particular point?

A Yes, sir.

Q. Now, when you stated that ticket, Mr. Loy, was worth 33 cents, in itself, you didn't mean that, independent of a load of snow, or hauling a load of snow?

A Well, it represents 33 cents.

Q. (Question repeated).

A. (No answer).

Q. But you mean that it is a ticket to identify the person with a load of snow, who, proceeding to the dump with such load of snow will get a ticket worth 33 cents?

A Yes, sir.

Q. So that the ticket marked in evidence hasn't the value of 33 cents, but it is the second ticket?

MR. NOTT: I object to that as calling for a conclusion. It is all perfectly clear from the evidence.

MR. LYNN: And I understand it clearly, too, and you will not blind this jury or the Court. This Judge is always anxious to get the full truth.

THE COURT: I think I will let him answer the question.

BY MR. LYNN:

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Q. (Question repeated).

A. The second ticket is the pay ticket.

Q. Now, would that second ticket have a value of 33 cents, if such ticket was obtained without a load of snow?

THE COURT: Honestly obtained?

MR. LYNN: Yes, sir.

BY MR. LYNN:

Q. Would that have a value of 33 cents if it hadn't been that a load of snow was dumped for it?

A No.

RE DIRECT EXAMINATION BY MR. NOTT:

Q. Now, Mr. Loy, just one or two questions. When you obtained there pads from the American Bank Note Company, of course, they charge you for them and you pay for them?

They don't deliver these pads free?

A No, sir.

Q. And do you know what you pay for them?

MR. LYNN: Now, if your Honor please, it does seem to me that we are getting downtown the reductio ad absurdum

THE COURT: Do you mean whether they pay for these tickets?

MR. NOTT: Yes, sir, The indictment charges

that they are worth 33 cents, and, also, the cost of the tickets.

MR. LYNN: The indictment practically concedes these tickets have no value.

MR. NOTT: Oh, no, not at all.

THE COURT: YOu mean, as so much paper?

MR. NOTT: Yes, sir; as tickets.

MR. LYNN: Now, they are trying to show that the ticket may be worth something, as the work of a printer.

THE COURT: I will let you prove the market value of these tickets a saide for any value that they may have for the purpose for which they are created.

MR. LYNN: I don't object to that. What they can be sold for, the market value?

THE COURT: Yes, the market value. I think that section 547 uses that language (reads the section.) I will lot you prove that these papers aside for the purpose for which they are issued, have a market value.

MR. LYNN: And that I have no objection to.

BY MR. NOTT:

Q. Now, I ask you if you know what is paid by William

Bradley to the American Bank Note Company for these pads?

MR. LYNN: Objected to.

THE COURT: I do not think that is proper.

MR. NOTT: But the cases hold that price is some evidence of value,

MR. LYNN: No, sir; not in such a case as this. I have all cases here on that subject.

THE COURT: As I understand it, Mr. Nott, the value which is paid for those tickets would be a value for them, but no market value whatever.

MR. NOTT: Well, I well, I will have someone from the American Bank Note Company, who will testify what they are worth.

MR. LYNN: They might prove that they cost half a cent to print, but that does not bring them within a criminal statute as to larceny or receiving stolen goods, Mr. Nott has a very hard knot to crack in this proposition.

MR. NOTT: Oh, no.

MR. LYNN: In this case it is the load of snow that has the value. It is the intrinsic act of bringing the load of snow to the dump, and then he gets a pay ticket, but they are not in question here.

If your Honor wants the decisions on that subject, I have them all here.

THE COURT: The statute seems to be very plain. (The Court repeats the section). There are some cases that hold that the face value of a negotiable instrument is its value, and, as to other things, the market value is the value.

MR. NOTT: Well, the value of such things is fixed when published or issued, is the value between the printer and the buyer.

THE COURT: No, not what they might be worth to Mr. Bradley, but the market value. And then, there is another question before you reach that, and that is, whether these tickets under section 536 (reads the section).....whether their face value is the market value. But here is the section that the People will probably go on (reads).

MR. NOTT: That is, of course, our contention. I am simply offering this evidence as an extra precaution.

MR. LYNN: But, your Honor, these tickets, as distinguished from the pay ticket, are merely a means of locating a person with a load of snow.

THE COURT: But thereby they can get a pay ticket.

MR. LYNN: No. The witness says no. He says that they can't go to the dock with that ticket alone.

THE COURT: But you can't got a pay ticket without that ticket.

Mr. LYNN: But you have got to have a load of snow.

THE COURT: Well, you want to get that will in your mind, "thereby".

MR. LYN: But your Honor is now importing into this statute some thing that the District Attorney hasn't claimed for it.

MR. NOTT: I have claimed it. I intend to claim it right through this case.

MR. LYNN: But it right be a ticket that was obtained fraudulently, and unaccompanied by a load of snow, you couldn't get a pay ticket.

THE COURT: How, then, if it is true what I have said, don't you get the pay ticket by means somewhat of the snow ticket?

MR. LYNN: No, because the man at the dump, if he was satisfied that he came from the proper person and the proper location, and know him to be an honest

man, and he said "I have lost my loading ticket on Broadway some where're, it might be that the man at the dump, knowing the honesty of the man, might say, "Here is a load of snow and here is a man, and give him a pay ticket".

THE COURT: But that is not the evidence. They both go together. You can't got a pay ticket, without a load of snow, and the loading ticket; and idf not was the instruction to all employees, the dump man had no right to deliver a pay ticket, except under those circumstances; and, therefore, the people may claim that it has a value in getting pay.

In other words a man who had a load of snow there, without that ticket, couldn't get a pay ticket.

MR. LYNN: Well, I could understand your Honor's reasoning if these tickets had been taken from a man who had hauled a load of snow there.

THE COURT: But the statute seems to provide for that (reads).

MR. NOTT: Yes, sir; and that is just this case. We claim the right to go on directly under that section as to value.

MR. LYNN: Now, read the ticket, Judge (reads the ticket).

THE COURT: Yes, and by delivering the load of snow and that ticket, he is entitled to a pay ticket.

MR. LYNN: I will ask the witness a few more questions.

BY MR. LYNN:

Q. Mr. Loy, you punch these tickets, don't you?

A Some of them.

Q. Now, don't you, as a matter of fact?

A No, sir.

Q. Haven't you provided punches for that purpose?

A No, sir.

Q. Well, I notice the one I have is punched, with a star?

A Yes; I see it.

Q. Tickets are torn from the stubs?

A Yes sir.

Q. When the ticket man meets a man with a load of snow, he tears off the ticket and hands it to him?

A Yes sir.

Q. Now, would he give to that man on the street one of these delivery tickets without the cartload of snow being filled?

A No.

Q. Exactly.

A No.

MR. LYNN: The statute has this to say as to the market value, your Honor (reads). The ticket itself has no commercial value. It is the identification of a load of snow which has the commercial value.

THE COURT: Well, it seems to me that it goes further than that, that statute. This ticket is an absolute necessity for the person who carries the load of snow, and it is as absolutely essential, to the evidence, to have the ticket as to have the snow.

MR. NOTT: Exactly.

MR. LYNN: Now, will your Honor read the next section there, as to railroad tickets?

THE COURT: Well, that is a different thing.

MR. LYANN: There is a ticket for a passage on a railroad. It bears on its face "Good from Troy to Albany", or "Good of Boston to New York".

THE COURT: Let me see the pay ticket.

MR. LYNN: Now, I don't want to mislead the Court. The Court has been 25 years on this bench.

THE COURT: (Reads the face of the ticket).

It does not state any amount on the ticket.

MR. LYNN: No, sir; that is omitted.

Now the witness swears that that ticket is to identify him as having brought the load of snow from a particular point.

THE COURT: Yes. And he also swears as I under-

stant, that this pay ticket cannot be delivered to any person who does not bring this load ticket.

MR. LYNN: And a load of snow.

THE COUR: Yes. And the snow ticket is just as the load of snow to get this pay ticket.

MR. LYNN: Well, no, it inessential to identify the person.

THE COURT: Well, it is essential for that purpose, and to get the pay ticket, as well.

MR. LYNN: Then, if that ticket went into the hand of this defendant or any other person by a larceny, it becomes a negotiable instrument?

THE COURT: I think we will rerserve that question. I will not pass upon it now. My own impression, now, is against you, Judge Lynn.

MR. LYNN: Well, I think it will be with me, later on.

THE COURT: Well, there will be time enough to discuss that, later on.

BY MR. NOTT:

Q. Now, Mr. Loy, let me ask you again, so that there will be no question about it: Is the foreman at the dock authorised to deliver a pay ticket to anyone unless he brings a snow ticket?

A No, sir.

BY MR. LYNN:

Q. And a load of snow, as well?

A No, sir.

THE COURT; Now, your contention is that these tickets, these snow tickets have no value?

MR. LYNN: Yes, sir.

THE COURT: Well, I think Section 545 is broad enough to cover that. But it will be time enough to discuss it when all the evidence is in.

RE CROSS EXAMINATION BY MR.LYNN:

Q. Well, Mr. Loy, the whole work of Mr. Bradley is the carrying of snow from the streets of New York, and dump--ing it at some dock?

A Yes, sir.

Q. And for that he has a contract with the city for so much a cubic yard?

A Yes, sir.

Q. And these dumping places are fixed in various parts of the city?

A Yes, sir.

Q. If your man at the dump was presented with this ticke, and a load of snow, and he knew that that snow came from only a block away, and it should have come from six blocks away, and he was an honest man, he wouldn't give a pay ticket; would he?

Mr. NOTT: Objected to.

THE COURT: Now, I think, Judge Lyann, that the evidence is pretty clearly before us as to what a snow ticket is, and what the pay ticket is; I think it is well understood by the jury now.

MR. LYNN: But the question now that I am asking is if one of these tickets and a load of snow was presented at the dump and the man at the dump knew that snow had only come a block, and he knew that it should have come from Broadway, I am asking whether the foreman would give him a pay ticket?

MR. NOTT: And I object ticket to that as purely hypothetical.

MR. LYNN: No. I contend that the ticket simply shows that he brought the snow from the place where it should have come from.

THE COURT: Well, the snow is not being sold. The labor in handling the snow is being paid for. The laborers have to take the snow to the dump, with a ticket showing where the snow came from, and both of those are essentials before they can be paid.

MR. LYNN: Now, Mr. Bradly, in order to detect possible deceit, as to men gathering up a load of snow within a block or so of the dump, and claiming pay

tickets had the tickets, these first tickets, printed to identify the load as coming from a certain point where the snow removal is going on.

MR. NOTT: Yes, And it is a certificate of work done, on presenting which they are entitled to a pay ticket for that work.

MR. LYNN: NOw, don't try to confuse the Court.

THE COURT: No, in my mind it is perfectly plain.

MR. LYNN: And the witness testified that the ticket was to show that they brought the snow from a certain place, the proper place.

MR. NOTT: Certainly; and it shows that they have earned their pay for the load.

THE COURT: Yes; and by means of that ticket, they get a pay ticket.

MR. LYNN: Yes, sir; but without that ticket and the load of snow, they couldn't get the pay ticket.

THE COURT: Well, I think we will discuss that further on, because it is a nice question, and, as the Court is now, it is rather against you; but, if you can convince me that these snow tickets--

MR. LYNN: Well, I will not try to convince you.

because I have the greatest possible reliance on your good judgment, and I am sure that, when you read that section you will see that it has no value, because it is not a negotiable instrument.

THE COURT: (Reads the section.)

Well, now, in the first place you might get this pay ticket thereby, by having your other ticket.

MR. LYNN: No, The snow has to accompany the ticket.

THE COURT: But you have no right, Judge Lynn, as I understand it, to a pay ticket without producing a snow ticket.

MR. LYNN: That, coupled with the testimony which in offered that the first ticket is to identify a person coming from a certain place.

MR. NOTT: And it is a certificate that he is entitled to his pay.

MR. LYNN: No, no.

THE COURT: Well, we will pass on, and get in the evidence, assuming that these tickets have a market value for the present.

MR. LYNN: Very well, sir.

JULIUS BRNDT, a a witness called on behalf of the People, being duly sworn, testified as follow:

DIRECT EXAMINATION BY MR. NOTT:

Q. Mr. Bendt who were you working for in the month of January, 1905?

A For Mr. william Bradley, the contractor.

Q. The snow contractor?

A Yes, sir.

Q. And in what capacity were you working for him?

A What is that, sir?

Q. (Question repeated).

A I was giving out tickets:

I was a ticket man. I gave out the loading tickets on the street.

Q. The loading tickets?

A Yes, sir.

Q. That is, you would go with the loading gang, and, when they got a load of snow piled on the carts, you would give out the ticket?

A Yes, sir; when the truck is loaded.

Q. And where did you get those tickets from?

A From Mr. Loy, in Mr. Bradley's office, on Friday, January 27th.

Q. 1905?

A Yes, sir.

BY THE COURT:

Q. In this country?

A Yes, sir; in this country.

BY MR. NOTT:

Q. And when you got the tickets, did you sign a receipt for them?

A Yes, sir.

Q. And is that your signature there (indicating)?

Q. And did you sign it?

A. Yes, sir.

Mr. Nott: I offer this in evidence, if your Honor please.

MR.LYNN: Well, I don't think that is at all material or admissible.

MR. NOTT: It goes to the identification of the ticket; that is all.

MR. LYNN: I object to it.

THE COURT: I think you have got them identified by the evidence, Mr. Nott.

MR. NOTT: Yes, sir; I think I have.

BY MR. NOTT:

Q. Now, do you remember what time it was in the day or night when you received those tickets on the 27th?

A Yes, sir; it was about a quarter to five-- a quarter to six.

