

INDEX.

	PAGE
Writ of Error,	1
Return to Writ,	2
Indictment,	3
Plea and Judgment Record,	4
Motion to Quash Indictment,	7

STATE'S WITNESSES.

Daniel J. Dunn—	
Direct,	11
Cross,	17
Re-direct,	29
Re-cross,	31
Walter Johnson—	
Direct,	32
Cross,	37
Re-direct,	51
Alex Kelley—	
Direct,	52
Cross,	57
D. Morton Atkinson—	
Direct,	70
Cross,	74
Further Direct,	74
Further Cross,	76
Harry Linderman—	
Direct,	78
Cross,	82
Re-direct,	88
C. Gilbert Crawford—	
Direct,	88
Cross,	96
Re-direct,	121
Recalled,	116-197
Thomas H. A. Turner—	
Direct,	124
Cross,	125
Re-direct,	126
Re-cross,	127

WITNESSES FOR DEFENDANT.		PAGE
Joseph Bright—		
Direct,		130
Cross,		131
Lester S. Fortnum—		
Direct,		134
Cross,		135
Louis Goldstadt—		
Direct,		136
Cross,		139
Max Galman—		
Direct,		147
Cross,		149
Re-direct,		152
Michael Chiaccio—		
Direct,		152
Cross,		167
Margaret Chiaccio—		
Direct,		188
Cross,		190
Charles Taretanno—		
Direct,		192
Cross,		194
Peter Sylvester—		
Direct,		194
Cross,		195
Thomas Chiaccio—		
Direct,		195
Thomas Potts—		
Rebuttal,		195
Joinder-in-Error,		207
Motion in Arrest of Judgment,		205
Charge to Jury,		199
Certificate of Court Stenographer,		205
Assignments of Error,		208
Specification of Causes for Reversal,		210
Writ of Error (Court of Errors and Appeals),		213
Return,		214
Order of Affirmance and Remittitur,		214
Supreme Court Clerk's Certificate,		215
Writ Repeated,		215
Opinion,		216
Assignment of Errors (Court of Errors and Appeals),		218
Specification of Causes for Reversal,		222

New Jersey Supreme Court.

STATE OF NEW JERSEY,
Defendant-in-Error.) On Writ of Error to 10
) Somerset Quarter Ses-
) sions.
vs.)
MICHAEL CHIACCIO,) On Indictment for Re-
Plaintiff-in-Error.) ceiving Stolen Goods.

WRIT OF ERROR.

(Filed December 5, 1924.)

20

[SEAL] The State of New Jersey to the Honorable Frank Cleary, Judge of the Court of Quarter Sessions of the County of Somerset:

Because in the judgment of the Court of Quarter Sessions of the County of Somerset upon a certain indictment against Michael Chiaccio, wherein with force and arms, 83 Rolls of Cotton Plush, the property, goods and chattels of Atchinson Motor Freight *et als.*, the lately stolen, taken in robbery, carried away and unlawfully obtained from the said Atchinson Motor Freight in the said D. Morton Atchinson and taken in robbery, did receive and by knowing the said to have been so stolen, taken, carried away and unlawfully obtained contrary to the Form of the Statutes in such case made and provided.

Pro ut the said indictment and the several counts therein, whereof, before you, he had been indicted and is

thereof convicted by a certain jury of the county, taken between the State of New Jersey and the said Michael Chiaccio, as it is said, manifest error hath intervened to the great damage of Michael Chiaccio, as from his complaint we have received information, we being willing, in his behalf, to correct the error in due manner, if any there shall be, and that speedy justice be done to him, the said Michael Chiaccio, command you that if judgment be therefore given, then that you distinctly and openly send under your seal and proceedings aforesaid together with all things touching and concerning the same to our Supreme Court, to be held at Trenton, on the 24th day of December, 1925, and this writ, that the record and proceedings aforesaid being inspected, we may further cause to be done thereupon for correcting that error what of right and according to the laws and customs of New Jersey ought to be done.

Witness, William S. Gummere, Esq., Chief Justice of our Supreme Court, at Trenton, this 5th day of December, 1924.

20

EDWARD J. KELLEHER,
Clerk.

ROMULUS P. RIMO,
Attorney of Plaintiff-in-Error.

NEW JERSEY SUPREME COURT.

RETURN.

30

The answer of Frank L. Cleary, Esquire, Judge of the Court of Quarter Sessions holden in and for the County of Somerset, and within named, the record and entire proceedings of the plaint whereof mention is within made, with all things touching the same, I send to the Justices of our Supreme Court of Judicature at Trenton, New Jersey, the day and year within con-

tained, in a certain schedule to this writ annexed, as within I am Commanded.

FRANK L. CLEARY,
Judge.

INDICTMENT.

(Filed October 3, 1924.)

10

No. 1876. SOMERSET OYER AND TERMINER,
September Term, A. D. 1924.

SOMERSET COUNTY, ss.

The Grand Inquest for the State of New Jersey in and for the body of the County of Somerset, upon their respective oath, present that Michael Chiaccio, late of the Town of Riverton, in the said County of Burlington, on the twenty-eighth day of August, in the year of our Lord one thousand nine hundred and twenty-four, with force and arms, at the Township of Franklin aforesaid, in the County of Somerset aforesaid and within the jurisdiction of this Court, eighty-three rolls of cotton plush of the value of five thousand seven hundred dollars, and three cases of dress goods of the value of eighteen hundred and seventy-five dollars, the property, goods and chattels of Atchinson Motor Freight and the property of D. Morton Atchinson and Kessel and Hober, and the Elkton Textile Co., then lately stolen, taken in robbery, carried away and unlawfully obtained from the said Atchinson Motor Freight and the said D. Morton Atchinson, and taken in robbery, did receive and buy knowing the same to have been so stolen, taken, carried away and unlawfully obtained, contrary to the form of the statutes in such case made and provided, and against the peace of this State, the government and dignity of the same. 20 30

And the Grand Inquest aforesaid, upon their respective oath aforesaid, do further present that Michael Chiaccio, of the Town of Riverton, County of Burling-

ton and State of New Jersey, on the twenty-eighth day of August, in the year of our Lord one thousand nine hundred and twenty-four, with force and arms, at the Township of Franklin, in the County of Somerset aforesaid and with the jurisdiction of this Court, did steal, take and carry away and conceal, eighty-three rolls of cotton plush of the value of five thousand and seven hundred dollars, and three cases of dress goods of the value of eighteen hundred and seventy-five dol-
 10 lars, the same being stranded goods and the property, goods and chattels of Atchinson Motor Freight and the property, goods and chattels of D. Morton Atchinson, and the property of Kessel and Hober, and the property of the Elkton Textile Co., knowing the same to have been then lately stolen, taken, carried away and unlawfully obtained, contrary to the form of the statutes in such case made and provided, and against the peace of this State, the government and dignity of the same.

AZARIAH M. BEEKMAN,

20

Prosecutor of the Pleas.

PLEA AND JUDGMENT RECORD.

Excerpts from the minutes of the Somerset Quarter Sessions so far as the same relate to the trial, conviction, sentence and appeal of the case of *The State v. Michael Chiaccio* under indictment for "Receiving
 30 Stolen Goods":

SOMERSET COUNTY QUARTER SESSIONS,
October 10, 1924.

THE STATE
vs. }
MICHAEL CHIACCIO. } Indictment for
Receiving Stolen Goods.

Before Frank L. Cleary, Esq., Judge.
Prisoner enters a plea of not guilty. Bail fixed at \$10,000. 10
Trial October 20, next.

SOMERSET COUNTY QUARTER SESSIONS,
October 20, 1924.

THE STATE
vs. }
MICHAEL CHIACCIO. } Indictment for
Receiving Stolen Goods. 20

Before Frank L. Cleary, Esq., Judge.
Hon. A. M. Beekman, Attorney for State.
Romulus P. Rimo, Esq., Attorney for Defendant.
On motion previous plea vacated in order to make a
motion to quash either of the two counts in Indictment.
Granted.

Motion denied and plea of not guilty entered.

JURY.

30

- | | | | |
|---|--------------------|----|---------------------|
| 1 | Lewis G. Peck, | 7 | Fred W. Van Liew, |
| 2 | Milton Verity, | 8 | Edwin Wickenhoven, |
| 3 | Edward F. Conshay, | 9 | Sidney Bergen, |
| 4 | George V. Liebold, | 10 | J. Earl Hutchinson, |
| 5 | Charles Faske, | 11 | Stephen Barras, |
| 6 | James Finley, | 12 | Peter Sutphen. |

WITNESS FOR PLAINTIFF.

- 1 Corporal Daniel J. Dunn,
 - 2 Walter Johnson,
 - 3 Alexander Kelly,
 - 4 E. Morton Atkinson,
 - 5 Trooper Harry Lindeman,
 - 6 C. Gilbert Crawford.
- 4 P. M. adjourned to October 21; at 10 A. M.

10

October 21, at 10 A. M.

- C. Gilbert Crawford,
- 7 Thomas H. A. Turner.

WITNESSES FOR DEFENDANT.

- 1 Joseph Bright,
 - 20 2 Lester S. Fortnum,
 - 3 Louis Goldstadt,
 - 4 Max Goldman,
 - 5 Michael Chiaccio,
 - 6 Margaret Chiaccio,
 - 7 Charles Tarantino,
 - 8 Peter Sylvester,
 - 9 Tom Chiaccio.
- Defendant rests.
In rebuttal—
- 30 8 Theodore Potts, C. Gilbert Crawford.
- Case closed.

Motion made by Prosecutor Beekman to quash the second count of the Indictment. Granted.

After hearing the evidence, the argument of counsel, and the charge of the Court, the jury retired at 4:35 P. M. in charge of Constable John E. Grannon who was sworn to attend them to consider of their verdict.

After being out a short time they returned into Court and by their Foreman rendered a verdict of guilty as charged, and so say they all.

SOMERSET COUNTY COURT OF QUARTER SESSIONS.

THE STATE,

Plaintiff,

vs.

MICHAEL CHIACCIO,

Defendant.

} Robbery.

10

Somerville, N. J., October 20th, 1924.

Before Hon. Frank L. Cleary, Judge, and a jury.

Appearances—Azariah M. Beekman, Esq., for the State; Romulus P. Rimo, Esq., for the Defendant.

A jury being found satisfactory were duly sworn.

20

MOTION TO QUASH INDICTMENT.

Mr. Rimo—If your Honor please, I desire to make a motion to quash either of the two counts in this indictment, and I understand the practice is to ask the Court if the plea of not guilty that has been entered here cannot be vacated for the moment for the purpose of making this motion. I now ask the Court if the plea can be vacated and renewed after my motion is made.

The Court—It will be allowed.

Mr. Rimo—If your Honor please, the defendant is indicted by the September term of the Grand Jury on two counts; the indictment reads as follows: "The Grand Inquest for the State of New Jersey in and for the body of the County of Somerset, upon their respective oath present, that Michael Chiaccio, late of the Town of Riverton, in the said County of Burlington, on the twenty-eighth day of August, in the year of our Lord one thousand nine hundred and twenty-four, with force

30

and arms, at the Township of Franklin aforesaid, in the County of Somerset aforesaid, and within the jurisdiction of this court, eighty-three rolls of cotton plush of the value of five thousand seven hundred dollars and three cases of dry goods of the value of eighteen hundred and seventy-five dollars, the property, goods and chattels of Atchinson Motor Freight, and the property of D. Morton Atchinson and Kessel and Hober and the Elkton Textile Company, then lately stolen, taken in

10 robbery, carried away and unlawfully obtained from the said Atchinson Motor Freight and the said D. Morton Atchinson, and taken in robbery, did receive and buy knowing the same to have been stolen, taken, carried away and unlawfully obtained, contrary to the form of the statutes in such case made and provided, and against the peace of this State, the government and dignity of the same." That is all one count, the count for receiving. The second count: "And the

20 Grand Inquest aforesaid, upon their respective oath aforesaid, do further present that Michael Chiacchio, of the Town of Riverton, County of Burlington, and State of New Jersey, on the twenty-eighth day of August, in the year of our Lord one thousand nine hundred and twenty-four, with force and arms, at the Township of Franklin, in the County of Somerset aforesaid, and within the jurisdiction of this court, did steal, and carry away and conceal, eighty-three rolls of cotton plush of the value of five thousand and seven hundred dollars, and three cases of dress goods of the value of eighteen

30 hundred and seventy-five dollars, the same being stranded goods and the property, goods and chattels of Atchinson Motor Freight, and the property, goods and chattels of D. Morton Atchinson, and the property of Kessel and Hober, and the property of the Elkton Textile Co., knowing the same to have been then lately stolen, taken, carried away and unlawfully obtained, contrary to the form of the statutes in such case made and provided, and against the peace of this State, the government and dignity of the same."

As to the first count, your Honor well knows that in our Newman's, we have a regular form showing the complaint which is taken in cases for receiving goods. The complaint reads as it usually reads that on the twenty-eighth day of August in the Township of Franklin in said county A did feloniously steal and carry away eighty-three rolls of plush which was the goods and chattels of B and that one C did feloniously receive said plush knowing same to have been stolen. The point I am raising in this motion to quash this count is that the defendant did not know from the face of the indictment the person who stole or is supposed to have stolen this property, so that when he is charged with the receiving of stolen goods, he has the right and wants to know that in order that he may prepare his defense, and that he may later, in the event of being charged can plead to that. It seems in this case and in this count that that part is erroneous, all that it says is that these goods belonged to certain people and that they were lately stolen and that he did receive these goods and buy, knowing the same to have been so stolen. Well, now, it seems to me that the count itself is somewhat conflicting and we are here to defend this case and defend upon what we are being tried with. The charge is conflicting in itself in that it says did receive and buy. Now, if we are to defend a count which alleges the receiving of stolen goods, knowing the same to have been stolen, we did not buy; and yet the count says that we did receive and did buy. Now, this count also lacks a very important term under our criminal laws, namely, the term feloniously. That I assume is part of the language of the count and it having been omitted the count is faulty, and I say to your Honor that under that count, according to my contention of the law, that count cannot stand for those reasons.

I also raise as a point of argument to quash this count in the indictment because of the duplicity; duplicity consists of an indictment alleging apparently two separate matters arising out of the same transaction;

one they recite that there was receiving and the other they recite that we sold.

The Court—I don't want to interrupt, and I don't know what the case is either, but there is a case in the Atlantic Reporter sometime last summer also with concealing and receiving both in the same indictment, saying it is good, so I refuse your motion on that, that it is for receiving and stealing. You may have your exception. The advanced sheets of the Atlantic Reporter
10 holds that the indictment is good.

Mr. Rimo—I have one additional argument. This second count is with reference to the stealing of stranded goods. Now the statute does not provide a definition of stranded goods. According to our knowledge of the law the word "stranded" really comes from the maritime laws and I have known of no application so far but our everyday contention and since it does not specify what is stranded goods, hence it does not define what is stranded goods, and I take it from that reason and believe that
20 when something is stranded it hardly knows where to go and it hardly knows to whom it belongs and so how can a person steal something unless someone is the owner. Now, at that time these goods were stranded, if these goods were stranded, then a person, I would say, has the right to take stranded goods and retain them till such time as he finds the owner. It is the duty of this person to seek the owner of the goods, if they are goods that are stranded. In that particular respect I would say to your Honor, there is no definition of this word
30 "stranded" and I say that there is duplicity and for that reason that count should be eliminated from the indictment and should be quashed. That is the final point of my motion.

The Court—I want in the record also, if you care to, that your motion is to direct a verdict; that two separate crimes are charged in the indictment. I want you to get your record clear. The Court's refusal to allow your motion on that ground and my statement of that case, I was trying to think of the name of it, so you

may have on the record that you made the motion on the three different grounds.

Mr. Rimo—Yes. The one you refer to is as to two separate defenses.

The Court—Yes. Are you going to press both counts?

The Prosecutor—Yes.

The Court—I refuse your motion and allow you an exception on the three different grounds.

Mr. Rimo—And the defendant will now again plead not guilty. 10

A jury being found satisfactory were duly sworn.

Thereupon Mr. Beekman opened to the jury in behalf of the State.

Daniel J. Dunn, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. Corporal, you are a member of the New Jersey State Police?

A. I am. 20

Q. And where were you stationed on August 28th?

A. I was stationed at Franklin Park, sub-station.

Q. Did you ever see the defendant in this case before?

A. Before that day?

Q. No, before to-day?

A. I saw him on that day, August 28th.

Q. Where did you see him?

A. I saw him driving an Autocar truck, coming out of a dirt road from Rocky Hill.

Q. What else did you observe about him or the truck at that time? 30

A. Well, he came out at a pretty fast rate of speed and when he came out on the highway I stopped him and examined his driver's license and looked at the load and asked him what he was doing, coming out of there.

Q. Do you remember what his license was?

A. The truck number was a Pennsylvania number, was V5491.

Q. It was a Pennsylvania license, was it?

A. He had a Jersey license also, if I remember, it was X-58291.

Q. All right, you asked him where he was going?

A. I asked him what he was doing coming out of that road, and he said he just came from New York and became lost and had quite a time finding the highway again. I lifted up the cover of the truck and examined the material and it was plush or velour and I looked at the tag and it was consigned to a concern in New York
10 from a concern in Philadelphia by the name of Kessel and— I don't recall the last name—

Q. Was it Kessel and Hober?

A. I can't recall the last name.

Q. This was the tag on the goods?

A. Yes.

Q. Do you know this road, that dirt road he came out of?

A. I know the dirt road—it seemed funny that a truck should be coming out of this dirt road—

20 Mr. Rimo—Object to the characterization.

The Court—Yes.

Q. You must not characterize as to what seemed to be. Is it a wide or narrow road?

A. It's a narrow country road.

Q. Much used?

A. It is not used very much.

Q. And to where does that lead from the Lincoln Highway?

A. That's a back road to Rocky Hill; it's a short cut
30 from the Lincoln Highway to Rocky Hill.

Q. Did you inquire how many rolls of plush he had on?

A. No, I didn't; the truck was loaded, though.

Q. I mean within any reasonable degree, the number; was it just one or —

A. Oh, well, I should say, roughly estimating, about forty or fifty.

Q. And were there any other articles of merchandise on the truck?

A. I only looked at one side and felt along side to see whether it was fully loaded or not.

Q. Was it covered with material?

A. The truck had a canvas cover on all the way around tied down on the side.

Q. Was that called tarpaulin?

A. Tarpaulin material.

Q. Tied down on the sides?

A. Yes.

Q. Did that completely hide the goods? 10

A. It did.

Q. Tied down with rope then?

A. Yes; to look at the goods you had to untie one of the ropes and lift it up.

Q. What, if anything else, did he tell you about where he had been and where he was going?

A. I asked where he got the load from and he said New York; where are you going, and he said Philadelphia. I asked him again why he was coming out of this dirt road and he said he became lost and I asked 20 him for the bill of lading and he said he never carried one and then turned over to Trooper Linderman one of his billheads.

Q. That's when you asked for a bill of lading?

A. Yes.

Q. These goods were consigned to a firm in New York?

A. Consigned to a firm in New York.

Q. Did you look at who was the consignee, the man where they came from? 30

A. No, I did not notice.

Q. How were they marked; what sort of a tag or marking did they have on it; you said something about a tag, a bill tag?

A. It's an ordinary shipping tag and the end has a little card on and on that end was the bill tag and the other at the bottom was this Kessel and the other name that I don't remember, in print.

Q. Is this the bill head?

A. Yes.

Q. Was that writing on it at the time?

A. Well, that is Trooper Linderman's writing. He wrote the license number.

Q. Did he tell you where he lived?

A. Well, he says, I am all right and pulled this from his suit; he says, see, I am all right; this is my home, my bill head, and we retained this; but he was anxious
10 to get it back; but we said we would keep it for luck.

Q. You say a trooper was with you?

A. Yes.

Q. Another trooper?

A. Yes.

Q. After you had talked to him, did he go on?

A. We allowed him to go on.

Q. And which direction did he go?

A. Went towards Kingston.

Q. Would that road take him to New York or Phila-
20 delphia?

A. Take him to Philadelphia. There's another point I forgot to state. He had another man on the truck with him.

Q. Yes, who was he?

A. That I don't know.

Q. You did not ascertain?

A. We asked him later on in the evening who the man was and he said a fellow he gave a ride to. This fellow had nothing to say when we examined the truck.
30 He just got off and stood around and when the truck went on he jumped on and went with him.

Q. By reason of what you observed and what occurred and did, did you do anything about it?

A. Well, we arrived at Franklin Park about thirty minutes later and it was then we received the word that Atchinson's truck had been held up and a load of plush taken from it; so immediately we got in touch with Mr. Crawford of Philadelphia and asked him to head the truck off.

Mr. Rimo—I ask that that be stricken out.

Mr. Beekman—Yes, I did not mean that.

Q. By reason of anything Mr. Atchinson or this gentleman said to you or by reason of your own initiative, did you do anything else?

A. Well, after we notified Philadelphia I went back to where we had stopped Michael on back in that dirt road and there we found this empty truck.

Q. How far in the dirt road?

A. That truck was in the dirt road about a mile and a half. It was in an isolated spot; it was a road that was very seldom used, the truck was stuck there in that road.

Q. You say stuck, what do you mean by that?

A. The left rear wheel was off the other part of the road, off the hard part.

Q. What kind of a truck was it?

A. It was a large red Packard, closed truck.

Q. Did it have anything on it to indicate who it belonged to?

20

A. Yes, Mr. Atchinson's name was on it.

Q. Was anything left in it?

A. The truck was empty.

Q. What county was this road in?

A. That's Somerset.

Q. Did you again see the defendant after that?

A. The next time I saw the defendant was at about eight o'clock that evening.

Q. Where?

A. At our Trenton headquarters.

30

Q. Did you have any conversation with him there?

A. Well, we again asked him what he did with the stuff and where he got it and he tried—he told me that he picked this stuff up in New Brunswick and delivered it to 215 Market Street, Philadelphia.

Q. He picked it up in New Brunswick?

A. Picked it up from a truck in New Brunswick.

Q. Did he tell you whose truck it was he picked it up from?

A. He says he didn't know. He said he was hired by somebody who met him along the highway out the other side of Bordentown, who escorted him to New Brunswick and there in back of St. Peter's Rectory he pulled out to the left and he said that another truck backed up to his truck and he was then given the load.

Q. Did he tell you who the people were?

A. Said he did not know them.

10 Q. Did he tell you whether he had ever seen them before?

A. Well, he said he never saw this fellow before.

Q. Did he tell you anything more about these people that met him behind St. Peter's Rectory and turned over the stuff to him?

20 A. No, he said he just got the direction, told him to go to 215 Market Street, Philadelphia, and he followed it and became lost on the highway and that's the reason he was on that dirt road, and stopped at 215 Market Street, Philadelphia, and another truck was backed up to his truck and the load was transferred from his truck and he left.

Q. Did you ask him whether he knew the people who took the stuff off his truck?

A. I asked him and he didn't know. We asked him how much money he got for the deal and he said he received twenty dollars for the trip; said he lost money on it.

Q. Well, what else did you do?

30 A. We got in touch with Mr. Atchinson the same evening and Mr. Atchinson made a complaint against Mr. Chiaccio and he was arraigned before Justice Potts in Kingston.

Q. Did you have any talk with him there?

A. They asked him some questions again, where he got the stuff and what he knew about it and he professed ignorance.

Q. Did he tell you anything?

A. Could not tell us anymore than he told us in the first place, that he got it off these people he didn't know and took it to people he didn't know.

Q. That he got it from people he didn't know and took it to people he didn't know?

A. Yes.

Q. Is there anything else you can tell us about it? I have never had a chance to talk to you about it. Did you go to New Brunswick with him?

A. That evening we took Michael to New Brunswick 10 because he said he would try to find out if he could help us and find out the place where the stuff was held out and drove us around New Brunswick, directed us around New Brunswick for about an hour and finally picked out this spot in back of St. Peter's Rectory.

Q. Is there anything more you can tell?

A. The next morning, before bringing him to the County Jail I asked Michael if he objected to taking a ride up there on that back road that he came over and he said no and said he would try to help us and show us 20 the direction he took, where he got lost; so I took him up through various dirt roads and he didn't know how he got there or how he came out or anything else.

Q. Did you go anywhere near the other truck with him?

A. Yes, went down that way and covered all these roads, spent about an hour and a half or two hours.

Q. Did he see the other truck?

A. The truck was out at that time; that was the next morning. 30

Cross-examination, by Mr. Rimo.

Q. Corporal, what time of day was it that you met him on this road?

A. It was about eleven o'clock, eleven A. M.

Q. And he was driving the truck?

A. He was.

Q. And what did this man look like that was with him?

A. A tall fellow, about six foot tall.

Q. Slim?

A. Slender built, sharp features and wore a cap and blue suit and had a white shirt with collar open.

Q. Did you ask him for his name; you did not speak to that man at all?

A. No.

Q. Well, now, you say that this truck of Michael's was speeding; how fast was it going?

10 A. I did not say—I don't know how fast it was going; it was kicking up a lot of dust.

Q. Just a minute; was it speeding or wasn't it?

A. I don't know whether it was exceeding the speed limit.

Q. I know, but you said in your direct examination, you said he was speeding?

Mr. Beekman—Object to that; he did not say that; he said traveling at a good rate of speed.

Q. Which did you say?

20 A. He was traveling at a good rate of speed.

Q. That's what you said before or is that different?

A. That's what he was doing.

Q. I know, but what did you say before?

A. I said he was traveling at a pretty good rate of speed.

Q. You are sure about that?

A. Positive.

Q. Now, you stopped him?

A. Yes.

30 Q. And when you stopped him, did you know of anything that he had done that would cause you to stop him?

A. No.

Q. And why did you stop him?

A. Well, that truck coming out of that road naturally aroused my suspicion, because there was—it isn't a road a truck would naturally take and there is no warehouses and there's very few farm trucks come out of that road.

Q. Well, you don't know, as a matter of fact, do you? You are not stationed there every day in the week?

A. It's only three miles from Franklin Park and I pass it four times a day; sometimes oftener.

Q. But you are not stationed there, on that street?

A. Don't stand there all the while, no.

Q. You knew of no reason at the time why you should stop him, you said?

A. No.

10

Q. When you did stop him you observed a tag, you say?

A. Yes.

Q. And did you make a memorandum of it at the time?

A. No; I didn't make any written memorandum of it.

Q. And why? Now, after you stopped him and observed the tag, why didn't you make a memorandum of it?

20

A. Well, here is the thing; a week before that there had been another—

Q. I know, I don't want anything about a week before that?

A. You see I was looking for some other goods, for cloth, and the tags that were attached to the cloth, the owner of the cloth were different than the one on this plush velour.

Q. So there was a reason why you stopped him?

A. If you call that so, yes.

30

Q. Well, there was a reason why you stopped him?

A. Yes.

Q. Now, what do you mean when you say there wasn't any reason?

Mr. Beekman—Object to that, he has not said there wasn't any reason.

The Court—The question is not finished.

Mr. Beekman—Object to the question; it is predicated on a fact or on part of a statement

that is not true. He said there wasn't any reason.

The Court—The reason stated was that there was no reason except he came out of that road which was a road that was not very much used. Go ahead.

Q. Now that's the reason then, isn't it, that you have learned of another situation about a week before of about stealing of goods, and you stopped him for the
10 purpose of examining these goods to see whether they corresponded with the case before?

A. When I asked Michael what he had on and he said cloth—

Q. No, I am asking you if that is not the reason. We will get along very well if you will just answer the question. The reason that you had in stopping the truck was that a week previous you had learned of the stealing of other goods and you wanted to see whether the goods which he had on the truck were really corresponding to
20 what you had learned about the stealing a week before?

A. Yes.

Q. And you found it did not?

A. Yes.

Q. Now, where did you examine any part of the goods on this truck?

A. The back part of the truck, the left side.

Q. And you say that this truck was covered?

A. Yes.

Q. With what?

30 A. Tarpaulin or canvas.

Q. And covered from side to side?

A. Completely over and down the rear.

Q. Where were the tags?

A. Why, they was—you can see them—

Q. Were they so you could see them or did you have to raise the canvas?

A. I had to raise the canvas.

Q. It was then that you asked where he was going?

A. I asked him first before he came on the road where he was going.

Q. Where did he say he was going?

A. I asked him where he was coming from and he said New York, and where are you going and he said going to Philadelphia; just got a load of goods from New York.

Q. Did he tell you he was going to Camden?

A. No.

Q. Didn't say he was going there, sure about that? 10

A. Positive.

Q. Now, what was it that you did examine when you examined it on that truck?

A. I lifted the canvas and there was a piece or bolt of velour or plush right there and the tag was visible and I just looked at the tag and I noticed that the cloth wasn't dress goods but was plush, so I dropped it and allowed him to go.

Q. Yes, now, was the thing which you examined a roll or was it a bolt? 20

A. This piece of goods may be fifteen or twenty or thirty yards of it, I don't know.

Q. When you saw it, was it rolled up?

A. Yes.

Q. Was it covered?

A. Well, yes; I believe it had paper covering on it.

Q. Well, did it or didn't it?

A. It did have paper covering on it.

Q. And what color was this?

A. The piece I examined was brownish color. 30

Q. You asked him for his name?

A. The other Trooper asked him for his name.

Q. Where you there when he asked him?

A. I was there.

Q. Gave his name?

A. Gave his name; a bill head, which shows that he lives in Riverton.

Q. This piece you examined, you don't know how long that was?

A. No.

Q. Did you examine it at its end?

A. At the end.

Q. And is that where the tag was?

A. Yes.

Q. And was it covered before you examined it or did you have to open it?

A. It was visible, I did not have to tear anything or open it or anything else.

10 Q. How do you know that that was plush?

A. Well, my knowledge of cloth is very limited, it might be velour, I don't know.

Q. It was not dress goods?

A. It was not clothing.

Q. As a matter of fact you really don't know what it was?

A. I know it was either—I would call it either plush or velvet.

20 Q. Now, how long were you talking with him when you stopped him on that dirt road?

A. Oh, about two or three minutes.

Q. And as soon as you discovered that it did not correspond with the goods of a week ago that you learned of the stealing of, you let him go; and when did you next see him?

A. That evening about eight o'clock, seven-thirty, somewheres around there.

Q. You don't know where he delivered the goods?

A. No.

30 Q. Did you later learn that he had delivered them in Philadelphia?

A. What do you mean, from him?

Q. No, in any way?

A. Well, I heard indirectly last week that the goods were picked up in Philadelphia.

Q. You learned they were delivered?

A. Yes.

Q. And did you have Chiaccio in your custody that night when you saw him at your Trenton Headquarters?

A. Well, he was brought up there from Riverside by another Trooper, I believe; but he was taken to Trenton for questioning.