Q. In the evening?

A. Yes, sir.

Q. And, when you got the tickets, where were they? where did you carry them?

A I carried them in a canvas bag.

Q. And that was furnished to you by Mr. Bradley?

A. Yes, sir; by Mr. Bradley.

Q. After you got the tickets, where did you go?

A I didn't feel good all day, and I took a drink because I felt cold all day.

Q. Well, had you been working all day?

A I was working the night before, until early in the morning.

Q. And when did you go to work on that afternoon?

A about half past five.

Q. And you say you were not feeling well?

A. No, sir.

Q. And were did you go to obtain the alleviation of your malady?

A 24th street and Third avenue.

Q. And that is a saloon?

A Yes, sir.

Q. In the county of New York

A Yes, sir.

Q. And did you have a drink there?

A Yes, sir.

Q. And how many drinks did you have?

A One drink is all I know.

Q. All that you remember is one?

A Yes, sir. And I had on empty stomach; I was drinking whiskey.

I couldn't eat nothing all day because I didn't feel well.

Q. Well, how long before that time had you ate anything, that day?

A Nothing at all that day.

Q. And you only remember taking one drink?

A Yes, sir.

Q. And what happened to you after that? Did you leave the saloon?

A Yes, sir. and someone gave me a punch is the book of the neck and tried to take the tickets from me.

Q. Some man punched you?

A Yes, sir.

Q. And what happened to you when he punched you?

A Well, I tried to defend myself and prevent him from taking the tickets, but he was too strong for me, and I yelled, and no policeman was in sight, and he took the tickets out of the bag.

Q. And had you ever seen this man before?

A No, sir.

Q. What kind of a looking man was he?

A about my height, about five foot ten, dark complexion, smooth face.

Q. Smooth face?

A Yes, sir.

Q. Slender is build?

A Yes, sir.

BY THE COURT

Q. When you got outside of the saloon, you were sober?

A No, sir; but I know pretty well what I was doing.

Q. And somebody you say struck you in the back of the neck?

A Yes, sir; and I had my bag on my shoulder, and he didn't take the bag away, but took some tickets out of the bag.

Q. And how many man were outside, when you went out?

A. Only this one.

Q. And how many men were outside when you went out?

A Only this one.

Q. Was that man the defendant?

A No, sir.

MR. NOTT: We don't claim that, your Honor.

BY MR. NOTT:

Q. And where was this?

A the southwest corner of 24th street and Third Avenue>

Q. Well, did you see how many of these tickets this man took?

A It was a package containing 500 tickets, and then four small packages, which I was missing afterwards.

Q. Well, now, what did he do, after he got these packages of pads out?

A He went south on Third Avenue.

Q. Did he walk or run?

A No; he ran.

Q. And what did you do?

A Well, I was so worried I went down to the place where I give out the tickets.

Q. Did you follow him?

A Yes, sir; I tried to.

Q. How far did you follow him?

A About a block; and I couldn't see him no more.

Q. And did you get on him?

A No.

Q. Have you ever seen him since?

A No, sir.

Q. Then what did you?

A I went down to the place down Third Avenue--down to Second Avenue and 13th Street and nobody was loading there, and I went back to the office. and I was so worried that I didn't know what to do.

Q. What were you doing from the time you lost these tickets, until you got back to the office?

A I was waiting for the men to load up the snow, on 13th Street and Second Avenue. and nobody arrived there, and so I went back to the office.

Q. Well, were you in any other saloon?

A No, sir.

Q. What time did you get back to the office?

A I guess it was--as Mr. Loy say -- about nine o'clock.

Q. And what were you doing all those three hours?

A Well, it took me some time to walk down there, and up again. I was standing on the corner there waiting for the gang of men.

Q. And how far did you go down from 24th Street?

A 13th Street and Second Avenue.

Q. Well, how many drinks did you have? How drunk were you?

A Well, I wasn't drunk. I knew what I was doing.

Q. Well, how many drinks did you have that evening. before you got back there?

A No other drink that I know of.

Q. Do you remember whether you did or not?

A Yes, sir; I remember I didn't have no more drinks.

Q. You tell this jury that you had only one drink?

A Yes, sir.

Q. Well, Mr. Loy says that, when you got back there, you were drunk?

A Well, I was so worried that I didn't know what to do.

Q. Oh, you were only worried?

A Yes, sir.

Q. And, when you got back, did you turn the bag over to Mr. Loy?

A Yes, sir.

Q. And the tickets that were in the bag?

A Yes, sir.

Q. You say you had never seen this party before that party took this property from you?

A No.

Q. Do you know the value of these snow tickets?

MR. LYNN: I object to that, if your Honor please, because it is not a matter for this witness to say.

THE COURT: I think that is explained in the evidence, that the pay ticket is worth 33 cents, and that the ticket could not be obtained without the snow ticket.

MR. NOTT: Yes, sir. And I want to show that that is recognised by all the men that work there.

THE COURT: No. I do not think I would prove that. I think I would rest on the value of them as 33 cents. as what is generally considered to be their value.

CROSS-EXAMINATION BY MR. LYNN:

Q. What time did they knock you down, Bendt, and take the tickets from you?

A About six o'clock.

Q. About six?

A Yes, sir.

Q. Well, that was about fifteen minutes after you got them, wasn't it?

A Yes, sir.

Q. Well, did you have the drink between the time you got them and the time you were knocked down?

A Yes, sir. between that time.

Q. Well, how long did it take you to walk from the place where you got the tickets, at a quarter of six, to the saloon where you got the drink?

A It only takes a few minutes.

Q. A few minutes?

A Yes, sir.

Q. Well, how many blocks?

A It is only half a block.

Q. Half a block?

A Yes, sir.

Q. Did you go to the police station?

A No, sir.

Q. How long would it take you do go back to Mr. Bradley's office, after you lost the tickets?

A Well, I was no worried that I didn't know what to do.

Q. (Question repeated)

A Only a few minutes.

Q. Well, you stood around for nearly three hours, did you in that neighborhood?

A I went down to 13th Street and Second Avenue.

Q. What is down there?

A Well, that was the place I should go to; that was my place to go to.

Q. But that was near the office, wasn't it?

A Well, about thirteen blocks away.

Q. Well, what were the numbers of the tickets that you had in the bag?

A No. 4.

Q. What else?

A 4th District.

Q. Where is you bag?

A I haven't got the bag here.

Q. Weren't you discharged right after this? Didn't Mr. Bradley discharge you?

A Yes, sir.

RE-DIRECT EXAMINATION BY MR. NOTT:

Q. Oh, just look at People's Exhibits 1 and 2. Are those tickets of your section Section 4, or District 4?

A I didn't give any tickets out.

Q. I say, are those tickets issued in your district?

A Yes, sir.

RE-GROSS EXAMINATION BY MR. LYNN:

Q. Bendt, would you are that then tickets was in your bag, that night?

A Yes, sir.

Q. How do you know?

A Because I looked at the numbers some of the tickets.

Q. Look at them tickets, and tell me whether you swear that them particularly tickets in your hand, in evidence here, was in your bag that night?

A No, sir; I can't swear on that.

MR. NOTT: Well, I again show the witness the receipt, if your Honor please, that he signed for then, and ask if it refreshes his memory.

MR. LYNN: Oh, that wouldn't be good evidence, that he signed a receipt. You can't do it that way, Mr. Nott.

THE WITNRSS: Well,, I generally looked the numbers of the tickets over. I have been working for Mr. Bradley for four years.

FRANK J. WALSH, a witness called on behalf of the People, being duly sworn, testifies as follows:

DIRECT EXAMINATION BY MR. NOTT:

Q. Now, Mr. Walsh, will you kindly speak out so that the jury can hear you?

What is your business, sir?

A Forsman for William Bradley.

Q. He is the snow contractor?

A Yes, sir.

Q. In whose employ Mr. Loy is?

A Yes, sir.

Q. And were you a foreman for him on the 27th day of January, 1905?

A Yes, sir.

Q. And where were you employed as foreman?

A On the dock between 18th and 19th Streets, Rast River.

Q. You were one of the dock foreman?

A Yes, sir.

Q. And what were your duties?

A To receive the loaded tickets and give out pay tickets in exchange for them.

Q. And to superintend the dumping?

A Yes, sir; to look after the handling, the unloading.

Q. And where did you any your place was?

A On the dock between 18th and 19th Streets, Rast River.

Q. Rast River or North River?

A Rast River.

Q. And these tickets, People's Exhibits 1 and 2, will you look at them> Are they snow or loading tickets?

A Yes, sir; loading tickets.

Q. You have seen them before?

A Yes, sir.

Q. Were you in the 4th district?

A I was in the 6th district.

Q. Now, did you see this defendant on the evening or night or afternoon of the 27th?

A In the evening, yes.

Q. At what time did you see him?

A I should judge it was about half-past six or twenty minutes of seven, first.

Q. Where did you see him?

A Outside of the saloon at the corner of 18th street and Avenue C.

Q. That was near the dook?

A Right across the street.

Q. At the time that you saw him, how was he dressed?

A He was in uniform, without the belt and stick.

BY THE COURT:

Q. He was in a policeman's uniform?

A Yes, sir.

BY MR. NOTT:

Q. Was he alone, or with someone?

A He was with another party.

Q. What kind of a looking man?

A A young man, tall and this, about twenty-four years of age, dressed in dark clothas, and a dark cap.

Q. And was he a man of light or dark complexion?

A Well, rather dark.

Q. Now, had you ever seen the defendant before?

A Yes, sir; once.

Q. Once?

A Yes, sir.

Q. And how long before that was it that you had seen him?

A About two years before.

Q. Now, will you state to the jury what happened, what conversation, if any, took place between you and the defendant and this other party?

A Well, when I first saw the officer, I thought that he was an officer detailed on the dock. We have a policeman detailed on the dock, with the dock man, all the time, and I said to him, "Is that you, Mille?" That's the name of the man I supposed it was. And, as soon as I walked over to him, I saw it wasn't but I re-exam board the man's face, and started to talk to him.

Q. By the way, in what precinct is that dock?

A It is the 18th, I think.

Q. Not in the 10th?

A No, sir.

Q. Well, go on?

A Well, I had just come out from the to lap hone in the saloon, when I met him, and I stood there for a few minutes, talking about two years before, when they had the strike there, on the Subway, and he was on duty there; and we talked about that for ten or fifteen minutes, and then this friend of his brought up the abject of the tickets.

Q. What did he say?

A He said that he had 500 tickets, altogether, and he wanted to dispose of them.

Q. At the time that he said that, the defendant was there, too?

A Yes, sir; he was present.

Q. Were you all standing together?

A Yes, sir.

Q. Did you see any tickets?

A Yes, sir; I saw five pads.

Q. Who produced them?

A The other man had three, and this man had two.

BY THE COURT.

Q. By "this man", you mean the defendant?

A Yes, sir.

Q. He had two pads?

A Yes, sir.

Q. And the other man had three?

A Yes, sir.

BY MR. NOTT:

Q. Where did the defendant produce the pads from?

A Oh, I couldn't tell you where he produced them from.

Q. Where did you first see them?

A In his hand.

Q. Did you see where he got them from?

A No, sir.

Q. When you said two pads, did you mean pads similar to People's Exhibits 1 and 2?

A Yes, sir.

Q. Well, what was said about the tickets? Give us the entire conversation, as well as you can remember it?

A Well, this friend of the prisoner's was the man that made the proposition to sell them. He was pretty well intoxicated, and it was a matter of getting any information out of him at all.

Q. Well, what did he say?

A He said that he had the 500 tickets, and wanted to sell them, and offered them to me for \$50.

Q. And, at the time that he made that offer to you, was the defendant present?

A Yes, sir.

Q. And what did he say?

A He didn't say anything for a few minutes, and then I called him to one side.

Q. Yes?

A And I asked him what he knew about it, and he said this his friend had gotten them, and he didn't know whether to arrest this man or not.

BY THE COURT:

Q. He said that the man that offered them to you for \$50 had gotten them?

A Yes, sir.

Q. And he didn't know whether to arrest him or not?

A Yes, sir.

BY MR. NOTT:

Q. Well, what also was said by the defendant?

A And he said that he had two of the pads himself, and he didn't know whether to make the arrest or not, and I advised him to do so, and him he would get a reward for doing so, by returning the pads to Brady's office. And then the other man came up, and repeated his proposition to sell the pads for \$50, and I told him that, while I didn't have the money on my person, at the time, at the very moment, I could get it, and I would have got it, if I had a chance to.

Q. Did you ask the other party, in the defendant's presence, how he came to get the tickets?

A He said it was none of my business.

BY THE COURT:

Q. That is, the person with the defendant said it was none of your business how he got the tickets?

A Yes, sir. But, a few minutes afterwards, he looked out the information that he got the tickets from a ticket man, at 18th Street and Third Avenue.

Q. And was the defendant present when he said that?

A Yes, sir.

Q. Now, did the defendant say anything to you as to how this man got the ticket?

A He did not, in so many words; no.

Q. Well, what did he say?

A He intimated as much.

MR. LYNN: That is objected to.

THE COURT: Strikes that out.

BY THE COURT:

Q. No. What did he say?

A He said that they hadn't been gotten right.

Q. He told you so?

A Yes, sir.

Q. The defendant told you that they hadn't been gotten right?

A Yes, sir.

BY MR. NOTT:

Q. Well, after you said that you could get this, \$50, then what was said?

A I made an appointment with the other fellow, to meet him at five o'clock the following afternoon.

Q. That is, Saturday afternoon?

A Yes, sir.

Q. Where?

A The same place.

Q. And was the defendant present, at that time?

A Well, I was a little late myself, and he didn't show up.

Q. No. Was he present when you made an appointment to meet the other man?

A Oh, yes.

Q. And was that the last thing that occurred?

A No. This conversation took place twenty or twenty-five minutes, you know; and it was after seven o'clock, then and he said that he had to be back on reserve, in the station house.

Q. The defendant said that?

A Yes, sir.

Q. Well, then what did the defendant do?

A He talked a few minutes, about repeating the appointment for the following day.

Q. Well, what did he say about the appointment?

A That he would be there, also.

BY THE COURT:

Q. What time was that appointment for, next day?

A Five o'clock the next afternoon?

A Yes, sir.

BY MR. NOTT:

Q. Now, after the defendant showed you these two pads a of tickets, what did he do?

A He put them back in his coat.

Q. And did he have them when he left?

A Yes, sir. I am not saying that those were the pads, because I couldn't identify either one of them. but they were two pads of tickets for the fourth district.

Q. You saw 4th District written on them?

A Yes, sir.

Q. Now, later, did you see this officer? When was the next time you saw him?

A Sunday morning.

BY THE COURT:

Q. What day would that be?

A The 29th.

BY THE COURT:

Q. Where did you see him? A In front of the Sergeant's desk, in the No Douglas Street station.

Q. What precinct is that?

A The 10th.

Q. On the evening of the 27th, did you notice the defendant's number on his collar?

A Yes, sir.

Q. What number was it?

A 10th.

Q. Well, what did you see the defendant do in the station house, on Sunday morning?

A I saw him called in off post, and he went into the captain's room. When he first come in, Mr. Reardon asked me if he was the man, and I said yes. That was all the conversation I had or heard in the station house.

Q. Well, did you see the defendant do anything, when he was brought before the Sergeant?

A I saw then take his shield off him, and his club or stick.

Q. Did you see any tickets then? A No, sir; they didn't recover them yet.

Q. Were you present when they were recovered?

A No, sir. Immediately after he was locked up, I took Chaplain Hughes in the carriage that I was in, and on drove to Hudson Street.

Q. Was anybody else with you?

A Yes, sir.

Q. Who else was with you? A Norris Keating, the superintendent of the 4th District for Bradley, and Detective Reardon.

Q. And where did you go, on Hudson Street?

A To a cigar store on -- I don't know -- some little street. Vatic Street, I think.

Q. Do you know who kept the eager stores?

A Yes, sir.

Q. Would you recognize the man, if you saw him?

A No, sir.

Q. Well, did you find anything in the eager stores?

A I stayed outside in the carriage.

Q. Did you see anything produced from there?

A No, sir.

Q. Did you go to two eager stores?

A I only went to one.

Q. The defendant didn't go with you?

A No, sir.

Q. Well, did you see those tickets produced?

A I was them--yes, that afternoon.

Q. Where about?

A No, it wasn't it was Tuesday morning.

Q. Where about?

A Why, is Mr. Krsel's office, is the District Attorney's Office.

Q. You didn't see these recovered in the eigay stores?

A No, sir.

GROSS-EXAMINATION BY MR. LYNN:

Q. Mr. Which, how long have you worked for Mr. Bradley?

A This winter, since the first of January.

Q. I understood you to say that you had seen the defendant before this night?

A Yes, sir.

Q. There was no attempt on his part to disguise his identity; was there?

A No, sir.

Q. By that I mean, he didn't ask you to keep secret the front that his name was Plethora, and that he was an officer of the precinct, or anything like that?

A Why he told me his name voluntarily.

Q. Now, wasn't there something said, at that time, Mr. which, about the address of this man who had the tickets?

A About the address?

Q. Yes.

A Nothing, to my knowledge.

Q. Well, try and think. Wasn't there something said at this time that all three were there, as to this man, his man and where he lived? Didn't you ask him something about that?

A I did; I know I did, but he told me that it was some of my business. He reputed that three or four times.

Q. Well, didn't you learn, at that time, --

A Not until the next Sunday morning, did I learn.

Q. Well, he was drunk, wasn't he?

A Yes.

Q. Was the officer all right?

A Well, fairly so, yes.

Q. No wasn't on duty, at that time, so far as you know?

A No, sir.

Q. Well, at that time, did you know this man Bendt,  
Who had obtained Possession of these tickets?

A I never saw Bendt before in my life.

Q. And where was this?

A 18th Street and Avenue C.

Q. And how far from the office? Six or Seven blocks?

A About ten blocks; possibly more.

Q. Do you know the market venue, Mr. Walla, of what  
we call the loading ticket; or has it a venue?

A It certainly has.

Q. Well, I mean this other ticket (Indicating)?

A They both have a value.

Q. A load of snow, as I take it, after it had been delivered,  
and brought to the dump, and properly checked off,  
is evidenced by the ticket now shown you?

Q. MR. NOTT: Which one is that?

A That is the ticket that is given by the dock foreman, like I was, that night, in exchange for one of these (Indicating).

BY MR. LYNN:

Q. How, that ticket in your hand is an evidence of the fact that a load of snow had been delivered at some one of the dumping grounds; isn't it?

A It is not an evidence, unless I see a load of snow.

Q. That's just the point. The load of snow, when it comes with the ticket that I show yes, and you see the ticket add the man, and know that it's right, then you give him the second ticket?

A Yes, sir.

Q. Now, the first ticket, Mr. Walsh, -- I want to get that clear in the Court's mind--is given for what purpose? If a man brings a load of snow, without, ticket, why isn't it all right?

A Well, it isn't an evidence that he got it where his team was sent to.

Q. The first ticket is to identify the fact that the team has come from a certain point?

A No; but to identify it as being in the same district that the dock is in, and that the dock man knows where the load came from, or identifies it in his mind.

Q. So that, if they didn't have the first ticket with them, when they come with the load of snow, they could bring load of snow from anywhere?

A Yes, sir.

Q. And so the primary object of the first ticket is to fix the district from which the snow came?

A Yes, sir.

Q. So that the foreman of the dook knows, when he sees the first ticket, that that ticket fixes the section or district from which you are carting snow?

A Yes, sir.

Q. And when that ticket, with the load of snow, is presented, you hand him this other ticket?

A Yes, sir.

RE-DIRECT EXAMINATION BY MR. NOTT:

Q. Mr. Walsh, you stated in answer is Judge Lynn's question that the loading ticket had a value. Now, what is the value?

A Well, it is of equal value with the dump ticket.

Q. And what is that?

A 33 center.

MR. LYNN: We don't dispute that, but he has coupled the two together. There is the trouble.

BY MR. NOTT:

Q. Well, are you allowed to issue a dump or pay ticket to anybody who doesn't present a loading ticket?

A No, sir. You can't give a dump ticket, without a loading ticket to show for it, where held responsible for that.

RE-CROSS EXAMINATION BY MR. LYNN:

Q. Mr. Walsh, could you go with these tickets into the market, and obtain value on them?

A I could; yes.

Q. I mean without a load of snow, and dealing honestly?

A No, not honestly. I could get them dishonestly.

Q. I am speaking of honestly. Could you go into the open market, and take a hundred or a thousand of these tickets, and obtain value on them?

A No, sir; honestly.

BY MR. NOTT:

Q. If you received a certain number of those loading tickets from a ticket man, or other person, could you then deliver him the pay tickets, to be realised on, and you turn in the loading tickets?

A Why, I have offers every day that I am out, to sell them pads.

BY MR. LYNN:

Q. That is, if you would be dishonest?

A Yes, sir.

Q. But I am speaking, Mr. which, honestly, and dealing fairly between man and man and your boss. The load of snow is the principal item of value, getting it from the street to the dump; isn't that it?

A Yes, coupled with the ticket.

Q. Yes; coupled with the ticket?

A Yes, sir.

DAVID GOLESTRIN, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. NOTT:

Q. Mr. Goldstein, what is your business?

A By business is cigar store.

Q. Where is your store? A 340 Rusden Street.

Q. In the Country of New York?

A Yes, sir.

Q. Do you know the defendant?

A Yes, sir.

Q. How long have you know him?

A A year and a half.

Q. Tell the jury whether or not on Saturday, the 28th of January, 1905, he came to your store?

A Yes, sir; on Saturday evening, the 28th, Mr. Frank G. Fletcher came into my store.

BY THE COURT:

Q. The defendant came into your store?

A Yes, sir. And he stood there a little while, and, on his way going out.

Q. What store? A cigar store?

A Yes, sir. And, on his way going out, he laid these two packages down, and he said, "I" call for them the following day.

Q. He said, "I" call for them, the following day"?

A Yes, sir.

Q. What police precinct are you in?

A 10th.

Q. And, at the time that he called, what time on Saturday was it?

A Well, I can't tell you the exact time. Between seven and eight.

Q. Morning or evening?

A In the evening.

Q. Was he in uniform or plain clothes?

A Plain clothes.

Q. And he gave you two packages, and told you is would call for them, the next day?

A Yes, sir.

Q. And what did you do with the packages?

A I laid them on the side and, when I closed my stores, I didn't take notice of them, because, on a Saturday evening, I am very busy, but I took these two package inside, and told the wife, if Mr. Frank G. Fletcher calls tomorrow , about them things, to give them to him; and, on the following day, Acting Captain--

Q. And where did you put them. Yes haven't us that?

A In the ice-box.

Q. Were you afraid that they would melt?

A Well, because I have a very small store, and I put them back there so that my wife would know where they wars. I didn't leave them in the store, because the store is very small.

Q. Well, these tickets don't take up very much room, do they?

A Well, I took them in the back, so that the wife will know where they are at.

Q. Well, why did you put them in the ice-box?

A So that, if Mr. Fletcher called, the next day, she would know where to get them to give to him.

MR. LYNN: Now, is the witness on trial, if your Honor please?

MR. NOTT: Well, if you have an objection, make it.

BY MR. NOTT:

Q. Well, couldn't your wife knee were they were, if you pleased them on the mantelpiece, for internee?

A Well, that's the only reason I had that she would know where they were.

Q. Well, you say, next day, Acting Captain Hughes came the?

A Yes, sir.

Q. This gentleman here (indicating)?

A Yes, sir.

Q. And was there anybody also with him?

A I couldn't tell you. I was in bed at the time.

Q. Didn't you get up at all?

A No, sir.

Q. And is your bedroom in back of the store?

A Yes, sir.

Q. And about what time did he call?

A I can't tell you the exact time, but I know it was after the dinner hour.

Q. About noon?

A About noon; yes, sir.

Q. And had the defendant, in the meantime, called for these packages?

A No, sir.

Q. Now, when Captain Hughes came in, what did you do with the packages?

A Well, of course, I didn't give them to him, MY wife give them to him. He came in and asked for them.

Q. Well, did he haw a talk with you about the packages?

A He had a talk with the wife.

Q. But with you?

A Yes, sir. After wards he came is and asked me about the packages, and I told the wife to give them to Acting Captain Hughes.



Q. How, do you remember putting you initials on the package?

A Yes, sir.

Q. Where did you do that?

A In the District Attracts office.

Q. Now, look at People's Exhibits 1 and 2, and see whether those are the two packages?

A Yes, sir.

Q. The Packages that your put your initials on?

A Yes, sir.

Q. Now, when the defendant came in with these tow packages, did he say where he got them from?

A No, sir. He only told me to lay them on the added, and he would call for them, the next day.

Q. Did he say why he didn't want to carry them?

A No. sir.

Q. Or why he left them in your sotre?

A No, sir.

Q. Were there any other parties in your store, at the time?

A Yes, sir; two other young man.

Q. What are their name?

A Mr. Nistlar and Mr. Harrington.

Q. Are they here?

A Ye, sir.

CROSS-EXAMINATION BY MR. LYNN:

Q. Goldstein, were these package just as you see them now?

A Yes, sir.

Q. They weren't done up?

A No, sir.

Q. Just as they are?

A Yes, sir.

ANDRRW J. NISTLER, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. NOTT:

Q. Mr. Minster, what is your badness?

A Foreman for the under writers Salvage Company.

Q. And how long have you been employed by them?

A Four years,

Q. Do you know this defendant?

A I know him from being on post.

Q. You know him by sight?

A Yes, sir.

Q. You have seen him setting as a police officer?

A Yes, sir.

Q. Do you know the 1 set witness, Mr. Goldstein?

A Yes, sir.

Q. Do you know where his cigar store is?

A Yes, sir.

Q. Where you in that cigar stores, on the evening of Saturday, January 28th?

A Yes, sir,

Q. Did you see the defendant there?

A Yes, sir.

Q. About what time was it, as near as you can fix it?

A I guess, around eight o'clock, or some time around there.

Q. What were you doing in there?

A Buying cigars,

Q. What did you see the defendant do, if anything?

A I didn't see him do anything; only I heard him say something.



Q. What did he say?

A He said, "I am going to leave these here, Dave, and I'll be back in the morning for them".

Q. And did you see what he was referring to?

A No, sir.

Q. And then what did the defendant do?

A No went outside. I guess he went home.

Q. And did you see what Goldstein did with whatever was given to him?

A No, sir.

Q. And then you left?

A Then I left.

GROSS-EXAMINATION: None.

JONN HARRINOTON, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR. NOTT:

Q. Harrington, what is your business, palace?

A Well, I have been out of work for some time.

I have been working as a boilermaker.

Q. Do you know the witness Goldstein, who keeps the cigar store in Hudson Street?

A Yes, sir.

Q. Do you know Minister?

A Yes, sir.

Q. Were you in the store, with Minstar, on the night of Saturday, January 28th, 1905?

A Yes, sir.