Q. And after he got to Trenton, did you have him in charge?

A. Well, he was with me, he was turned over to me for questioning.

Q. And what did you do with him; where did you go?

A. Well—we left Trenton, I don't know what time, but I got in touch with Mr. Atchinson and arraigned him before Justice Potts in Kingston later in the evening. I don't know what time it was. 10

Q. Do you remember taking him back on this dirt road where you stopped him?

A. I took him back there the next morning.

Q. And do you remember speaking to people as to whether they had seen him around there or not?

Mr. Beekman—Objected to.

Mr. Rimo—This is cross-examination.

Mr. Beekman—If it was in the presence of the defendant, yes. 20

The Court—I will allow it.

Q. (Question read.)

A. That is, on this dirt road?

Q. Yes, after you had him in charge?

A. Yes, I made several inquiries all around that road where he said he had been but we could not elicit any information from anyone around there.

Q. Each one you spoke to said they did not know him and had not seen his truck? 30

A. Right.

Q. And what did you do to him after you brought him up on this dirt road?

A. Brought him over to the county jail in Somerville.

Q. You don't know how he got blood on his shirt, do you?

A. No.

Q. You don't know who struck him, do you?

A. I didn't know anyone struck him.

Q. Did you see one of the corporals strike him?

A. No.

Q. Do you know whether he was struck or not?

A. No.

Q. Do you remember seeing any blood on his shirt?

A. I remember seeing it the next morning, yes.

Q. It was not there the day before, was it?

A. You mean when he was driving the truck?

Q. Yes?

10 A. Well, I did not take close notice of him.

Q. Do you know when he was arrested in Riverside?

A. Do I know when?

Q. Yes.

A. No, I don't.

Q. Was it on the night of the 28th or was it on the morning of the 29th?

A. It was the same day that I saw him with the truck, that was the 28th.

20 Q. But you don't know who had him from the 28th until the morning of the 29th when he came at your headquarters, do you?

A. Why, he was in the New Brunswick jail, he was over in the New Brunswick jail the night of the 28th until the following morning.

Q. How did he get in the New Brunswick jail?

30 A. Well, we just left him there that night, so we could take him over to the county jail the next morning. It was late in the evening when we went to New Brunswick and he was showing us around town and it was about one o'clock.

Q. The New Brunswick jail is in Middlesex County?

A. Yes.

Q. And did you have anything to do with seeing him put in the New Brunswick jail?

A. I was there when he was put in, yes.

Q. Why did you put him in the New Brunswick jail?

A. Just to keep him there until the next morning.

Q. Well, if this thing occurred in Somerset County, why did you put him in the New Brunswick, Middlesex County, jail?

Mr. Beekman—Objected to, he has already answered.

The Court—The question is proper and the answer is that they wanted to keep him there until the next morning to bring him over here.

Mr. Rimo—Your Honor sustains the objection?

10

The Court—Yes.

Mr. Rimo—Exception, please.

(Exception allowed and sealed.)

Q. What time of day was it that you brought him to the New Brunswick jail?

A. It was early in the morning, probably one o'clock, one-thirty.

Q. Of the 29th, morning of the 29th?

A. Yes.

Q. Well, when was it that you saw him next after the time that you stopped him on this dirt road; was it the night of the 28th? 20

A. It was the night of the 28th about eight o'clock, somewheres about eight o'clock.

Q. Well, did I understand you to say that the next time you saw him was the morning of the 29th, the next morning?

A. I was with him all the while when I saw him eight o'clock, I was with him until he was placed in jail the next morning.

30

Q. You say you had him in charge?

A. I was with him all the while.

Q. Well, then, what you said when you said that you next saw him on the morning of the 29th and had him in charge from that time on or he was turned over to you for questioning wasn't so, was it?

A. Please repeat that, will you.

Q. Then, when you said that the next time you saw him was the morning of the 29th when he was turned over to you for further questioning was not so?

A. Did I say he was turned over to me the morning of the 29th?

Q. I believe you did?

A. I said I saw him the evening of the 28th about eight o'clock and he was then turned over to me for questioning.

10 Q. Yes, and didn't you further say that the next time you saw him was the morning of the 29th?

A. Well, he was with me until he was placed in the New Brunswick jail and was left there until about eight o'clock the following morning, the same morning.

Q. The fact is, Corporal, that at eight o'clock in the evening of the 28th he was taken to your headquarters where you were, is that correct?

A. At Trenton, yes, he was there.

20 Q. Yes, and from the moment that he got there, what did you do with him?

A. Didn't do anything outside of questioning him.

Q. Where did you go with him?

A. We brought him to Kingston where a complaint was lodged against him before Justice Potts and from there he tried to direct us around New Brunswick to show where he picked up this load of goods, and when he could not show us anything, why we placed him in the New Brunswick jail.

30 Q. Do you remember telling him, Corporal, that he had better tell the truth or somebody would punch him?

A. No.

Q. Do you remember the other State Trooper making a statement of that kind while you had the defendant?

A. I do not.

Q. Well, at eight o'clock on the 28th, at night, did you take him from Trenton to Kingston alone?

A. No, there were Trooper Lindeman and Mr. Atchinson was with us and Mr. Crawford.

Q. All in the same vehicle?

A. Two cars.

Q. You had one?

A. I had one car.

Q. And driving one?

A. Yes.

Q. Where did you have the defendant?

A. In the back seat.

Q. And who was with him in the back seat?

A. He was alone. The other trooper sat with me 10
in the front seat.

Q. What kind of a car was it, a Buick?

A. A Buick.

Q. And what was the make of the other car that was with you that night?

A. I don't remember the make of the other car.

Q. Wasn't it a Ford?

A. I can't say.

Q. Don't you remember that he was in the Ford car when he was taken from Trenton to Kingston? 20

A. He couldn't have been, because we stopped at a restaurant on the outskirts of Trenton or in Trenton and he was in the back of the Buick while the rest of the people that was with us were in eating.

Q. Do you remember having a blow out?

A. Do I remember having one?

Q. Yes?

A. No.

Mr. Beekman—When and where, Mr. Rimo; you mean on the trip from Trenton to Kingston? 30

Mr. Rimo—Yes.

Q. Do you remember a blowout of some tire which had blown out on that trip from Trenton to Kingston; remember stopping?

A. I remember one of the cars had some work done at the Franklin Park Garage.

Q. Then if I understand this correctly, you had the defendant in your Buick car, the one you were driving

when you left Trenton shortly after eight o'clock on the 28th, to bring him to Kingston. That's true, is it?

A. Yes.

Q. Did you stop on your way from Trenton to Kingston at a restaurant?

A. Yes; stopped at a restaurant on the outskirts of Trenton. In Trenton or just outside.

Q. And did you go in the restaurant?

A. No.

10 Q. You had him in charge on the outside?

A. Yes.

Q. Or did he go in the restaurant, too?

A. No, he stayed there.

Q. And you were waiting for the others to come out of the restaurant?

A. Yes.

Q. And he was sitting in your car while you were waiting for the others?

A. Yes.

20 Q. Now, you say that you examined his license; you mean the tag on the front of the car or back of the car?

A. The other trooper took in all his license, name and all that.

Q. About how many rolls were there on this truck that you could see?

A. That's a hard question to answer, I would estimate about forty or fifty.

30 Q. Now, Corporal, when you stopped him and noticed the tag and examined the tag and found that these goods were consigned from someone in Philadelphia to someone in New York, why didn't you hold him then?

A. I did not say I noticed that. He told me he got the stuff in New York and was going to Philadelphia. I noticed the tag, that had the bill tag head on it and this name of the concern on the bottom. Now, whether the name in large print was the consignor or consignee, I don't know.

Q. Well, your direct examination on this point, if I recall correctly was that it was consigned from some

concern in Philadelphia to someone in New York; this name on the bottom of the tag, Kessel and some other name was the Philadelphia concern?

A. Yes.

Q. Yes, and the direction in which he was driving when you stopped him was away from New York, toward Philadelphia?

A. Yes.

Q. It that correct?

A. Right.

10

Q. Now, I ask you, why you did not hold him then until you got a better explanation from him than the one which you got?

Mr. Beekman—Object to the question; it won't aid the jury or the Court or anyone else to know why this man did not do a certain thing.

Mr. Rimo—I think it's very material as to the motive that seems to be alleged in this case against this defendant and as to the honesty of the testimony given in this case.

20

The Court—Yes, I will allow the question.

Q. (Question read.)

A. Well, I did not see any reason why I should hold him. It's perfectly logical for a Philadelphia concern to have goods made up in New York with their tag on and sent to Philadelphia.

Q. Then you say it is perfectly logical?

A. I don't know what other parties are doing; it did not arouse my suspicion any.

Mr. Rimo—I think that is all.

30

Redirect examination, by Mr. Beekman.

Q. You spoke of a tag. I show you a tag and ask you how the tag that you saw attached to these goods corresponds with the tag I exhibit to you?

Mr. Rimo—I object. The Prosecutor now offers a tag and asks the witness how it corresponds with the tag he described on his direct examination. Now, I take it this is re-direct

examination and I object to the introduction or the offer of this facsimile of a tag and asking this witness if this tag corresponds to the one which he saw.

Mr. Beekman—Well, of course there is some virtue in the point that it is out of order.

Mr. Rimo—I withdraw the objection.

Q. How does that correspond?

A. That appears to be the same tag.

10 Q. Well, why? How does it correspond in appearance?

A. Well, the bill tag and the name Kessel, and I don't remember the other name.

Q. Well, how does it compare; I mean as to the marks on the tag that you saw on these goods?

A. It looks the same.

20 Q. Now, I show you a piece of cloth. I don't know whether it's velvet, velour or silk, or what it is; but I ask you how that corresponds with the appearance of the goods that you observed on this truck on August 28th?

Mr. Rimo—Object to the introduction of these pieces of goods, whatever it may be, on the ground that evidence of this character, if your Honor please, should be introduced on the direct side of the case in the prosecution and upon the direct examination of the witness. It should have been introduced when it was testified to as direct examination, when the evidence itself was here and could have been introduced.

30

Mr. Beekman—No, it was not here. The evidence was not here. This gentleman had not arrived until after and moreover the matter has been the subject of cross-examination and I ask the color he saw.

The Court—Go ahead. You may note your exception.

Q. How did the goods you found in this package correspond in appearance and textile with the goods that is before you?

A. Same kind of goods.

Q. You only saw one color?

A. Yes, that's the only one I saw.

Q. Well, here are three colors; which color did you see?

A. This is the color I saw (indicating).

Mr. Beekman—I ask to have this bill and this 10
card and the goods admitted in evidence.

Recross examination, by Mr. Rimo.

Q. Corporal, how do you know this is the color which you saw?

A. Why, because I remember it.

Q. You remember—how was this piece of goods at the time that you first saw it, in what, and wrapped up in what when you first saw it?

Mr. Beekman—Pardon me; you probably 20
have a correct question in mind; but I don't say he ever saw this particular goods before.

Mr. Rimo—I am speaking of the color.

Mr. Beekman—Your question would imply that he had seen this particular goods.

Q. You say you saw the same color; did you see the same piece of goods? The same make? Was it smooth on one side and had—

A. What do you mean by same make?

Q. Why, the same textile?

A. It was some piece of goods which was not dress 30
goods.

Q. As a matter of fact, Corporal, you did not see the goods at all; you did not examine the goods?

A. I looked at the goods, examining the end of the roll.

Q. And could you tell from the end of the roll the color of the goods that was in the roll?

A. Why, of course.

Q. That is in just looking at the end?

A. I had a look at the upper part and I remember distinctly it was smooth on one side and I think a velvety texture on the other.

Mr. Rimo—I think that is all.

The Court—Any objection to offering these in evidence?

Mr. Rimo—Yes, I object and renew my objection on the same ground.

10 The Court—What do you say to that, Mr. Prosecutor?

Mr. Beekman—The admission of the question, it seems to me, disposes of the objection now. I can reserve this offer until the close of the State's case.

The Court—The offer is objected to and will be sustained at this time.

Mr. Beekman—I would like to have them marked for identification.

20 The Court—They may be marked for identification.

(Witness excused.)

Walter Johnson, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. Where do you live?

A. 4325 Flemington, Manayunk, Pa.

30 Q. Do you drive a truck for the Atchinson Motor Company, or did you on August 27th?

A. D. M. Atchinson.

Q. Where is his place located?

A. 223 Richey Avenue, Manayunk.

Q. Is that part of Philadelphia?

A. Yes.

Q. How long have you been driving that truck?

A. Well, about, that is, I have been working for him about eighteen years.

Q. Well, how long have you been driving this particular truck between New York and Philadelphia? That's where you were driving it, wasn't you?

A. About three years, I think.

Q. What was your exact job?

A. Chauffeur.

Q. You had charge of the truck yourself?

A. Yes.

Q. What kind of a truck was it?

A. Red truck.

Q. How was it painted, any letters on it? 10

A. Small letters on both sides on both corners of the side of the truck.

Q. What was that?

A. D. M. Atchinson & Son, 223 Richey Avenue, Manayunk, and the phone number.

Q. And the telephone number?

A. Yes.

Q. Did you say what make of a truck it was?

A. Packard.

Q. Did you have a cargo of goods on the truck on August 27th? 20

A. August 27th.

Q. Yes?

A. Why, yes, sir.

Q. What did you have on your truck?

A. We had plush and two cases and a bundle.

Q. Two cases of what?

A. Two cases and a bundle.

Q. What was in the bundle?

A. A dry goods case. 30

Q. Where did you get that?

A. I loaded the plush at Manayunk plant and loaded the cases in the garage.

Q. Did you have opportunity to look at the plush itself when you loaded it?

A. Well, the plush was wrapped in brown paper when I got it.

Q. You did not see the plush itself?

A. No, sir.

Q. Who did you get it from?

A. From Manayunk Plush.

Q. And that's the man that was shipping it to New York?

A. Yes.

Q. Now, what kind of a truck was it, did it have a top on and sides or was it covered with tarpaulin?

A. We have a regular closed-in body.

Q. Anybody with you?

A. A helper.

10 Q. What's his name?

A. Alex Kelley.

Q. And what time did you leave Philadelphia?

A. About half-past one.

Q. In the afternoon, I suppose?

A. No, that's in the morning.

Q. Is there any particular reason why you left there at night to run in the dark?

A. Well, I don't know; it's always done that way; always done, always been leaving at night time.

20 Q. I thought there might be some special reason why they made that arrangement. How did you drive after you left Philadelphia?

A. I came out the Lincoln Highway into Trenton.

Q. Do you know how many pieces of this plush was on?

A. Eighty-three.

Q. Do you know how many packages of dry goods there were?

A. Two in cases and one package.

30 Q. How big were these cases?

A. I think about two hundred pounds.

Q. Did you mention that you did not see the boxes either?

A. I did not see.

Q. Where did you get these cases?

A. I got the cases at the garage.

Q. Do you know whose they were?

A. Elkin Mills.

Q. Did you see any tags on them?

A. On the roll.

Q. On the roll of plush you mean?

A. Yes.

Q. The boxes were marked with stencil?

A. Yes.

Q. Were all the rolls of plush?

A. They always were.

Mr. Rimo—I don't want to interrupt but it seems to me these questions are rather leading. 10
Now the witness can testify what he saw and what he knows, what was on this truck. It seems to me that the Prosecutor is just leading him—

Mr. Beekman—I think your objection is well taken. I was trying to hurry along and get to the main point.

Q. Well, all right; how did you know where to take these goods when you got them; you were taking them to New York?

A. Yes. 20

Q. How did you know where to take them?

A. We were told by a fellow in the Manayunk Plush where we were to take them.

Mr. Rimo—Object to what he was told.

Q. Where were you to take them?

A. I was to take them to 20 East 20th Street.

Q. And where did you get with them, how far?

A. We got about between Clarkesville and Kingston.

Q. What time did you get there?

A. It must have been three o'clock when we reached 30 there.

Q. That's in New Jersey?

A. That's New Jersey.

Q. Then what happened to you and your truck?

A. Well, I did not drive any further than Trenton and of course when we were held up I was asleep at the time.

Q. Who drove?

A. The helper was driving from Trenton on in.

Q. When you woke up, tell what you know from that time?

A. I did not wake up myself, the helper woke me up and he told me—

Q. Go on and tell what happened?

A. He said bayonet, I did not see anybody—

Q. No, what you said, not somebody else, go on, something happened?

10 A. He woke me up, as I say. I look on the ground and see these men.

Q. What men?

A. I seen nine men with revolvers in front of us. Of course I got down off the truck then.

Q. Did they say anything to you?

A. They did not say anything right then, they stood there fourteen or fifteen minutes before they said anything and one asked me what was on the truck and I told them—

20 Mr. Rimo—Object to what he told them.

Mr. Beekman—We have got to prove these goods were stolen.

Mr. Rimo—No testimony can be introduced unless in the presence of the defendant.

Mr. Beekman—No, we are proving the robbery by these men and we don't say he had any connection with it.

30 A. (Continued.) And he asked what we had in the truck and we said plush, and he said, sure, you have no tobacco on there, and we told him we had plush. So he told us to get in a touring car and up to that time we had not seen the car coming and they hurried up and they tied our hands and they kept us down in the body of the car of course.

Q. You say of course, you would think we had heard it before. We have not heard it or the jury. I want you to tell what occurred in connection with this holdup on the truck and the time it went from you?

A. They loaded us in this touring car and they had our hands tied and they put us down in the body of the car and drove about a half hour or more and then they went back on a rough road and we stayed there about forty-five minutes; then we came out from that road and rode up around until about half-past six in the morning, between Dayton and Cranbury; that's where we were dumped off.

Q. Who had charge of you then?

A. These bandits had charge of us then.

10

Q. Was there shots fired?

A. Well, I was asleep at that time. There was no shots fired while I was awake.

Q. Now, the first thing you saw when you was awake was these men down there with revolvers and you got down?

A. They ordered me down.

Q. Do you know who they were?

A. No, sir.

Q. Never seen them before?

A. No, sir.

20

Q. When did you next see your truck?

A. I guess it was on Friday night.

Cross-examination, by Mr. Rimo.

Q. Now, Mr. Johnson, you say that you have been driving from Philadelphia to New York for about three years for this concern?

A. Yes, sir.

Q. Every day?

A. Three times a week and sometimes four.

20

Q. And cart all sorts of things, do you?

A. Different kinds, yes, sir.

Q. What are some of the things you have carted?

A. Well, we cart mostly plush.

Q. And this time that you were held up, what time did you leave Philadelphia?

A. Half-past one.

Q. In the morning?

A. In the morning.

Q. And which route did you take to get to Trenton?

A. We came right on down Main Street to Ridge Avenue, which is called Lincoln Highway, and over the Lincoln Highway into Trenton.

Q. Yes, and you came from Philadelphia through what, before reaching Trenton you go through what other places?

10 A. Morrisville, Shawmont, Langhorne and you go right on to Oxford Valley; then there is some little towns which I would not call the names of and the next town is Morrisville. After you leave Morrisville you come into, going to New York, Trenton.

Q. Now, what time did you get in Trenton that morning?

A. About quarter to three.

Q. And did you stop in Trenton anywhere?

A. Yes.

Q. Where did you stop?

20 A. We stopped at Tulley's restaurant and ate.

Q. Where is that?

A. Brunswick Avenue, a little ways on the outskirts of Trenton.

Q. Brunswick Avenue is in Trenton?

A. It runs out of Trenton too.

Q. Where does it run to out of Trenton?

A. It runs towards Kingston.

Q. And you ate there?

A. Yes.

Q. Who was with you?

30 A. My helper, Alex Kelley.

Q. Who was driving the truck?

A. I drove it from Philadelphia into Trenton.

Q. Now, when you started out from Philadelphia where did you load up what you had on the truck?

A. I loaded two cases and a bundle at the garage and then the plush. We pulled down to the Manayunk Plush and left the plant.

Q. What size truck was it?

A. Three and a half tons.

Q. You loaded these goods on yourself?

A. I loaded these goods on myself.

Q. There were no three cases on your truck then, were there?

A. There were two cases and a package, as far as I can remember.

Q. Well, which were there?

A. Two cases and a package.

Q. Not three cases?

10

A. No, there was two cases and a package.

Q. These eighty-three rolls that you speak of, how were they bundled?

A. They was rolled.

Q. They were rolled?

A. Yes.

Q. And covered?

A. Covered with brown paper.

Q. All of them; and what about the end?

A. Well, the end, the paper was folded up with a 20 card around, you could not see the ends unless you busted the paper open.

Q. Yes, you could not see the ends unless you opened the paper, that is true, isn't it?

A. Yes.

Q. Now, after you got through eating in this restaurant, did you then start for New York?

A. I came outside and took off the rear end lantern and put oil in it and then we started on.

Q. And continued on what street?

30

A. Brunswick Avenue.

Q. And you were later held up?

A. We was later held up.

Q. Now, just where were you when you were held up?

A. Between Kingston and Clarksville.

Q. Do you know where Clarksville is?

A. I know where the Clarksville Hotel Inn is.

Q. The Hotel Inn?

A. Yes.

Q. In Mercer County?

A. Yes.

Q. Would you say six miles from Trenton?

A. Yes.

Q. And Kingston is about fifteen to sixteen miles from Trenton; in other words it's six or seven miles from Clarksville and in order to go from Clarksville
10 to Kingston, over what road do you travel?

A. Travel over Brunswick Avenue and turn to the left and take the road to the left into Kingston.

Q. What place do you go through when you turn to your left?

A. I never heard the name of that town.

Q. You have been traveling it three years?

A. Yes.

Q. Over the same road?

A. Yes.

20 Q. Do you know that in taking the course that you have just mentioned, where you turn to your left, that you would be going through Princeton?

A. You don't go through Princeton the way we go, no, sir.

Q. And where do you go?

A. Well, the way we went, Clarksville, when you get to Clarksville after you cross the Pennsylvania Railroad, if you turn there to your left it will take you into Princeton; and if you proceed straight on ahead to the
30 end of the road and turn to the left it will take you into Kingston.

Q. Well, now, this holdup was between Clarksville and Kingston?

A. Yes.

Q. You are willing to say a width of about seven or eight miles?

A. No.

Q. Can you tell us really nearer which point it was that you were held up; was it nearest Kingston?

A. It was nearest to Clarksville than Kingston.

Q. Oh, otherwise it was entirely on the Somerset County side and entirely out of Middlesex County—

Mr. Beekman—Object unless he knows; it don't make any difference—

A. I don't exactly know the dividing lines between these two counties—

Mr. Beekman—Object to that.

The Court—It's fair to ask him anything he knows. You might proceed. 10

Q. You say it was nearer to Clarksville?

A. Yes, sir.

Q. Well, now, was it on the main highway from Clarksville up towards Princeton or was it on the road which leads off of the—

A. It was on Brunswick Avenue.

Q. Right on Brunswick Avenue?

A. Right on Brunswick Avenue.

Q. Now, what time was it that you got that far?

A. About half past three. 20

Q. You say you don't know who the people were who woke you up?

A. No, sir.

Q. Now, Just tell us what they did do to you?

A. Well, I was asleep and I was woke up and happened to look out the window and I saw these men on the ground with pistols and they ordered us out of the truck. So I got out on the ground, so they stood around there maybe ten or fifteen minutes before they said anything. 30

The Court—We will now take a recess until one o'clock.

AFTER RECESS.

Walter Johnson, resumes the stand.

Further cross-examination, by Mr. Rimo.

Q. Did you get off the truck when you saw these men on the ground?

A. I got off when they ordered us.

Q. When you say, they ordered us, how many do you include?

A. I include nine men.

Q. Could you see their faces?

A. No, sir.

Q. Were they masked?

A. Yes, sir.

Q. And did they have guns?

10 A. They did.

Q. How many guns did you see?

A. I saw nine.

Q. And what happened to you, if anything, after you got off the truck?

A. After I got off the truck, I got off the left-hand side of the truck and we stood there for a while—

Q. Talking?

A. They were talking to themselves, whatever they were saying, I don't know.

20 Q. Did they allow you to be free, anybody hold you?

A. We was right in the center of them.

Q. And what did they do with you?

A. Well, I have told you, they talked there for ten or fifteen minutes and then they told us to get in a touring car.

Q. Do you know what kind of a touring car it was, what make?

A. Well, I took it for a Buick, the way it sounded.

30 Q. Yes, and when you got in the Buick car, which part of the car did you sit in?

A. We sat in the right-hand side.

Q. It was a two-seated car?

A. It was a touring car.

Q. And you sat in front or back?

A. In the back.

Q. Who sat with you?

A. Well, when we first got in there, they made us get in first and they came in after us.

Q. When you say, they made us, you mean yourself—

A. And my helper.

Q. This other man that's here. And both of you got in the back seat?

A. We got in the back seat at first and then they ordered us down on the floor, to lay down.

Q. And did you both lay down?

A. Laid down the best way we could.

Q. Well, how many were in the back seat with you?

A. Four.

10

Q. How many in the front seat?

A. Three.

Q. What happened to the other two?

A. On the truck.

Q. The truck which you had left behind?

A. Yes, sir.

Q. And where did you go from there; where did they take you?

A. I could not say.

Q. Well, did they continue on the road that you were 20 traveling on. Now, the men were ahead of you on the road that you were held up on and they did not seem to turn around, if they did not seem to turn around, they must have proceeded on that road?

A. We was blindfolded, we was blindfolded and could not see anything.

Q. When could you not see?

A. When we was down on the floor, our head right on the floor.

Q. When the car finally stopped, where were you, 30 do you know?

A. I don't know then; only I know the road is awfully rough road before we came to a stop.

Q. Can you give us an idea near what place?

A. I can't give you any idea.

Q. Didn't you mention Dayton?

A. That's where we was thrown off at.

Q. Thrown off?

A. Yes.

Q. Why, there is where the car stopped?

A. Not where it stopped the first time, no.

Q. Where did it stop the first time?

A. I don't know.

Q. When they did stop, what did they do to you?

A. What do you mean, the last time?

Q. No, the first time?

A. They did not do anything but keep us in the car as prisoners.

Q. What did they stop for, do you know?

10 A. I don't know.

Q. Did they talk to you?

A. Did not talk to me.

Q. Did you ask them any questions?

A. I asked one if I could raise up a little bit and he said "no, lay right where you are."

Q. Well, how far is this place where you first stopped after you left Clarksville?

A. I could not exactly tell you.

20 Q. When you first stopped, do you know what time it was?

A. I imagine—I could not say.

Q. Well, when you were thrown off, do you know what time it was then?

A. Half-past six.

Q. And just where was that, that you were thrown off?

A. Between Dayton and Cranbury.

Q. Yes, and the car that you were in that you were thrown out of, was headed in which direction?

30 A. Toward New Brunswick.

Q. Toward Dayton?

A. Towards New Brunswick.

Q. Well, now, if you are between Cranbury and Dayton it's toward Dayton, isn't it, which is in the same direction as New Brunswick?

A. Yes.

Q. And did you next—did you later see this car that you were driving that day?

A. No, sir.

Q. Didn't see it; did you ever see it since?

A. What, the truck?

Q. Yes?

A. Sure, I seen it since then.

Q. When was the first time you think you saw it after this night that this happened, or morning?

A. Friday night, I took it out Friday night.

Q. Oh, the 28th, what was it Thursday, do you remember?

10

A. The 28th was a Thursday.

Q. Now, how much of the goods that was on the truck did Mr. Atchinson tell you to cart for him?

A. How much of the goods?

Q. Yes?

A. Well, eighty-three pieces for 20 East 20th Street.

Mr. Beekman—You don't understand the question.

Q. How much of the goods that was on the truck did Mr. Atchinson ask you to cart, to bring, to transport?

A. What do you mean?

The Court—How much of these goods were you carrying that night for Mr. Atchinson alone?

The Witness—Things marked for Mr. Atchinson.

The Court—No, carrying for him.

The Witness—All, I think, was consigned in his name.

30

Q. Consigned in his name?

A. Yes.

Q. Where is Mr. Atchinson's place?

A. 223 Richey Avenue.

Q. Philadelphia?

A. Yes.

Q. And he is in the trucking business?

A. He is the fellow that owns that.

Q. Owns the truck?

A. Yes.

Q. And you loaded the truck yourself before you left Philadelphia?

A. Yes, sir.

Q. Where did you go after you were thrown out between Cranbury and Dayton?

A. We walked down about two miles down the road to a house to hunt a telephone.

10 Q. And what did you do?

A. Called up Mr. Atchinson.

Q. You were not cut or bruised or anything?

A. No, sir; was not hurt at all.

Q. By anything these men did?

A. No, sir.

Q. Did you do any shouting at all when they forced you into this car?

A. No, sir.

Q. Did your friend, the helper, shout?

20 A. I did not hear him.

Q. Well, if he had you would have heard him, wouldn't you?

A. Yes, sir.

Q. You mean that this car kept going when you were thrown out or did it stop?

A. It stopped on the road.

Q. And it was bright daylight then?

A. It was daylight.

30 Q. And did these people still have the masks on their faces when they stopped between Cranbury and Dayton?

A. When we stopped between Cranbury and Dayton they made us hold our heads down to keep us from seeing them and we marched across the road that way.

Q. Just in what way did they make you do that? Hold a revolver up to you?

A. He said you keep your head down and march straight in front.

Q. What do you mean, who said to you, you were in the car?

A. No, that was after they ordered us out of the car.

Q. Did any of them get out of the car after they ordered you out?

A. Yes, they all got out.

Q. Did they talk to you?

A. No, sir, they talked to themselves.

Q. How far away from you were they when they 10 talked to themselves?

A. From here to you.

Q. Did you hear what they were saying?

A. I did not.

Q. Were they speaking in a whisper?

A. In a whisper.

Q. Were they white people or colored?

A. I imagine they was white. I did not see the color; I don't know whether white or colored.

Q. Could you tell from the hands?

20

A. Yes, the hands were white.

Q. Then they were white, were they?

A. Well, some colored people is white too in the hands.

Q. Now, which was it?

A. Well, I take them for white people.

Q. How do you know that they were white?

Mr. Beekman—Objected to.

Mr. Rimo—Now, if your Honor please—

Mr. Beekman—He says he would take them 30 for white people—

The Court—Well, let us go on. Do you know whether they were white or are you not positive?

The Witness—I don't know for sure, I just took them for white.

The Court—Go on.

Q. Well, when you were turned out was there an automobile that came toward you from the other direction?

A. No, sir.

Q. You walked from that place where you were thrown out to where; toward Cranbury or toward New Brunswick?

A. Well, Cranbury—we walked down the road that is toward New Brunswick.

10 Q. And where did you get to?

A. We walked about two miles down and went in a farm house and that's where we got the phone.

Q. After you phoned, what did you do?

A. After I phoned I called up Mr. Atchinson and told him where we were and how we was coming to meet him.

Q. And how did you tell him you were going?

A. I told him we were coming in toward the State Highway between Dayton and Cranbury.

20 Q. And where were you going to meet him?

A. Well, I don't know, going to walk in, going to walk no further than Trenton.

Q. Were you talking to him.

A. I was talking to him myself.

Q. Did you tell him that you would meet him in Trenton?

A. I told him that we would be on that road from Trenton to Cranbury, over through Hightstown.

30 Q. Yes, but you did not tell him just where you would meet him on the road?

A. I told him what direction to come.

Q. And you were walking in the direction toward Trenton?

A. Yes, sir.

Q. And did you finally meet him?

A. We met him, yes.

Q. Where did you meet him?

A. Trenton.

Q. Did you walk to Trenton?

A. No, sir.

Q. How did you get to Trenton?

A. On a truck.

Q. And whose truck was that?

A. I don't know.

Q. You and your helper together?

A. Yes, sir.

Q. What kind of a truck was it?

A. A paint truck, that's all I know.

10

Q. Well, don't you know the make of the truck?

A. No, I was riding in the back end, I don't know; I did not see the front end when I got on.

Q. What were these, colored men or white men that drove you in this truck to Trenton?

A. It was colored men. He did not drive us into Trenton.

Q. How did you get in there?

A. When we got off his truck and met another truck which was going in to Philadelphia and he brought us within two miles of Trenton.

20

Q. And which road did you take going from Cranbury?

A. State Highway.

Q. Well, that leads from Cranbury toward where?

A. Cranbury to Dayton and in Hightstown, Cranbury to Dayton and then Hightstown—

Q. Now, where you, in Dayton?

A. I was between Dayton and Cranbury.

Q. And in order to get to Hightstown, did you have to go to Dayton first?

30

A. You had to go through Dayton, yes, to get into Hightstown.

Q. Well, where did you meet this second truck?

A. Met this second truck on the outskirts of Hightstown and this first truck was going to Princeton. Between Cranbury and Hightstown.

Q. Now this is between Hightstown and Trenton?

A. Yes.

Q. Do you know where Windsor is on that road?

A. I heard the name, I don't know exactly where it is.

Q. Is it on the highway from Hightstown to Trenton?

A. There's one down there you can get over from that town into Princeton; there's a road that runs right straight into Trenton; from one of these towns; that's where we was left by the first truck and took on by the second, picked up by the second.

Q. And you continued from there to Hightstown?

10 A. Into Trenton. When we took the second truck we went on into Trenton.

Q. Well, what time did you get to Trenton?

A. It was close on to ten o'clock.

Q. In the morning?

A. In the morning.

Q. And did you meet Mr. Atchinson?

A. We met him there.

Q. Where did you meet him?

A. Trenton.

20 Q. Well, where?

A. At a restaurant.

Q. Which restaurant?

A. Tulley's restaurant.

Q. How did you know he was going to be there?

A. Well, we was going to wait there for him.

Q. How did he know you were going to wait for him?

A. I told him which way we was coming, he could not miss us.

Q. Did you tell him you were going to be in the restaurant?

30 A. No, I did not tell him I was going to be in the restaurant.

Q. Well, how did he know?

A. He did not know we was there before he came there and saw us there.

Q. Your helper did not tell him, did he?

A. (No answer.)

Q. Well, why didn't you tell him you were going to be in the restaurant and for him to meet you there?

A. The reason I did not tell him was that maybe he would pick us up before we got to Trenton.

Q. Well, is Mr. Atchinson here?

A. Yes.

Q. To-day?

A. Yes.

Q. Did you really see nine men with revolvers that stopped you?

A. I saw nine men.

Q. Positive of that?

10

A. Yes, sir.

Q. Did these voices that you heard speak in the English language?

A. Well, they was not speaking so awful plain English language.

Q. And did you not see any of the faces at all?

A. I did not see none of the faces.

Q. How is it you could not see the faces?

A. They were masked.

Q. How big was the mask that you saw on any one face?

20

A. Well, the mask came down past here. (Indicating.)

Q. Yes, cover up the head?

A. Well, the cap hid over one-half of the face, a cap over one-half of the face.

Q. You mean the cap came down?

A. Yes.

Q. Over the eyes?

A. Come about here. (Indicating.)

30

Q. How about the ears?

A. I did not pay no attention to the ears.

Redirect examination, by Mr. Beekman.

Q. Could you tell what nationality these people were from what you had heard that time?

A. No, I could not.

(Witness excused.)

Alex Kelley, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. You were along with his truck on August 27th?

A. Yes.

Q. What time did you get to the truck? I mean this: he says he loaded the truck; were you there when he loaded it?

A. Yes.

10 Q. To the best of your remembrance, what time did you leave Philadelphia?

A. Between twelve and one o'clock A. M.

Q. Where did you get these goods that were on the truck?

A. Well, there was eight-six pieces of Manayunk Plush and three cases from the garage up in Richey Avenue in Manayunk.

Q. What place did you get them at?

A. The Plush Mills.

20 Q. Whose Plush Mills?

A. Why—

The Court—Do you remember the name?

The Witness—Plush Mill, that's all I know.

Q. Who drove from Philadelphia to Trenton?

A. Walt Johnson.

Q. Did you stop at Trenton?

A. Yes.

Q. Where?

A. Tulley's restaurant.

30 Q. And had you ever stopped there before?

A. Every time I go there we stop there.

Q. How long have you been working for Mr. Atchinson?

A. About a year.

Q. And what did you do at Tulley's restaurant that night?

A. We had something to eat and after we ate, we drove on.

Q. What time did you leave there?

A. Well, I judge about three o'clock; pretty close to it anyhow.

Q. What is the name of the road upon which Tulley's restaurant is located?

A. Brunswick Avenue, as far as I know.

Q. After you left Tulley's restaurant, how far did you go before anything unusual happened?

A. After we left there, we drove on about eight to ten miles, after you cross those two bridges outside 10 of Trenton, one is long and one short one—

Q. Yes, two concrete bridges, you mean?

A. I guess they are concrete; after you cross there about a mile on the other side of that, that's where all the work happened.

Q. You know where the canal bridge is?

A. Yes, that is the one I am talking about.

Q. You crossed the canal bridge?

A. Yes, there is another one about fifty more feet on.

Q. Do you mean where this hotel is at Clarksville? 20

A. Yes.

Q. Did you reach that?

A. Yes, passed that.

Q. How far past that, as near as you can remember?

A. Oh, I don't know, that was about seven or eight miles outside of Trenton; I guess it is as far as I—

Q. What?

A. Clarksville.

Q. I say, how far had you gone past the Clarksville Hotel? 30

A. I don't know, to tell the truth.

Q. Who was driving then?

A. I was driving.

Q. What happened then?

A. As we passed Clarksville and crossed the two bridges, about a mile on the other side of that.

Q. You crossed two bridges this side of Clarksville?

A. Yes.

Q. Coming toward New Brunswick?

A. Yes. About a mile over, I noticed a car in back of me and I did not know whether it was a truck or touring car. Before that there was two cars back of me and every once in a while they threw their light on and off and that puzzled me and I looked back again and I did not know whether it was a truck or touring car with dim lights. I looked back again and I saw another car that time and I remembered it was a touring car. Looked back again and it was getting close. I kept on driving, I was right in the middle of the road and he thought he had a chance to get in front of me and he drove on right by me and he told me to stop and I thought he wanted to bawl me out because I was driving in the middle of the road and I did not stop.

Q. How far did you go?

A. About ten feet, then he shot. When he shot, I stopped. I thought it was about time to stop then.

Q. What happened?

20 A. When I stopped, he says, get off the truck; get down off that truck. Of course I woke my helper up, I mean Walter, and told him the bandits got us. So that time he woke up and both of us got down off the truck. He asked what we had on and we told him.

Q. How many of them was down on the ground?

A. There must have been seven of them as far as I know.

Q. Was there more than one?

A. Yes, more than one.

30 Q. More than two?

A. Yes, five to seven anyhow. So after we got down off the truck they asked what we had on. All right, get in this touring car. So we got in, I don't know how many took the truck—

Q. Which way did they take the truck?

A. Towards Brunswick, they did not turn around.

Q. Did they all get in the touring car then?

A. Yes, and they ties our legs and ties our hands, so they kept on driving and—

Q. Wait a minute. Did the truck leave before you left?

A. The truck left the same time we left.

Q. Ahead of you or behind of you?

A. All the same time, not very far ahead of us.

Q. Where were you when you started away from this point?

A. The back part of the car.

Q. What were you doing?

A. Well, I got down in the back part of the car on **10** the floor.

Q. And did what?

A. Well, we was just there, just laid there, that's all I know, could not move.

Q. Your hands tied, you say?

A. Well, we was just riding awhile and they tied our hands then.

Q. In what direction did you go?

A. In the same direction the truck, towards New Brunswick, I guess. **20**

Q. Did the car they were in turn around at all?

A. No, sir.

Q. How far did you go before you stopped?

A. That I don't know, about an hour or two before they stopped, an hour or an hour and a half.

Q. Do you know what became of the truck?

A. Well, no, for after they stopped, three or four fellows get out the front and they leave us in there and two or three fellows standing over us with a gun and they went on with the truck some place. After they went with the truck they followed for about I should judge a half a mile or more and after that they did not take the same way the truck was going. **30**

Q. What kind of a road was it?

A. Kind of stone road, a rough road, was not very smooth, they went in this road and then they backed out again and left the truck there.

Q. Well, after you went in this rough road and backed out —

A. They continued driving us around until daylight and then when they turned us loose —

Q. How many was in the car with you?

A. I tell you I cannot say how many there was, all of them.

Q. You were very scared?

A. I was not so badly scared, no. They did not scare me until they shot and I was not what you call scared then. I just stopped.

10 Q. Well, they kept driving you around?

A. Yes.

Q. How long did they drive you around?

A. From the time that happened, I can say about three hours from the time —

Q. From the time the robbery occurred?

A. Sure.

Q. Well, what happened then?

A. When do you mean?

Q. When they finished driving you around?

20 A. After they stopped driving around, they made us get out and made us walk about a hundred feet in a corn field and left us in there alone with our hands still tied. And then they tied our legs and one fellow was ordered to stay with us and he stayed there and saw that we was all safe and he beat it.

Q. How did you get away from there?

A. Walter Johnson untied himself and then he freed me. He untied my legs and then we went to the first telephone we could get and called up Mr. Atchinson.

30 Q. Did you hear these men talk?

A. Yes, I could hear them talk but I could not understand what they were talking about.

Q. What language were they talking?

A. That I don't know, to tell you the truth about it. Might be American or foreign, as far as I know.

Q. Could you see their faces?

A. Well, I could see some parts of the faces.

Q. What part?

A. I could see this part (indicating). I could not see anything else. They had a handkerchief right over their eyes that came about to their nose and had their caps pulled on.

Q. Did they wear caps?

A. Every one I could see had caps on.

Q. Any of them have revolvers?

A. Well, as I say, all had revolvers.

Q. Now, after you got out of this corn field, then what occurred?

10

A. Then we went to telephone, we went to telephone to Mr. Atchinson. I did not, but Walter did.

Q. Then what did you do?

A. We told Mr. Atchinson about us being held up and Mr. Atchinson I suppose —

Q. Never mind what you suppose, what did you do?

A. Anyhow, Mr. Atchinson was to meet us and we was to stay there and meet Mr. Atchinson. We was to walk on and catch him along the way, so finally we did not see Mr. Atchinson until we got into Trenton. We got two lifts and that helped us along away, about two miles outside of Trenton and we walked on into Trenton and met Mr. Atchinson in Trenton.

20

Q. These men's faces you did see, were they white men?

A. Yes, they were white to me.

Cross-examination, by Mr. Rimo.

Q. How long have you known Mr. Johnson?

A. Three or four years.

30

Q. How long have you worked with him?

A. A year.

Q. On this trip from Philadelphia to New York?

A. On this job; yes, sir.

Q. And with the same concern?

A. Yes.

Q. Now, after this thing happened, you and he had talked this matter over, haven't you?

A. Sure.

Q. As to how it happened?

A. Sure.

Q. And you went over the same things together so you would agree on what was said?

A. Oh, no, no, no.

Q. Well, how many times did you talk this matter over together?

A. Oh, I don't know; what do you mean; what matter do you mean?

10 Q. What you were going to testify to?

A. Oh, we didn't say anything about that.

Q. Never said a thing about that?

A. No, sir.

Q. Now, you left Philadelphia with him on this truck?

A. Yes, sir.

Q. On the morning of the 28th?

A. Night of the 27th.

Q. Night of the 28th, between twelve and one?

20 A. Yes.

Q. And you proceeded from Philadelphia toward Trenton?

A. Yes.

Q. He drove the truck?

A. Yes.

Q. To Trenton?

A. Yes.

Q. Where you stopped in a restaurant?

A. Yes.

30 Q. And stayed there how long?

A. About fifteen minutes, I guess, or twenty minutes.

Q. Had something to eat?

A. Yes, sir.

Q. Now, what time was it that you got to this restaurant?

A. Well, I should judge about quarter to three, something around that, or twenty minutes to three.

Q. What did you have on the truck when you left Philadelphia?

A. Eighty-six pieces of plush and three cases, as far as I know.

Q. Well, could there have been more than eighty-six pieces and three cases?

A. Well, there could have been, I don't know.

Q. Did you count them before you started away from there?

A. Yes, they was counted, but I ain't got anything to do with that. Walter Johnson has got to do with that.

Q. Well, when you did count them, how many did you count? 10

A. Eighty-six pieces, like there should be.

Q. And three—

A. Three boxes—cases—yes.

Q. Were these regular cases?

A. Yes.

Q. So when Johnson says there were two cases and a package, that is not so?

A. Not to my knowledge it isn't, no.

Q. Well, these eight-six pieces, were they wrapped up? 20

A. Yes, sir.

Q. What kind of wrapping?

A. Brown wrapping paper; heavy paper.

Q. Heavy wrapping paper?

A. Yes.

Q. And were these rolls or—

A. Rolls, yes.

Q. And can you give us any idea how big?

A. About five to six feet, I guess. 30

Q. Long?

A. Yes.

Q. From four to five feet anyhow?

A. Yes.

Q. What about the ends of these rolls?

A. They was closed in, too.

Q. Tight, so you could not see.

A. Yes, sir.

Q. Except the paper?

A. Yes.

Q. That's all you could see from outside?

A. Yes, sir.

Q. And to see inside you had to open the paper?

A. Tear the paper open, except what might get loose from handling. They are all supposed to be tight.

Q. And as far as you know they were when you put them on?

10 A. As far as I know, yes.

Q. And after you got to the restaurant, where did you go?

A. Well, went in Tulley's and had something to eat.

Q. I mean after you got there?

A. After we got there, that's where we ate.

Q. Came out of the restaurant and went back on the truck?

A. Yes.

20 Q. When you got back on your truck, was the truck the same as it was when you arrived?

A. Yes, sir.

Q. Nothing touched?

A. Nothing touched; no, sir.

Q. Locked, and everything on it?

A. Locked up.

Q. Was this a closed truck?

A. Closed truck; yes, sir; all over.

Q. And the truck is all closed in?

A. Yes, all closed in.

30 Q. And was there any canvas on it at all?

A. No, sir; no canvas.

Q. Wood sides?

A. Wood sides.

Q. And you had a lock on the back?

A. Yes.

Q. Who had the key?

A. Walter Johnson.

Q. Now, then, after you left the restaurant, where was the next point that you were going to arrive to?

A. Well, that all depends on which way we were going.

Q. Well, which way did you go?

A. Well, went out Brunswick Avenue, I don't know whether he was going up the Junction road or towards Kingston.

Q. Well, you were driving?

A. Yes, sure.

Q. And you did not know which way you were going? 10

A. I mean on Brunswick Avenue, I did not know which way we was going to turn off on that night.

Q. You didn't know whether he was going to take the road to Princeton or take the road to—

A. We would not hit Princeton, we would have hit Kingston if we went that way; if you turn off that way.

Q. So that the jury knows, the places leaving Trenton you would come to is Clarksville first, a fairly good size place?

A. Yes. 20

Q. And after you leave Clarksville, you would arrive at Kingston?

A. I judge that's about the way we would, yes.

Q. Would you have cut out Princeton entirely?

A. Yes, cut out Princeton altogether.

Q. Just where did this hold-up take place?

A. Well, I should say about a mile the other side of those two bridges, as far as I know.

Q. That's nowhere near Clarksville?

A. No, that's quite a ways from Clarksville. 30

Q. Three or four miles from Clarksville?

A. Every bit of it.

Q. And when you said about a mile, you were mistaken?

A. I did not say a mile from Clarkesville, I said a mile the other side of the two bridges, that's quite a ways from Clarkesville.

Q. One of these bridges is before you get to Clarkesville?

A. The two bridges are this side of Clarkesville.

Q. Where is the first bridge?

A. They are not very far apart, about a hundred feet.

Q. It is toward Kingston?

A. I guess you would call it Kingston. I don't believe you would call it Princeton, I don't believe so anyhow. It is between Kingston and Princeton so far as I know, anyhow.

Q. So when Johnson said this morning this hap-
10 pened nearer to Clarkesville than Kingston, then that was not correct?

Mr. Beekman—Object to that method of asking a question; you cannot characterize another witness's testimony.

A. I don't know which is closest, to tell the truth.

Q. One might be as close as the other?

A. As far as I am concerned, yes.

Q. Now, when you were stopped by the automobile which was traveling from behind you or tried to go
20 ahead of you, they must have stopped in the back before they pulled up to see if anybody was in there?

A. There was one bullet hole in the back of the truck.

Q. How many shots.

A. There must have been two, because after they pulled up to me there was a shot and according to that they shot two bullets.

Q. Before they pulled around they shot at the body of the truck?

30 A. Yes.

Q. You only heard one shot?

A. I only heard one shot, that was the first and last.

Q. If two shots were fired how many did you hear?

A. One.

Q. You don't know anything about the other shot?

A. No, but the hole was not in the body before this happened.

Q. You were awake, driving?

A. Sure.

Q. Now, when you were stopped, who got off the truck first?

A. I did.

Q. Who is the helper on this truck?

A. I am.

Q. You were what?

A. Helper.

Q. When you got off, did he get off with you, Johnson?

A. Yes.

10

Q. And did you stand between the men?

A. Yes.

Q. And when you were standing between these men, how many persons did you actually see before you?

A. Well, I could see from five to seven, I could not say the exact amount; could not have been less than five and could have been seven; could have been more than that, as far as I know.

Q. Did any of them get hold of you?

A. No, indeed; didn't just exactly get hold of me, 20 one of them grabbed me and made me throw up my hands and of course he questioned me what I had on, and that's all I know.

Q. Did you tell them?

A. Yes.

Q. And after you threw up your hands, what did they do to you?

A. After I put up my hands, then they directed us to get in the machine; well, I gets in first.

Q. Did they go back to see what you had?

30

A. No, they did not go to see what we had. After we got in there, Walt, the other fellow, we both got in the machine. After that, they said to get right down on the floor, keep our heads down. Two of them kept on the truck and drove it at the same time. Well, before we left they seen a touring car coming and they said they had to make haste, had to work fast, another car coming, so they accordingly got us in there and drove on down the road.

Q. Now, before you stopped at all, how many cars did you see?

A. Why, before we were stopped, we saw two machines at first, they were dimming their lights on and off.

Q. These two machines were behind you?

A. Yes, that's what made me look back.

Q. Was it the touring car you saw?

A. Yes, both touring cars.

10 Q. And the other was a truck?

A. No, both touring cars. After that I take a look back again and I see another touring car with dim lights. I could not say it was a touring car until they pulled up alongside of me and I knew what it was.

Q. Was it a truck that stopped alongside of you?

A. A touring car, not truck at all. All touring cars.

Q. And how many people were in this car?

A. What car?

Q. That stopped you?

20 A. I don't know, I did not count them. I did not have time to count them, four or five as far as I guess.

Q. How many people got out?

A. I did not count them, if there was five or seven.

Q. Was that the same touring car you were put into?

A. Yes.

Q. When you got in the touring car that had stopped, how many were in the car?

A. I don't know, there might have been five or six because there was two or three in the back and two in
30 front as far as I know, because they would not let us look up or see anything like that. When they got us in there they kept our heads down on the floor and we was not allowed to look around and see how many there was; but I judge five or six.

Q. Where was the first place they stopped after they put you in the car?

A. I don't know when it was, it was about an hour and a half or two hours. We rode quite a ways before they stopped.

Q. How many stops did you make?

A. Made two stops.

Q. The first stop they made, what did you do?

A. The first stop they made is where we was in the machine and about four or five fellows got out the machine and goes on with the truck some place.

Q. Which truck do you speak of?

A. The truck we had.

Q. The very truck you had?

A. Yes, and whatever they were doing with the truck, 10 there was two or three over there with guns.

Q. And did you know what direction that truck was going in?

A. No, sir, I did not.

Q. Do you know the town you were in when you were stopped?

A. No, sir, did not know a thing, was not allowed to look to see what town we was in.

Q. The next time you stopped?

A. The next time we stopped is where they left us 20 out in the corn field.

Q. And how far was that from where you stopped the first time?

A. I don't know, to tell the truth, I don't know how far it was, could not say.

Q. And was it in the same direction you were going when you first stopped?

A. No, that was the opposite direction, I guess.

Q. Well, don't you know?

A. No, I don't know; I could not say, I am not so 30 very well familiar with these roads here in Jersey. I don't know how close it was.

Q. Do you know how far Cranbury is?

A. I know where that is, not far from New Brunswick.

Q. Do you know where Dayton is?

A. Yes.

Q. Do you know whether Dayton was before this happened?

A. No, I did not know now until Walter told me.

Q. He was the one that told you?

A. Yes.

Q. Well, these men that were in the car, did any one of them ask you for a key?

A. No, sir, did not ask for a key. They searched us, all like that.

Q. They did search you?

A. Oh, yes.

10 Q. Who had the key to this lock?

A. Walter Johnson had the key to it.

Q. Were these people white or colored?

A. Were all white, I did not see any colored, to my knowledge. They were all white to me. What I seen was white anyhow.

Q. When you stopped the second time, did they throw you out?

A. No, sir, just told us to get out and keep our heads down.

20 Q. And you got out?

A. Got out, yes, sir.

Q. Did you keep your head down?

A. Kept our heads down towards the ground, not looking around or anything.

Q. They put you out on the road?

A. Made us get out on the road and they walked us over to the corn field fifty feet or more.

Q. Who walked you there?

A. A couple of fellows, couple of the bandits.

30 Q. Show you a gun?

A. No, they did not show it, but they had it just the same as far as I know.

Q. How do you know that?

A. I know that they would not go over there with us without having a gun.

Q. You did not see it?

A. I can bet on that, I can gamble on that, they would not take us over there without any gun.

Q. How many guns did these people have that stopped you?

A. I don't know; I guess they all had guns as far as I know.

Q. Are you guessing about this thing?

A. I did not take time to count how many guns they had. My goodness, they all had guns and I seen them, these five or six, like I tell you.

Q. Did you see the guns?

A. Sure, I seen he had guns; yes, sir. I don't know 10
how many there was; I don't know how many fellows there was, the exact count.

Q. Now, after they put you out of the car and took you up to the corn field, did they leave you?

A. They left us; one fellow was supposed to stay there and he just stayed there long enough to know we was all right and then he went on about his business.

Q. Is that what you heard the rest of them tell this fellow? 20

A. No, but they hollered for him to come on after he tied our legs; they hollered for him to come on.

Q. Where did they tie your legs; while you were in the corn field?

A. Yes.

Q. Tie your hands too?

A. Had our hands tied and made us lay down in the car and tied our legs.

Q. How did you get away when your hands and feet were tied?

A. As far as that goes I was not able to untie my 30
hands. Johnson untied my legs.

Q. Was his legs tied?

A. They had a piece of something tied around his legs; very uneasy to untie, his was; but myself, was not so easy.

Q. Now, you managed to get untied?

A. Yes.

Q. And where did you go from there?

A. Went to the nearest phone we could get to.

Q. And you phoned to Mr. Atchinson?

A. Yes.

Q. Who spoke with him?

A. Walt Johnson.

Q. Do you know what he told him; did you stand there?

A. I was not there at the time; no, sir; I was outside when he was talking to him.

10 Q. Well, where did you go after he got through with this telephone message?

A. Well, we tried to follow out which way to go, to tell the truth about it. Anyhow, we walked on until we met a truck. We told him we were held up and would like to go as near to Trenton as we could. He was going the wrong way, toward Princeton. Anyhow he took us as far as he could and we got off and got on another truck and stayed on that truck until we got
20 about two miles to Trenton and from there we walked on in.

Q. Were you familiar with the road?

A. No, sir.

Q. From that place to Trenton?

A. No, sir.

Q. You were not familiar?

A. No, sir.

Q. Did you go through Hightstown?

A. No, sir, not that I know of. Walter did not say
30 anything to me about going through it, and I know Hightstown myself, and I did not see any parts of it.

Q. Do you know where Windsor is?

A. No, sir.

Q. Well, when you got about two miles out of Trenton, is that the farthest that you could go in that car?

A. That's the farthest with that last truck, yes.

Q. How is that?

A. He was going to Philadelphia. He was going some other direction, so we decided to walk from there on in.

Q. Well, two miles outside of Trenton, going in the direction that you were going toward would be about where?

A. Well, let's see, where they hold the fair ground, right along there somewhere; we was on that road anyhow.

Q. And you knew that place, the fair grounds, before this thing happened?

A. Yes.

Q. Knew where that was?

10

A. Yes, sir.

Q. How did you manage to get over to this restaurant?

A. Well, we walked, that's all I know. Have got legs to walk; just walked there.

Q. So you walked from this point near the fair grounds, where the fair grounds were, into Trenton?

A. Into Trenton.

Q. At least to that point there anyhow?

A. I know where the fair grounds is, we was on that road.

Q. Were you on the truck when you were passing the fair grounds?

A. No, not then.

Q. You know where the fair grounds are?

A. As far as I know, yes, sir, I never saw it. I know where they tell me the fair grounds is. I never saw the fair grounds. I could find it as easy as anybody, as far as that goes. That's the same road to go towards Hightstown, you take the same street on to Trenton, you know.

Q. Do you know what road you take to go from that place where this man left you off to get to Trenton?

A. No, sir, just about two miles from Trenton, that's all I know.

Q. Do you know where Hamilton Avenue is in Trenton?

A. No, sir.

30

Q. Do you know where Greenwood Avenue is?

A. No, sir.

Q. Do you know that these two roads pass the fair grounds?

A. If you are going over?

Q. Yes, sir?

A. No, sir, I don't know.

Q. Don't know?

A. No, sir.

10 Q. Which is the place in Trenton that you struck first that you are most familiar with after you got away from this truck?

A. I don't know.

Q. Which street do you go on in order to get to this restaurant?

A. Why, I think you go on Brunswick Avenue, the restaurant is on Brunswick Avenue.

Q. Well, did you walk directly from the place where the fair grounds are right down to this restaurant?

20 A. Sure did.

Q. What time of the morning was it when you were stopped the second time and were put out of the car?

A. About half-past six, I guess, between six and six-thirty, anyhow.

Mr. Rimo—That's all.

(Witness excused.)

D. Morton Atkinson, sworn on behalf of the State, testifies as follows:

30 Direct examination, by Mr. Beekman.

Q. Mr. Atkinson, you live in Philadelphia?

A. Yes, sir.

Q. What business are you in?

A. Long distance hauling between Philadelphia and New York City.

Q. How many trucks have you got?

A. Twelve.

Q. What kind of a truck was the truck involved in this case?

A. It was a van body, locked front and back, a long box body they call it, we call it a van, closed van.

Q. What color was it?

A. Red.

Q. Do you know what goods it carried —

A. Yes.

Q. On the morning of August 28th?

A. I do.

Q. What goods did it carry?

A. Carried eighty-three pieces of plush from the Man-
ayunk Plush and three cases and one package of ladies' 10
dress goods from Elkin Mills.

Q. They customers of yours?

A. Yes.

Q. And had employed you to transport this stock to New York?

A. Yes, sir.

Q. To whom was the goods consigned?

A. The goods was consigned to Kessel and Hober, 20 East 20th Street, that's the plush; and the dress goods consigned to Elkin's New York Office, 200 Fourth 20
Avenue.

Q. Did you see any of this plush?

A. I have seen plush, sent plush to them.

Q. I mean that was on this truck that night?

A. I helped carry it on there, I had to be able to see it.

Q. What kind of plush was it?

A. Two or three different colors. That is one of the colors that was on that.

Q. I show you a tag; was these goods tagged?

A. Each and every package was tagged with these 30
ticket tags.

Q. The plush?

A. Yes.

Q. How were these rolls wrapped?

A. They take a long cardboard and they roll it all over and put this cardboard around and the paper around.

Q. And how long are these rolls?

A. From fifty to fifty-four inches long.

Q. Was there or not plush of this description on this truck that night?

A. There was.

Mr. Rimo—I submit, plush of this description; I don't know the description yet that he has given him of any plush.

Mr. Beekman—I showed him an exhibit of the plush?

10 The Court—You showed what was marked for identification.

Mr. Beekman—Yes.

The Court—You did not interpolate that in your question.

Q. I show you a piece of plush marked *Exhibit S 3* for identification and ask you how that compares with the plush that was on the truck the night of August 28th?

20 Mr. Rimo—This witness has testified that he helped to put the plush on the truck. Now, without this witness seeing this, we should have a description of this plush, and—

Mr. Beekman—I agree with you.

Q. Give us a description of this velour plush that you put on your truck or assisted putting on your truck on the night of August 27th or morning of August 28th?

A. The best description that I can give you is the colors. I don't know much about plush. I helped handle the packages and fixed the paper at a number of the ends.

30 Q. What color was it?

Mr. Rimo—I object, he has not testified yet that the plush in question is this particular plush, so I can't see how this witness can testify to that. It seems to me all this witness can testify to from his own knowledge is what did he see, and ask if he saw these particular goods.

The Court—These particular goods is not the question. The objection you are making, the

prosecutor is now examining him about goods he helped put on the truck that night without any reference to these. The prosecutor is now trying to have this witness describe the particular goods that he put on there that night without any reference to this exhibit.

Q. What color was it?

A. There was several colors. This color here and a blue color that I saw and some more of a red color.

Q. Did you recover any of it?

10

A. Yes.

Q. Has any of it been recovered?

A. Yes.

Q. Where is the stuff you recovered?

A. Back at my place.

Q. What kind of plush was it that you recovered?

A. Similar to this and that other. Mr. Crawford recovered it, I did not recover it.

Q. What is the value of this stuff?

A. The plush was valued at about—

20

Mr. Rimo—Object, if your Honor please to this witness testifying as to value, this witness has not yet qualified as an expert upon the value of these goods. He has testified that he is a truckman. He has charge of trucks and is not at all in this business.