Q. Did you see this defendant there?

A Yes, sir; I seen him come in.

Q. Had you seen him before?

A Just by seeing him on post.

Q. You recognised him as an officer that you had seen on post, before that?

A Yes, sir.

Q. And about what time was it when you were is there, with Minister, and saw the defendant?

A About half-past seven or eight o'clock.

Q. And tell us what you heard the defendant do or say?

A Well, I was reading a paper, and he came is, and he said, "I have got something to leave have until morning, Dave," and I seen him put something on the glass, on the ones there.

Q. And then what did he do?

A Well, I was reading a paper there. And he went out, after awhile.

GROSS-EXAMINATION BY MR.LYNN:

Q. Did you look at the ticket, Harrington?

A Well, I see him lay then on the counter. Everybody could see them.

Q. And what happened then?

A I saw Goldstein put them on the shelf.

RE-DIRECT EXAMINATION BY MR. NOTT:

Q. On the shelf?

A well, where he keeps his books, you know.

Q. Did you see him lay then there?

A Yes, sir.

Q. Did you see him take the tickets from the shelf?

A Well, I went out after that, shortly after that, and he left them right down behind him.

JONN HUGHRS, a witness called on behalf of the People, being duly sworn, testified as follows:

DIRECT EXAMINATION BY MR.NOTT:

Q. What is your occupation, sir?

A Sergeant of Police, 10th precinct, City of New York.

Q. Now long have you been a member of the police force?

A Going on fourteen years.

Q. And how long have you been a Sergeant?

A About twenty-five months.

Q. And how long have you been assigned to the position of Acting Captain, in the 10th precinct?

A From P.N. on the 9th to P.M. on the 31st of January.

Q. That is, from the 9th day of January until the 31st of January, you were Acting Captain of the 10th precinct?

A Yes, sir.

Q. And what precinct are you in now?

A The same precinct, as Sergeant.

Q. And then you were Acting Captain on the 27th, 28th and 29th of January, 1905?

A I was' yes, sir.

Q. Tell the jury--do you know this defendant?

A Yes, sir.

Q. And was he an officer attached to that prescient?

A Yes, sir.

Q. Where is the station house of that precinct?

A 24 and 26 McDougal Street.

Q. That is, over on the west side of the city?

A Yes, sir.

Q. How long had he been in that precinct, if you know?

A From the 5th of April, 1905,--from the 7th of April, 1903. He was transferred, as a patrolman, from the 5th to the 10th precinct.

Q. Now, will you tell the jury whether, on the morning of Sunday, the 29th of January, you saw a man named Reardon in the station house?

A I did.

Q. And did you have a conversation with him?

A Yes, sir.

Q. And, in consequence of that conversation, did you send for anybody?

A Yes, sir.

Q. Who did you send for?"

A I sent a man to cover this defendant's post, and to tell him to report to the station house forthwith.

Q. And did he report to the station house?

A Yes, sir.

Q. When?

A In the neighborhood of 12:30.

Q. On Sunday, the 29th of January?

A Yes, sir.

Q. Now, will you kindly tell the Court and Jury all the conversation that took place there between you, or between Reardon and this defendant, when he came in?

A At the time that Mr. Reardon came to the station house, it was in the neighborhood of 12:30, or 12:30, on the 29th of January. He told me who he was. He says to me, "Have you got--"

Q.No, please leave out the conversation with Reardon, then. I want the conversation that occurred after the defendant came into the station house?

A At the time that Fletcher arrived at the station house--

q. Well, what time was it?

A Well, I should judge about a quarter to one. I won't be positive. Somewhere in the neighborhood.

When he came to the station house, Reardon was out in the office, and he spoke to this witness Walsh that was hers, and I presume he was asking him if that was the man, and with that we three adjourned to the Captain's room.

BY THE COURT:

Q. That is, you, Reardon and the defendant?

A Yes, sir. I told Platter then, "Now, this is a gentleman representing the District Attorney" a office, Mr. Reardon, a County Detective, and I want you to state explicitly to him everything that you know about what he is going to ask you." and he said.

"All right."

And Reardon said, "Where were you, on Friday night last, Pleteher?" And he said, "I was home."

And so he says, "How about them snow tickets that you got off that foreman?" And he said, "I didn't get any snow tickets."

So, in the meantime, I left offices, to look at the blotter, to see if he was making a proper statement about being home, on Friday night, and the blotter stated that he was in reserve, at eight o'clock.

Q. On Friday night?

A Yes, sir. And, when I came back, plethora was standing up, speaking to Mr. Reardon. That part of the conversation that coursed between them two, during my absence from the office, I can't account for. So, when I resumed the conversation with the age in, it was after that platter had confessed to Mr. Reardon all about those tickets, during my absence froe the office.

BR MR. NOTT:

Q. But what did you hear? That is what I want.

A Plethora was, at first, evasive in his answers, and, finally, he said, "Yes, I remember them tickets." And then I broke in, and I said, "How, tell everything" about these things. You might just as well, and tell where they are."

Q. How, did you hear Reardon ask him where he was from four o'clock until the time he went in reserve, on Friday?

A Yes, sir.

Q. And what did he say?

A Ne said that he was at home.

Q. From four until he went on reserve at eight o'clock?

A yes, sir, That was the answer he made

Q. Well, go on. Now, what did he say about getting the tickets, and now he came by them?

A No said that he was in the saloon at 215 Third Avenue, Frank Kayee's saloon, and a man came in by the name of either pander or Funny, or some name to that effect, ask that he had those tickets with him. Just wait a moment. I want to make myself sure about that thing.

Q. Well, did he say then--

A Can you help me from that statement that I made there (Indicating)?

Q. well, have you stated all that you can remember, up to that time?

A Yes, sir. There may be some of the conversation that has escaped my memory, in that time.

Q. Now, then, I ask you, was anything, said about the address of Fenny or Pender?

A Yes, sir. He gave the address as either 414 East 13th street, or 424 East 14th Street, and the 14th Street address was church.

Q. And Mr. Pender didn't live there?

A No. sir.

Q. Now, state to the jury whether or not you heard Mr. Reardon say Anything about the tickets being stolen. whether or not they were stolen?

A Yes, sir.

Q. What was said about that?

A He told him that the tickets--that this Pender told Fletcher that the tickets had been stolen.

Q. That is what the defendant told you?

A Yes, sir. what he told Mr. Reardon and my self. in the station house.

BY THE COURT:

Q. He told you that the tickets that this Pander told him, Platter, that the tickets had been stolen?

A Yes, sir. And I said to him, "And you, a police officer, knowing that a felony had been committed, and not asking an arrest?" And he said he was off duty, and Reardon said, "A Policeman is never off duty, when a felony is committed."

And I said to Reardon, "Rather you or we will take him," and Reardon said, "I 11 take him."

BY MR. NOTT:

Q. Did you ask him where the tickets were?

A Yes, sir.

Q. What did he say?

A And he said they were in a cigar store, on Hudson Street, between Vanda and Varick Streets.

Q. And did he say how they came to be there?

A Yes, sir; he said he left them there.

Q. And did you make any remark to him, about his uniform?

A Yes, sir. Why, I told him that he was a scoundrel and a disgrace to his uniform.

Q. And what did he may to that?

A He didn't tamale any snicker.

Q. Well, when Reardon said he would take him, what was don't.

A Reardon was arraigned at the desk, as a prisoner, and locked up.

Q. You mean plethora?

A Yes, sir; plethora.

Q. An what did you and Reardon then do?

A We went to a cigar store on Hudson street, between Vanda and Varick street, kept by a man named Maguire, and it turned out to be the wrong address.

Then we went to Goldstein's Maguire had denied all knowledge of the tickets.

And I questioned him about it and Fletcher said, "I didn't say it was Maguire's; I said Goldstones."

And we went to Goldstein's eager store then and we met a lady inside, and I waked, "Where in Mr. Goldstein?"

And she said "He is out, at the present time."

Mr. LYNN: Never mind what you said there.

You got the tickets there, That is all we want.

BY MR. NOTT:

Q. Go on and state what happened there, Captain?

Mr. LYNN : I object to the conversation.

THE COURT: Objection sustained.

BY MR. NOTT:

Q. After you saw the lady, then did years Goldstein?

A She went into the back room. Then she said to me--

MR. LYNN Objected to.

THE COURT: Objection sustained.

A (Answer continued) We went into the back room.

I told her who I was and I wanted the tickets that the officer had left there.

Mr. LYNN: Well, you see, sir, the officer will give the conversation in spite of my objection.

THE COURT: I don't think he intends to Strike that out. The conversation in the absence of the defendant does not bind him. You may state what you did.

BY MR. NOTT:

Q. After that conversation, did you see Gold stain?

A Yes, sir.

Q. Where did you see him?

A In bed, two rooms back,  
behind his cigar store.

Q. Now, after you saw him, did you get anything?

A He told his wife---

MR. LYNN: Objected to.

THE COURT: Objected sustained.

BY MR. NOTT:

Q. Well, what did you get there?

A 200 tickets.

Q. Who gave them to you?

A Mrs. Goldstein.

Q. Did you see where she get them from?

A Yes, sir.

Q. Where?

A The ice box.

Q. In the store?

A Yes, sir.

Q. Now, look at these two packages, Peoples' exhibit  
1 and 2, and state if they are the paid which were given  
to you by Mrs. Goldstein?

A Yes, sir.

Q. Did you place your initials on the different tickets?

A Yes, sir; on each one of them.

Q. On each ticket through the entire tow packs?

A Yes, sir.

Q. Now, after you got those tickets, what did you do with them?

A I brought them to the station house, and canned a record of where they were found--

MR. LYNN: I object to that; that is merely a matter of police work.

BY MR. NOTT:

Q. Well, what did you do with them finally? Who did you give them to?

A Why, I kept the tickets and produced them in the Jefferson Market Police Court, the next morning, when the defendant was hold.

Q. And there they were marked is evidence?

A Yes, sir. And County Detective Reardon, of the District Attorney's office took charge of them.

Q. Is Avenue C and 18th street the boundaries of the 10th precinct?

A Oh, me, sir; that is on the east side.

Cross examination none.

RDWARD J. REARDON, a witness called on behalf of the People, being duly sworn, testified as follow:

DIRECT EXAMINATION BY MR. NOTT.

Q. Mr. Reardon, what is your business, please?

A County detective, attached to the office of the District Attorney of New Your County.

Q. And how long have you been attached to such office?

A Since the 2nd day of January, 1902

Q. And you were so engaged as you have said on the 29th of January, 1905"

A Yes, sir.

Q. Were you assigned by the District Attorney to work in connection with the larceny of the snow tickets?

A Yes, sir; I was so assigned, on the 28th day January of this year.

Q. And that was Saturday?

A Yes, sir.

MR. LYN: Oh, it doesn't appears that there was any larceny of any tickets, so far as these tickets were concerned?

MR.NOTT: Yes, it does. Bendt has stated that a man hit him in the back of the neck and stele the ticket out of his bag, and ran away, and the tickets in the bag have been identified by Mr. Lay.

MR. LYNN: But Bendt says he wouldn't swear that they were the tickets he had in his bag.

THE COURT: I understood the first witness to swear that he delivered these two packages of tickets with other to the man Bendt.

MR. NOTT: Yes, sir; and then he swears that they were part of the missing tickets.

MR. LYNN: Yes, but Bendt swears that he left them and doesn't know how.

THE COURT: But Lay swears that he handed him 2,000 tickets, and, among them, these two packages of tickets.

MR. LYNN: Yes, but the person that was robbed will not say that the two packages were taken in the robbery.

THE COURT: Doesn't Lay sufficiently identify them as tickets that he gave to him, Bendt?

MR. LYNN: No, sir.

THE COURT: Oh, I think there is enough evidence there to go to the jury.

MR. LYNN: Why, that drunken man might have lost them, at any stage of the evening.

THE COURT: But the circumstances are such, are they not, as to be sufficient for the jury to infer fairly that these packages were taken by the man who knocked him in the neck?

MR. LYNN: Yes, sir. that may be true; but he goes back to the office and says not that he had been ribbed--

MR. NOTT: Yes; he said that he had been ribbed.

MR. LYNN: No. told Mr. Loy, "You only gave me 1100 tickets." I want your Honor to follow up that chain, because it is very important here. I doubt whether anybody stole those tickets at all. I think they were lost.

MR. NOTT: Well, are you summing up new?

MR. LYNN: And I object to the word "larceny" If he says "I was assigned to this case". I am satisfied.

MR. NOTT: Oh, it doesn't mater whether Bendt or somebody else stole the tickets so long as they were stolen, for the purpose of a part of this indictment.

BY MR.NOTT:

Q. Were you assigned to work in connection with the alleged larceny of these snow tickets?

A Yes, sir.

Q. And did you go, on the morning of the 29th, to the 10th precinct stolen house?

A Yes, sir.

Q. Did you see Captain Hughes there?

A Yes, sir.

Q. And, later, did you see the defendant, after you had talked with Captain Hughes?

A Yes, sir.

Q. Where was he?

A He was present in the office of the station house of the 10th precinct, in this city, I first saw him on that day,

Q. Where did you see him there?

A In the general office.

Q. And what room did he go into from there?

A The Captain's room.

Q. Did you go in there?

A I did.

Q. Who was there besides the defendant and yourself?

A Captain Hughes.

Q. Now, will you state to the jury everything that took place after the defendant arrived there?

A The captain called the defendant into the room, and the defendant was in uniform, at the time, and he told him--the captain told the defendant--that I was a county defective from the office of the District Attorney, and he wanted him to tell me the truth as to facts about which I would question him. The defendant sat down. I asked the defendant when he was on the Friday night proceeding the Sunday. the 27th of January.

The defendant said he was home.

I asked him was he home all night, and said, "Yes".

Q. I asked him where he was from four o'clock in the afternoon, at which time he left the station house, and he said he was home.

And I asked him if he remained home, and he said he did.

And I asked him if he was at home at 7:30 on that night, and he said yes.

And I asked him if he wasn't in reserve at eight o'clock that night, and the Captain left the room to go to the blotter; and I then asked the defendant where the snow tickets were and he said he didn't know anything about it.

I told him I didn't believe him, that he might as well tell the truth about it, as a man had been arrested for the larceny of those tickets, and that it was his duty as a police officer to assist in finding out who committed this crime.

The defendant stated that he would tell the truth above it.

He said that on Friday night preceding that Sunday, he was in a saloon at 18th street and 3rd avenue, this city, and that a man known to him as Frank Penning, or Pending, came into the saloon, and had told him that he had rebred a man one of the snow men at 12th street and 3rd seven, and he had some snow tickets.

He said that Pending had given to him two packages of these tickets.

Q. Did he say what kind of a looking man pending was?

A Yes, sir; he said he was a man about 24 or 25 years of age, about 150 pounds, slim built, clean shown, wearing dark clothes.

And I asked him where he lived, and he said he lived either at 414 East Fourteenth street, or 414 East Thirteenth street, in this City.

Q. Did he say how long he had know him?

A Yes, sir; for a period of about seven years.

Q. Yes?

A He said that they went down to the saloon at 19th street and Avenue C.

And I asked him if he know that those tickets were stolen, and he said Pending told him that he had rebred the man at 13th street and Third avenue, and I asked him if he had heard Pending offer to sell those tickets to Bradley's Man, Walsh, for \$50, and he said yas.

And I said "Why didn't you make an arrant?" And he said he wasn't on duty, and I said "A Policeman to always do duty when he hears of the commission of a crime."

Q. And what did he say to that?

A I don't think he said anything. He remained man on that.

Q. Go on?

A I asked him where the tickets was and he said the tickets were in a cigar store on Hudson street, between Varick and Van Dam, or, Charlene and Van Das.

Q. Did you ask him how they got there, and when?

A Sir?

Q. Did you ask him how and when they got there?

A Yes, sir. And he said he had left them there the night previous, which was Saturday night, with the man in the cigar store, and told him he would call for them.

Q. Did you hear Captain Hughes say anything to this officer?

A Yes, sir; I heard him tell him he was a disgrace to the uniform.

Q. And then what? What happened?

A Why, I believe I arrested the defendant. There was a running conversation.

Q. Well, after you placed the defendant under arrest, what did you do?

A I arraigned him before the desk, and searched him, and he was ordered locked up.

Q. What did you do then?

A And I went, with Captain Hughes and two man in the employ of Mr. Bradley, Walsh and Keating, to a cigar store on Hudson street between Charlton and Van Dam, kept by a man named Maguire. The proprietary of the store wasn't in at he times, and I left the Captain there and started in search of the man desorbed as Penning or Pending. I went to 414 East 14th street, and it was Grace chapel; and I went to the same number in 13th street and found that was a club house, and that he wasn't known there.

Q. And then did you go back again?

A No, I didn't.

Q. When did you see those tickets?

A At the Second Distract City Magistrate's Court, on Monday morning, the 30th.

Q. And who then gave them to you?

A Captain Hughes, of the Tenth Precinct.

Q. How, look at People's Exhibits 1 and 2 and state whether they are the same tickets as were delivered to you by Captain Hughes?

A Yes, sir' they are.

MR. LYNN: We are not raising any issue on that, at all.

BY MR. NOTT:

Q. And did you see Goldstein put his mark on these (indicating)?

A I did; in the office of the District Attorney.

BY THE COURT:

Q. I don't quite understand you. You said that the defendant told you that the man by the name of Pending or Penning came into the saloon where he was and said that he had ribbed a man of same snow tickets?

A Yes, sir.

Q. And gave him, the defendant, two package of then?

A Yes, sir.

GROSS EXAMINATION BY MR. LYNN:

Q. Now, Mr. Reardon, at what time was first informed of this case?

A About one o'clock on Saturday, January 28th.

Q. Well, that was about 18 hours--no, a little more then that--the tickets it seems hare was given to one Bendt about 6 o'clock the night before?

A So I am informed.

Q. If so, that would be about eighteen hours after that you was brought into the case?

A Yes, sir.

Q. Who called your attention to the case?

A The District Attorney in this county.

Q. Mr. Jerome?

A Yes, sir.

Q. Was it Mr. Jerome personally?

A Yes, sir.

Q. Well, who had been to the office prior to that, Mr. Reardon?

A The complaint was made by Fridley & Company to the District Attorney.

Q. Well, was it Mr. Walsh who came down, or who came down?

A I don't know.

Q. When did you learn of the robbery of the tickets, or the larceny, or the stealing, or anything about how the tickets got away?

A Well, I learned or the alleged learned of the alleged larceny of the tickets when I was sent on the ones by the District Attorney.

Q. Well, now, at that time had you arrested this man Bendt?

A No; not at that time.

Q. Well, was he arrested at any time?

A Yes, he was.

Q. Who arrested him, Mr. Beardon?

A I did.

Q. well, where did you arrest Bendt?

A At six o'clock on Saturday evening January 28th?

Q. That was about five hours after you had talk with the defendant?

A Yes, Sir,

MR. NOTT: No, no, not the defendant.

THE WITNESS: No, not the defendant. The day

prior to the arrest of the defendant.

BY MR. LYNN:

Q. Oh, you arrested the defendant on Sunday?

A Yes, sir.

Q. I thought it was on Saturday?

A No, sir.

Q. Well, Bendt was the same man that was on the stand here?

A Yes, sir.

Q. He was the same one that you arrested?

A Yes, sir.

Q. And on whose complaint; Mr. Reardon, wa Bendt arrested?

A I took him into custody.

Q. On your own motion?

A On suspicion of being implicated in the larceny of those 900 tickets, valued at \$270.

Q. And didn't you know, at the time that Bendt was the man that had the tickets?

A Yes, sir; I did. He hadn't given an accounting to Bradley & Company for the tickets, and I thought it was best to take him into custody; and I heard there was a policeman in the once, and I thought it was a matter of precaution to take Bendt into custody.

Q. Didn't you know from Bradley & Company, the complainants that Bendt had the tickets the night before, and had reported at the office that he had not received 2,000 tickets? Yes or no?

A I was informed of two stories at the time, and that in the reason of the arrest of the man, Bendt.

Q. No, no. Weren't you informed by Bradley as to whether or not Bendt had reported to the office that he had not received 2,000 tickets, but only 1100?

A Well, Mr. Bradley told me two stories about it.

Q. Well, but were you informed by any of the Bradley people that Bendt had been to their office and told them that he had not received 2,000 tickets?

A I was told number of stories there.

Q. Well, was that one of them?

A I was told a number of stories there.

Q. Well, was that one of that?

A That was one of them.

Q. Now, when was that information given you?

A Some time in the afternoon of January 28th.

Q. Now, that was on Saturday?

A Yes, sir.

Q. Well, then, you arrested Bendt, didn't you?

A Yes, sir.

Q. About an hour or two hours afterwards?

A About six o'clock in the evening.

Q. Well, who drown the complaint?

A I did.

Q. As against Bendt to hold him?

A did.

Q. What was it?

A A short affidavit to hold.

Q. Before Judge Crane?

A No, sir, before Judge Baker in the Fourth District City Magistrate's Court.

Q. Now, when Jerome, Mr. Jerome, talked to you, it was on Saturday afternoon?

A Yes, sir.

Q. About one o'clock?

A About one o'clock.

Q. Was it a long conversation you has with him?

A He told me that--

Q. No. I didn't ask you what was said?

A I received the usual instructions.

Q. Wall, was it a long or short conversation?

A No; I wouldn't say it was a long one.

Q. At that time was Mr. Jorums informed of the fact that one of the parties accused of being implicated in this matter of these tickets was a police officer?

A He was.

Q. Was that information brought to him by you or Mr. Bradley?

A No, sir. I was called into his office and assigned on the case.

Q. So that he was advised of the fact that one of the parties implicated was a police officer?

A I suppresses.

Q. Well, didn't you learn that from any statement he made that was true?

A He told me that there was a police officer in the cases.

Q. How long had you been a county detective, Mr. Reardon?

A Since the 2nd day of January, 1902.

Q. So that you are there now about three years?

A Yes, sir.

Q. Is your position one of appointment from Mr. Jorums, or does it come through the Civil Service?

A By the District Attorney.

Q. So that your position is entirely district there?

A Yes, sir.

Q. That is to say, he can remove you without any formal charges or anything of the kind?

A Oh, yes.

Q. You are not protected by what we call the civil service?

A No, sir.

Q. And you are under his orders and his directions and subject to his administration entirely?

A yes, sir.

Q. On receiving this information touching thief case, did you make any communication with the police officials, the police Commissioner at Headquarters?

A I did not.

Q. Did you telephone to police Headquarters about a police officer being implicated in this matter?

A I did.

Q. To Police Headquarters?

A Yes, sir.

Q. To when did you telephone?

A Inspector Stephen O'Brien.

Q. Well, on that answer from O'Brien, what did you proposed next to do?

A To make a through search for this thief, Pending.

Q. Hadn't you been advised already of the identify of this officer?

A On Sunday, about half an hour prior to my sending for the defendant, I was informed of his identity.

Q. And who informed you of it, -Mr. Walsh?

A Yes, sir.

Q. And he had informed you that he know the officer?

A Yes, sir.

Q. And had seen him before?

A Yes, sir.

Q. Did Walsh at any time in this conversation with you, Mr. Reardon, give you the address or the name or the description of the man that accompanied the officer on that day?

A He gave me his description.

Q. But me name that you can recall now?

A No, sir.

Q. Didn't he intimate to you something about having an appointment with this man who had offered to cell the tickets?

A Yes, sir.

Q. Didn't he then give you any name?

A No, sir, he didn't. The officer made the appointment.

Q. Your office?

A No. The defendant made an appointment with Walsh, to meet him, the following evening, or Sunday evening, at five o'clock to dispose of these tickets.

Q. Well, Walsh had told you that Fending had offered him some tickets for some \$25?

A \$ 50.

Q. \$50?

A Yes, sir.

Q. And that he had an appointment, the next day, at five o'clock with this person and the officer?

A No; I can't say that he had an appointment with this other man Pending. My recollection is that he had an appointment with the defendant.

Q. And not with the other man?

A That's my recollection of it.

Q. Did Walsh so tell you?

A I can't say whether it was Walsh or Mr. Bradley, or some of the employes of Banley & co. I know I was informed at Bradley's office.

Q. The tickets that is here in evidence, Mr. Reardon, you went with Acting Captain Hughes to Mr. Celdastein's to get those tickets, didn't you?

A No, sir; I went to Maguire's to get them, and then I left the Captain there and went in search of Pending.

Q. Oh, you were not at Goldstein's store where the Captain obtained the tickets?

A No, sir; I was not.

MR. NOTT: If your Honor please, as to the question of the value of the tickets, that is about the only thing left in the case. If your Honor agrees with me, however, that, under Section 536 or 537, that we have amply proved the value of these articles, I will not call any other witness as to that, otherwise I will have a witness from the American Bank Note Company, after recess, to prove the values of the tickets, as paper.

THE COURT: Well, Mr. Lynn, I have just copied from this section 545---it is a long section,

and is some what complicated---and I have copied out what I understand what the People's claim is that that section forbids, and you might look at the section and see if I am right:

"If the thing stolen consist of a written instrument, creating any demand, right or obligation the amount of money due thereupon or which in any contingency, might be collected there by, is deemed the value of the thing stolen."

Mr. LYNN: That is truss, sir.

THE COURT : Now, if that a so what is the reason that those--what are called snow tickets--are not obligations created, by means of which money might be collected?

MR. LYNN: Because the very ticket itself says to to contrary, your Honor, controverts the very point that your Honor asserts.

THE COURT: But, with the exception that it creates a demand there which, or by which, a ticket or a money order, if you please, is delivered.

MR. LYNN: But that is at version with the reading of the ticket. You must give the ticket sway with the load of snow, yo must part with it.

THE COURT: But you get a check for the money.

MR. LYNN: No, sir.

THE COURT: Oh, yes, when you go up with the ticket, with the load of snow, you get an order for the payment of 33 cents. The ticket is just as essential as the load of snow.

MR. LYNN: But all the witnesses contour in saying that the ticket is an identification, by which the contractor is guarded against imposition, by bringing the snow from some other place than the right place; and they my that, if they didn't give out those tickets, they would bring the snow from a place near by the dump, and so have a short haul.

How, the ticket speaks for itself, you Honor;  
"Load of snow," present this ticket to the foreman on  
the dump," so as to locate the load of snow; and you  
couldn't spell out that this thing creates any demand.

THE COURT: No, demand appears on the face of the  
ticket, but the ticket calls for and creates a right,  
an obligation to receive a ticket which draws 33 cents.

MR. LYNN: Accompanied by a load of snow from the  
proper distance. I grant you that, sir.

But, if you undertake to spell into a criminal statute,  
into the construction of that statute, that matter.  
I must remind your Honor that an entirely different  
rule prevails, that the utmost strictness must be used  
in construing a original statue.

THE COURT: Well, everything that I have read I  
copied from the statute, leaving out a great deal of  
verbiage which does not apply to this once.