Q. Do you know the value of this plush?

A. I do know, yes.

Mr. Rimo—Object to that.

Q. How do you know?

30

A. From bills presented to me to pay.

Mr. Rimo—I still object that this witness is not qualified to testify as to the value of these goods particularly.

Q. Have you ever carried any of it before, hauled it before?

A. Myself?

Q. Carry it?

A. Yes, been carrying it, hauling it for six or seven years, since the men started to make it.

Q. Now, I ask you, how do you know what the value of the plush of that type and character is per roll?

Mr. Rimo—Object.

The Court—Let him answer the question yes or no and if you want to cross-examine him, you may.

A. I do know.

10

Cross-examination, by Mr. Rimo.

Q. You have not bought any of these goods yourself?

A. No, but I have been where they have been sold.

Q. You have not bought any?

A. No, sir.

Q. And you have not sold any yourself?

A. No, sir.

20

Mr. Rimo—I now ask that this testimony in that respect be ruled out because he certainly is not qualified as a person who would be apt to know the value of these goods.

The Court—What do you say to that, Mr. Prosecutor?

Mr. Beekman—It means that we will have to have somebody here from Philadelphia tomorrow. I won't insist upon it over the objection.

The Court—I will sustain it.

Further direct examination, by Mr. Beekman.

30

Q. How long has these two colored fellows worked for you?

A. The one man, Walter Johnson, since he has been able to work, ten or twelve years, and the other man about a year.

Q. What kind of work has Walter Johnson been doing?

A. No one man did any better.

Q. I don't mean that way. How long has he been running a truck for you?

A. I have had him on this New York run three and a half years.

Q. How long has the other fellow been working for you?

A. One year and a few months over.

Q. What was the truck number of your car?

A. 15039, was the engine number, and I think the license was W-4039 Pennsylvania.

Q. When did you meet the defendant?

A. First met him at State Trooper's headquarters. 10

Q. Where?

A. Wilburtha.

Q. Where is that?

A. Down near Trenton.

Q. Did you hear him make any statements there?

A. I was there when he was making a statement and they was stopped and that was all that was said there at that time.

Q. Tell us what you heard him say?

A. I heard him say he took the goods off of this truck 20
back on this road and then he denied it afterwards.
Said he got them in New Brunswick.

Q. He first said he went up the road?

A. He said he got them off our truck, off of somebody's truck up the road. He did not load them; somebody loaded them for him, he said.

Q. How long after he made this statement did he give a counter statement, saying he got them from New Brunswick?

A. Five or ten minutes. 30

Q. Do you recall anything else about what he said?

A. No.

Q. Who owns this trucking business?

A. I do.

Q. You own the truck?

A. Yes.

Cross-examination, by Mr. Rimo.

Q. But you do not own the goods you truck?

A. No, but they are in my care.

Q. Now, Mr. Atkinson, do you know whether the defendant is in the express business?

A. I have learned that he is, yes, that he has been.

Q. And has been for some time?

A. I do not know how long.

Q. Have you a brother?

10 A. Yes.

Q. Has your brother spoken well of this man?

Mr. Beekman—Objected to.

The Court—Objection sustained.

Q. What time did this truck leave Philadelphia on the 28th?

A. Will just tell you right to the minute. We finished loading when the truck struck twelve. I told the boys that loaded that it was twelve, but they would leave another day.

20 Q. And did you count what goods he had?

A. Positively and signed for them and the man don't know what he has got until he gets to New York anyhow. He knows where to go and that's all.

Q. You did not tell him what he had?

A. No, sir. I told him to go to 20 East 20th Street with the load and to present his slip there.

Q. You did not see him look into the thing which was up on there before he left on the truck?

A. Who?

30 Q. Walter Johnson?

A. We gave them to them pretty lively; they did not have much time to look into them; no.

Q. When was the next time you saw Johnson after that morning?

A. On the morning of the 28th, about quarter to ten, in Tulley's restaurant.

Q. And how did you know they were there?

A. How did I know? There's nobody that worked for me, that belongs to me going to New York and

back, but goes there and I went in there and I found them there. He told me that; he said where they were; they took it on their own hook and I told them to stop where they were. They told me they were on the Hightstown road between Cranbury and Dayton.

Q. After you saw them in the restaurant where did you go?

A. I immediately called up Wilburtha police and called Mr. Crawford's office, and Mr. Crawford told me to come back to Philadelphia to him and I done it. 10

Q. And then did you later come back to Trenton?

A. I came in about, I judge somewhere around afternoon; they said they had the truck and I came back to try to get the truck back.

Q. Did you get it back?

A. I got it back the next morning.

Q. Where was it when you got it back?

A. It was down a lane, off what they call the Princeton Highway, near Highland Park, back in the lane.

Mr. Beekman—Highland Park or Franklin Park? 20

The Witness—Franklin Park.

A. (Continued.) It's not far from the State Police headquarters; I judge five or six miles down from where they are.

Q. Was there anything on the truck when you arrived there?

A. No.

Q. Had anything happened to the truck that you could see? 30

A. Nothing to harm the truck; but it was in such a position it took twelve hours to get it out of there.

Q. Only from the location where it was, as you found it?

A. Yes, we found it put out in the mire.

Q. You mean away off of the road?

A. Why, nowhere on the road, it was back in the woods.

Q. Did you notice any bullet hole?

A. I sure did and took the bullet out of the back of the truck. Had another hole there on the side door, where the man was sitting.

The Court—Was the truck still locked when you got there?

The Witness—No, the truck had been broken open and the doors were closed up, but the locks were gone, the locks were nowheres around. The truck has a door on the side and one in the rear and the back door was broken; that's where they took the goods out.

10

Q. Do you know what was in these cases?

A. I did not look in the cases but I know what they put in the cases, the material; they only make the one kind of goods.

Q. You don't know what was in these cases?

A. No, I did not open them.

(Witness excused.)

20 *Harry Linderman*, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. Linderman, you are one of the State Police?

A. Yes.

Q. Were you stationed at or near Franklin Park on August 28th?

A. Yes.

Q. And what was the first activity you took in connection with this robbery?

30 A. I assisted Corporal Dunn to go up and investigate the truck which was up in the woods. We saw them come out of this road, it was a very unusual place for a truck to come out.

Mr. Rimo—I submit, the remark very unusual place—

The Court—All right, saw him coming out of this lane.

A. (Continued.) Saw him come out of this road, so we stopped him. Looked his license over and asked if

he had a bill of lading. He did not have a bill of lading so Corporal Dunn then looked the load over and I took his license and so forth and went on back to investigate the truck. Later we found that this truck had been held up and stuff taken off—

Q. Not the truck you had been looking at?

A. No, sir.

Q. All right, don't be nervous about it. Tell us what you did. Later you found out a truck had been robbed?

A. Yes, sir.

10

Q. All right, the night before?

A. Yes, sir. So later, why, we found all about this truck, so we sent out word to all stations to look for this truck and it was picked up in Riverside and the next place we seen him was at Trenton.

Q. Who did you see at Trenton?

A. Mike Chiacchio.

Q. Well, do you see him here?

A. Yes.

Q. The defendant in this case?

20

A. Yes.

Q. Where did you see him in Trenton?

A. At headquarters.

Q. Did you hear him talk when you first stopped him along the road?

A. Yes.

Q. What did he say?

A. Why, he said he was all right, he said he never carried a bill of lading and he said I got billheads here and gave me one of his billheads.

30

Q. Is that the one we have here?

A. Yes.

Q. With your marks on there?

A. Yes.

Q. All right, did he tell you where he came from?

A. Yes.

Q. Where?

A. Riverside.

Q. Did he tell you where he came from that day?

A. Yes, he said he came from New York and got on a back road and was lost.

Q. What time of day was this when you first met him?

A. That was around eleven o'clock.

Q. In the morning?

A. Yes, sir.

Q. Did he tell you how long he had been lost?

A. No, sir; he did not say exactly how long he had
10 been lost.

Q. Tell us everything he said in explanation of his whereabouts and where he came from?

A. He said he came from New York and was bound for Philadelphia. Asked him, well, why did you come out that way, he said he got the wrong road, a fellow directed him on the wrong road and he said he got mixed up. He said he was all right and then went to hand me the billhead.

Q. All right; anything else that you remember?

A. Well, there was another fellow with him, a tell
20 fellow.

Q. Did you talk to him?

A. No, sir.

Q. Did he tell you who he was?

A. No, sir, he had nothing to say at all.

Q. No, but did Chiaccio say who he was?

A. Yes, I asked him and he said he was a fellow he just picked up to give a ride.

Q. The other fellow kept quiet?

A. Yes.
30

Q. And is that all that occurred? Have you told us all that you remember occurred?

A. Yes, right there.

Q. All right, tell us what occurred when you met him again, which, as I understand, was in Trenton?

A. Yes.

Q. Did you hear him talk there?

A. Yes.

Q. What did he say down there?

A. He didn't have so much to say and I was not right with him all the time there.

Q. I am asking you what you heard?

A. Well, I can't say I heard him say anything up there.

Q. At Trenton?

A. No, sir.

Q. Is that the first you had seen him since the morning about eleven o'clock?

A. Yes, sir.

10

Q. Well, when did you hear him talk again?

A. It was while we stopped at Trenton, coming on into Kingston; stopped at Trenton and asked if he wanted something to eat, and he did not want anything to eat, and the next time he talked we took him before the judge in Kingston.

Q. What time of day was that?

A. That was evening.

Q. Were you there?

A. Yes.

20

Q. All right, now what happened there?

A. Well, we put a charge against him there and he said a few words there, and the next place he talked was when we took him to New Brunswick and he tried to pick out the place where he loaded the truck and we had him all around there and he was not sure where the place was.

Q. Did you hear him say or didn't you hear him say who he got his goods from?

A. He said he didn't know.

30

Q. Did he tell you where he took them in Camden or Philadelphia or whatever point it was?

A. He said another truck backed up to his truck and told him to sit right on the seat and that they unloaded the truck and when they were done they pulled away.

Q. Didn't say who unloaded?

A. Said nothing about that.

Q. Did you see him again?

A. Yes, I saw him the next morning.

Q. Where?

A. Why, I brought him over here to Somerville, to the County Jail.

Q. From the Middlesex County Jail?

A. Yes.

Q. Did he talk to you on the way over?

A. No, he didn't have much to say.

Cross-examination, by Mr. Rimo.

10 Q. Officer Linderman, what time was it when you saw him on this road?

A. I judge around eleven o'clock.

Q. In the morning?

A. Yes.

Q. You say there was someone with him?

A. Yes, sir.

Q. Do you know who it was?

A. No, sir.

Q. Had you ever seen this defendant before?

20 A. Not until that morning.

Q. Before that morning you never saw him?

A. No, sir.

Q. And the man that was with him, had you ever seen him before?

A. No, sir.

Q. Do you know where they had loaded this truck?

A. Where they had loaded the truck?

Q. Yes, the truck that he was driving, do you know where they got these goods?

30 A. Well, we claim—

Q. I mean, do you know of your own knowledge?

A. No.

Q. Don't know?

A. No, sir; he picked out a spot there in New Brunswick where he said he thought.

Q. Now, when he was stopped, was it you that stopped him or Corporal Dunn?

A. Well, we were both together so we both stopped him.

Q. What did you do when you stopped him?

A. Asked him for his driver's license and registration card.

Q. Did he show them to you?

A. Yes, sir.

Q. And what sort of a truck did he have?

A. He had an Autocar, four cylinder Autocar.

Q. And was it enclosed?

A. It had black canvas top and black canvas side curtains that dropped down and tied underneath.

10

Q. One could not see what was underneath unless he went there and lifted up the canvas?

A. Yes.

Q. And did you see what was there?

A. No, sir, I didn't. I was looking at the driver's license and so forth.

Q. The defendant told you where he lived?

A. Yes.

Q. And gave you his billhead?

A. Yes, sir.

20

Q. You had no trouble finding that out from him?

A. No, sir.

Q. How long did you and Corporal Dunn speak with him at the time you stopped him?

A. A short time, three or four minutes, something like that.

Q. You did not see the goods at all that were on the truck?

A. No, sir.

Q. And Corporal Dunn and you permitted him to go on with this truck?

30

A. Yes.

Q. He was driving the truck himself?

A. Yes.

Q. Why did you stop him?

A. Well, as I said before, we seen the truck come out of there and we stopped him, that's all.

Q. When you say come out of there; is that the road that leads from any particular place?

A. No, I can't say it does. It's a road only farmers use, it's a dirt road.

Q. Which is a road?

A. Well, it's a road a little ways and then it don't continue to be a road.

Q. Don't you know that that road goes to New Brunswick?

A. It doesn't.

Q. Can't you get to New Brunswick through there?

10 A. Not going down that road, no.

Q. Well, from this road, can you get to New Brunswick?

A. I believe the road takes you into Rocky Hill and from Rocky Hill — come out at Rocky Hill and New Brunswick.

Q. Then you can get to New Brunswick?

A. You can come back all the way out to Rocky Hill and get to New Brunswick.

Q. And did you arrest the defendant, Chiaccio?

20 A. You mean at Riverside?

Q. Yes?

A. No, there was another trooper.

Q. Were you with him?

A. No, sir.

Q. Well, after eleven o'clock that morning, when was the next time you saw him?

A. I judge about seven-thirty or eight o'clock.

Q. Where?

A. At Trenton headquarters.

30 Q. Who had him there?

A. The trooper brought him there from Riverside.

Q. Did you see any blood on his shirt while he was there at Wilburtha?

A. No, I don't remember seeing it.

Q. Do you remember seeing any blood on his shirt after he was brought to jail here?

A. Did not take much notice of it.

Q. You did not strike him yourself?

A. No, sir.

Q. Corporal Dunn did not hit him?

A. No, sir.

Q. Do you know whether he was struck or not after he was taken from Riverside under arrest?

A. No, sir, I could not say.

Q. Now, when you saw him at seven-thirty at Wilburtha, who took him away from Wilburtha?

A. Why, Corporal Dunn and I.

Q. And where did you go to?

A. Took him to Kingston.

10

Q. And what time was it you got to Kingston?

A. I judge it was around—might have been half past ten or eleven o'clock in the evening.

Q. And did you go right straight to Kingston?

A. We stopped at Trenton and asked him if he wanted anything to eat. He didn't want anything to eat so from Trenton we went to Kingston.

Q. He didn't want anything to eat so Kingston was the next stop?

A. Stopped there.

20

Q. And while you were talking with him, did he tell you that he was willing to show you where he got the goods?

A. Yes, sir, he said he would show us.

Q. And was he agreeable with you all the way there?

A. Well, in a way.

Q. Now, how is it that it took you from half-past seven or eight o'clock until about half-past eleven at night to go from Trenton to Kingston?

A. We did not leave Trenton right away. That's when I first saw him was half-past seven at Trenton. That's the first time I had seen him and we did not leave there right away. I could not say what time it was when we left there.

Q. Don't know what time it was?

A. No, sir.

Q. Haven't you any idea?

A. No, I haven't?

Q. Was it nine o'clock?

A. Might have been nine, might have been later.

Q. Now, after you got him there at the Squire's in Kingston, didn't you take him out after that?

A. Yes, he went to New Brunswick with us then.

Q. And you and who else went to New Brunswick?

A. Corporal Dunn.

Q. And what road did you go over to get to New Brunswick?

A. Right down the Lincoln Highway from Kingston.
10 ton. Straight down the Lincoln Highway.

Q. What time did you get to New Brunswick?

A. Now, I could not say that. I had no watch. Kept no tabs on what time it was.

Q. You have a fair idea, don't you?

A. No, I could not say. I know it was pretty late when we got there.

Q. Did you carry with you the commitment that you got from the Justice?

A. Corporal Dunn had it.

20 Q. What time did you arrive there in jail after you left the Squire's at Kingston?

A. I imagine it was about half-past one or two o'clock.

Q. That's after he had tried to point out to you where he got the goods?

A. Yes.

Q. Did he tell you he got the goods from a truck?

A. Yes, he said he backed up to a truck right there along the railroad and there's a truck standing there
30 and he backed up his truck and they loaded him up.

Q. And you took him to the New Brunswick jail?

A. Yes, sir, that night.

Q. Now, did you see him again after that?

A. Yes, sir, I see him the next morning.

Q. What time of morning was it?

A. I guess it was about ten o'clock when I seen him.

Q. Corporal Dunn with you?

A. No, sir.

Q. You went alone?

A. Yes, I brought him over to Somerville.

Q. And did you have a commitment with you when you went over to the jail and got him to bring him here?

A. Yes, sir.

Q. Did you and Corporal Dunn take him out along in through this road where you inquired from the people that lived there whether they had seen him before?

A. No, sir, I was not with him.

Q. You were not with him?

10

A. No, sir.

Q. After you left the New Brunswick jail to bring him here, you did not hit him then?

A. No, sir.

Q. Did you tell him that he had better tell the truth or it would be very serious for him?

A. No, I made no threat to him at all.

Q. Sure about that?

A. Yes, sir.

Q. You don't know where he took the goods after you left him, or after he left you?

20

A. No, sir.

Q. What did this man look like that was with him on the truck?

A. I judge about five foot eleven; wore a cap, wore a blue suit with brown stripe in it. He had a white shirt, the collar was open, had no necktie on. Had sort of sharp features.

Q. You had never seen him before?

A. Never seen him.

30

Q. Now, did you see the truck that the next day had been gotten from this road, the Packard truck?

A. You mean Mr. Atkinson's truck?

Q. Yes?

A. Yes, sir.

Q. When did you see that?

A. That morning.

Q. The morning that you saw this defendant?

A. Yes, sir.

Q. And where?

A. Back in the woods.

Q. In the woods?

A. Well, yes; it's a woods down there; might as well say it's a woods.

Q. Well, was it woods or isn't it?

A. Well, the trees comes together on both sides, just room for one car to go through. It's grown up.

Q. It's a lane isn't it?

10 A. You can call it a lane; I would not call it a lane.

Q. Were you driving an automobile yourself?

A. No, sir; Corporal Dunn was.

Q. If you had continued on that road, would you have been able to get out of it?

A. No, sir; I don't think so.

Q. You don't know?

A. Well, we couldn't get out with the truck in there.

Q. I mean could you have driven the automobile such as the one Corporal Dunn was driving through on
20 that road?

A. No, sir.

Q. Why not?

A. Because it was all marshy, all wet.

Q. And that's the only reason?

A. Yes, sir.

Mr. Rimo—That's all.

Redirect examination, by Mr. Beekman.

Q. You say there was another trooper brought this
30 man from Riverside to Trenton?

A. Yes, sir.

Q. Did you see any time, on any occasion, anybody strike this man or abuse him in anyway?

A. No, sir.

(Witness excused.)

C. Gilbert Crawford, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. Where is your place of residence, Mr. Crawford?

A. 1211 Chestnut Street, Philadelphia.

Q. What's your business?

A. I am a detective, commissioned State detective, State of Pennsylvania, director of a private system, known as the Crawford National Detective Agency.

Q. Have you any special work you have been engaged in recently?

A. Recently we have been specializing on truck motor transportation, people operating between Philadelphia and New Jersey, those hauling plush, silk and velvet goods. There is fourteen companies and we protect twelve of them. Mr. Atkinson here is one under regular protection. 10

Q. When did you first learn of the alleged robbery of his truck?

A. About twenty minutes to ten on the morning of August 28th. If I am correct, it was Friday.

Q. From whom did you get the word? 20

A. Had a call from Mr. Atkinson, who was then in Trenton, which he stated—

Mr. Rimo—Object to what he stated.

Q. Yes, don't state. By reason of the word you got from him, what did you do?

A. I immediately got in touch with the police departments surrounding the neighborhood in which the robbery occurred and called Captain Lamb of the New Jersey State Police and in a few minutes I received a call from Corporal Dunn making inquiries and saying— 30

Q. Not what he said. By reason of what word you got from Corporal Dunn, what did you do?

A. He gave me two license numbers, a Pennsylvania number and a New Jersey number of a truck, which had been seen going toward Philadelphia, hauling plush, but in transmitting the numbers we got the numbers twisted in somehow. We got through Harrisburg the number and address and names of other people with the same numbers. One man was this man, but instead of

the license being V it was Y and X-25829 was New Jersey. I immediately went to Riverside, that being around three o'clock in the afternoon, before we got this information from Harrisburg and located the defendant, located the defendant's home, and while there I observed him drive in.

Q. How did you know where his home was?

A. Through Harrisburg, the State Highway Department. I observed him drive in the rear lot of his house; he had an Autocar truck, and in company with the chief
10 of police of Riverside.

Q. Was it loaded?

A. No, sir, it was empty.

Q. What time was this?

A. That was about twenty minutes after four.

Q. In the afternoon?

A. Of August 28th. I went down to his house and talked to him and he said that he had not been away during that day with the Autocar, which we had just seen him drive in. He said he had been working right
20 in Riverside; that he had not been anywhere in New Jersey, New York or Pennsylvania during that day or night previous. We detained him and took him to the station house in Riverside and called Captain Lamb and he detailed a man from Haddonfield, whose name I don't know, to join me and we took the defendant down before Corporal Dunn. After waiting some time for the trooper to arrive we went to headquarters. I was met there by Corporal Dunn and another trooper and some other man connected in the case. When he
30 was confronted by Corporal Dunn he admitted that it was he who was stopped on the Lincoln Highway and he confessed to hauling the plush from a truck down on a side road in the woods. He said he did not get off his truck, that three men loaded the plush on his truck, that some man of the party got up on the seat and sat with him, and when finally loaded he then pulled out of this lane and when reaching the Lincoln Highway he was stopped by a State trooper and then

continued toward Philadelphia. At that time he would not tell where he took the goods to Philadelphia; then he finally said he drove in through to 215 Market Street, Philadelphia, and likewise a truck was loaded, another truck backed to the rear of his and he sat on his truck again and did not get off and the load was taken off and that truck disappeared. At 215 Market Street it would be utterly impossible for him to do such a thing with the congestion at 215. It is an entrance to the subway and in front of a furniture store. 10

Q. Did he say what time of day he exchanged his goods to another truck?

A. He said around three o'clock, quarter after three in the afternoon. From there he went to Riverside and had just arrived the time we arrived there and detained him, arrested him. After examination there he was taken in charge of Corporal Dunn and the other trooper, I going with him and Mr. Atkinson, we went to a magistrate in Trenton and waited out in the car. The other officers went in and the magistrate explained 20 and informed them that they would have to go to Kingston to get a warrant, due to the fact that the crime was not committed in that county. After that we went to Tulley's restaurant, inviting the defendant in there, and he would not go and—

Q. Did anybody beat him up or strike him?

A. No, sir; why, we even invited him to have lunch with us and gave him cigars. A warrant was sworn out and complaint made and Mr. Atkinson signed it and at that time he changed his story and told that he had been 30 hired by a man to go to New Brunswick and the man drove ahead of him in an automobile. Did not know the man, never seen him before. Led him somewhere in New Brunswick and he backed his truck up to another and his load was put on there instead of down in the side road in the woods, and he insisted that was the truth and we asked if he could show us the place and he said he could and so after the warrant was obtained we proceeded to New Brunswick and spent about an

hour and fifteen minutes in New Brunswick, only to find he did not know one street in New Brunswick. He could not say how he entered New Brunswick and could not find the place where he remembered receiving this load and finally he found a spot over near the railroad station and he said it looked something like it, he thought he had got the load there, but could not show which way he went from there. That is, there's a sort of vacant lot there but he did not know whether he turned to the
10 right or left, but thought he did, but couldn't show us how he got out to the road, which proved to us he was wrong. The following day he was taken by the troopers and committed to jail in New Brunswick.

Q. What time of night did you get through down in New Brunswick?

A. Why, it was around one-thirty, I presume; I don't know the exact time.

Q. Have you seen him since?

A. Yes, sir, to talk with, no, I haven't.

20 Q. What, if any, work have you done on the case since that time?

A. I have done considerable work. Also have had operatives from our agency doing work on the case, and we have obtained the names—

Mr. Rimo—Object, unless the defendant was there when this work was done?

The Witness—He was there.

Q. He was there?

A. Yes, sir.

30 Mr. Rimo—State the time and place.

The Witness—The first occasion was when we went to his house with the police in Riverside and he denied being in Jersey on that day and his wife said he had in his presence. We also obtained there and then the name of the Italians who helped on the truck, who were at his house the night before; Guiseppi Verdi, known as George, the man who paid him to haul the goods; Tony DeMarto.

Mr. Rimo—What day was this?

The Witness—The day of his arrest at Riverside.

Q. Go ahead.

A. They used a Haynes touring car, an old one, green color and the top split in the back, New York and New Jersey license plates, old fashioned, where the driver sits down like this; the same car has been seen in front of his home a lot of times and was there the night before.

Mr. Rimo—Are you testifying to something 10
you know?

The Witness—Yes, sir, as to my investigation.

Mr. Rimo—Everything you know?

The Witness—Yes, sir.

Mr. Rimo—You are positive about that?

The Witness—Yes, sir.

Mr. Rimo—All right.

A. (Continued.) Since then I have recovered a part of the goods in Philadelphia. With considerable effort and investigation we located two recipients and finally 20
found the place where the defendant drove to with the goods, it resulting in the recovery of part of the goods; two receivers of the goods and their confessions, and instead of going to 215 Market Street or any number like that he went to—

Q. Well, that's a conclusion you draw from what you know apparently. Where did you finally find some of the goods?

A. 1104 North Fourth Street, Philadelphia.

Q. And what goods did you find there? 30

A. Thirteen rolls of the plush, which was identified as stolen goods.

Q. By whom?

A. By the manufacturers and by Mr. Atkinson.

Q. Was the defendant present when they were identified?

A. This defendant?

Q. Yes.

A. No, sir.

Q. Did you learn or do you know where the person who had possession of these thirteen rolls of plush in Philadelphia at the street number you have given, obtained these goods? I mean, have you traced the history of these goods up?

A. Yes, sir.

10 Mr. Rimo—Object to the question. Unless he traces all the time from beginning to where he found them, has really traced them and finally got them in the hands of these people, that testimony will not be permissible, I don't think, from this witness.

Q. (Question read.)

Mr. Beekman—Cut out the history.

20 The Court—I see no objection to the question being put in any event, because all he can say is he knows or he doesn't know. There cannot be any harm in his giving what he knows about it, unless he attempts to detail. You may have an exception.

Q. How do you know?

A. From the warehouse receipts.

Q. Well, have you those with you?

A. No, sir.

Q. Well, what do you know from the warehouse receipts?

Mr. Rimo—Object to the warehouse receipts, they speak for themselves.

30 The Court—Yes, I think that's so. Objection sustained.

Q. Do you know the value of plush of that character?

A. Yes, sir.

Mr. Rimo—Object to the question. This witness is not qualified.

Mr. Beekman—No, he never will be if you can't ask him.

The Court—I will allow this question; before he goes on, you can cross-examine him.

Mr. Rimo—This witness has testified that he is in the detective line of work and has at no time whatever testified that he is familiar with these goods, with the purchase or sale of these goods. He has never been in the business, so far there has been no testimony that he has been in business and I say that he is not qualified.

The Court—Mr. Rimo, he has not even attempted to give the value; he simply stated an answer to this question, he does know. Now, if that question was followed on by asking what the value is, there, of course, the objection he is not qualified would be good. He says he knows. Now, it may be he knows; why? Because he sold this kind of goods all of his life and never did anything else as far as I know of and all his answer is to that is merely “yes” he does know. 10

(Exception allowed and sealed.)

Q. What experience have you had with goods of this character? 20

A. I have not had manufacturing experience or selling, but in investigation work I am quite familiar with plush, value of it per yard and generally what the manufacturers sell it to the jobbers for. In protecting these goods you get the information from them and therefore know the price they are sold to the jobber, both plain and embossed.

Q. What kind of plush is this?

A. These were embossed plushes. 30

Q. What did you testify he got for them?

A. A dollar—

Mr. Rimo—Object to that.

The Court—Objection sustained.

Q. What is it worth on the market?

A. A dollar sixty a yard.

Mr. Rimo—Object, I don't see that he is qualified.

The Court—I will allow the question. You may have an exception.

Mr. Beekman—Do you want to cross-examine him on his qualification.

Mr. Rimo—Yes.

Cross-examination, by Mr. Rimo.

Q. When did you have an occasion to quote or learn of the value of plush, just prior to this particular day,
10 August 28th?

A. I have had several occasions for the past three years.

Q. Well, the last time before August 28th was when?

Mr. Beekman—Object to that, because he can't qualify his witness by the last time before he went on the witness stand.

A. Yes, the week before I recovered a part of the load in Newark, the truck which was stolen. A year ago the same man lost a load which has not been re-
20 covered, but I found the firm that bought it, which I identified it by seeing it made up on chairs, which was made up in plush—

Q. I am speaking now of value?

A. In the past four years I have recovered twelve truck loads of stolen goods.

Q. I am not asking you what you have had experience in, it's not selling it, we are now talking about the value, the question is what is the value?

A. I can give you that.

30 Mr. Beekman—Well, give us the value?

The Court—Wait a moment. I suppose that's what Mr. Rimo wants to know, how you came to be able to give the value of these goods; what your qualifications are to be able to give the value of the goods.

The Witness—Your Honor, if a man gives the protection—

Mr. Beekman—No, what do you base your qualifications on in order to state what the value is.

A. By the examination of the goods and seeing and knowing the prices which the jobbers pay for it and prices he sells it for and the price bought of the manufacturer and in case it is lost or stolen in transport, the amount due the insured.

Q. Do you know these things?

A. Yes.

10

Q. How?

A. I learn it through my investigation.

Q. Does your investigation work carry you in these fields, so you know?

A. Yes, it's quite valuable to know the price and value of a thing where they are stolen.

Mr. Rimo—I again object.

The Court—I allow it, and you may have an exception.

A. Plush of this type sells for a dollar sixty a yard. 20

By Mr. Beekman.

Q. Do you know how many yards there are in a roll of plush?

A. They run from forty to fifty-two and three-eighths yards, the plush runs around forty-four and three-eighths and around there and it will weigh ninety to a hundred pounds, about fifty-two inches in length.

Q. Do you know anything else about this case; I mean that is competent to tell the Court and jury? 30

A. Nothing other than the Philadelphia end of the recovery, if that is permissible.

Q. Well, I don't want to bring in something here that is not admissible and spend the Court's time doing it. I have not had any time to talk to this gentleman; I don't know what he knows. The Court could perhaps instruct him, if he feels inclined to, what would be admissible.

The Court—Well, I can't help the witness.

The Witness—Oh, here's what I would like to say—

Mr. Rimo—No, not what you would like to say.

Q. Where were the goods found that you did recover?

A. 1104 North Fourth Street.

Q. How far is that from the place where, according to the story, that he once told you he backed up his

10 truck to another truck and exchanged the goods?