MR. LYNN: I might gather up a lot of transfer tickets  
on a our, the day before, which might have had a value  
then, if they had regained in the our, or if I had remained  
on the our.

THE COURT: Now, what does the written instrument do?  
It creates a demand, or right to another ticket,

an order for the payment of money, an obligation for the payment of money, on presentation.

MR. LYNN: That is conceded. When accompanied by a load of snow, but the ticket itself has no value.

THE COURT: Yes, it has; but it is because it creates & right to demand something of value.

MR. LYNN: It is a means of identifying or locating or fixing.

THE COURT: But it creates a right.

MR. LYNN: Now your Honor is going outside of the statute, and outside of the evidence. Walsh swore that they had no value at all, these tickets.

THE COURT: Oh, no. He said that they were of equal value as the pay ticket.

MR. LYNN: But he said, in the hand of an honest man, it had no value. But, if need by an unscrupulous person, and brought to the dump with a load of snow, it has value.

THE COURT: The case is a close one, and, if we had the right to reserve, as they do in England, a point of law, to be decided by an appellate court, I would do that, but we cannot do that here; and, while the question is close, I can say that the statute, in my opinion, distinctly covers this case.

MR. NOTT : I don't think the English language could make it clearer that it applies strictly and directly to this case.

MR. LYNN: But it appears that these tickets were never presented, and were never detached from the stubs.

THE COURT: Why they have hold here that unleashed railroad tickets have a value.

MR. LYNN: Oh, yes.

THE COURT: But if a person took that ticket, and presented it, and it was shown that the railroad company did not receive value for it, he would not be entitled to the trip. At Common Law, you had to prove some value, and they hold that the stealing of promissory not, that you could show that it had any value at all, but you have got to show that it had some value; and, therefore, the Legislature has, in them mentions of the Code, undertaken to state that a negotiable instrument has a value.

Mr. LYNN: But the old Common law held as an elementary principle, and never got sway from it, that the value must be a value provable in court. You can't deal with the fiction that possibly it might be so.

THE COURT: Well, you concede, I take it, Judge Lynn, that, if the pay tickets had been stolen, they would come under this section?

MR. LYNN: Undoubtedly.

THE COURT: Well, the ticket which the defendant is alleged to have stolen, or received feloniously, called for a pay ticket, for one of those tickets,

MR. LYNN: No, sir; not without a load of snow.

THE COURT: Well, I am willing to concede that the case is a clone one. I think I will hold that this case, so far as value is concerned, is brought within Section 545 of the Penal Code.

MR. LYNN: But the other part of the indictment says that, if they are not worth 33 cents, they are worth a cent. Now, Mr. Nott hopes to claim by the production of the printer here, that they are worth a penny, and I will concede that they may have coat that to print.

But then you come to Section 547, which removes all doubt, and, if that section hadn't been in the Act, then I take it your Honor's ruling might have bore that construction. It requires the market value to be proven, and it refers to all the case in law, from time immemorial. Now, the market value is something which has been---

MR. NOTT: Well, I am not going to prove that, now.

His Honor has ruled.

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

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

MR LYNN: Yes sir; that's it.

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

MR. LYNN: Yes, sir.

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

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

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

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

THE COURT: And you claim that there was no snow

with these tickets?

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

MR. LYNN: Yes, dishonest people.

THE COURT: What I want to know is, whether you can spell out of Section 548 sufficient to cover a case of stealing them ticket?

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

MR. LYNN: Well, I disagree with you.

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

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

MR. NOTT : The very fast that these people asked for \$50 is evidence of value.

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

MR. NOTT: And it would be better if the ware fever such fools on the force.

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

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

## AFTER RECRSS

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

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

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

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

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

The production of the pawn ticket is not sufficient.

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

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

And I have numerous cases in which it has been hold that a pawn ticket is the object of larceny of forgery. It is, also, analogous with the instrument known as a trustee's certificate.

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

Now, the rule is very proper, and, in the case of the People vs. Drayton, 166 New York, page 10 the Court says; (Reads).

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

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

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

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

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

MR. LYNN: It what Mr. Nott said was true, is this case, if the premises were right, his logic is correct, But, if you start on a false premises, so matter how logical your reasoning is, way, of course, it is always based on the falsepremisses.

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

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

Now, if we start correctly on this proposition, the first question would be, that the no two bundles of tickets on the table here, where could we go to obtain any value?

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

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

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

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

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

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

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

If that is true, we have no right to speculate.

If you are going to speculate, then I can speculate with the District Attorney, and say what is possible.

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

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

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

Now, what have we got here?

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

The Section which your Honor read deals with what?

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

Now, a pawn ticket is what?

A Pawn ticket is the evidence of a pledge.

The property has been left behind with the ticket.

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

MR. NOTT: They are evidence of labor done.

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

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

MR. LYNN: Now wait. And he wanted to know if he would give him \$50 for then not the defendant, but the person accompanying the defendant, and Walsh said "I don't know. Come tomorrow night." Tomorrow night's engagement was never kept. Walsh himself says that he took this effacer said, and he said "officer, what do you know about these tickets.?" These tickets might have been stolen."

MR. NOTT: There is no such evidence.

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

MR. NOTT: well, that is very different,

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Now, have they a market value?

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

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

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

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

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

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

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

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

Now, then, comes the question of value.

This Court certainly has not reached the point where value must be a speculative thing, and where the defendant, whose rights to the law, is to be hold soared, is to be hold upon a strained construction of the statute.

If this policeman has been a fool or a indiscreet person, and without logic or thought in dealing with a thing that has not value, he might be criticised and characterised as a man of little or no sense.

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

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

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

I don't know what further I should say to your Honor. Your experience is much greater than mine. This man will pass out of my memory after this case is through, but as a lawyer I am talking to His Honor here of 25 years experience. The preservation of good law is far more important to our Courts, than the mere escape of a guilty person or the holding of a person charged with crime.

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

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

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

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

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

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



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

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

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

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

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



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

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

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

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

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

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

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

THE COURT: Yes.



FRANK J. VALSH, being recalled by the District Attorney, testified as follows:

BY MR. NOTT:

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

A I have, yes, sir.

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

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

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

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

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

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



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

MR. LYNN : I will ask him a question.

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

THE COURT: I sustain the objection.

CROSS-EXAMINATION BY MR. LYNN:

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

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

THE COURT: I sustain the objection.

BY MR. LYNN:

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

MR. NOTT: Objected to.

THE COURT: Allowed.

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

Q. Well, these dishonest people--they are dishonest people, aren't they?

A Well, they are reputable business man.

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

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

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

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

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

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

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

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

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

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

MR. LYNN: Well, I am not struggling here to conceal a lie. I don't do that thing. You have got a very close on I and you are getting the Court to low a little bit with you.

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

BY MR. LYNN:

Q. Now, I want to know, Mr. Walsh, whether or set, in the open market, you can go out, and obtain a market values?

A I could you.

Q. In the broad open daylight, among honest people, for them tickets?

A. I could go to a hundred people in New York, and sell them.

Q. Honest People?

A They are supposed to be honest.

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

MR. NOTT: Objected to.

BY THE COURT:

Q. Well, the dishonest people would deliver these tickets, and get pay tickets, wouldn't they?

A shure, sir,

MR. LYNN : Yes; with dishonest people.

BY MR. LYNN :

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

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

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

THE WITNRSS: They would have a values.

THE COURT: He had answered it.

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

BY MR. LYNN:

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

Q. And the load of snow?

A Or any other way.

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

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

## OPRNINC ADDRESS FOR THE DRFENCE

- of-

VAUHORE LAYY, RSQ.

May it please the Court,  
And Gentlemen of the Jury:

I have defended many cases in my lifetime, and have prosecuted may cases. Like Mr. Nott, I have had the distinguished honor of being a prosecuting stornay, many years ago, and when his Honor was on the bench, too; and sometimes we are considered resole when we are defending man, and honest men when we are prosecuting them. Jurors have, sometime, a stranger way of viewing lawyers in that way; that a lawyer has not conscience about whom he defends, or anything case, when he is paid.

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

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

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

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

Probably that is a crime, too, But he was  
in there, in this dining room, and he was sitting playing  
pinochle, a games of awards. Maybe that is a crime, also.  
It hasn't been brought out, but it may be a crime also.  
And, while he was in there, at five or six  
o'clock, or whatever the time was, a fallow came in, whom

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

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

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

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

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

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

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

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

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

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

And he wants to find out, next, what they were worth. The information that he got from Walsh was that they were only blank pieces of paper.

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

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

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

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

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

But there are other people who seem to be born  
with bad luck; If they went to church, the church would  
fall, or, if they want to see somebody, the person would  
be dead before they get there.

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

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

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

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

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

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

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

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

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

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

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

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

Now, the officer in charged with taking into

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

THE DRFRNSE

FRANK G. FLNTCHER, the defendant, being duly sworn, testified as follow :

DIRECT EXAMINATION BY MR. LYNN :

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

A 37 years.

Q. Where were you born?

A New York.

Q. New York City?

A Yes, sir.

Q. How long have you been on the police force?

A Night years, the 2nd of December last.

Q. Are you a married or single man?

A Married.

Q. Wife and family?

A Wife and six children.

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

A Yes, sir.

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

A Yes, sir.

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

A Yes, sir.

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

A I did.

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

A Yes sir.

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

A I was in a saloon.

Q. Now, what saloon?

A A hotel, corner---between 13th and 19th streets, on 3rd avenue.

Q. Now, is that a saloon that you know, or are you acquainted with the proprietor?

A Well, I have known the man for about eight years.

Q. What is his name?

A Frank Keyes.

Q. Is that the gentleman that keeps the saloon (indicating)?

A That is the man; that is the manager.

Q. Well, he keeps a hotel; dose he?

A Yes, sir.

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

A Yes, sir.

Q. Serves meals?

A Yes, sir.

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

A I was in the dining room.

Q. That was in the rear of the saloon?

A Yes, sir.

Q. Now, what were you doing there?

A Well, I went in there, as I often did, to see Mr. Keyes, and I know him before I went on the police force, being a machinist.

Q. Now, what time did you go in there, Fletcher?

A Well, it was around five o'clock.

Q. When had you left post that day?

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

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

A Yes, sir.

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

A Yes, sir.

Q. Now, while you were in there-- how long had you been in there before anything occurred?

A I might have been in there pretty near an hour.

Q. Well, then, who came in?

A This--

Q. In reference to these tickets?

A That is this Pending, and he had a friend with him.

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

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

Q. Well, what did he use to do then?

A Well, I don't know what he did.

Q. Drove a truck or worked around?

A Well, I don't know what he did.

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

A Yes, sir.

Q. Well, had your acquaintance been intimate?

A Well, when I met him that night, it was the first time since about seven years that I had met him.

Q. Now, what occurred there?

A Well, he come to me where I was sitting and he had these tickets, and he asked me were they any good.

Q. He had a lot of snow tickets?

A Yes, sir, snow tickets.

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

A yes sir..

Q. Now, what did he say to you?

A He asked me if they were any good.

Q. And what did you say?

A I said I didn't know.

Q. You told him you didn't know?

A Yes, sir.

Q. Then what did he say?

A Well, he asked me to go with him down to the deck to see if they were any good.

Q. And did you ask him where he got them?

A. Well, he said that he had found them and that they might be stolen.

Q. He said that he had found them and that they might be stolen?

A Yes. sir.

Q. And then he asked you if you would go down to the dock?

A Yes, sir.

Q. Did you go down there to the dock?

A Yes, sir; I went with him to the dock.

Q. And where you in uniform then?

A Yes, sir.

Q. What dock did you go to?

A We went down to 18th street, to the river.

Q. And you were near 18th street?

A Yes, sir.

Q. What dock did you go to?

A Went down to 18th street, to the river.

Q. And you were near 18th street?

A Yes, sir.

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

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



Q. How many packages did he have?

A Well, he had some more besides those two, but I took two packages.

Q. Out of his hand?

A Yes, sir.

Q. On the way down?

A Yes, sir.

Q. And, when you got down there, what happened?

A Well, I looked around, and didn't see nobody at all.

Q. Exactly.

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

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

A About 18th street and Avenue C.

Q. You had been down to the dock?

A Yes, sir.

Q. And so nobody?

A Yes, sir.

Q. And were on your way back?

A Yes, sir.

Q. Well?

A He spoke to me first.

Q. He spoke to you?

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

Q. Do you know what section he was in? Section G wasn't it?

A Yes, sir.



Q. And he said they didn't belong there?

A Yes, sir. And he said was no use, no value unless you went down there and got them exchanged for pay tickets. I asked him about them, what they were, and he said, "Well, if you had a load of snow and went down with these they would give you a pay ticket for it."

Q. Yes, and What else took place?

A Then I asked this Pending, this man that was with me, "What is your address? Where do you live? I asked him that two or three times, to make sure." And he gave me his address as 414 East 14th street--- 18th street--14th street.

Q. You hadn't known at that time where Pending lived?

A I never did know where he lived, but I asked him that a couple of times so as to make sure that I could get him again, in case he was wanted.

Q. Well, go on, And he gave you this address?

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

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

A. Yes, sir.

Q. And you certainly did keep them for future reference?

A. Yes, sir.

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

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

Q. You went on your tour of duty then?

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

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

A No, sir.

Q. You received no information as to that whatever?

A No, sir.

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

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

Q. Where did you go do work that day, on post?

A Well, I was over at the fire, in the first precinct.

Q. (Question repeated)

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

Q. And did you put on your uniform again, and go home?

A No, I put on my citizen's clothes.

Q. And then what did you next?

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

Q. Those were some of the young man that was here?

A Yes, sir. And I took these two package of tickets--they were in my side packets like their (Illustrating by pointing to the side packets of his trousers), and said to Goldstein, "Save these for me until to-morrow morning."