A. Almost twelve blocks.

Q. What type of a street is Market Street in Philadelphia?

Mr. Rimo—Object to that. (Argument.)

The Court—I will allow the question. (Exception allowed and sealed.)

A. Market Street is one of the main streets in Philadelphia, having a double car line and quite congested with traffic. It's just up the hill from the ferry line,

20 where there is great traffic going on over the ferry toward Camden.

Mr. Beekman—Cross-examine.

Cross-examination, by Mr. Rimo.

Q. Mr. Crawford, how long have you been in Philadelphia?

A. Six years.

Q. And in the detective business for six years?

A. Twenty years.

30 Q. You've never been in the cotton and plush business?

A. No.

Q. And always for twenty years in the detective business?

A. Yes, sir.

Q. Now, Walnut Street is quite a long street?

A. Walnut?

Q. Yes?

A. Yes, sir.

Q. Where did you say that he told you these goods were delivered?

A. In front of 215 Market Street.

Q. 215 Market Street. Now, Market Street is quite a long street, isn't it?

A. Yes, sir.

Q. You don't know everything that goes on on Market Street every day, do you?

A. No, sir.

Q. Have you seen trucks there?

10

A. On Market Street? Lots of them.

Q. Don't they stop in front of places of business in making deliveries on Market Street much?

A. Generally the small streets in the rear.

Q. But you have seen some stop and make delivery?

A. Yes.

Q. So there is nothing unusual about that, is there?

A. Not for a truck to stop, no.

Q. Now, on the morning of August 28th, you received a message from Mr. Atkinson?

20

A. Yes, sir.

Q. And you were in Philadelphia at the time?

A. Yes, sir.

Q. What was the message about?

A. Regarding this truck robbery.

Q. And after you received this message, you went away and did what?

A. I made considerable telephone calls, putting certain parties to work and all like that, which is ordinary in such cases, and I detailed three operatives in the case. I was crippled up at the time, had my right leg broken in two places and on crutches, and therefore I remained in the office at the agency and tried to look after these particulars and get the information who the owners were.

30

Q. You made some mistake in understanding the Corporal's message?

A. I made some mistake in understanding his message, but found out afterward and had a boy drive me to Riverside.

Q. You were driven to Riverside?

A. Yes.

Q. What time did you get to Riverside?

A. Twenty minutes after four.

Q. In the afternoon?

A. Yes.

Q. And when you arrived there had Mr. Chiacchio arrived at his home?

10 A. He was just arriving; he had got there; he had got his truck in and gone in the house and I got off; we did not go up for probably five minutes after we seen him drive in.

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

A. I mean the officer at Riverside and myself and the man who drove us.

Q. Police officer?

A. Yes, sir.

Q. So you first called at the police station, did you?

A. Yes, sir.

20 Q. And inquired about this man?

A. Yes, sir.

Q. Where he lived?

A. Well, I knew where he lived.

Q. How did you know where he lived?

A. I got that from Harrisburg.

Q. What did you go to inquire about?

30 A. To inquire if they knew him and I wanted to bring him up there, to talk with him and as a matter of courtesy, not being a New Jersey officer, I took him with me, asked him to go along.

Q. You talked with him in the house?

A. Out in the yard and at his garage and at his back door.

Q. What was the first thing you asked him?

A. The first thing I asked him was where he had left the load of goods that he had been hauling that day.

Q. What was his reply?

A. His reply was that he wanted to know what load of goods. I told him the load of plush goods. He said he did not haul plush, he had been down at, I believe Delair, hauling boxes.

Q. Where had he been, did you say?

A. Hauling paper boxes at a mill down near there, I believe it is called Delair, New Jersey.

Q. And what's the next thing you asked him?

A. I asked him the same question over again and he said he didn't know anything about it and that he had not been out with the big truck, that he had been out with the little truck with one of the other men hauling the boxes. 10

Q. And did you tell him who you were?

A. Yes, sir.

Q. Did you tell him that right away, did you?

A. Oh, yes.

Q. And how did his wife come there?

A. She was standing in the back door. He asked her to bring some papers out, something like that. 20

Q. Just tell us the conversation you had with her?

A. I can't very well give you exactly the conversation. The conversation which is along the line of conversations generally when you arrest someone trying to cover up a crime. We were there two or three minutes and then we went up to the police station, the defendant along with the officer and myself and one of my men remained there and talked to the wife. After we had been to the police station some time, the trooper arrived and we brought him to Trenton. In the meantime he denied he ever hauled any goods over the highway and was stopped by a state police and asked to show his license or anything like that. 30

Q. Did you say to him in that first conversation you had with him at the house, you have been carting some plush goods right near New Brunswick somewhere?

A. Yes.

Q. You told him that?

A. Yes.

Q. And he said he hadn't?

A. Said he hadn't.

Q. Was that one of the first questions you asked him?

A. About one of the first, yes.

Q. When I asked you for the conversation, why was it you said you did not quite remember?

A. Not all the conversation, the principle part of it I do.

10 Q. Yes, now, didn't he tell you before you got away from the house on that first conversation that he had been in that direction, near New Brunswick?

A. No.

Q. You say he had not; you are positive of that?

A. Positive.

Q. Did he tell you what kind of a truck he had?

A. Said he had three trucks.

Q. Did you ask him what truck he was using in carting these boxes from Delair, whatever it is?

20 A. I did, yes.

Q. What did he say?

A. He said it was one of the small trucks, I believe it was a Ford truck. Why I happened to know where he was is that one of his men, I talked to him previously and he told me he was over in Jersey—

Q. Had you talked with one of his men before you went to the police station?

A. Yes.

Q. Why didn't you tell us that?

30 A. I was not asked that.

Q. Now, when you left Philadelphia to go to Riverside, what was the first thing you did?

A. What is the first thing I did?

Q. Yes.

A. Got in an automobile.

Q. Yes, after that?

A. I don't see that that has any bearing on the case. Crossed the ferry and came over the highway.

Mr. Rimo—I submit, if your Honor please, where he says “it has no bearing on the case,” it strikes me that he is here to testify and this is cross-examination, —

The Court—Well, he has told you now that he crossed the ferry, you go on from there.

Q. Yes, and got into Camden?

A. Through Camden, yes.

Q. And got to Riverside. Now, what was the first thing you did when you got to Riverside?

A. Why, I made inquiries concerning this man, the defendant. 10

Q. And of whom?

The Witness—Now, your Honor, may I speak to you? I am a detective and I will answer all these in private chamber. I think I am entitled to that courtesy and protection. I am not going to reveal our methods of detection and performance for the protection of those whose lives are endangered.

Mr. Rimo—I submit this is a Court and the jury has a right to know. 20

The Court—I think you can make a statement what you did. You can tell him if you were there and saw him. You can say so, you don't need to go in the details of that.

A. I interviewed people in Riverside.

Q. And after you interviewed them, did you go to the police station?

A. Yes.

Q. Now, how long were you talking to Chiaccio at the house the first interview you had with him? 30

A. About five or ten minutes.

Q. Did you know before you started to talk with him that it was cotton plush that was stolen?

A. I knew it was plush and cotton goods.

Q. You had no knowledge of it yourself excepting what was told you?

A. The description given me by Mr. Atkinson.

Q. What was the description given to you?

A. Eighty-three pieces of plush goods, colored brown, blue, grey and old rose.

Q. That you got over the telephone from him?

A. Yes, sir.

Q. Yes, what else?

A. Consigned to Kessel and Hober, New York. Three cases of cotton goods for Elkin Mills.

Q. Anything else?

10 A. That's all.

Q. Well, now, in your conversation with Chiaccio, did you ask him whether he had been carting any rolls or pieces of plush?

A. I did.

Q. Just tell us what your conversation was about the plush?

A. He denied hauling any such goods at all or being in any such location. Denied being stopped by an officer and showing his license that day. He denied being out with his large Autocar with license 7491 that I had just seen him drive in home with. He continued to deny it until about an hour later at Riverside Police Station in the presence of the officer. Then he finally said he was somewhere over the highway, that a man had hired him to haul some goods, that it was none of our business where he hauled the goods to. Absolutely none of our business and would not tell, whereupon the local officer informed him the proper thing to do was to advise us where he hauled the goods to. He said he would not tell where he delivered the goods up to that time, and we drove to Trenton. There was no conversation or questions or anything like that on the trip to Trenton. Then when he seen Corporal Dunn, the officer that stopped him, then he confessed and told the truth, except as to where he put the goods.

30

Q. When you say confessed, what do you mean by confessed?

A. Confessed that he hauled goods, received them off of another truck down in the side road in the woods and hauled it to Philadelphia.

Q. That's when you got there at Trenton?

A. Yes.

Q. Now, will you tell me why you ever went to New Brunswick with him if he told you that that's where he got the goods from?

A. Yes, I can. Firstly, because that's where he was to be locked up until morning. Secondly, because he changed his story at Magistrate Potts', that is two hours' times length since he had made a different story and said that he got them in New Brunswick. I remember 10 that quite distinctly. I remember that the magistrate talked to him probably a half an hour trying to get him to tell the truth about it, and telling him something at least of the streets of New Brunswick, because he himself was quite familiar with New Brunswick and various streets there and he suggested we drive the prisoner over there before we locked him up to see if he could show us anywhere about New Brunswick where he backed up his truck to this other truck and loaded and received the goods. We took him first over the other 20 side of New Brunswick there and traveled around and he could not show us any place in New Brunswick at all.

Q. So up to the time that you got to Trenton with him did you know exactly where this location was where the robbery took place?

A. Did not know exactly, only that it happened beyond Clarksville.

Q. And who told you that it happened beyond Clarksville?

A. The man that informed me, Mr. Atkinson. 30

Q. Now, just tell us all that Mr. Atkinson told you. I am beginning to get a little more of what Mr. Atkinson told you?

A. He told us he had a truck stolen around three-thirty in the morning. He had two colored drivers there with him. They were left out six-thirty in a cornfield. May be able to identify one or two of the men. What shall I do? Hang up and get a car and drive with all possible speed to our office. I asked no more and he

said no more. He gave me a description of the load, what was there, eighty-three pieces of plush and three cases, but there was no long conversation there.

Q. Now, what time did you take Mr. Chiaccio from Riverside to Trenton?

A. I don't exactly know, it must have been near six o'clock or quarter after.

Q. And drove right straight to Trenton?

A. Yes.

10 Q. Do you know which road you were on from Riverside to Trenton?

A. I am not fairly conversant with the roads. I do know we went through Burlington, I believe, and not a back road, which seems to be a regular State highway.

Q. Someone drove the car and Mr. Chiaccio was with you?

A. Yes.

Q. You were the only three?

A. Only three in the car.

20 Q. You left the police officer behind?

A. Yes, sir.

Q. Now, did you strike this defendant?

A. No, sir.

Q. On the way from Riverside to Trenton?

A. No, sir.

Q. Sure?

A. Sure, no reason why I should strike him.

Q. Well, just answer the question. Mr. Crawford, when you arrived in Trenton, did you take Chiaccio to

30 Wilburtha?

A. We continued right on to the barracks.

Q. Where is that?

A. It's near Trenton Junction.

Q. And you brought him along with you?

A. Yes, sir.

Q. After you got there, who did you find?

A. Well, there were several men there, officers, Corporal Dunn, he came in about ten minutes later.

Q. Well, who did you find?

A. Sergeant Tyre and some other troopers and officers who I don't know by name.

Q. What was your purpose in bringing him there?

A. Because that was the proper place to take him.

Q. And did you take him away from there afterward?

A. Just as soon as Mr. Atkinson arrived, ready to make a complaint, we left there.

Q. What time did Mr. Atkinson arrive?

10

A. I believe he arrived with Corporal Dunn or shortly afterward.

Q. Well, what time?

A. About seven-fifteen or seven-thirty, something like that.

Q. Now, when Corporal Dunn got there and Mr. Atkinson, did you talk with the defendant?

A. I did.

Q. What did you ask him then?

A. I asked him some of the same questions as before, as to whether or not he hauled the goods and whether he was not over in New Jersey and not stopped by the officer and if he was not willing to tell the truth, and Corporal Dunn stood up in front of him and he looked at him probably five minutes before he answered and then he admitted the truth.

Q. What did he say?

A. He said that a man came to his house in Riverside about six o'clock in the morning, driving an automobile and said he had a truck load of goods over on the highway and wanted to know if he would come and haul it to Philadelphia. He agreed to go and got in his truck and followed the man in the car. The fellow first told him he would meet him at Yardville and the car went ahead. He arrived at Yardville in the truck and the man in the car was standing there. He then told him to follow him and he did follow him and got along the Lincoln Highway to another road leading off and this man was there again with the car. That was the

30

next meeting place he was to meet him and they went on the side road. Met a bunch of other fellows in the truck and the men around there loaded the goods on his truck and when they was done, then this same mysterious man directed him to drive to 215 Market Street, Philadelphia, and he would find him there in the same automobile. One of these men got on the truck with him. That was the man that was with him when he was stopped by the police. He didn't give his name and he says that man got off in Trenton or Yardville and was going to take a train.

10

Q. Now, all of this was said to you by him?

A. Not to me, but to the State police and others, Mr. Atkinson and all present.

Q. Do you know whether Corporal Dunn heard it?

A. He must have; heard the most of it.

Q. And after he was out at Trenton Junction you got all of this information from him?

A. Yes, at the police barracks.

20

Q. State police headquarters?

A. Yes, up to that time he had not given us any information.

Q. Yes; now, with what information he gave you, you then left there to go to Kingston?

A. We left there to go to a magistrate in Trenton.

Q. And where was that, to whom?

A. Don't know his name, sir. I did not go in; the troopers attended to that.

Q. And you remained outside?

30

A. I remained outside because I was crippled and it was hard for me to get around. On crutches at the time. They went in and waited some few minutes and the magistrate had not arrived. On learning from one of the State troopers where the crime was committed, I told him that I thought the warrant should be obtained in the county in which the crime was committed, and just then the magistrate come in and they talked it over with him and I guess he thought that was proper, and

then we went and had something to eat, and from there we went to Kingston.

Q. Now, from the information you got from Mr. Atkinson, which was that this crime had been committed near Clarksville, why is it that the complaint was not made there in Mercer County, where Clarksville is?

A. For the reason this defendant did not receive the goods there. He received them in Somerset County.

Q. Well, up to that time you did not know where they had been received?

10

A. Oh, yes, I did know.

Q. You knew?

A. Yes.

Q. And where had they been received from?

A. In Somerset County.

Q. Where?

A. Down a road about three and a half miles from the Lincoln Highway in the woods.

Q. Well, if you knew that, why did you attempt to go to any justice of the peace in Trenton or waste any time at all? 20

A. I didn't know that at the time. I am not familiar with the boundaries in the State of New Jersey. When I knew where the man received the load of goods, where the crime was committed, it took some time for me to elicit the information which side was one county and which the other.

Q. Yes, but you had Corporal Dunn with you?

A. Yes.

Q. And didn't you speak with Corporal Dunn about this situation? 30

A. No, not up to the time we went to the first magistrate.

Q. He was there to assist you?

A. Yes.

Q. And between the two of you, you were trying to arrive at the place where this crime was committed by him and under what circumstances?

A. Yes.

Q. And you were in Trenton where you were trying to make a complaint there against this defendant, now, can you tell me why you did not get a complaint there?

A. Why, you can only get a complaint where the man receives the goods. In the State of New Jersey but what county I don't know. I knew where the robbery was committed, I did not know if it was Middlesex County or Somerset or what; that was their business. Presuming that they did know, we tried to get a warrant,
10 and presuming they knew the proper magistrate, I went along and probably from what I said and from what the magistrate said they thought it was proper that a complaint should be made in Kingston.

Q. And while you were in Trenton, you did not already know what county it was in?

A. Yes, that's it.

Q. And Corporal Dunn had to tell you that, as he was familiar with that road, after you secured this information?

20 Mr. Beekman—Object to that. That has all been gone into, and Corporal Dunn came after, this witness is not required to know the motives of Corporal Dunn.

Mr. Rimo—I asked the question did Corporal Dunn do certain things or not.

Mr. Beekman—And I submit he should not ask this witness such a question, absolutely immaterial, whether Corporal Dunn did or didn't.

The Court—Well, let us go on.

30 A. He said he was familiar with part of that road.

Q. Now, after you left this justice of the peace in Trenton, where did you go with the defendant?

A. Went over the Lincoln Highway up the road, just where the Lincoln Highway makes a turn, I don't know the name of the road, and turned to our left and went three quarters of a mile into the road, which is a narrow road, doesn't appear to be used much. There's a house there on the road and we continued straight and a sort of lane leads off in the woods, all grown up with trees

and leaves and bushes, and we went through that. I believe we went up about two miles anyway, the road was almost impossible to get through, came to sort of an opening, an open stretch probably half as large as this court room and there was a big red truck, empty. On the road there was sort of an embankment and a place dug out as if automobiles went through there and that turned out to the left leading to a farmer's field and going out between his barn and his house and on another road which was formally better than that road, 10 which makes a circle around three miles over to another stone road and back in this same road about half way between this house that I mentioned and the Lincoln Highway. There was tracks there and the defendant said that was the location of the truck, but he did not come in on that road that we came in on.

Q. Now, what time was that you were there?

A. I could not give you the time.

Q. It was night, wasn't it?

A. Night time, yes.

20

Q. Before midnight; twelve o'clock?

A. Well, I would say it was near to eleven o'clock, something like that.

Q. The defendant said he had come in that road?

A. No, he said he did not come in that road that we traveled going in there.

Q. Did he tell you what road he did come in?

A. He was lost at the time, he didn't know, but when we were going out the other road, he recognized that as the road he had traveled.

30

Q. Now, Mr. Crawford, you spent quite a bit of time over these roads with him, didn't you try to locate the direction from which he came?

A. Yes.

Q. Did you stop the car at any time while going on these roads and strike him?

A. No, we stopped the car for a few minutes when we got to where the truck was. We made a short stop, I don't believe anyone got out.

Q. Do you know whether he had blood on his shirt?

A. I don't remember seeing any.

Q. How was this defendant dressed that day?

A. Well, he wore a cap, I believe; dressed similar to his dress now.

Q. Sweater on?

A. I don't think so.

Q. Did he have a jacket and coat?

A. Yes.

10 Q. Are you sure about that?

A. I am not too sure as to his personal dress or clothes.

Q. Now, you were with him, Mr. Chiaccio, from about four o'clock?

A. It seems to me that he did have a sweater like that but did not have on any coat.

Q. Did you furnish him with a blanket that night, or something to cover his legs?

A. Not I, no.

20 Q. Where were you seated in this car when you were going over this road?

A. In the rear seat.

Q. With him?

A. Yes, sir.

Q. Where was Corporal Dunn?

A. He was driving, if I recall right.

Q. And the other State Policeman with him?

A. Yes, sir.

Q. There was just the four of you?

30 A. To start with there was more than that and leaving the magistrate's office in Trenton, there was Corporal Dunn with his partner, myself, Mr. Atkinson, in two cars.

Q. Yes. Now, since you have been told by the defendant that he had come into that road finally and since you have seen this red truck on the road, did you then have to make any further investigation to make a charge against him?

A. No.

Q. And did you make a charge against him?

A. I didn't.

Q. Well, was there a charge made against him?

A. Yes.

Q. Who made that?

A. Mr. Atkinson.

Q. Before whom?

A. Magistrate Potts.

Q. And after you made this charge against him, or after this charge was made against him, did you have 10 him committed?

A. I didn't.

Q. Was he committed?

A. He was.

Q. What time was the charge made against him?

A. I can't give you the time of that.

Q. Was that before midnight?

A. Yes.

Q. Before midnight?

A. Probably, must have been around ten o'clock, ten- 20 thirty.

Q. What county is this Justice of the Peace in that took the complaint?

A. Somerset County, I believe.

Mr. Beekman—I have the complaint here, if you would like to see it.

Q. But you did not bring him here right away under the commitment, did you?

A. No.

Q. Where did you take him? 30

Mr. Beekman—Object, this man did not take him anywhere, as a matter of fact. He is no officer of the state.

Q. Where was he taken?

A. I have answered that.

Mr. Beekman—Answer it again, if he wants it.

A. Over the Lincoln Highway, over another side road to the Lincoln Highway and out to New Brunswick and New Brunswick jail.

Q. When you were with him after the complaint was made against him on the way to New Brunswick, did you or anybody strike him?

A. No.

Q. Sure of that?

A. I am.

Q. Did you ask him anything further on the way to New Brunswick?

A. I asked him some few things, yes.

10 Q. What?

A. As to where he took the load of goods in Philadelphia, where he unloaded, the name and address of the man that hired him to do the hauling.

Q. Any other questions that you asked him?

A. That's about all.

Q. The fellow who was on the truck with him, what became of him?

A. I don't know.

20 Q. When you looked at this red truck after you were informed by Mr. Atkinson—you didn't know what was in there, did you, excepting from what Mr. Atkinson told you?

A. No.

Q. And when you did look at it, there wasn't anything in it?

A. I could not see because I was a cripple and did not get out of the car. Probably the length of this courthouse from it.

30 Q. Well, can you give us your reason for not committing or not seeing that this defendant was committed to the Somerset County Jail after the complaint was taken by the justice of the peace in this county?

Mr. Beekman—Objected to.

The Court—Objection sustained.

Q. You were satisfied that he was the party involved after he had told you where he was and after you had seen the truck and made your investigation, were you, that he was involved in this and that he had received these stolen goods?

A. Yes, sir.

Q. Now, can you tell us now why you went to New Brunswick?

Mr. Beekman—Object to that. He has given that three times. (Argument.)

The Court—What difference does it make? I don't see a bit of reason for any further question. I sustain the objection to this.

Q. After you left New Brunswick with the defendant in the automobile, did you go right to the Somerset County Jail? 10

A. No.

Q. Where did you go?

A. Went home, Philadelphia.

Mr. Beekman—The testimony is already in that an officer brought him over here alone the next morning.

Q. So you don't know anything further about this trip after New Brunswick?

A. No, sir; I did not have anything to do with that. 20

Q. Now, Mr. Crawford, when did you next see this defendant?

A. To-day.

Q. That's the only time?

A. That's the only time I have seen him nearby. I have seen him in a distance a time or two.

Q. Talked with him?

A. No.

Q. Here?

A. Only spoke to him in the doorway. 30

Mr. Rimo—I think that is all.

The Court—We will now take a recess until ten o'clock to-morrow morning.

Wednesday, October 21st, 1924.

Trial resumed at ten o'clock in the forenoon.

C. Gilbert Crawford, recalled.

Further cross-examination, by Mr. Rimo.

Q. Do you recall Labor Day, Mr. Crawford, this year?

A. Yes, I do.

Q. Do you recall the defendant on that day was coming from Somerville to Kingston?

A. Yes, sir.

Q. And do you recall that you and Corporal Dunn and another State trooper held up the automobile in which this defendant was one of the passengers?

Mr. Beekman—What do you mean, held up the automobile?

Q. Do you recall stopping the automobile?

A. I was with the party when the defendant, yourself and the magistrate or Justice Potts was coming from the county jail on Labor Day at a cross road and one of the troopers stopped your machine and held quite a conversation just below Kingston.

Q. And did you speak with the defendant on that day?

A. I did not talk to him. I spoke to him.

Q. Did you speak with me?

A. I spoke with you while I was sitting in the machine.

Q. Do you recall that you wanted to make a complaint on that day against him?

A. I did make a complaint that day.

Q. Did you ever issue a warrant on the complaint?

A. I did issue a warrant, hold the warrant for him now.

Q. And why didn't you serve it?

Mr. Beekman—Have you any right to serve warrants in New Jersey?

The Witness—I have no right.

Mr. Beekman—That's the reason.

Q. Why wasn't the warrant served?

Mr. Beekman—Object to that, because he is not supposed to know.

The Court—He says it is in his possession.

The Witness—I will correct that; I turned it over to the State police.

Q. What reason can you give why this warrant has not been served?

Mr. Beekman—Object to that.

The Court—Objection sustained. 10

Q. Do you remember telling me in the presence of the defendant that you had enough to hang him?

A. Is that a question?

Q. Yes.

Mr. Beekman—Do you remember telling this gentleman here—

A. I don't remember using such language.

Q. Do you remember what language you did use?

A. I think I told you we had sufficient evidence to convict him. 20

Q. Do you remember saying you had enough complaints against him to keep him in jail for the rest of his life?

A. No, sir, I do not.

Q. Are you sure?

A. Don't remember that.

Q. Will you say that you didn't say it?

A. I will say that I didn't.

Q. What's that?

A. I will say that I did not say that, yes. 30

Q. Now, Mr. Crawford, you say you recovered some of these goods?

A. A portion of it, yes.

Q. Yes, and what were the names of these two people you mentioned yesterday?

A. Guiseppi Verdi and Tony DeMarto.

Q. Where do they live?

A. That I don't know.

Q. Where did you find them in order to be able to recover these goods?

A. Did not recover the goods from them.

Q. How did you come to know their names?

A. As the result of my investigation and through this defendant.

Q. And didn't you learn where they were?

A. No, that's what I am trying to learn. I was in New York last night looking for them.

10 Q. You say that as a result of your investigation you learned these names through the defendant?

A. Through the defendant and the defendant's wife, that is the lady in the house, presumably his wife.

Q. Well, which is it, through the defendant or the lady of the house, or both?

A. The lady of the house.

Q. You did not get that from him?

A. No, not those names. He knows one of them as George.

20 Q. You did get these goods, and where did you get them?

A. 1104 North Fourth Street, in Philadelphia.

Q. From Whom?

A. Charles Silver.

Q. How do you spell it?

A. S-I-L-V-E-R. And Morris Gilwerz, 213 Church Street, Philadelphia.

Q. Did you bring these goods with you?

A. Here?

30 Q. Yes?

A. No, sir.

Q. You knew you were going to be a witness here to-day?

A. Yes.

Q. You knew you were going to be a witness here yesterday?

A. Yes.

Q. Can you give any reason why you did not bring these goods?

A. The goods have been turned over to the owners and reconditioned at the mills.

Q. How long did you say you were in the detective business?

A. Twenty years.

Q. Didn't you know that was very important evidence in this case?

A. That was my instruction to the people who had the goods, to bring samples with them.

Q. Then it was because you got instruction— 10

A. No, sir; I said I gave them instruction to bring samples of the goods.

Q. Who are the owners of these goods?

A. Mr. Atkinson responsible for them and at the present time the owner until settlement is made.

Q. You settled what?

Mr. Beekman—He said until settlement is made.

Q. Did you tell the prosecutor that you had recovered these goods before yesterday? 20

A. When did I tell?

Q. Did you tell the prosecutor?

A. The prosecutor attorney?

Q. Yes.

Mr. Beekman—Did you tell me before yesterday that you had recovered these goods?

A. No, sir.

Mr. Beekman—Did not talk with me until yesterday.

The Witness—Not at all; no, sir. 30

Q. Why?

A. Well, there was no reason that I should; busily engaged by the detective work, chasing over the country. I only had notice of this trial Friday, a telegram coming to my office in Philadelphia.

Q. Did you arrange to have Mr. Silver and Mr. Gilwerz or Morris here?

A. No, they are thieves, they would not be here; no reason why they should be.

Q. That is what you think?

A. That is what I know.

Q. Are you prosecuting this case?

A. No, sir.

Q. Well, how is it that you know?

A. You are asking me what I know, not what I think.

Q. Didn't you think it was your duty after investigating this case and learning these supposed to be facts, to reveal these facts to the prosecuting attorney who is
10 actually prosecuting this case for the State?

A. These facts were revealed to him yesterday and a portion of the goods have been recovered in another State.

Q. Oh, you knew these facts last Friday?

A. Yes, sir.

Q. And you knew them long before last Friday?

A. For days before.

Q. And still never sent in information to the prosecutor?

20 A. It was not necessary.

Q. That's what you think?

A. That's what I think, yes.

Q. The information which you are giving to this jury is what you think is necessary and what you are retaining for yourself is what you don't think is necessary?

Mr. Beekman—Object to that.

Q. Is that correct?

30 Mr. Beekman—There is no evidence that he is retaining anything for himself. The man is a witness on the witness stand and supposed to answer questions that are required by law.

The Court—Pressing it?

Mr. Rimo—No, that's all right, your Honor.

The Court—Anything further.

Mr. Rimo—I think that's all.

Re-direct examination, by Mr. Beekman.

Q. I did not get quite clearly in my mind, or at least my thought about the matter is somewhat clouded by the cross-examination as to just what your movements were the night of August 28th. Where did you go after you left this lunch room?

A. From there we proceeded to Kingston and endeavored to locate a justice there. After considerable effort, after going to his home, we found him and he went over to his office.

10

Q. Was it before you went to the justice or after you went to the justice that you took the drive up this road?

A. It was after that.

Q. And you say you had your leg broken at that time?

A. Yes, my right leg in a cast all the way down from the hip.

Q. What part of the car were you in?

A. Rear seat.

20

Q. Where was this man?

A. He was in the rear with me.

Q. Was he handcuffed?

A. Not at any time.

Q. Was not shackled in any way?

A. No.

Q. Well, just tell us what you observed up this road; you said something about some road that led way up this way and then there was a place where you could turn around and make a circle and get back on it again?

30

A. We came to what appeared to be the end of that road, a lane rather, there in the woods and there we came up to the truck. The truck was standing in the woods on the side of the road and there was a space there about half as large as this court room, where there was no timber and in back of the truck up this embankment was a road leading up through the field and there was evidence where a vehicle had gone up around this truck and had gone away that way.

Q. What evidence was there?

A. You could see where they had backed in the mire and soft earth and small sprays bent over and there was men there working getting the truck out then. The automobile I was riding in with the defendant came up the road and turned crosswise back this lane to go out. I stayed in the machine with the defendant and the other men got out. Then we came out the other road which we found there and I did not see the road which
10 we came in down through the woods.

Q. Tell us about this road with the curve to it?

A. That led off the road cut through what appeared to be the center of the field, probably a twenty-acre field; then it turned shortly to the left for about the same distance, I would say, half a mile or a mile and then on the very left led down between the farmer's house and barn and then on the upper road.

Mr. Rimo—I don't like to be interrupting; but it don't seem to me it is re-direct examination.
20

Mr. Beekman—I don't think it is. I want to clear up the points of this road, I want to clear up when they went on that road.

Q. Now, you have been asked if you caused a warrant to be issued for the defendant in another case and you said yes. What was that warrant?

Mr. Rimo—I object to that.

The Court—Objection sustained.

Mr. Beekman—I did not bring this out.

The Court—I understand, Mr. Prosecutor, you
30 objected to it when it was brought out.

Mr. Rimo—I did not ask what the warrant was for anything about it.

Mr. Beekman—I want to ask what it was for.

Mr. Rimo—I wanted to find out why it was not served.

Mr. Beekman—This certainly is not re-direct; it is absolutely something that has developed.

The Court—I don't see that it makes any difference in this case what the warrant was. I didn't see how it was relevant in the first place; I don't remember you having objected to it. The contents of this warrant could not possibly have any relevancy in this case and the objection is well taken. It will be sustained.

Mr. Beekman—I do ask the privilege of going a little further about the type of this cloth. I believe there were three kinds of cloth recovered, 10 three different grades.

Q. Do you remember how many rolls of each there were?

A. Not exactly, no, sir.

Q. You have already qualified as to the price of these three grades of cloth; what have you to say about the price of same?

A. No, sir, there were about a dozen rolls of embossed type such as the brown there. That's what we called embossed, price a dollar sixty and the other a dollar 20 fifty.

Mr. Rimo—I don't see that the price in this particular case has got any bearing upon the situation. The indictment is that he received these stolen goods, regardless of the price.

The Court—I don't think that the price makes any difference, but I don't know what the Prosecutor has in mind.

Mr. Beekman—My notion is to prove a full case; you have got to prove the larceny and 30 that includes the value of the goods stolen. I don't know that it is necessary in this case, it is usually harmless; except to do what had to be done. I don't mind saying to the witness himself that the testimony was misleading yesterday because this stuff was not as valuable as what he testified yesterday. The only purpose is to correct that.

The Court—Let him correct that part as to what he testified to yesterday and I think that will be sufficient.

A. The embossed plush is a dollar sixty a yard and the other plain, a dollar fifty, about four thousand yards in the load.

Mr. Beekman—That is all.

(Witness excused.)

10 *Thomas H. A. Turner*, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. Mr. Turner, you are in what business?

A. Manufacturing of plush.

Q. And connected with what concern?

A. The Manayunk Plush Manufacturing Company.

Q. What type of plush do you manufacture?

A. Plain velours for upholstery and embossed velours for upholstery and mohair for upholstery.

20 Q. I show you *Exhibit S 3* for identification and ask you if you know in what plant that was manufactured, whose product is it?

A. Manayunk Plush.

Q. What do you mean by that?

A. By the texture and type of embossing—

Q. I am just asking you the question, who made it?

A. Manayunk Plush.

Q. That is the firm you are connected with?

A. Yes.

30 Q. I show you a card and bill tags, and ask you what that is?

Mr. Rimo—Object to this.

Mr. Beekman—Why?

Mr. Rimo—It seems to me that's in evidence here. He has been put on the stand to testify to the value of these goods.

The Court—I don't know what he's on for until he is asked.

Mr. Rimo—I understand he was to testify to the value of the goods.

Mr. Beekman—You said it was not necessary so we will take your word for it, and we are going to use him for something else. All right, we agree on that.

A. This is a tag we put on every piece that's shipped up to New York. That's the tag of the Manayunk Plush Company, these are selling agents in New York.

Q. And I show you two other pieces of plush, one gray 10 and one blue, and ask you whose product that is?

A. The same, Manayunk Plush.

Q. Well, when you say Manayunk Plush, you mean it's the plush manufactured by the firm that you are connected with?

A. Yes.

Q. Kindly say that and I won't have to go through it all again. How about that one? (Showing witness a piece of plush.)

A. It's manufactured by the Manayunk Plush. 20

Q. Have you any knowledge of the shipment that was made to New York on the truck of the Atkinson Motor Company on the early morning of August 27th?

A. The first I knew of it was the morning of the 29th, I believe.

Q. You did not know what was on that truck then?

A. No.

Mr. Beekman—That is all.

Cross-examination, by Mr. Rimo. 30

Q. These are just samples of the goods which —

A. Samples of the stolen cloth.

Q. You don't know yourself whether it was stolen or not?

A. That is just a sample of the cloth.

Q. After it was where?

A. Sample of the cloth that we make.

Q. Why do you say stolen cloth?

A. Well, at the time that goods was located, I identified each piece that was found.

Q. Yes, you did not know it was stolen; you were merely told or asked to identify these goods as goods manufactured by you?

A. At the time I did not know they were stolen; appeared to have been stolen, but it was later proven.

Q. Now, how much goods of this character do you turn out in your place?

10 A. About sixty thousand yards a month.

Q. And sell it all over?

A. Yes.

Q. Different customers?

A. Correct.

Re-direct examination, by Mr. Beekman.

Q. You say you were asked to identify it. Identify what?

20 A. Identify the cloth that was found at 1104 North Fourth Street and determine whether it was part of the shipment consigned to New York and stolen, and it proved to be so.

Q. By reason of being requested to identify the cloth that was found at 1104 North Fourth Street, what did you do?

Mr. Rimo—Object to this, this is not re-direct examination.

30 Mr. Beekman—It is a matter you brought out yourself. I cannot understand counsel's constant objection to something that counsel knows is entirely new matter and that the Prosecutor made no reference to it.

Mr. Rimo—I insist it is direct evidence.

Mr. Beekman—There's a question about that. It's an examination on a matter that you introduced into testimony that was not in before.

Mr. Rimo—It's a matter which came up on your own examination.

The Court—It is undoubtedly a matter that should have been gone into on his direct examination. However, if it was opened on cross-examination, then of course, the Prosecutor can proceed. Assuming it was a matter that should be examined upon on direct; undoubtedly this is such a matter and if you brought it out on cross-examination, I think the State can now go in it on re-direct examination. I will allow the question and will allow you an exception. 10

O. (Last question read.)

A. I went in company with Mr. Atkinson and Mr. Crawford and a Mr. Proctor and two or three others, some of them unknown to me, and upstairs on the second floor of this man's establishment we located thirteen pieces and on examination they proved to be our manufacture, and I took the number of each piece, which are put on with white lead and cannot be wiped off, can only be cut out, and called the mill on the phone, gave the numbers to it and they corresponded exactly with the numbers of the shipment which was stolen en route to New York. 20

Q. Well, the goods themselves that you found there at 1104 North Fourth Street, were they your goods or not?

A. They were our goods.

Re-cross examination, by Mr. Rimo.

Q. When was it that you went there to identify these goods?

A. October 28th or 29th. 30

Q. October?

A. August, I beg your pardon. Just a second. (Witness looks at a memorandum book) October 3d.

Q. October 3d?

A. 3d.

Q. That's a long time from August 29th, isn't it?

Mr. Beekman—Object to that, perfectly obvious how long it is from August 29th to October 3d.

A. Considerable—

Mr. Beekman—I am wrong for once.

Q. You say you didn't know what goods were on that truck?

A. I had no idea, no.

Q. How do you know then that these goods were stolen?

10 A. Well, on Friday, October 3d, 1924, while at lunch with my father, he instructed me to accompany Mr. Atkinson and Mr. Proctor up to the Acme Furniture Company, 103 North Water Street, Philadelphia.

Q. Yes, you don't know of your own knowledge they were stolen?

A. I do not know of my own knowledge, did not know at that time that they were stolen.

20 Q. Yes, and you did not have knowledge of what goods were on this truck?

A. I did not have knowledge at that time. At the Acme Furniture, we found twenty-five pieces of our manufacture and found the numbers they put there, which is far below the legitimate numbers and which was marked a little hazy, so we took the numbers of each piece and got the mill on the phone and they corresponded exactly with the shipment that was stolen. That is the first idea I had of what pieces were in the shipment.

30 Q. You really don't know whether they were goods which were sold to some concern and the concern then sold to the concern at North Water Street, Philadelphia?

A. At the time I went there, I did not know whether it was legitimate or illegitimate.

Mr. Rimo—That's all.

Mr. Beekman—I offer these various pieces of cloth; also this tag and the bill that has been

marked for identification, in evidence. And in addition to that, if the Court has no objection to it and counsel has no objection to it, I would like to introduce a map of the northern section of New Jersey, which covers the section of road over which these operations took place the night of August 28th.

Mr. Rimo—I do not object to the map, I object to the introduction of these pieces of cloth on the ground that they should have been offered previous to this time. There was opportunity and they should have been introduced in direct testimony. 10

The Court—Has there been testimony that these pieces of cloth are pieces taken from the shipment?

Mr. Beekman—No, absolutely not. They are not introduced for that purpose. One of the witnesses testified that he examined the stuff on the truck of the defendant when he stopped him coming out of this road. He described it, the cloth, he was asked how the plush which he saw at that time corresponded with the plush that was then exhibited to him. He said it did correspond. This particular brown piece was referred to only. And, now, additional proof is in the case to show that this is the type of plush that they manufacture at the Manayunk Plush and was the stuff taken from this truck; that this was the kind of plush that was loaded on that truck; that this is the gentleman here who owns the truck and that is the kind of stuff that would be on the truck that night. There is testimony to show there were three types of cloth on the truck, namely, blue, gray and brown of plush and that part of the plush was embossed and part was not embossed, and these are just merely to show the jury the type of cloth that was on that truck, which corresponds in one particular 20 30

with the cloth this man looked at when he stopped the defendant's truck along the road and this is the type of cloth that was recovered. There is no dispute with counsel for the defendant that these people have recovered part of their goods, and these are the goods that they recovered and correspond with the goods that were stolen on that night. They are simply offered to the jury to show the jury what type of goods they were.

10

The Court—You wish to object to the introduction of this exhibit with the understanding it is not being offered as being part of the goods that were taken that night. Simply being offered to show the type of the goods that were shipped on the truck and which were afterwards stolen, and manufactured by this firm, I will allow it under that circumstance. You may have your exception.

20

(Exhibit marked *S 1*, *S 2* and *S 3*. The blue plush *S 5* and the gray plush *S 6*.)

Mr. Beekman—The State rests.

Thereupon Mr. Rimo opened to the jury in behalf of the defendant.

Joseph Bright, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. Mr. Bright, where do you live?

30

A. Delanco.

Q. What county is that in?

A. Burlington.

Q. What's your occupation?

A. I have an auto accessory store.

Q. Do you know the defendant, Mr. Chiacchio?

A. I do.

Q. How long have you known him?

A. I don't know, ten years or more, I could not tell you exactly.

Q. Do you know what business he is in?

A. Carting, trucking.

Q. Do you know long he has been in that business?

A. No, I don't. I would say eight or ten years, something like that.

Q. Where does he live?

A. Riverside.

Q. Is that in the County of Burlington?

A. Yes, sir.

Q. And he has lived there how long, to your knowledge? 10

A. Twelve or fifteen years.

Q. Do you know the reputation of the defendant for honesty and trustworthiness and truthfulness?

A. I think I do. I never heard anything to the contrary. I think he is very honest and very truthful.

Mr. Beekman—Never mind, you are not asked the question.

Q. You have spoken with your friends about him as to his honesty? 20

Mr. Beekman—Object to that.

Q. Have you ever discussed—

The Court—Mr. Rimo, the Prosecutor's objection was to his coupling two answers to one question.

Q. You say you do know?

A. Yes.

Q. What is his reputation?

A. Good.

30

Cross-examination, by Mr. Beekman.

Q. How far is the place where you live at Delanco from Riverside?

A. Why, half a mile; Riverside—

Q. This man trades with you, doesn't he?

A. Yes.

Q. Always pays his bills?

A. Yes.

Q. And pay by cash?

A. No, he runs an account thirty days.

Q. Pays promptly, does he?

A. Yes, sir.

Q. How big a place is Riverton?

A. Riverton, did you say? Does he mean Riverside?

This is Riverside.

Q. Well, whatever it is. How large a place is that?

A. Oh, Riverside is about five or six thousand.

Q. How big a place is this Delanco where you live?

10 A. That's about twenty-five hundred, practically all one town.

Q. You are in what business?

A. Auto accessory business.

Q. I suppose you sell quite a lot of stuff to this fellow?

A. Well, we sell more or less.

Q. Well, is it more or less?

A. Well—

20 Q. How much does your monthly account amount to with him? You say you trust him from month to month; you can answer that question?

A. I can't answer that question.

Q. Why?

A. Because I have another fellow that runs the business and I am in Mount Holly most of the time, which is the county seat.

Q. Where do you live, anyway?

A. Delanco.

Q. What part of your time are you in Mount Holly?

30 A. Four or five days a week.

Q. Your office is an elective office?

A. Only by the board of freeholders.

Q. You are interested in politics down around there, I presume?

Mr. Rimo—I can't see the relevancy.

The Court—Maybe, I don't know yet.

Q. You know whether your are interested in politics?

A. Yes.

Q. You are not interested in that?

The Court—He said yes, he is interested in that.

Q. This fellow a political henchman of yours?

A. No, sir.

Q. Votes your way?

A. Not that I know of.

Q. Haven't you ever asked him how to vote?

A. I don't know whether to say needless or not be fair.

Q. You don't know his politics, whether it corresponds with yours? 10

A. No.

Q. Yet you have had frequent talks over the neighborhood, with the neighbors as to his character?

A. No, I did not say that.

Q. I understood you to say so. The defendant's attorney thought you had heard the neighbors discuss this man, whether he was honest or dishonest. Never heard that?

A. No, sir. 20

Q. Well, isn't this the truth, trying to be fair with you and you be fair with the position you are in; as far as your experience is concerned in a business way, you have found him to be an honest person?

A. Absolutely.

Q. And that is what you mean by your answer?

A. That's it.

Mr. Beekman—I ask to have all the testimony stricken out as to character. (Argument.)

The Court—I will allow you to qualify him. 30

By Mr. Rimo.

Q. Mr. Bright, during all the time that you have known the defendant, have you had occasion to speak with anyone in all these ten or twelve years or seven or eight years that you have known him with reference to his honesty; how honest a man he is? Now, you have time to think.

A. I don't just get your question.

Q. Well—

The Court—This is the whole question in a nut shell. You come here to testify to this man's good character, as to his honesty. Now, upon what do you base your opinion that this man is an honest man or dishonest or truthful or untruthful?

10 The Witness—I base my opinion on that from what I have known of him for the last ten or twelve years and heard nobody say anything about him, that he would steal, shoot or anything of the kind.

By Mr. Beekman.

Q. You never heard anything wrong about him?

A. No, sir.

Mr. Rimo—I think that qualifies him.

Mr. Beekman—Qualifies him to say that.

The Court—Yes.

(Witness excused.)

20 *Lester S. Fortnum*, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. Mr. Fortnum, where do you live?

A. Bridgeboro, New Jersey.

Q. How long have you lived there?

A. Thirty-five years.

Q. What is your business?

A. Automobile dealer.

Q. Any other business?

30 A. No.

Q. Own property there?

A. Yes.

Q. How much property do you own?

A. Oh, about twenty-five thousand dollars worth.

Q. Do you know the defendant?

A. Yes.

Q. How long have you known him?

A. About fourteen years.

Q. Where does he live?

A. Riverside.

Q. And how far is that from Bridgeboro?

A. About a mile and three-quarters.

Q. Do you go into Riverside very much?

A. Yes; that's our center from around there, main shopping place and all.

Q. What does the defendant do, Mr. Chiaccio?

A. He is in the express business, hauling business.

Q. And how long has he been in that business, do you know?

10

A. About eight years, as near as I can remember; about eight years, I would say.

Q. In the length of time that you have known him, do you know his reputation in the community in which he lives for honesty and trustworthiness and truthfulness?

A. Yes.

Q. What is it, good or bad?

A. Good.

Mr. Rimo—I think that's all.

20

Cross-examination, by Mr. Beekman.

Q. He got an account with you?

A. He has had an account at different times.

Q. Dealt with you considerably?

A. He has dealt with me some, yes.

Q. Do you know what part of Riverside he lives?

A. Yes, know the road where he lives.

Q. Has he got any neighbors there?

A. Yes.

30

Q. Do you know who they are?

A. I know some of the people that live around near him there, yes.

Q. Good, substantial people live anywhere near him?

A. Oh, yes; Riverside is a big place and he is near the center of Riverside.

Q. And how long since he has been a customer of yours?

A. Well, I sold him stuff since 1913, not a whole lot, but at different times since that.

Q. Always a good fellow to do business with?

A. Yes.

Q. Good pay?

A. Always paid promptly, satisfactory account.

Q. Well, how many people over there, around where he lives, do you know to talk to?

A. Do I know to talk to?

10 Q. Yes?

A. I know Riverside, I know three thousand or more.

Q. No, that know him?

A. I guess they all know him.

Q. Ever talk with them about how honest a man he was and all that sort of thing?

A. I never talked to anybody in particular if they knew he was honest or not.

Q. Now, don't you mean just what the other gentleman meant; what's the last name again?

20 A. Fortnum.

Q. That you never heard anything against this fellow? You dealt with him and he has been square with you and you never heard anything against him?

A. Never heard anything against him.

Q. That's what you mean?

A. That's what I mean.

Mr. Beekman—That is all.

(Witness excused.)

30 *Louis Goldstadt*, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. Mr. Goldstadt, where do you live?

A. Philadelphia.

Q. Do you have a business?

A. In Riverside.

Q. What kind of business are you in?

A. Shoe manufacturer.

Q. And how long have you been in Riverside?

- A. Over three years.
- Q. In the same business?
- A. Same business.
- Q. Are you alone in the business or have you some-
one with you?
- A. No, I got a partner.
- Q. What's his name?
- A. Galman.
- Q. How do you spell it?
- A. G-a-l-m-a-n. 10
- Q. Do you remember the 28th day of August, this
year?
- A. Yes.
- Q. Do you know the defendant, Mr. Chiaccio?
- A. Yes.
- Q. How long do you know him?
- A. I know him about three years.
- Q. Since you have been in Riverside?
- A. Now, about four months—three years, four
months; four months we had this man; we could not 20
get along with the other man; did not do the work
right for us and since that time we started with Mr.
Chiaccio to do business.
- Q. Now, what sort of business is Mr. Chiaccio in?
- A. Express business, delivering merchandise.
- Q. And did you see him on the 28th day of August,
about three o'clock in the afternoon?
- A. Yes, sir.
- Q. Where did you see him?
- A. In Philadelphia. 30
- Q. And where in Philadelphia?
- A. Between Second and Third.
- Q. Second and Third Streets?
- A. Yes.
- Q. And was he alone?
- A. He was by himself, yes; with the express wagon.
- Q. Have an express wagon?
- A. Yes, sure.

Q. And had you seen that express wagon before, was it his?

A. It was his express wagon; yes, sir.

Q. Now, just tell us what you saw?

A. Well, I was passing, coming from Camden and I was walking up Market Street and I saw Mr. Chiaccio and said to him, halloa. I walked over to him because I really needed him to give him an order about him delivering stuff. I spoke to him and he was taking off
10 merchandise from the express wagon; some bundles there. I saw packages there. That's all I saw there. I spoke to him, gave him the name where to go and get some merchandise for us.

Q. You say that was about three o'clock?

A. Yes.

Q. Anybody with you?

A. Yes, Mr. Galman was with me; we was coming from Riverside.

Q. Now, what did you notice on the truck?

20 A. Bundles laid there.

Q. Did you notice any wooden cases or boxes?

A. No, I did not notice anything like that.

Q. Did not see anything like that?

A. No, I did not see anything like that; because I was standing right near him where he was taking off the bundles; looking at the express wagon, inside, and I did not see cases there.

Q. You looked?

A. Yes, I really looked and did not see any cases.

30 Q. Did you see any bundles that had a mark on like this *Exhibit S 2*?

A. No, I did not.

Q. You did not see any cards like that?

A. No.

Q. If it had been there, you could have seen it?

A. Sure.

Mr. Beckman—Oh, now don't—

Q. What kind of packages were they that you saw on the truck?

A. There was some bundles there which I believe had merchandise in the bundles, but I could not tell what kind of merchandise is there because there was all kinds of bundles there. He generally delivers all kinds of stuff like that.

Q. Did you see any rolls?

A. No, I did not see any rolls.

Mr. Rimo—I think that's all.

Cross-examination, by Mr. Beekman.

10

Q. This was three o'clock in the afternoon?

A. Yes, sir.

Q. And where did you say you were going?

A. From Camden, coming up from the ferry.

Q. On what street?

A. Market Street.

Q. You said something about some street numbers on, what was that?

A. Numbers on? I didn't say anything; I did not mention any numbers.

20

Q. Didn't you say something about Second and Third Street?

A. I said between Second and Third.

Q. Then you did say something about numbers; don't be in such a hurry to deny. You did say something about Second and Third Streets. And then, this was on Market Street between Second and Third Streets?

A. Yes.

Q. What kind of stores are along there?

A. Well, I could not remember. I tell you, it did not interest me to look at the stores.

Q. I did not ask you what interested you. If you don't know, just say you don't know.

A. That's right, I don't know.

Q. You did not notice what kind of a store this was that he was unloading the goods in front of?

A. No.

Q. You don't know whether it was a drug store or grocery store?

A. No.

Q. Or automobile concern or what it was?

A. I don't know, I could not tell you.

Q. You stopped there and walked up to the automobile and looked in it, did you?

A. I stopped, he was standing right there.

Q. You said so, didn't you?

A. Sure I stopped there.

Q. I know you stopped, but did you say a few minutes ago that you took trouble to look in the automobile?

10 A. I did not say that, I said I was standing talking to him and he was standing right on the side where the merchandise was taken out and I looked in the truck.

Q. How close were you to the truck when you looked in it?

A. About one foot.

Q. Where did you look in?

A. I looked into the truck and saw the bundles there.

Q. You don't know what he had taken out before

20 you got there, do you?

A. I don't know what he took out of there.

Q. Well, you did not have to get right close up to this truck, it was an open truck, to see whether he had any boxes on?

A. I was standing on one side of it to go over and talk with him.

Q. No, but you said a minute ago you walked over to the truck and looked in it and you noticed that he had some bundles, but no boxes in there or cases?

30 A. I did not see any cases.

Q. I know you didn't, but I say you didn't have to walk up to the truck to see that?

A. I had to walk up to him to talk to him.

Q. You did not have to walk up to the truck to see whether there were any cases there?

A. I was right in front, I had to go there and talk to him.

Q. Well, answer the question?

A. I did answer.

Q. You did not have to go up to the truck to see where there was any cases in the truck?

A. It did not interest me to look for that, but I did not see any cases.

Q. Yes, but you said on your direct examination that you walked up to the truck and looked in the truck and did not see any cases; didn't you say that a minute ago?

A. I don't remember that word what you say just now.

Q. Well, do you understand what I say just now? 10

A. No, I didn't get you yet.

Q. All right, let's try it again. (Question read.)

A. That's the question you asked me but I did not say that.

Q. Didn't you say that in reply to questions asked by defendant's counsel?

A. I say—

Q. Yes or no. Didn't you say that just exactly as I have repeated it; that you walked up to the truck and looked in the truck and did not see any cases? 20

A. I said I walked up to him and then looked in the truck; that's the way I said it.

Q. You were not interested at all. Have you ever seen him on Market Street or in Philadelphia before?

A. Lots of times.

Q. What's your partner's name?

A. Mr. Galman.

Q. What's his first name?

A. Max.

Q. What else did you do on August 28th? 30

A. I was buying stuff; buying stuff, selling stuff.

Q. Selling what kind of stuff?

A. Shoes.

Q. That you manufactured?

A. We manufactured them and we got to sell them.

Q. You were buying?

A. When we sell, we go out buying too.

Q. What day of the week was it you saw him?

A. On the 28th.

Q. How did you know?

A. Well, I know it.

Q. What day of the week was it?

A. Saturday—no, that was Thursday.

Q. How do you know that? Don't look over there, look at me.

A. You asked me the question, how do I know? Don't I know I am living?

Q. I don't know; you are not interested in that; you
10 are here testifying to what you saw a certain day, at a certain time?

A. I know to-day is Tuesday. This last August, I remember the day is Thursday.

Q. Did you ever see him before unloading any stuff on Market Street?

A. Lots of times.

Q. How many times before August 28th did you see him before that, how many days?

A. I did not see him days before, a month before I
20 did see him.

Q. All right, what was he unloading that day?

A. All kinds of stuff, bundles, cases of shoes.

Q. I am not talking about the 28th, the other time?

A. I am telling you, bundles, cases, all kinds of stuff, hardware stuff and all kinds of stuff.

Q. Any rolls?

A. No.

Q. Never did see any rolls?

A. I can't remember that for months.

Q. No, I thought maybe you couldn't. Now you don't
30 remember what he was unloading the next to the last time you saw him unloading any truck?

A. The last time, you mean the 28th of August?

Q. No, the time before that. You don't know what he was unloading before that time?

A. I did not see him, that was maybe five months ago, six months ago.

Q. Five months ago you can remember what he was unloading but three months ago you can't remember?

A. I remember that time.

Q. How is it you got such a fine memory what he was unloading on August 27th, the exact looks of it and that you walked up to the truck and looked in it and are sure there was no boxes in there when you can't remember anything he unloaded at any time before that?

A. Why, can you understand, this time I was standing near the truck and I talked to him because I needed him, that's why I went over to talk to him. Lots of times I see him with his truck and pass up, and say halloa, Mike; 10
this time I happened to talk to him.

Q. Now, have you seen him unload anything since August 27th?

A. What do you mean, August 27th, August 28th?

Q. No, anything anywhere on the streets of Philadelphia?

A. No.

Q. Who did you first tell about having seen him over there that day?

A. I didn't tell anybody. 20

Q. But you must have told somebody?

A. I didn't tell anybody.

Q. Who subpoenaed you here?

A. I didn't have to tell anybody.

Q. Who subpoenaed you here?

A. Well, Mr. Chiacchio.

Q. Yes?

A. Sure.

Q. Well, how did he know that you had seen him there and looked in his truck and seen there were no 30
boxes or rolls, unless you told him?

A. He was talking to me and I guess he knows a man if he is there, a man can always say something that he sees it.

Q. You did not tell him? You did not say to him, Mike, I saw you August 27th?

A. When he told me he had trouble I did tell him.

Q. He came to you and told you he was in trouble?

A. Yes.

Q. And he was in trouble for something he was charged with doing on August 27th?

A. On August 28th.

Q. August 28th?

A. Yes, you are wrong.

Q. You bet I am wrong. And what kind of trouble did he tell you he was in?

A. Well, he was in this trouble here.

10 Q. That he was accused of taking stolen goods off a truck and bringing them over to Philadelphia, that's what he told you?

A. Yes.

Q. And then he told you that he wanted to know whether you had seen him in Philadelphia on August 28th at three o'clock in the afternoon?

A. He didn't tell me that.

Q. What did he tell you?

A. I says, listen, I see you that day in Philadelphia unloading stuff between Second and Third on the north
20 side of Market Street.

Q. You told him that?

A. Yes, I told him that.

Q. What did he say then?

A. That day you see me; what kind of stuff did you see me unloading? I saw bundles, that's all I know.

Q. Is that all you know, that you saw bundles; is that what you told him?

A. Yes.

30 Q. Now, you say you know what kind of bundles there were and there were no long bundles there?

Mr. Rimo—Object, he did not say that, he was asked if there were any cases and he said no, there were no cases.

Q. Now, you said there were no long bundles, packages?

A. I said there were no rolls at all.

Q. Now, you told Chiaccio when you first talked to him that you did not know anything about him only you saw him unloading bundles?

A. Yes.

Q. Now, you are willing to swear there were no rolls in this automobile at all?

A. I did not see any rolls or see any cases, I saw only bundles.

Q. This was exactly three o'clock when you saw him?

A. Yes, about three o'clock, maybe a few minutes after three.

Q. You testified before it was three o'clock, now it was two minutes after or four or five? 10

A. It was three o'clock or a minute after.

Q. Not over a minute after?

A. I could not tell you that. I said around three o'clock. That's the way I said it.

Q. No, you did not say it on your direct examination, you said it was three o'clock. Now, do you mean three o'clock?

A. Three o'clock, yes.

Q. Is that your testimony, positively three o'clock?

A. Yes, positively three o'clock. 20

Q. Yes, not a few minutes after?

Mr. Rimo—I submit —

Mr. Beekman—Of course you will have to submit. I am the one that submitted to your interruption.

Q. You had your watch with you and looked at that and saw it was three o'clock?

A. I know it was three o'clock.

Q. You know it was three o'clock?

A. Yes, just the same as I know it was Thursday, the 30
27th. It was three o'clock.

Q. How do you know?

A. I know that.

Q. That's your only answer?

A. Mr. Galman was asking me what time it is and I said three o'clock.

Q. Did you tell somebody what time of day it was?

A. Yes, I asked Mr. Galman.

Q. Well, did Chiaccio first speak to you about this and say, I am in trouble and I want to know if you saw me?

A. That was about four days later.

Q. And he did not know you had seen him?

A. Eh?

Q. He knew you had seen him?

A. I don't know, don't remember that.

Q. Well, you had special business with him that day
10 and that's the reason you stopped to talk with him?

A. Yes.

Q. And that's the time you saw him unloading the stuff, and you went right over to him?

A. Yes.

Q. And was there talking with him?

A. Yes.

Q. And then about four days afterwards he spoke to you and he knew that you had seen him there, didn't he?

20 A. I believe so.

Q. Well then, why did you say to him, well, Mike, I saw you over there that day before he said anything about it?

A. I told him, I saw you, over there, that's all I told him.

Q. That's not what you said before. You said he came to you and said that he was in trouble and that he was in trouble for something he was charged with doing the 28th.

30 A. Yes.

Q. And then you said to him, without he first saying anything to you, that's what you said, well, I saw you on Market Street on the 28th?

A. Of course, I was wondering that day why he mentioned that date.

Q. Well, you are sure he did not say anything to you first?

A. No, he did not say anything to me. I tell you why—

Q. No, you can't tell me why he did not say anything because he knows that and you don't?

A. Mr. Chiaccio told me it was the 28th of August, it was on Thursday and I said, why, Mike, and I was wondering why, I seen him that day on Market Street.

Q. I don't care what you were wondering. He came over and told you first he was in trouble and it was Thursday, the 28th, didn't he; and that's the reason you remember it was Thursday, the 28th, at three o'clock, you saw him unloading stuff between Second 10 and Third Streets on Market Street, isn't it?

A. Sure.

Q. That's the reason you remember it?

A. Sure, I remember it.

Mr. Beekman—That's all.

(Witness excused.)

Max Galman, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

20

Q. Mr. Galman, where do you live?

A. Philadelphia.

Q. And what is your business?

A. Shoe manufacturer.

Q. Where is your place of business?

A. Riverside.

Q. How long have you been in Riverside in this business?

A. Why, the past two years.

Q. And do you know the defendant, Mr. Chiaccio? 30

A. Very well.

Q. How long have you known him?

A. About three years.

Q. Do you remember the 28th day of August of this year, the afternoon of that day?

A. Yes, sir.

Q. Where were you about that time?

A. Why, we took the train from Riverside, the 2:22 train, came up to Philadelphia and we met him on Market Street between Second and Third.