Q. And the two bundles were just as they are now?

A Yes, sir.

Q. And then to-morrow morning would be Sunday; wouldn't it?

A Yes, sir. that would be Sunday morning.

Q. Now, when did you go next on post?

A Sunday afternoon no--Sunday. I went on post on Sunday morning eight o'clock.

Q. And you worked on post up to the time they called you off post?

A Yes, sir.

Q. When was that?

A Around twelve o'clock.

Q. Did you see any of Bradley's people in the meanwhile, making inquiries about these tickets?

A I see nobody, nothing, I hadn't thought of the things any more at the time.

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

A Yes, sir.

Q. Now, at the time you were brought into the station house, Officers Reardon and Roughs speak about something about your knowing that the man had robbed another man, Had you told them that you know that the man that you got them from had robbed somebody else?

A No, sir. I told them that the man I got them from said he found them, and they might have been stolen.

Q. That was it?

A Yes, sir.

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

A That's all I know.

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

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

Q. Did you take them into your possession for the purpose of using them, or defrauding or wronging anyone, or stealing them?

A No, sir; I didn't aim to do anything wrong to nobody; I didn't intend to do anything wrong with them, at all.

Q. Now, let us see how bad you have been in the Police Department, how many complaints have been against you?

A Well, I couldn't say how many.

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

MR. NOTT : I brought them down here

MR. LYNN: Yes, I understand that.

MR. NOTT: There are thirty-one there.

BY THE COURT:

Q. Any complaints for dishonest there?

A No, sir.

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

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

THE COURT: I do not suppose you went to go into the, Mr. Nott?

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

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

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

BY MR. LYNN:

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

A Yes, sir.

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

A Yes, sir.

Q. You have been unable to find him?

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

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

A Yes, sir.

Q. And that is the truth, is it, Fletcher?

A Yes, sir; I didn't know anything about the thing at all, then.

CROSS-EXAMINATION BY MR. NOTT:

Q. You have had thirty-one charges against you; haven't you?

A. I couldn't say how many charges.

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

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

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

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

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

MR. LYNN: Or receiving stolen goods.

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

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

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

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

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

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

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

BY MR. NOTT:

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

A Yes, sir.

Q. When was that?

A On the 8th day of March last.

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

A About four or five days.

Q. Weren't you out a month?

A Wait a minute.

Q. (Question repeated).

A No, sir.

Q. Weren't you, disabled over a month?

A No, sir.

Q, And, after you were disabled, didn't you refuse to put in a claim for pay while you were disabled?

A Now, you said that I was disabled--

Q. Now, just answer my question, Don't tell me what I said. Were you charged with being shot while attempting to hold up an Italian?

A No, sir.

Q. Do you allege that you were not so charged? After you received that wound, did you put in your claim while you were disabled?

A No, sir.

Q. You didn't

A No, sir.

Q. How long were you laid up while you were disabled?

A About four or five days.

Q. And you didn't put in any claim to that?

A No, sir; I was on half pay.

Q. Did you have an investigation made of the shooting?

A No, sir.

Q. You had none at all?

A Now at all; no, sir.

Q. Now, on this day in question, on the 27th, you got off duty about four o'clock?

A About twenty minutes after four, after roll-call,

Q. And you turned in your stick at the station house?

A Well, I went into the station house, and put off my uniform, and put on my plain clothes.

Q. Were you in citizen's clothes when you were in this saloon in Third Avenue?

A No.

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

A Yes, sir.

Q. And you were then in uniform?

A Yes, sir.

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

A Yes, sir.

Q. And that is a Raines Law hotel?

A Yes, sir.

Q. And you spent an hour there?

A Yes, sir.

Q. And how long were you there?

A I was there about an hour.

Q. Yes, Are you aware that that place--that there has been convictions against it as a disorderly houses?

A No, sir; I never knew anything about that.

Q. Have?

A No, sir.

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

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

BY MR. NOTT:

Q. Well,, why did you go away over there?

A That was on my way home.

Q. Were do you live?

A 105th Street near Lexington Avenue.

Q. How did you go?

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



Q. And what did you get off the car for?

A To go in and see Mr. Keyss.

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

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

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

BY MR. NOTT:

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

A Yes, sir; I was going home.

Q. Up to 105th street?

A Yes, sir.

Q. And what were you going home for?

A Well, going home to supper. We have hours for supper.

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

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

Q. Well, what were you taking supper there for if you were going home?

A I wasn't taking supper.

Q. Did you drink anything?

A No, sir; not then.

Q. But were you sitting with Keyes?

A No, sir; I was talking to a man named Walsh.

Q. Not this Walsh?

A No, sir; he is a man that worked in the place, and we were talking together. I knew him.

Q. And what time did you have your supper?

A I didn't eat no supper at all.

Q. What time did you have supper at home?

A I didn't go home at all.

Q. What time do you have supper when you do go home, if you ever do go home?

A I always go home. My wife makes my supper at any time I get home.

Q. You always go home for supper?

A Well, I go pretty nearly all had time; I go home nearly all the time, pretty near.

Q. Well, you didn't go home this night?

A No, I didn't, not this night. It wasn't the first night.

Q. And how long did you talk with Keyes?

A I wasn't talking to Keyes more than 15 or 20 minutes.

Q. What were you talking to him about?

A Oh, different things.

Q. Well, had you gone there to see him about anything special?

A No, sir.

Q. And then you were talking to these other people?

A No, sir; I was only talking to one man, this Walsh.

Q. And what time did Pending come in?

A Pending come in the neighborhood of six o'clock, it must have been.

Q. Six o'clock?

A Yes, sir.

Q. Did you still intend to go home to supper?

A Yes, sir.

Q. At six o'clock?

A Yes, sir.

Q. What time did you go on your reserve?

A At eight o'clock.

Q. And you intended, at six o'clock, to go up to 105th street for supper, and back?

A Yes, sir. You can do that in 20 minutes.

Q. Now, Pending took out these tickets and showed them to you?

A No, sir.

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

A No, sir.

Q. Now long have you been on the Police Force in this city?

A About eight years.

Q. And you never saw a ticket given when a load of snow was hauled, was loaded up?

A No, sir.

Q. And you want the jury to believe that?

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

BY MR. NOTT:

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

A Yes, sir.

Q. Well, what did he tell you about it?

A I could see the name there "Snow."

Q. What did he tell you about them?

A He told me that these tickets here, he had found them.

Q. No, no. What did he tell you about the tickets themselves?

A He said they were snow tickets.

Q. Did you ask him what he meant?

A He didn't know.

Q. He didn't? A No, sir. They were marked there.

That is the way he know.

Q. Is it marked on here (indicating)?

A Yes, sir; "Snow tickets."

Q. Where does it say on any part of the ticket, snow tickets?

A Well, he said they were snow tickets.

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

A Yes, sir.

Q. And he said he didn't know?

A He said he didn't know.

Q. And yet there is nothing on here to show that they are snow tickets, and you can't explain how he know they were snow tickets?

A No, sir.

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

A He said he had found them.

Q. Did he tell you where he had found them?

A No, sir.

Q. Didn't you ask him?

A No, sr,

Q. You had no curiosity about it?

A No, sir.

Q. Now, after he tell you they might have been stolen, what did you say to him about the tickets?

A I said, "You come with me and we will go down and find out if they are any good or not."

Q. Any good?

A Yes, sir.

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

A KHZ?

Q. If he told you they might have been stolen, what did you care for the value? What were you locking for someone to ascertain the value from for?

A Wall, he said they might be lost or stolen and I wanted to find out something about them from somebody that know something about them.

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

A Why did I want to find out?

Q. Yes. You heard my question, didn't you?

(Question repeated). A I wanted to find out if they were worth anything.

Q. Why?

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

Q. Well, you would know what you could got for them; wouldn't you?

A Well, I don't think that is a fair questions to ask me.

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

BY MR. NOTT:

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

A No, sir.

Q. All right then. I Will not press it. Did you ask him if he had found then in Bradley's office?

A No, sir.

Q. In some man's Pocket?

A No, sir.

Q. And you were a Police officer?

A Well, I did take him--make him go down with me to one of those dumping places.

Q. Well, who proposed going down there?

A He did.

Q. He did?

A Yes, sir.

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

A Well, I don't know.

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

A Yes, sir.

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

A Yes, sir.

Q. Where?

A Right in Keyes.

Q. After Pending came in?

A No, sir.

Q. Well, you certainly didn't have any supper after he came in?

A Well, I did eat some free lunch.

Q. Oh, free lunch?

A Yes, sir.

Q. Did you have any drinks in there?

A Yes, sir.

Q. Well, didn't you tell me, awhile ago, that you didn't have anything at all to drink in there?

A No, sir; not at that time.

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

A Yes, sir.

Q. What?

A I had a glass of beer.

Q. Now, what did Pending say he wanted to go down to the dock for?

A I suppose he wanted to go down to find out whether there was any value or not.

Q. How did Pending know that these tickets were to be presented at the dock?

A Well, how did I know?

Q. (Question repeated)

A He asked me to go down there with him; that is all.

Q. Well, why were you so much interested to go down with him to the dock, at that time of night?

A Well, I felt a little suspicious about them tickets, too, and I brought him down there.

Q. It never occurred to you to take him up to Bradley?

A Yes, sir; it did. I will explain that afterwards.

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

A Yes.

Q. Now, then why did you go down to the docks where the tickets are exchangeable for pay tickets?

A Well, I found nobody there.

Q. Well, why did you go down there?

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

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

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

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

MR. LYNN: Butt he will not permit me to do it.

HE says he will not be interrupted.

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

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

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

MR. LYNN: But I don't want to be put here in the position of feeling like a pickpocket, your Honor?

I feel almost like a crock myself, being treated in this way.

BY MR. NOTT:

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

A Yes, sir.

Q. Did you ask where Bradley's office was?

A Did I ask?

Q. Yes,

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

Q. Where Bradley's office was?

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

MR. LYNN: Butt he will not permit me to do it.

HE says he will not be interrupted.

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

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BY MR. NOTT:

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

A Yes, sir.

Q. Did you ask where Bradley's office was?

A Did I ask?

Q. Yes,

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

Q. Where Bradley's office was?

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

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

A Yes, sir.

Q. And, instead of going right up to 24th Street, going to where the owner of the tickets was, you went down to the dock?

A Well, I didn't meet Mr. Walsh until I got down to the tock.

Q. Well, did you know where Bradley's office was, when you were in the saloon?

A No, sir.

Q. Did you inquire?

A No, sir.

Q. Had you ever heard of William Bradley, the snow contractor?

A No, sir; never heard of him.

Q. How long have you been on the force?

A Over eight years.

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

A I did ask.

Q. Who did you ask?

A Mr. Walsh, the superintendent. He told me.

Q. Well, why didn't you ask before you went down to the dock?

A Well, I hadn't looked at the snow tickets then. I didn't have them then.

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

A Yes, sir.

Q. And did you ask him who the owner was?

A No, sir.

Q. Instead of that, you started right out to find out whether it was worth any thing?

A Yes, sir.

Q. Now, when was it that you took these tickets away from the man?

A We were on our way down to the dock.

Q. And where did you take them?

A Around Second Avenue.

Q. And why did you take them?

A Well, I said, "I'll take these two packages, and make inquiries about these tickets.

Q. Why did you take two packages?

A Why, just for a sample, to ask about.

Q. And you left the rest with him?

A yes, sir.

Q. Well, why didn't you take all, if you meant to restore them?

A Because I only took two.

Q. Well, why?

A Well, only for a sample. I took two.

Q. Can you give us a reason for that?

A Well, I have no reason for that.

Q. Isn't the treason that you agreed that you should have two, and he keep the rest?

A No, sir.

Q. And then tell the jury when you, an officer, had found this lost and stolen property, why you didn't take the whole property, and turn it in to the true owner?

A Well, I took these two packages to find out about them.

Q. Why didn't you take the rest of them?

A Well, I took two of them.

Q. Can't you answer a plain question?

MR. LYNN: I submit that he has answered.

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

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

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

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

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

Q. But you just told the jury that yo could go up in twenty minutes, go up home?

A Well, it must have been after six O'clock, then.

Q. How much after?

A I don't recollect.

Q. Did Pending make any objection to your taking theme things away from him?

A No; he handed me the two packages.

Q. Now, you know that Pending was a loafer; didn't you?

A No, sir.

Q. Had you ever seen him to a stroke of work?

A No, sir.

Q. Don't you know that he has been in Keyes's place, time and time age in, and thrown out for being drunk and disorderly?

A No, sir. never know it.

Q. And you told the jury that you, a police officer, met this man, whom you had never seen do a stroke of work, and hadn't seen for seven years, and you let him take away seven of these packages, without verifying his address, at all?

A Well, I did ask him his a address, several times, and Mr. Walsh was right there when I asked him.

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

A Yes, sir.

Q. And that is the only investigation you made?

A That's all, at that time.

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

A No, sir.

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

A Well, I never--

Q. Had you or not?

A Well, I didn't know whether he worked or not.

Q. And you say that he was more or less drunk, at that time?

A Yes, sir; at the time.

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

A Yes, sir.

Q. And then you took his word for it?

A Yes, sir; because I found out, before this, that these thing were of no value.

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

A Yes, sir.

Q. And do you tell this jury, after hearing his testimony, that Walsh told you they were no good?

A Yes, sir; he said they didn't belong in this section.

Q. Now, that didn't mean that they were no good?

A And he said they were no good, without getting a pay ticket in return for this ordinary ticket.