Q. Were you alone?

A. No, Louis was going with me.

Q. That's your partner?

A. Yes.

Q. When you saw him, what was he doing, if anything?

A. He was unloading his truck to another truck, some packages. Passing them over from one truck to the other one.

10 Q. And did you see in the truck, did you look in the truck?

A. Well, when I see Chiaccio I came up to the back and right near the tailboard and naturally I looked in the truck. He was right near the tailboard and you could look right in.

Q. Did you see any roll in this truck about that long (indicating)?

A. No, sir; not that I remember; I did not see any.

Q. Did you see rolls of any kind?

20 A. No rolls.

Q. Did you see any wooden cases?

A. No, sir.

Q. Boxes?

A. Not one of them.

Q. What kind of packages did you see?

A. Why, ordinary small packages and paper, a couple of them.

Q. On any of these packages or bundles, did you see a tag or card that looked like that?

30 A. None of them had tags. It was written with chalk, marked the names.

Q. Did you speak with the defendant that day, Mike?

A. Oh, yes; that's the reason I stopped. I wanted to give him some orders.

Q. You have done business with him?

A. For three years, since I met him, since I met him in Riverside.

Q. Could you see what was in the bundles?

A. No, they was wrapped up, I was not going to open them, they were small packages.

Mr. Rimo—That's all.

Cross-examination, by Mr. Beekman.

Q. You say you leaned against the tailboard?

A. Yes.

Q. How long did you lean against the tailboard?

A. Just as long as it took me to speak to him, four 10
minutes or five minutes.

Q. What kind of a tailboard was it?

A. What kind?

Q. Yes?

A. Why, a truck tailboard, a great big one.

Q. What kind of a truck was it?

A. Why, Autocar.

Q. Have any standards along side of it, posts along side of it? Do you know what I mean by standards; things that run up from the floor of the body a certain 20
distance to hold stuff in?

A. No, closed body.

Q. Any top?

A. Well, a closed body must have a top.

Q. What kind of a top did it have?

A. Why, closed all around. I don't examine the top,
what it is made from.

Q. How big were these bundles?

A. Why, all sizes, some this size, some bigger ones.

Q. How big was the biggest one? 30

A. Why, about say three feet, something like that.

Q. Any of them so big a man couldn't handle them?

A. No, not that I see any.

Q. All comparatively light packages?

A. Yes.

Q. And yet right here on Market Street they had two trucks backed right up against each other?

A. I see they were unloading express one from the other.

Q. I understood you to say they were backed up to each other?

A. They were backed up to the curb.

Q. Both backed up to the curb?

A. Yes.

Q. What day of the week was that?

A. On Thursday.

Q. Have you ever seen him unloading a truck or any cargo from a truck along Market Street or any other
10 street in Philadelphia before?

A. Yes, very often.

Q. Well, when last?

A. About four or five months ago I met him once on Market Street.

Q. He spoke to you about coming here to testify?

A. About what?

Q. Your coming here to-day and swearing you saw him at three o'clock on Thursday, August 28th, unloading a truck between Second and Third?

20 A. Why, when I seen Mike—

Q. Oh, don't start off by saying when you saw Mike?

A. I told him what I saw on Market Street when I seen him unload.

Q. How did you come to do that?

A. I saw him afterward, Labor Day, and I asked him when he got out and he began to tell me when he got out and he was up against it and he asked me if I remembered about the day and the truck and I said
30 yes, I do remember, I was speaking to you, and then he says, will you be so kind and go up and be a witness and tell the truth for me and I said I will positively whatever I know I will say.

Q. When did he speak to you about that?

A. A few days after Labor Day.

Q. Not the same time he spoke to your partner?

A. No.

Q. Do you know a man by the name of Gilwartz?

A. No.

Q. Silver?

A. No.

Q. Cotton goods?

A. No, sir.

Q. You live in Philadelphia?

A. Yes.

Q. Church and North Fourth Street, Philadelphia?

A. Yes, sir.

Q. Where were you last Friday?

A. Last Friday?

Q. Yes?

A. Last Friday I came up from Boston; I went to Riverside. 10

Q. Were you at the hearing at the magistrate's office, where Gilwartz was last Friday?

A. No, sir.

Q. Corner of Hancock and Girard Avenue?

A. No.

Q. You know, don't you, that Gilwartz was arrested and indicted for receiving these stolen goods, don't you?

Mr. Rimo—Object to that, if you Honor please. That is not cross-examination. I did not examine this man upon Court or any other time or place. I am simply asking about August 28th. That was the direct examination and now the Prosecutor intends to cover a lot of time here, and take up the time of the jury about some other thing that happened in some other place. 20

Mr. Beekman—He says that the only person that solicited him to come here was the defendant. I wanted to ask him if he was not solicited to come here by Mr. Gilwartz. 30

The Court—You can ask him that. Asking him whether somebody was indicted is not anything along those lines.

Mr. Beekman—It would if they were the ones that solicited him to come here.

The Court—Yes, but until you prove that they were the ones that solicited him, it cannot possibly have any bearing here.

Q. Were you not solicited to come here and testify in behalf of this defendant by Gilwartz and Silver or someone representing them?

A. No, sir.

Q. And you are sure you were not at this hearing of Gilwartz at the corner of Hancock Street last Friday?

A. Positively sure. It is impossible, I was in Boston.

Q. You are sure this was Thursday that you saw him unloading this truck?

10 A. Yes.

Mr. Beekman—That's all.

Re-direct examination, by Mr. Rimo.

Q. Mr. Galman, you say that you saw him shortly after Labor Day or on Labor Day?

A. A couple of days after Labor Day.

Q. And you saw him all beaten up?

A. Yes, his lip was split in half and his eye was a little bit blue and that's what made me ask him about it.

20 Mr. Rimo—That is all.

(Witness excused.)

Michael Chiaccio, sworn on his own behalf, as defendant, testifies as follows.

Direct examination, by Mr. Rimo.

The Court—At this time we will take a recess unless one o'clock, rather than start in with this witness.

30

—
AFTER RECESS.

Michael Chiaccio resumes the stand.

Direct examination, by Mr. Rimo.

Q. Mr. Chiaccio, what is your first name?

A. Mike.

Q. Where do you live?

A. Riverside.

- Q. New Jersey?
- A. Yes, sir.
- Q. What business are you in?
- A. Express business.
- Q. How long have you been in the express business?
- A. Between seven and eight years.
- Q. What do you cart?
- A. Everything.
- Q. And how long have you lived in Riverside?
- A. About sixteen years. 10
- Q. Are you married or single?
- A. Married.
- Q. This your wife (indicating)?
- A. Yes.
- Q. How many children do you have?
- A. Six.
- Q. All living with you?
- A. Yes, sir. Had seven, one dead.
- Q. Now, on the 28th day of August, in the morning of that day, were you at home? 20
- A. Yes, sir.
- Q. What time?
- A. Seven o'clock.
- Q. And what did you do that morning?
- A. I got up out of bed and somebody came and called me; said they had a truck broke down, if I wanted to haul his stuff to Philadelphia. I says, sure, that's what I am in business for.
- Q. What time was that?
- A. Between, I think it was quarter after seven, sure. 30
- Q. Had you ever seen this person before?
- A. No.
- Q. Now, did you go to cart the goods for this person? Did you go to get these goods?
- A. Yes.
- Q. Where did you go?
- A. New Brunswick.
- Q. And you arrived in New Brunswick with your truck?

A. Yes.

Q. What kind of a truck did you have?

A. Autocar.

Q. How big a truck was that?

A. Well, they call that a two and a half to three and a half, four cylinder Autocar.

Q. And what kind of a top did it have?

A. Well, regular top and curtains on the side.

Q. The goods which you got in New Brunswick, you
10 got them from where in New Brunswick?

A. What they call that road that goes to New York.

Q. New York road?

A. New York road, yes.

Q. And what kind of goods were they? What did
you find there to get?

A. I found a lot of bundles that size.

Q. That size?

A. That size and that size (indicating).

Mr. Beekman—Well, that don't get on the
20 record.

Q. When you say, that size—

A. The big one was about three feet long.

Q. That's the longest?

A. The longest one.

Q. Now, were there any wooden boxes?

A. No, sir.

Q. No wooden cases?

A. No, sir.

Q. You see these two colored men that testified here
30 yesterday, do you?

A. Yes.

Q. In Court yesterday?

A. Here, yes.

Q. Did you get any of these goods from those two
men?

A. No.

Q. Where did you go after you got these goods?

A. Philadelphia.

Q. And what time did you get to Philadelphia?

A. I think it was somewhere around close to three o'clock; very close, around three o'clock; I don't know just exactly.

Q. You remember seeing Corporal Dunn?

A. Yes, sir.

Q. That day?

A. Yes, sir.

Q. Where did you see him the first time?

A. Well, I seen—I was coming out of a road and I 10
seen him as soon as I come up and he stopped me. He said halt, and I stopped. He said what have you got? I said, look at it, look at what I got and he says where are you going? I says, Philadelphia. He says where are you from. I said, the sign right on the front there, and this is my head bill, too, if you find anything wrong with this? Where I am from, Riverside, New Jersey, and I gave him one of my head bills.

Q. Was anyone with you at the time he stopped you?

A. Yes.

20

Q. Do you know who that was?

A. No, sir.

Q. Have you ever seen him before?

A. No.

Q. Where did you meet that person?

A. In New Brunswick.

Q. In New Brunswick?

A. Yes, he was right along the road that goes to Philadelphia and New York.

Q. Now, do you know what kind of goods you were 30
trucking from New Brunswick?

A. No, sir.

Q. Did you buy any goods that day?

A. No, sir.

Q. Of no kind?

A. No, sir.

Q. From anybody?

A. No, sir.

Q. Did you buy eighty-three rolls of cotton plush that day?

A. No, sir.

Q. Did you receive eighty rolls of cotton plush that day?

A. No, sir.

Q. Did you receive three wooden cases that day?

A. No, sir.

Q. Did you steal three cases of goods?

10 A. No, sir.

Q. Did you steal eighty-three rolls of cotton plush that day?

A. No, sir.

Q. When Corporal Dunn stopped you, who was with him, if anybody?

A. There was another State Police with him.

Q. Did Corporal Dunn look at the goods that you had on the truck?

A. No, sir.

20 Q. He didn't look at them?

A. No.

Q. The goods that you had on the truck, did they have a tag like this tag?

A. No, sir.

Q. Any of the goods?

A. No. It was all written on the top of the package, on the paper.

Q. Did the other State trooper look at the goods that you had on the truck when they stopped you?

30 A. No.

Q. When they stopped you, was there anything over these goods?

A. No.

Q. Were these goods open so they could be seen or under cover, were they covered up?

A. No.

Q. Did you have a cover over the top?

A. Yes.

Q. Now, what time was it when they stopped you?

A. Well, I don't know just exactly, it was close to twelve o'clock; between eleven and twelve; I won't say sure about it; I did not have any watch with me.

The Court—In the morning?

The Witness—A. Yes, sir.

Q. Did they tell you to go on?

A. Yes, sir.

Q. And you went on?

A. Yes, sir.

Q. And where did you go?

10

A. To Philadelphia.

Q. What time did you get to Philadelphia?

A. I think it was close to three o'clock.

Q. Did this man that was with you go all the way to Philadelphia with you?

A. No.

Q. Before you went to get these goods in New Brunswick, did you know or did you hear of any robbery?

A. No.

Q. Did you hear or did you know that a red truck, a Packard had been held up?

A. No, sir.

Q. When you arrived in Philadelphia, what did you do with these goods?

A. I backed right long side of the curb sideways, that's the rule in Philadelphia and unloaded right there.

Q. When you unloaded, did you see eighty-three rolls of plush?

A. No, sir.

Q. Did you have three cases?

30

A. No, sir.

Q. Did you stop anywhere after you were stopped by Corporal Dunn and before you got to Philadelphia?

A. No.

Q. Did you keep those goods that you transported from New Brunswick to Philadelphia yourself?

A. No.

Q. Before yesterday, had you ever seen these goods?

A. No, sir, I swear the word, I never saw them.

Q. This or that (indicating)?

A. No indeed, I didn't see any such thing.

Q. See that before?

A. No, sir.

Mr. Beekman—I suppose you mean goods like that?

Mr. Rimo—Yes.

Mr. Beekman—He never saw this before.

Q. After you unloaded in Philadelphia, where did
10 you go?

A. Home.

Q. What time did you arrive at your home?

A. I judge it was a little after four.

Q. Did anything happen to you that day?

A. Yes, sir.

Q. What?

A. That man over there, he came over to the house.

Q. Meaning Mr. Crawford?

A. Yes.

20 Q. And was he alone?

A. No.

Q. Who was with him?

A. Was the Chief of Police of Riverside and another man with him, I don't know who it was, but if I see his face, I know him.

Q. And what did they say to you; did Mr. Crawford say anything to you?

30 A. That other man comes first and knocked at my door and I came out and that man said, "Mike Chiaccio in?" I said, "that's me." He says, "here's a man here wants to do some hauling" and I said, "sure, all right." And he was coming over nearer; he was from here to me and as he got there he says "where's your gun." I says, "I don't carry anything like that." "You don't have anything like that?" I says, "I will allow you to go up and search through my house. I don't carry anything like that. Why?" And he says "you carry it on your truck." I says to myself, "what happened?" He says, "you are lying." I got a check where I pay a man

in the City Hall, Mr. Watson, I don't know where he's at—he says "where's your truck." We went to the yard and I show him my truck. "Where is my goods," he says.

Q. Who said that?

A. He did. Just like that; where's my goods, he says? What goods, I says. I kind of got mixed up. I says, what do you mean. Then the chief of police was right there from Riverside and he says, Mike, tell us that. We go up to my house and we talk this matter 10
over. He says the people around here see you and see me and he says we will go up to the house and will talk it over. I says, all right and I tell the wife, and she gets the check and the check was paid for this here trip we got from Philadelphia and I get the envelope. I took it with me and instead of going to the chief's house, he took me to the City Hall. I went over there and sat down and I asked what was on and he would not tell me.

Q. Who would not tell you?

20

A. Mr. Crawford.

Q. Mr. Crawford?

A. So I turned around and kind of suspicious says, what's going on here. I did not do anything. And he started calling the other city, towards Atlantic City, where the State trooper is; of course, I did not know what he was doing, but calling on the telephone and then they put me in an old Ford along side of him with another fellow and State trooper follows up. And he came right over straight to Trenton to headquarters to 30
the State police.

Q. When you got to the headquarters did you see Mr. Atkinson?

A. He came a little late.

Q. Did you see Corporal Dunn there?

A. He came a little late.

Q. Who took you to headquarters, Mr. Crawford?

A. Mr. Crawford, yes, sir.

Q. Is he the one who told you to go?

A. Yes, sir, and a State trooper was with him.

Q. Was any others on the car?

A. A fellow on the automobile.

Q. What did he say to you when he was taking you to State headquarters, over near Trenton?

A. He asked me what did I do with that goods, and he says if I would tell him the truth he would give me a nice little piece of money and he says if you feel a little cold, have a little Scotch whiskey. Well, I told
10 him I can't tell you any more truth than I know about it. If I tell you something else, that's a lie.

Q. Now, before you left Riverside and after he had talked to you, did you tell him where you brought the goods?

A. Yes, sir.

Q. Where did you say you brought the goods?

A. Philadelphia.

Q. Did you refuse to answer any of his questions that he was asking of you when he was talking to you
20 in Riverside?

A. No, I refused none of him; if I refused, I would not go with him.

Q. Did he ask you if you were stopped by a State trooper in Kingston before you left Riverside?

A. Yes, sir.

Q. What did you tell him?

A. I says, yes.

Q. What else did you tell him?

A. I told him just how the thing happened.

30 Q. What, if anything, did you say to Mr. Crawford about the billhead which you had given Corporal Dunn?

Mr. Beekman—Object to leading the witness and asking him what he told him.

Mr. Rimo—That's not leading.

Mr. Beekman—Oh, yes, you are. You are telling him all about the billhead before you got to it.

The Court—Answer the question.

Q. What, if anything, did you tell Mr. Crawford about the billhead before you left Riverside?

A. I told him, oh, yes; there's my billhead; I told Mr. Crawford that I gave a billhead to Mr. Corporal.

Q. Mr. Dunn?

A. Mr. Dunn.

Q. Now, when you were taken to the State headquarters, near Trenton, did they keep you?

A. No.

Q. Where were you taken next?

10

A. To Trenton.

Q. Yes?

A. We was going toward Trenton and while we was going one of the men had a flat tire and stopped. We all stopped and they followed us, driving our machine. He was an ordinary man, he was not a copper. And they told him to change the tire and all at once Corporal Dunn came along hollerin' ng, likethat, along shrdlupupu me and I had a cigar in my hand they gave to me and while I had that cigar, bang, bang, over here. My God, I cried, you know. Shut up, he says, shut up, calling me all kinds of names there is in this world, and he was along side of me hollerin', you son of a gun I am going to bust every tooth in your mouth the same as he done some other in Philadelphia. And he says, shut up, he says, like that. All right, then we went on to some place and after that I could not see right any more because over here in each eye I could not see for about three weeks after that.

20

Q. Why?

30

A. All right, it hurt me every time I did. And once I had to yell, like that, and he hit me another one on the side.

Q. Who hit you?

A. He did then. But the one that hit me over here was Corporal Dunn.

Q. Where was it he hit you?

A. Over here, past my lips.

Q. Did you bleed?

A. Yes, sir.

Q. How were you dressed that day?

A. I had a shirt with a stripe, kind of red, pink, something like that and white and another color; I just exactly forget.

Q. Now, do you know where you were when they struck you; what place you were in?

A. Yes, sir.

Q. Where was it?

10 A. It's before you get into Trenton; there's a bridge there; marble like outside there; pretty place; but I could not see any more and after they struck me I could not see any more until, until the next day, three o'clock.

Q. Well, where did you go from there?

A. I went to some justice of the peace and they claim they did not find him in there and they took me to another justice of the peace, and as soon as I went in there and he asked me what happened and I could not tell him any more, I said I could not tell him any more; it would be wrong, and he looks at me and they was all
20 around me and as soon as I look around, they all jumped on me and I sat like this (indicating) all the time, they hit me. I did not have no coat and I had a cap for the head and lost the cap; I did not have any cap. When I went out of the house I had a cap and I sat like that, like this, and the justice of the peace, he says, stand up. I stand up crying and he hollered, you son of a gun; called me all kinds of names.

Q. Now, after you got in the justice of the peace's office, do you know what time it was when you got
30 there?

A. Yes.

Q. What time was it, about?

A. Well, we start—we went to the squire's and stayed about five minutes and they went to a restaurant to eat and stayed about a quarter of an hour and I judge it was somewheres around eight o'clock; eight o'clock when they took me up to the justice of the peace and made the warrant. And came out of there took

me all the way around where this here truck be and in the meantime they says, well, see over there, that's where we're going to kill you, right in there.

Q. Who said that?

A. Mr. Crawford. I says, you might as well finish me up, you half killed me, he shot me and finish it. I can't stand any more that you done to me.

Q. Now, at that time did anybody in your presence when you were out where the truck was, did they meet anybody to talk to? 10

A. No, not while they took me out.

Q. Didn't?

A. No.

Q. After they got you out where the truck was, where did they take you?

A. They took me up and went to a garage where they lived, the way I understand, where they sleep, and they stopped there and got some gas and drove up to New Brunswick and drove me all the way around New Brunswick and in the meantime they was hitting me. 20

Q. Now, when they got you in New Brunswick, did you pick out a place or tell them where you got the goods?

A. I was trying to find that out but it was so much alike, I didn't know where I was at and I says if you will take me to-morrow to give you better information, why I got off the regular New York road—you get me this way and I don't know where I am.

Q. Were you brought to jail that morning or that night? 30

A. Yes.

Q. What jail did you go to?

A. New Brunswick.

Q. Who took you there?

A. It was the fellow there (indicating) and Corporal Dunn and his partner, yes. And before they asked me in jail, he stood along side of me, on this side here and I don't know how, I cannot count, how long, and he hit

me right over here (indicating). My God, I think they half killed me.

Q. Who was that?

A. That man over there (indicating).

Q. When you were brought to jail in New Brunswick, how long did you stay there?

A. That was early in the morning when they brought me there.

Q. About what time?

10 A. It was between, almost, I think, three o'clock in the morning.

Q. In the morning?

A. Yes, sure of it.

Q. And were you taken away from there afterwards?

A. Yes, then another State trooper come in, it was about eight o'clock.

Q. Well, the State trooper who came in about eight or nine o'clock, was he one of the ones that was with Corporal Dunn the night before?

20 A. Yes.

Q. Was he one of them?

A. Yes.

Q. One in the crowd which was made up between Mr. Crawford, Corporal Dunn, yourself and this other State trooper?

A. Yes.

Q. And he is the very one who came to get you in New Brunswick?

A. Yes.

30 Q. And brought you where?

A. Brought me to the other place, the house where they lived or the garage, I could not say.

Q. From there where did they take you?

A. From there, I was feeling blood, my hands all the way there, he tells me, you want to take a wash and I said sure.

Q. Who said that?

A. This here State trooper. I went upstairs to the bathroom and washed myself all I could see; and did

not have—there was no soap; I could not wash very nice and after I got through washing he says, do you want to eat something; I says, if you will give it to me, I didn't have anything to eat ever since your people got me. He says, all right, we have sandwiches and when he says that, he was a pretty nice fellow and Corporal Dunn, he asked Corporal Dunn and they had sandwich and he says, he can't stand yet, so the fellow backed up again in the automobile and started and brought me around to some place where the truck was they had been taking me 10 the night before and he went all over a dirt road around there, they show me where I was and where I wasn't and all that stuff.

Q. Did you see a truck?

A. Yes.

Q. What kind of a truck was it?

A. I did not get out, I only was in the back seat because there was a fellow right there. When we got there, he says, you see that truck? I says, yes. And he says, that's the truck you took the stuff. I says, you 20 got the wrong fellow, it ain't me and then we stand around there and in the meantime; every farm that was around that place they went and asked if they had seen me; none of them.

Q. Who asked?

A. Corporal Dunn. He asked every farm around there, that place, if they had seen me. None of them could say yes because it was not true they saw me and he asked if they say an Autocar and they all say no.

Q. Now, were you then taken here to the Somerset 30 County jail?

A. Well, then they take me back to the place there again, to the house—

Q. Headquarters?

A. Where they are located. And Corporal Dunn, he ordered that other State trooper; he just got up; he just had got up because he was with me all night—

Q. What did he do?

A. He got me in, put me in the car, I sat in there with him and brought me to the Somerset, Somerville, here; and while we were driving, I says, Chief, I says, will you kind of have a heart for my children. I am still hurting for all they done to me. Give me chance to have a sandwich, please, you look to me the best one in the bunch. The officer, he did take me to a restaurant over here. I thought he was going to buy that for me, but he took me right in.

10 Q. Over where?

A. The restaurant right over here across the street.

Q. Across from this courthouse?

A. Yes, across the street from this courthouse, and I think I had a sandwich, two sandwich here and I was hungry yet and he paid for both and we finished, but I did not have coffee and I asked for a piece of pie and for a cup of coffee and he paid for that too. I says, God bless you, there was no other man better than you.

20 Q. Now, the morning when you left Riverside to go to New Brunswick, did you have any blood on your shirt?

A. No, indeed; I did not have no blood like that.

Q. Did you have any blood on your shirt when Mr. Crawford came to see you in the afternoon?

A. No one in Riverside saw me with any blood.

Q. Who did you see in the restaurant across from the courthouse here?

A. The man who waited on me.

30 Q. What time was it that you came to the restaurant here?

A. Well, I judge it was around two o'clock.

Q. In the afternoon?

A. In the afternoon, yes.

Q. When you arrived in Philadelphia and unloaded your goods, did you see anyone you knew? Did you see anybody you knew there?

A. Yes.

Q. Who did you see?

A. I saw Mr. Galman and Louis Goldstadt.

Q. Those two men that were here to-day?

A. Yes.

Q. Talk with them?

A. Yes, sir.

Q. What was the conversation between you and those two men?

A. Yes, sir; they had some merchandise to deliver and they asked me, they stopped there, I should attend to it the next day. 10

Q. And did you?

A. Yes, sir; I told my man so.

Q. You told your man to do it?

A. Yes, sir.

Q. How many trucks have you got?

A. I got three.

Mr. Rimo—I think that is all.

Cross-examination, by Mr. Beekman.

Q. The truck that you had on Thursday, August 20 20
28th, has got two licenses?

A. Yes, sir.

Q. Pennsylvania and New Jersey. Have you ever driven your truck over the road from Philadelphia or your place to Trenton before?

A. Trenton, yes, sir.

Q. Have you ever been to New Brunswick before over the Lincoln Highway?

A. Yes, sir.

Q. You knew the road to New Brunswick then, did 30
you?

A. I only know one road from my place right straight, Bordentown—

Q. I am speaking more particularly of the road between Trenton and New Brunswick; do you know that road?

A. Yes, sir.

Q. The very same road that you traveled that day. You know that road and know—

A. When I went in, yes.

Q. Now, you say about seven o'clock in the morning a man you had never seen before came to your place?

A. Yes.

Q. What did he look like?

A. I know the face— if I seen him here he looks the same, little bit like me, only shorter than I am. I could not say exactly.

Q. And is that the best description you can give us
10 of him?

A. Yes.

Q. What did he tell you or say to you?

A. He told me, he says, he had a truck broke down on the New York road and he wanted to get it in the city of Philadelphia.

Q. Did he tell you where?

A. Yes, sir.

Q. Where did he tell you?

A. He said the New York road, the other side of
20 New Brunswick; on top of the hill; I don't know—

Q. The other side of New Brunswick, on top of the hill?

A. In New Brunswick, on that road—

Q. I a masking you what he told you. You had to remember what he told you?

A. That's what I remember, I tell you.

Q. Was it in New Brunswick or on top of the hill?

A. He did not say about the top of the hill; he says
30 on the road that goes in New Brunswick; you pass through New Brunswick to the New York road.

Q. Did he tell you where his truck was that was broke down?

A. Yes.

Q. What did he tell you?

A. He told me on that road.

Q. Is that all he told you?

A. Yes.

Q. You did not know how far that was?

A. Yes.

Q. How?

A. Far from where?

Q. Where you went. You were going to furnish him a truck and go there and get the stuff; did you know how far it was?

A. Yes.

Q. How far was it?

A. I could not judge exactly; I got it that it was somewhere around forty miles.

Q. What gave you that idea; was that you have 10
been to New Brunswick before?

A. Not New York road of New Brunswick.

Q. You have been there before; down there to him before?

A. No, sir.

Q. Got some goods there?

A. No, sir.

Q. Was you on the Lincoln Highway, near New Brunswick, on August 22d?

A. No, sir. 20

Q. Or no other point, eh?

A. No, sir.

Q. Well, what day of the week before were you there?

A. I could not give you record; but I was hauling; but I was hauling fruit for Beverly—

Q. Now, where did you haul fruit from?

A. Beverly, New Jersey.

Q. To where?

A. New York. 30

Q. How many loads did you haul?

A. Well, the last was—three—I could not say just exactly; I know I had somewhere around four or five loads of peaches.

Q. Went right over this road then that went through New Brunswick?

A. I tell you I know the road that goes through New Brunswick.

- Q. Now, you listen and don't talk so much until you understand the question. I say, when you went to take these four or five loads of peaches to New York, you traveled over the same road, the Lincoln Highway, that you traveled over on Thursday, August 28th, didn't you?
- A. No.
- Q. What way did you go?
- A. Through Yardville.
- Q. Then that goes around by Hightstown?
- 10 A. Yes.
- Q. Well, now, I ask you again, have you ever been on this road before?
- A. What road?
- Q. The Lincoln Highway between New Brunswick and Kingston?
- A. No, sir.
- Q. Had never been on that road before?
- A. No, sir.
- Q. Well, did he come over to New Brunswick with
- 20 you?
- A. No, sir.
- Q. Came alone?
- A. Yes, sir.
- Q. And how did you know where to find the truck that you were going to unload?
- A. He told me that it was on the right of the road that goes to New York.
- Q. I know, but you said a little while ago he told you it was New Brunswick, which is quite a big city. How
- 30 did you know where to go to find the truck if he did not come along with you or somebody to show you?
- A. He says I will see the load on the road, highway that goes to New York.
- Q. That's where you found the truck or the goods there?
- A. I don't know if the truck would be there or if they take it some place and fixed it up or not.
- Q. You didn't know whether the truck would be there or not?

A. No.

Q. Then you started out from Riverside to find that truck when the man that sent you there told you he didn't know whether the truck would be there or not?

A. No, he says, if you don't find the truck, you will find the merchandise right there.

Q. Right where?

A. On the side of the road.

Q. How long was he there at your place?

A. Not more than five minutes.

10

Q. Have you seen him since?

A. No. I was trying to look him, look for him, but I could not see him.

Q. Did he tell you what you were going to do with the goods after you got them?

A. Yes.

Q. What did he tell you?

A. To take them to Philadelphia.

Q. All right, do what with them then?

A. Leave them in Philadelphia.

20

Q. Well, I know, Philadelphia is a city of a million and a half of people and five hundred streets and avenues; were did he tell you to take them in Philadelphia?

A. On Market Street.

Q. What number on Market?

A. On Second.

Q. Well, yes, Second Street, they meet there. Did he pay you before you started?

A. No, not before.

Q. Where were you to get the pay?

30

A. When I bring the goods there.

Q. Who was to pay you; did he tell you who was to pay you?

A. Yes.

Q. Who?

A. Him.

Q. Well, was he there when you got back?

A. Yes.

Q. Then you did see him again?

A. Yes.

Q. Saw him again that day?

A. That day, sure.

Q. Talk with him then?

A. Not very much. As soon as I unloaded he paid me and I went back.

Q. What kind of a truck was this you put your stuff in that you brought over?

A. My truck.

10 Q. No, the truck that you unloaded and found on Market Street at the corner of Second and Third or wherever it was and changed your cargo from your truck to that truck; what kind of a truck was that?

Mr. Rimo—Pierce Arrow?

Q. You are in the trucking business?

A. Yes.

Q. Have been so for ten years?

A. Yes.

20 Q. And you know a Pierce Arrow truck when you see one; is this a Pierce Arrow or isn't it?

A. The same as Mr. Rimo says.

Q. Who was in charge of that truck?

A. I didn't notice, I saw the driver there, but I did not notice.

Q. Did you talk to him?

A. No.

Q. Did you ask him what his name was and where he came from or who he was working for?

A. No.

30 Q. Did you ask him where he was going to take these goods?

A. No.

Q. Didn't you have any curiosity about that?

A. No.

Q. You did not care anything about what he was going to do with them?

A. Not I care, why should I care.

Q. And you did not care enough to ask him?

A. No, it was not necessary.

Q. Then you met a man at your place at seven o'clock in the morning, around about there and made an arrangement to take your truck over to New Jersey and get a truck load of goods, as I understand it; and went over there and got the truck load of goods off of another truck; unloaded it yourself, did you?