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

A Yes, sir.

Q. And did you tell Walsh that the tickets had been come by wrong, or words to that effect?

A No, sir.

Q. Did you hear him so testify?

A Yes; but I didn't say a word like that.

Q. Do you went to say that he is testifying falsely?

A Yes; I do.

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

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

BY MR. NOTT :

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

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

Q. Where did you put those two pads of tickets, when you got on the car?

A I had them in my coat pocket.

Q. Which pocket?

A My back coat pocket.

Q. Were they very much in your way there?

A No, sir. They are big pockets in my coat.

Q. And there we plenty of room for them?

A Yes, sir.

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

A Why?

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

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

MR. LYNN: Yes; stolen property.

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

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

BY MR. NOTT:

Q. (Question repeated)

A Yes, sir.



Q. Now, why didn't you do that?

A Because this property was of no value, and wasn't worth anything.

Q. Well, it was lost property or stolen property, either one; wasn't it?

A Yes; it must have been.

Q. Do you mean to say that you took upon yourself to see how valuable it was, and who there or not you should turn it in?

A Yes, sir. But, look here. The reason why I didn't turn it in, or report it, was that I found out it was no good.

Q. Who told you that?

A Walsh, He was the one, the only man I met.

Q. And, if the property was no good, why did you keep it in your pocket all night?

A Well, in ones anything should come out of the ones, I would have these two,

Q. Out of what case?

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

Q. Why didn't you turn them in to the Berg ant, and let him send them to the contractor?

A Because I told you before they weren't any good.

Q. Then why didn't you turn them in, and let him send them to the contractor?

A Well, that was the question, whether they were of any use to the contractor. I was going to be the contractor, and I even told Mr. Walsh and Mr. Reardon, in the office there, that I was going to the contractor with them.

Q. Did Walsh tell you that you would get a reward from the contractor?

A No, sir.

Q. That had nothing to do with your not turning them in to the Sergeant?

A No, sir.

Q. And how long were you on reserve?

A From eight o'clock until four o'clock in the morning.

Q. And at four o'clock what did you do?

A Well, I laid in bed until near eight o'clock.

Q. From four to eight you were in bed?

A Yes, sir. You see, we went to bed at eight o'clock.

Q. In the station house?

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

Q. At eight o'clock?

A Yes, sir.

Q. And then where did you go?

A Out on post.

Q. And still you had the tickets?

A Yes, sir.

Q. And they were still in your pocket?

A No, sir.

Q. Where were they?

A They were in my locker.

Q. Where? At the station house?

A Yes, sir.

Q. You locked them up there?

A Well, my locker is open; no lock on it.

Q. And when did you go off post?

A About a quarter after four.



Q. In the afternoon?

A yes, sir.

Q. And what did you do with the tickets?

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

Q. And did you changes your clothes at the station houses?

A Yes, sir.

Q. And when did you leave the station house?

A About half-past six.

Q. About half-past six?

A Yes, sir.

Q. And why did you take the tickets?

A I put them in my pocket, with the full intentions of going to Bradley, that same night/

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

A Yes, sir.

Q. And you meant to go right up to Bradley's?

A Yes, sir.

Q. And why didn't you?

A Well, I went down to Hudson Street.

Q. Why did you go down there to this cigar store, from McDougal Street?

A Well, I could go up Eights Avenue to 23rd Street, and take a Cross-town oar.

Q. Well, why didn't you do it?

A Well, I went into the cigar store, and bought some cigars, and there was two young fellows at the time, and after we had the cigars, he asked me to have a drink.

Q. Well, do they sell drink in that cigar store?

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

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

A After.

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

A Yes, sir.

Q. And Why?

A to leave them until I come, the next day, to take them away.

Q. But you said you were going right up to Bradley's with them? why didn't you go?

A Because I changed my mind, then, and went cross the street to the saloon.

Q. And why did you leave them there?

A Well, what reasons have I got?

Q. That's just what I want to know?

A Well, I left them there because they were bulky in my pocket.

Q. How, you have said that they didn't take up any room in your pocket?

A No, I didn't say that.

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

A Yes, sir.

Q. Well, what also had you in your coat pocket?

A I had nothing also in my coat pocket.

Q. And then why did you leave them there, then?

A Well, I'll tell you, if you will give me a chance.

MR. LYNN: Now, give him a chance.

BY MR. NOTT :

Q. Well, why?

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

Q. And you said that before you went across to get the drink?

A Yes, sir.

Q. And why was it, before you had taken the drink, you intended to leave them there until the next morning?

A Why, the next morning I would have taken them up to Bradley's.

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

A Yes, sir.

Q. That you left them in the cigar store because they were bulky in your pocket?

A Yes; and because I had no intention of going up there, then.

Q. And why did you change your mind about going up to Bradley's

A Well, we went over to get a drink, and we got playing cards, and it was quite late before we got through, about ten o'clock.

Q. And what kind of a place is that? A Raines Law hotel?

A No, sir; a decent, respectable place; Sass's

Q. And where did you go from Sass's?

A Right home.

Q. And, when you left Sass's, Why didn't you go and get the tickets?

A Because I had told the man that I would leave them there until morning?

Q. Oh, I see. You didn't want to disappoint him?

A Oh, no, sir.

Q. And why, then, didn't you take them up to Harlem with you?

A Well, I could leave them there, and it would be the same thing. I could call for them in the morning, and deliver them.

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

A Well, I mightn't have time.

Q. Well, what time did you go on post, on Sunday?

A At eight o'clock.

Q. And you mean to say that you wouldn't have time, before eight o'clock, to stop off, and leave those tickets with Bradley?

A. Well, it would depend upon what time I would sleep to in the morning.

Q. How, what time did you intend to take them to Bradley's?

A On Sunday afternoon. I was off at four o'clock. sleep to in the morning.

Q. Now, what time did you intend to take them to Bradley's?

A On Sunday afternoon. I was off at four o'clock.

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

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

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

BY MR. NOTT:

Q. What time were you on post? From eight until when?

A On Sunday?

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

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

A Yes, sir.

Q. And take them up to Bradley's right away?

A Yes, sir.

Q. You know that Bradley's was open, of course, on Sundays?

a Well, I kind of thought so.

Q. Why did you think so?

A Well, because on Sunday morning, when I went on post, about twenty minutes after eight, when I got over on post--they call the roll at eight o'clock, and by the time you got on post it is 15 or 20 minutes past eight---and I met a man a foreman of Bradley's who has charge of a some man there. His name is Boyle, and I told him about the tickets, and told him I was going up to the contractor and take the tickets.



Q. In Boyle in Court?

A No; I don't think he is. I telephoned to him three or four times this morning.

Q. Now, why were you tackling another foreman of Bradley's? To see how much they were worth?

A No, sir.

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

A Yes, sir.

Q. Now, how did you happen to strike him, Bayle, a foreman of Bradley's right after you got possession of these tickets?

A Why, he was working on the snow.

Q. And you know he was working for Bradley?

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

Q. Did you ask him what the tickets were worth?

A No, sir.

Q. You didn't say anything about the value of the tickets at all?

A No, sir.

Q. Didn't you testify, a minute ago, that he said they were no good?

A Walsh told me so.

Q. Didn't you testify, a minute ago, that he said they were no good?

A Walsh told me so.

Q. Didn't you testify that Boyle told you so?

A We didn't say anything about the tickets. I asked Bayle, when I met him about these tickets--he a come from Section 4, see--and I told him these tickets were from Section 4.

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

A He told me.

Q. And so you asked him about Section 4?

A He told me.

Q. (Question repeated).

A Well, he said--I said, "The tickets are from Section 4," and he said "I am from Section 4."

Q. And you had found out a good deal by that time about these tickets, hadn't you?

A Well, he was the only man that gave me any information about it, except Walsh. He told me they belonged to another Section.

Q. And when did you see Boyle?

A On Sunday morning, about eight o'clock.

Q. Where was he?

A Between Brome and Spring.

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

A Yes, sir.

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

A No, sir; I didn't.

Q. And did you ask Boyle anything about the value of the tickets?

A No, sir. I merely asked him how I could get them back to the man that owned them, or the party, the contractors.

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

A Well, I know about going to Bradley's.

Q. Well, if you know that, why didn't you go to Bradley's?

A Well, him coming from Section 4, I asked him would he know who they belonged to.

Q. Well, with the name of Bradley printed on 200 tickets did you find it necessary to ask him who they belonged to?

A Well, to tell you the truth, I never looked at the name on them, at all.

Q. Well, you told the jury, awhile ago, that you did see the name of Bradley on them?

A Oh, no didn't.

Q. Didn't you tell the jury that you know that William Bradley was the owner of the tickets, and saw the name on the tickets, after you them from Pender?

A Well, Walsh told me that.

Q. Well, if Walsh told you that on Friday, did it take you three days to find out how to get the tickets back to Bradley?

A Let me tell you. I had to go gawk on reserve hadn't I?

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

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

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

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

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

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

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

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

BY MR. NOTT:

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

A Yes, sir.

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

A I was called into the station house---

Q. Did you state that? Yes or no.

A. What was the question?

(The question is repeated by the stenographer).

A No, sir.

Q. Did you state to Captain Hughes that the reason why you didn't turn them in, or restore them to the owner, or make the arrest was because you were off duty?

A NO, sir.

Q. He is testifying falsely in that regard, then?

A Yes, sir.

Q. And Reardon is testifying falsely?

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

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

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



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

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

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

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

BY MR. NOTT:

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

A When Mr. Reardon come in---

Q. (Question repeated). A Yes, sir.

Q. Well, why did you tell him that?

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

Q. Why did you say that you were at home from four o'clock until you went on reserve?

A Well, that was a mistake of mine about the reserve day.

Q. Why did you deny that you were down at that place, on 18th street and Avenue C?

A I didn't deny it. I admitted it.

Q. Now, didn't you say that you were at home, at the time?

A I told yu twice that I made a mistake as to the day of the reserve, and, as soon as I know I was wrong, I corrected myself.



Q. As soon as Captain Hughes went out, and looked at the blotter, you corrected your mistake?

A I Corrected my mistake before he got out of the room, almost.

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

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

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

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

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

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

BY MR. NOTT:

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

A Saturday. I had Saturday in view.

Q. Had you been home all Saturday afternoon?

A No, sir.

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

A Yes, sir.

Q. Well, then, why didn't you think of that?

A Well, I got mixed on the day of my reserve.

Q. What day were you at home, then, that you were thinking of, then?

A Well, the day before, Thursday.

Q. Thursday?

A Yes, sir.

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

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

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

A Thursday,

Q. And were you at home Thursday?

A Yes, sir; I was home Thursday.

Q. And then why did you tell the jury Saturday?

A Thursday, I said.

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

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

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

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

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

A Why?

Q. Yes?

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

Q. Well, why, if they were of no value?

A Well, they might be of value to Bradley.

Q. Well, then, why didn't you leave them at the station house, at the desk, leave them with the Sergeant?

A Well, because I thought they were of no value.

THE COURT: I think he has answered that, Mr. Nott. He says he did not turn them in because he thought they were of no value.

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

BY MR. NOTT:

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

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

Q. He has a telephone in his house?

A No, sir; not at his house. This is a saloon that I telephoned to, where I thought he would be.

Q. Have you ever seen him in that saloon?

A Yes, sir; I have seen him in that saloon.

Q. When have you been in there to see him?

A Saturday, I think it was.

Q. What?

A Saturday.

Q. Saturday?

A Yes, sir. Friday.

Q. This week?

A Yes, sir.

Q. Friday of this week?

A Last week.

Q. When were you out on bail?

A Wednesday.

Q. You were arrested on the 29th of January?

A Yes, sir; on Sunday.

Q. And you were only bailed out last Wednesday is that right?

A Well, I was out on bail before that.

Q. Well, I asked you, a minute ago, when you got out on bail?

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

Q. Yes,

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

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

A No, sir.

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

A A little over eight years.

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

Gentlemen of the Jury,

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

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

The trial was then adjourned until Wednesday morning, February 15, 1905, at 1:30

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## TRIAL RESUNRD

New York, February 15, 1905.

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

THE COURT: Very well.

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

THE COURT: Yes.

MR. LYNN: Now, I took u

THE COURT: Yes.

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

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

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

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

But the condition here is, your Honor, that when this ticket is first received, nothing what's cover of any char actor or kind labor or anything also, is behind it. In other words, the person gets it on the street, without doing anything for it.

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

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

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

MR. LYNN: But we have this difficulty in this case, and I don't think we would cavil on it, that this ticket standing in its nakedness, is not capable of transformation by exchanging or negotiating it into a something else that is property.

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

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

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

Now, the construction that your Honor to it, is giving a construction against the defendant, which I claim, your Honor, with all due respect to the bench is somewhat at variance with the history and spirit of our statutes.

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

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

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

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

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

MR. LYNN: And that is to be regretted, sir,  
THE COURT: And, while I am not absolutely certain of this question--for instance, if I were absolutely certain that the sown tickets had no value in the language of that statute, I would not hesitate to say so. But, inasmuch as I am in doubt on that question, I think it far better as the People have no chance to appeal, at all, that I should not decide a case which, at least, leaves a doubt in my mind, unless that could be determined in some other place. I would like to have it determined. I am not fully sanguine that I am right, but, at the same time, I do not believe that I would be justified in holding that this paper writing has not, under the circumstances, some pecuniary value, in the light of reading that section. And, there fore, I have hold that it is a question that I will submit to the jury. If they come to the conclusion that this ticket has a value---

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

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

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

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

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

MR. NOTT: We have an appeal from what?

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

MR. NOTT: The Court makes no order.

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