A. No, sir.

Q. Who did you have with you?

A. There was a couple of men there I don't know if they helped him, they was around the place there. 10

Q. Helped you out?

A. Loaded the stuff on.

Q. Over in New Brunswick?

A. That's what I am talking about.

Q. He told you that you would have a couple of men there?

A. No.

Q. You just found these men there and they helped you unload?

A. They was around the place there. 20

Q. You did not find out what their names were there, did you?

A. No.

Q. And then you started back for Philadelphia?

A. Yes, sir.

Q. What time did you leave home that morning?

A. Why, I judge about quarter after seven, a little after seven.

Q. What time did you get to New Brunswick?

A. Well, I judge it was somewheres around quarter 30 after nine, half past nine, something like that.

Q. Took you about two hours to drive it?

A. Yes; I won't say exactly.

Q. And then there was another man came along and wanted to ride with you?

A. Not right there.

Q. Well, where?

A. Right in New Brunswick.

Q. Did you find out what his name was?

A. No, I carry a dozen people sometimes, I help them out—

Q. I did not ask you how many you carried, you could carry a hundred for all I care. But you did not find out what his name was?

A. No.

Q. Well, there's one—there's four men that you met and never met before, any of them, did you?

A. No, sir.

10 Q. And you didn't find out what any of their names were?

A. No.

Q. Didn't even ask them, I suppose?

A. No, sir.

Q. Didn't care?

A. No, I didn't have anything to ask them about.

Q. Well, now, what time did you get down where this road was that Corporal Dunn saw you coming out of?

20 A. I judge it was somewheres around close to twelve o'clock.

Q. And you came out of that road at twelve o'clock?

A. Not twelve o'clock; close to twelve o'clock, maybe eleven, half past eleven o'clock.

Q. Well, it was not later than twelve o'clock, was it?

A. No, not later than twelve.

Q. How long did they stop you?

A. Oh, about two or three minutes, five minutes.

Q. And then let you go?

30 A. Well, they asked me—

Q. You have told about what happened between you and them. Where did you go then?

A. Straight to Philadelphia.

Q. And it took you to three o'clock to get there?

A. Yes.

Q. Took you two hours to come from Riverside to New Brunswick and took you three hours to go from this road that you came out of to Philadelphia?

A. Yes, sir.

Q. Did this fellow ride up this lane with you?

A. No, sir.

Q. I am talking about the fellow you gave a ride on the truck.

A. Yes, that's what I am talking about too.

Q. I am glad you understand me. How far did you go up there?

A. Up where?

Q. Up this lane, you got off the road, you told the Corporal?

10

A. Yes.

Q. You had just been over this road right in the day time going to New Brunswick?

A. Yes.

Q. And yet when you were going back from New Brunswick, you went off the concrete road up the dirt road and got off the right road before noon by mistake?

A. Yes; I don't know what kind of a road it was. I know I got off the road.

Q. Well, nobody had beaten you up so you could not see it that time, had they?

20

A. No.

Q. You know what kind of a road the Lincoln Highway is between New Brunswick and Kingston; you know it is a concrete road, isn't it?

A. No.

Q. About twenty feet wide?

A. I could not tell you, I don't know.

Q. Well, you drove over it twice and you were up there next night again with the trooper?

30

A. Yes, but I could not see very well.

Q. But you could see in the day time, there was nothing the matter with your eyesight Thursday forenoon?

A. After they took me in the day time?

Q. Well, if you came out this lane at eleven o'clock, what time did you go in it; this dirt road?

A. I don't know what—

Q. How long were you in there?

A. Did not take very long.

Q. You got up far enough to see the red truck, didn't you?

A. No, sir.

Q. Did you ever see a red truck up there?

A. No, sir, I saw that one up there, but I did not say it was red.

Q. You were seeing red from blood, I suppose, that night. You was all blood then?

10 A. That night when they brought me over I was not worth two pennies.

Q. Now, the truck was not there at all, that was it?

A. No, it was there that night.

Q. It had been taken away before?

A. I don't know about that.

Q. When you saw it it was in the morning between eleven and twelve o'clock?

A. Yes.

Q. And you saw a red truck up there?

20 A. No, I did not see it good because I was all blood and could not see anything.

Q. Now, you were not all blood when you went to work for this man you didn't know and went to New Brunswick, you went there all alone, didn't you?

A. Where?

Q. Thursday, up in this road where the trooper found you coming out of eleven or twelve o'clock?

A. No, sir.

Q. Who was with you?

30 A. When?

Q. Thursday morning.

A. You mean when they took me over there, it was Corporal Dunn.

Q. You know I don't mean that. You know I am talking about the morning you went to New Brunswick as you say and got a truck load of goods for a man you had never known before and you say you came back over the same road and got off that road and got up a side road and when you came out of that side road, that's

when you saw Corporal Dunn. Now, what time did you come out of that side road?

A. When I came back from New Brunswick I judge it was ten-thirty or eleven, they took me on the other side—

Q. I asked you before; maybe you did not understand me. You had this man with you that you had encountered on the road from New Brunswick?

A. Yes.

Q. Did he go up this lane with you?

10

A. Yes.

Q. He was up there all the time you were up there?

A. No.

Q. What became of him?

A. When he got into the place he got off.

Q. How far did you take him?

A. Yardville.

Q. Oh, well, that was after you came out of the lane?

A. Yes.

20

Q. Then he rode up the lane with you and back, didn't he? What did he do?

A. I tell you I picked him up in New Brunswick.

Q. I know you picked him up in New Brunswick and you say he went up the lane with you?

A. No, I was going home then.

Q. Well, you did not go up the lane when you were going home. What became of him when you took him up the lane?

A. I didn't take him up the lane.

30

Q. You didn't? Now, if you don't understand me, I will try and make you understand. You have already testified after you left New Brunswick and started home and came down over the same road you took to New Brunswick in the morning—

A. No, I tell you I got lost right in New Brunswick and was off the road.

Q. I am talking about this road Corporal Dunn saw you coming out of. Was this man on the truck with you when you went up that road?

A. When it was coming this way, yes.

Q. Now, I ask you what became of him?

A. He went to Yardville and got off.

Q. Well, you did not get to Yardville yet. You went up this lane and you had to come out the lane?

A. But he was not with me then.

Q. What became of him between the time you went up that lane with him on the truck and the time you got to Yardville?

10 A. When we got to Yardville he went off.

Q. I know, but you had been up the lane and out by that time?

A. I don't quite understand you.

Q. I think you do?

A. All right.

Q. I think you do. He went up this lane with you to help you unload the truck?

A. Oh, no, no, sir.

Q. Well, you don't know what his name is anyhow?

20 A. I swear the word I don't.

Q. Then you got over the Philadelphia ferry and went on to Market, to the corner of Second Street or some other street and Market?

A. Second and Market.

Q. And there you met two more men there, did you?

A. I didn't meet anybody.

Q. Well, the fellow in charge of the truck?

A. Yes, the driver.

Q. This Pierce truck?

30 A. Yes.

Q. And you don't know what became of them or what their names are?

A. No.

Q. And don't know where they are or what become of them?

A. No. If I know where they are I would have brought them up here.

Q. Well, I don't think you would.

Mr. Rimo—Object to the remarks on the part of the prosecutor.

Mr. Beekman—Then instruct your witness not to make remarks to me.

Q. How much did you get paid for this job?

A. Thirty dollars.

Q. Didn't you tell the justice of the peace in Kingston that you got ten dollars?

A. No, sir, I did tell them and I could not realize what I was saying there or what I was doing on account of the beating. 10

Q. You did not realize what you were saying, ten dollars or thirty, because this man who was walking on crutches and could not get out the car had struck you and you didn't know?

A. That man was strong enough for that.

Q. Well, was there anything the matter with you? You were not handcuffed, your hands were not tied?

A. But he was strong as anybody.

Q. You told these people you would go and try and find these goods, that you know? 20

A. Yes.

Q. You did not have to have any argument about it. When you got to Trenton they asked you to come in and eat and you would not go?

A. They did not ask me to eat. They would not allow me in the place.

Q. You told the justice of the peace that you went to New Brunswick by way of Hightstown?

A. Yes, sir. 30

Q. Is that right or what you told us here to-day?

A. Yes.

Q. That you went by the way of Kingston?

A. Yes, I was—

Q. Well, you have said here as near as I can understand you that on Thursday, August 28th, you went by way of Kingston over to New Brunswick?

A. That road Kingston is the other road; to tell the truth, I don't know the name of it.

Q. Well, did you go the same road you went back?

A. No.

Q. You came over by Hightstown and went back Kingston way?

A. I got lost and had to get to Kingston way. The people was telling me when I got lost the road, to find the concrete road and he says as soon as you see that road you take that road into Philadelphia, it takes you right into Philadelphia; that's the reason I got over
10 that way.

Q. Didn't you tell the justice of the peace at Kingston when you were having the hearing before him on the night of August 28th that when you got to New Brunswick you was standing there with the truck and another man told you to come back along the Lincoln Highway where I would get my load?

A. I went back and my truck was loaded from another truck. That was Friday morning that was loaded.

Q. Did you tell him that?

20 A. If I did I don't know what I was talking about from the beating.

Q. I did not ask you whether you knew what you were talking about?

A. I tell you I don't remember if I did or not.

Q. Did he ask you this question? "Did you help load the truck?" and didn't you answer, "No, I stayed on my truck"?

A. Then didn't—

Q. Will you please answer that question?

30 A. Yes, I say I could not tell from the top to bottom at that time.

Q. Your answer then is that you do not know what you said to the justice?

A. Certainly, there was a dozen people asking me questions all in a minute and I did not know what to answer.

Q. I know, but all you had to answer was the justice, if there were five hundred asking you?

A. Yes, sure.

Q. You did not have to give a different story to each one. I ask you if the justice of the peace didn't ask you whether you helped to load the truck and did you not answer that you stayed on the truck?

A. Is that all wrote down, I must have said so, but I don't remember—

Q. Well, is that so or isn't it?

A. They made me say one thing or another.

Q. Who were the men that loaded your truck? 10

A. I don't know.

Q. Did you say that?

A. All what I say there; I tell you, I could not remember a thing.

Q. After leaving their truck I came out to the Lincoln Highway and was stopped by two New Jersey State Police who examined my load and took my name and license number and let me go. Did that occur before the justice; he asked you that?

A. I guess he did, because I don't know no more. 20

Q. Did not the justice say to you, where did you take the velour cloth? Do you remember his asking you that?

A. Well, I am telling you, he might ask me—

The Court—Do you remember; yes or no.

Don't go over that same story a dozen times.

Yes or no; do you remember?

The Witness—Yes.

Q. He did ask you?

A. Yes. 30

Q. And did you not tell him that you took it to 215 Market Street, Philadelphia?

A. Yes.

Q. You told him that. Where they unloaded the truck and put it on another truck, and that you arrived home to Riverside about four o'clock in the afternoon?

A. Yes.

Q. Did you tell him that?

A. Yes, I guess so.

Q. Then he asked you another question, did he not; who unloaded the truck and you said, I did not see them?

A. Yes.

Q. All right, now, if there was no velour cloth in this truck that you took back to Philadelphia, why did you tell the justice of the peace you took velour cloth to 215 Market Street? You have testified to a question of your attorney that there was no velour cloth such as I
10 exhibited to you on your truck. That you did not have any cargo of velour cloth. I ask you, why, if that is so, when the justice of the peace asked you what you did with velour cloth, that you told him that you took it to 215 Market Street, Philadelphia?

A. I told him I took the load there, but I did not tell him it was velour cloth.

Q. Then you did not tell him it was velour?

A. I did not tell him it was velour.

Q. Well, he asked you what you did with the velour
20 cloth?

A. Yes.

Q. Why didn't you tell him you did not have any?

A. I said I had no velour cloth.

Q. You did say so?

A. No, I said it wasn't velour cloth.

Q. Now, who struck you first on that night? You
claim you have been abused; who struck you first?

A. Corporal Dunn.

Q. And where was that?

A. At that bridge built all like marble outside, before
30 you get right in Trenton.

Q. This was at night?

A. Yes, he was striking a good deal.

Q. Do you know the road well enough between Trenton and Kingston or Yardville and Trenton to know where the bridges are?

A. No.

Q. Well, now, tell me what bridge it was that you were at or near when Corporal Dunn struck you?

A. I know it was a bridge like marble outside. If I could see, I could tell.

Q. Marble?

A. Yes, marble.

Q. A marble bridge?

A. Marble, the stone very pretty, I would not say, I did not have chance anymore after they struck me.

Q. Maybe you think concrete is marble?

A. No, I know concrete.

Q. You do? Now, where is there a marble bridge 10
anywhere along the road into Trenton where Corporal
Dunn hit you?

A. I say it was marble, big nice stone, a pretty bridge
like.

Q. You can't tell where it is?

A. If I see it, if they take me around that way I
could tell for you, yes.

Q. Well, you objected to going around with them,
you don't expect them to take you to see it?

A. If he takes me out.

20

Q. Who do you mean?

A. Anyone of them.

Q. You say you was not wounded because of the
fact that Corporal Dunn struck you?

A. No, sir.

Q. Let's get down to this place you got that blood
all over you; how many times did Corporal hit you?

A. Once.

Q. Where?

A. Over here (indicating).

30

Q. Where was the man with the crutches all that
time?

A. Alongside of me.

Q. What did he hit you for?

A. He hit me, he says I was not telling the truth.

Q. Walked right up to you and hit you out of the
whole cloth?

A. He did not walk right up, I was sitting in the
automobile like this. He had a cigar, he gave it to me.

Q. I understood you to say a little while ago you wanted cigars and something to eat?

A. No, I did not ask for any smoke at all.

Q. Well, all right; you had a cigar in your mouth this man had given you; I understand you to say he just stepped out and struck you without any warning, in the mouth?

A. I was like this (indicating) and Corporal Dunn came bang for me and I heard another in back, I didn't
10 know he hit me.

Q. What seat were you sitting in?

A. The back of the Ford.

Q. Somebody hit you right in the back of the head?

A. Yes, and then after he stopped a little then this here Corporal over here hit me right over here with a blackjack (indicating). Told me to shut up.

Q. Told you to shut up?

A. Yes, I hollered.

Q. How many times did he hit you?

A. Only I see when he hit me with the blackjack
20 over here. Corporal Dunn, he hit me over here. That's one. Now this man hit me with the blackjack, that's twice and this one here finished right the last minute, he laid me in. Once in a while he woke me up.

Q. Well, you were telling how he banged you in the lips?

A. Yes, at last, and made me cry.

Q. What did he hit you with, his crutch or something?

A. He was hitting me right along with his fist and
30 after when I started to get out the car, he got me crazy.

Q. Did he stand up when he hit you?

A. No, with his arm like this, he reached by me.

Q. How many times did he hit you altogether?

A. I could not count how many times he hit me.

Q. Well, there were several times they hit you when you were driving along this road; they beat you up there pretty bad?

A. They beat me up when I breathe, and I—

Q. I am asking you when they took you up this road, when you were riding along this lane; you got beat up there, I understand you?

A. Yes.

Q. Who did the beating up there?

A. I didn't hear you.

Q. Did this beating you got affect your hearing?

A. They beat me up until the end they started out, pretty near until three or four o'clock when they landed me in jail and in New Brunswick and after that they 10 did not hit me anymore, from the bridge up until I got in the jail.

Q. They beat you from this time at the bridge at various intervals, all of them taking a crack at you now and then until you landed down in the New Brunswick jail?

A. I would not swear to that. This man and the trooper. He says I will knock your teeth out like I did before in Philadelphia.

Q. Who said that?

20

A. Both, he going to knock me out.

Q. Did he knock any of your teeth out?

A. Pretty near.

Q. Which ones?

A. He did not knock any teeth but I was bruised all over. I suppose if he did not have a leg broke, he would have killed me.

Q. Well, you wanted to stay in New Brunswick, didn't you?

A. No.

30

Q. Didn't you state on direct examination that you told Corporal Dunn if he took you around there the next morning you would try to find this place where you found this truck?

A. Yes, before they started hitting me.

Q. Well, I don't care when it was; so how were you going to do that unless you stayed in New Brunswick all night? You asked to stay there, didn't you, so they

could take you around the next morning, remember that?

A. I don't remember.

Q. You remember this; they did take you around the next morning?

A. They took me around, yes.

Q. To find out where this truck was?

A. No.

Q. Didn't you say so to us first?

10 A. Well, there was another man took me out of there.

Q. I don't care if there was another man took you out, he did not take you out of New Brunswick. Who were you going around New Brunswick with the next morning?

A. He didn't take me around New Brunswick. He took me out of jail and took me up to headquarters.

Q. Didn't you just swear while your own counsel was asking you, that Corporal Dunn took you around New Brunswick the next morning?

20 A. No, sir.

Q. You didn't, eh?

A. No.

Q. You say the Justice of the Peace abused you too?

A. No, not like the Corporal, he said, stand up.

Q. I mean, he was cross to you?

A. Yes.

Q. And called you all kinds of names?

A. I would not swear to that.

Q. Well you did?

30 A. He didn't but he talked in the language he was not suppose to talke to me.

Q. You did swear that everybody called you all the names they could think of, all the names there was?

A. I would not swear to all of them. I say he was the chief.

Q. Do you know Guiseppi Verdi?

A. No.

Q. Well, maybe you call him George. You call him George, don't you? Don't you know a fellow by the name of George?

A. No, sir.

Q. Don't make such a face about it. It ain't such a bad name. Do you know a fellow by the name of DeMarto?

A. No.

Q. Alfred DeMarto?

A. No, sir.

Q. Who is the fellow that owns the big blue Haynes car that comes to your house?

A. Own what?

10

Q. Do you hear me? I say, who is the chap that comes to your house in a big blue Haynes car?

A. I don't see any man that comes to my house in a blue car.

Q. You know what a Haynes car is, don't you?

A. Well, I say I don't know of any automobile that comes to my house, a Haynes car, any blue or anything like that.

Q. Don't know anything about that?

A. No, sir. I prove it any time with the people where I live. If you can prove it is well—

Q. Never mind what the people can prove. Do you know a fellow by the name of Gilwortz?

A. No, sir.

Q. Do you know a fellow by the name of Silver?

A. No, sir.

Q. Did you ever haul—you have been hauling goods, all kinds of goods?

A. Yes.

Q. I understood you to tell your counsel that you handle every kind of goods?

30

A. Regular merchandise, everything, yes.

Q. Did you ever haul any for the American Novelty Company?

A. Never heard of such a firm by that name, no, sir.

Q. Now, instead of going up where you said you went in Market Street, didn't you take the truck that you came over to New Jersey in on August 28th and go up this road that you came out of when Corporal

Dunn stopped you and take a load of goods from the red truck up there and drive back to Philadelphia and deliver those goods to 54 North Third Street, Philadelphia?

A. (No response.)

Q. You can, yes?

A. No.

Q. Do you know where 54 North Third Street is?

A. Yes.

10 Q. Who does business there?

A. I don't know.

Q. Oh, you know about it, there is a place called 54 North Third Street?

A. Well, there is numbers right along there, starts at one on one side and two on the other side.

Q. Certainly, yes, there's all kinds of numbers, up to 1000 and so on, and didn't you take the goods you took off of this red truck—

A. No.

20 Q. And put them up on the second floor of 54 North Third Street?

A. No, sir.

Q. Or have it done; I don't care whether you did it?

A. (No response.)

Mr. Beekman—That is all.

(Witness excused.)

Margaret Chiacchio, sworn on behalf of the defendant, testifies as follows:

30 Direct examination, by Mr. Rimo.

Q. Mrs. Chiacchio, you are the wife of the defendant, Mr. Chiacchio?

A. Yes, sir.

Q. You live in Riverside?

A. Yes, sir.

Q. How long have you lived there?

A. Fourteen years.

Q. How many children have you got?

A. I had seven, I got six.

Q. Living with you and your husband?

A. Yes.

Q. What business is he in?

A. Express business.

Q. And he has been in the business as an expressman for how long?

A. Between eight and ten years.

Q. On the morning of the 28th of August, do you remember that morning?

A. Yes, sir.

10

Q. Was he at home?

A. Yes, sir.

Q. Did you notice how he was dressed when he left?

A. Yes.

Q. Do you know when he left?

A. Yes.

Q. What time did he leave?

A. About quarter after seven.

Q. Do you know where he went after he left there?

A. No, sir.

20

Q. Don't know where he went?

A. No, sir.

Q. Did you see him again that day?

A. Yes, sir.

Q. What time did you see him?

A. About half-past four.

Q. Now, when he left that morning, did he go out with his truck?

A. Yes, sir.

Q. Did you notice whether he had any blood stains on his shirt?

30

A. Didn't have any blood stains.

Q. When he came back at four o'clock, did you notice how he was dressed?

A. Yes, sir.

Q. Did he have any blood stains then?

A. No, sir.

Q. When was the next time you saw him after that?

A. I seen him Labor Day, in jail.

Q. Where?

A. Up here in Somerville.

Q. And who was with you that day?

A. My brother-in-laws and friends of ours, which brought me up here.

Q. Did you speak with him in jail?

A. Yes, sir.

Q. Did you notice how he was dressed then?

A. Yes.

10 Q. How was he?

A. Had all blood all over his shirt.

Q. He did?

A. Yes, sir.

Q. And did you notice anything else about him?

A. Yes, sir.

Q. What did you notice?

A. He had a big scar here where they had broke his lip.

20 Q. And did he have the scar there that afternoon at four or half-past four, when he was home?

A. No, sir.

Q. What became of the shirt?

A. I did not see the shirt any more; he sent it home and we sent some clean clothes up here.

Q. Do you remember seeing Mr. Crawford that afternoon?

A. Yes, sir.

Q. Did you mention at any time to Mr. Crawford the names Guiseppi Verdi?

30 A. No, I did not speak to the man.

Q. Never spoke to him at all?

A. No, sir.

Mr. Rimo—That's all.

Cross-examination, by Mr. Beekman.

Q. Didn't you tell him your husband went away that morning seven-fifteen and that a man had telephoned to him that he had a truck stranded and that he wanted to meet him on the Lincoln Highway?

A. No, sir; I did not speak to the man.

Q. You did not speak to this man (indicating)?

A. No, sir.

Q. He had a man with him?

A. Yes, he had another man with him and none of the two spoke to me then.

Q. You did not speak to either one of them?

A. No, sir.

Q. Do you know a man by the name of Verdi?

A. No, sir.

10

Q. Did you have any company the night before?

A. Yes.

Q. Who was it?

A. I don't know his name. He came and asked me about my husband going out that night and I told him no.

Q. What did he look like, kind of stout man?

A. No, tall thin man.

Q. Stout man or tall thin man, which?

A. Tall thin man.

20

Q. Wasn't that Guiseppi Verdi?

A. No, sir.

Q. And you told this gentleman here that it was Guiseppi Verdi that had pulled off the robbery?

A. This man did not have anything to speak with me at all, he did not come to speak to me at all.

Q. I don't care what he came for; I am asking you if you said that to him?

A. No. I did not speak to him at all; he did not see my face to speak to.

30

Q. What did this man have to say, when he came to your place the night before?

A. They come to tell my husband and he came over and talked to me.

Q. Yes, he came to you about your husband going out nights?

A. He asked me if my husband went out nights and I said no.

Q. Had you ever seen him before?

A. Not this one—

Q. I am asking you if you did not have some visitors the night before your husband went out on the trip at seven fifteen?

A. No, there was nobody speaking to me about that.

Q. Now, didn't you have company the night before husband went away?

10 Mr. Rimo—Object to the question. That has been asked and answered and is really not cross-examination at all. I did not ask this witness anything about who was there the night before. I merely asked if this witness, Mr. Crawford, had said certain things to her that day at four o'clock, nothing about the day before.

The Court—Well, it has been answered at least three times anyhow.

Q. Wasn't there a party of people at your house the night before?

20 A. No, sir.

Mr. Beekman—That's all.

(Witness excused.)

Charles Taretanna, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. Mr. Taretanna, where do you live?

A. 23 South Bridge Street.

Q. Where?

30 A. Somerville.

Q. How long have you been in Somerville?

A. Last thirteen years.

Q. Do you remember seeing this man before to-day, any time before to-day?

A. Yes.

Q. Where did you see him?

A. In the restaurant.

Q. What restaurant?

A. In my restaurant.

Q. Where is that?

A. Across the street.

Q. From this courthouse?

A. Yes.

Q. Who was with him?

A. State trooper.

Q. Do you remember Labor Day of this year?

A. Yes, I remember it.

Q. And was it about that time that you saw him?

A. I could not just exactly tell you.

10

Q. Had you ever seen him before the State Trooper brought him in there?

A. No, sir.

Q. When he came in there, did you notice anything about him?

A. Well, I noticed he was kind of little scratched up around his face.

Q. Notice anything else about him?

A. He was kind of smeared up with blood; that's all I noticed; I was kind of little rushed and could not look 20 him over very close.

Q. Did you notice his shirt?

A. Well, yes, a little, he did not have any coat on. That's all I saw.

Q. See his shirt?

A. (No response.)

Q. Did you ever talk to me before?

A. No, sir; I think I seen you once before that.

Q. About this case?

A. (No response.)

30

Q. How much of the shirt did you see?

A. The front, there was a bar and he was eating.

Q. You have a bar there?

A. With stools, yes.

Q. Did you notice any blood on his shirt?

Mr. Beekman—Don't lead him.

A. I did not take particular notice.

Cross-examination, by Mr. Beekman.

Q. I suppose he had a pink shirt on or partly red shirt on?

A. It was a white shirt and partly red all spattered.

Q. Well, the witness has testified that he had a shirt on that it was a pink—

Mr. Rimo—I submit—

Mr. Beekman—Well, we will go to the testimony if it is necessary.

10 The Court—What difference does it make?

Mr. Beekman—If he would be sure there was blood on the shirt then that's the shirt that was partially white and partly pink.

The Court—A white shirt or pink shirt, would that make any difference?

Mr. Beekman—Sure.

Q. Well, was it?

A. No, this was a white shirt all blotted up like.

Q. Blotted up with what?

20 A. It looked to me as if it was blood.

(Witness excused.)

Peter Sylvester, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. Peter, do you know this man?

A. Yes, sir.

Q. Where do you live?

A. Riverside.

30 Q. Did you see him Labor Day this year?

A. I saw him over here in jail.

Q. In Jail?

A. Yes, sir.

Q. When you saw him in jail, did you see anything how he was dressed?

A. Yes, he was got blood on his shirt and got broke at the mouth, that's all, that's all I see.

Cross-examination, by Mr. Beekman.

Q. Right there where you point your finger?

A. Just over here (indicating).

Q. What day of the month was Labor Day?

A. Monday.

Q. Well, what day of the month?

A. The first of September.

Mr. Beekman—All right, that's all.

(Witness excused.)

10

Thomas Chiaccio, sworn on behalf of the defendant, testifies as follows:

Direct examination, by Mr. Rimo.

Q. You know Mr. Chiaccio?

A. He is my brother, sure I know him.

Q. Do you remember Labor Day?

A. Sure.

Q. Where were you Labor Day?

A. I was up here.

Q. Where?

A. In the jail, I saw my brother, he was in jail.

Q. When you saw your brother, how was he dressed?

A. He had a white shirt full of blood.

Q. Did you see anything else?

A. I saw marks over here, lip all broke, shirt full of blood.

Mr. Rimo—That is all.

Mr. Beekman—No cross-examination.

Mr. Rimo—That is our case.

20

IN REBUTTAL.

30

Thomas Potts, sworn on behalf of the State, testifies as follows:

Direct examination, by Mr. Beekman.

Q. You are a Justice of the Peace in the County of Somerset?

A. Yes, sir.

Q. And do you recall the defendant in this case, Michael Chiaccio being brought before you on the night of August 28th?

A. I do, distinctly.

Q. What was his condition physically?

A. Well, I would say his condition physically was he was very nervous and excited.

Q. Did he bear any marks of physical violence at all?

A. Not that I could see.

Q. How long was he in your office?

A. Why, he was there approximately an hour.

10 Q. Did anyone abuse him in there?

A. No.

Q. Did they call him ugly names?

A. No.

Q. Did the trooper beat him?

A. No, sir.

Q. Strike him?

A. No, sir.

Q. Or offer to?

A. No, sir.

20 Q. Did anything at all to intimidate him?

A. No, sir.

Q. Did you?

A. No; I had a talk to Mr. Chiacchio and I told him to tell the truth and it might help him some and that's all.

Q. Did he make a statement?

A. What you have there.

Q. Can you remember it without reference to your notes?

30 A. Well, I can't recall.

Q. When did you make this, these notes?

A. That night at the time.

Q. Well, tell us what you remember?

A. I can't recall.

Mr. Rimo—Just a moment, as I understand, your Honor, this witness is called to be used in rebuttal and I take it that your Honor of course would probably expect this will be strictly adhered to.

Mr. Beekman—I withdraw the question.

Q. When he was before you in your office at Kingston, did you among other things ask him whether he helped load the truck?

A. I did.

Q. What did he say about it?

A. He said he didn't.

Q. Did he tell you while before you how he came to New Brunswick?

A. He said that a man came to him that morning— 10

Mr. Rimo—Object to this line of examination in rebuttal if your Honor please, that he went this way or that way, did he say so and so, that is strictly rebuttal.

Mr. Beekman—I will fix it that way.

Q. Did you find out where he took the velour cloth?

A. I did.

Q. And did he tell you that he took it to 215 Market Street, Philadelphia?

A. He did. 20

Mr. Rimo—No cross-examination.

(Witness excused.)

C. Gilbert Crawford, recalled.

Direct examination, by Mr. Beekman.

Q. Did you ever at any time strike the defendant?

A. No.

Q. Did you at any time ever when you were present or Mr. Chiacchio present see Corporal Dunn or any trooper or anybody strike him?

A. No. 30

Q. Was he abused at any time when he was present at the same time you were, on the night of August 28th?

A. No, he was not; treated very nicely. In fact he was treated in a way you would hardly know he was a prisoner. He seemed to be a very decent fellow, better than the average prisoner. We extended every courtesy,

gave him cigars, he would not go in and eat with us; Mr. Atkinson did that also; myself.

Cross-examination, by Mr. Rimo.

Q. You don't know how he got the blood on his shirt?

A. No.

Q. Did you see any blood on his shirt?

A. No, I didn't.

10 Q. You were with him alone after he left New Brunswick?

A. After he left New Brunswick, that's the last I seen of him.

(Witness excused.)

The Court—I want to hear you on the second count. My opinion is there is no evidence here to sustain a conviction in that count. The whole evidence seems to be as against the first count for receiving stolen goods and on that count alone. Unless there is some objection by the State I will entertain a motion to quash the second
20 count in this indictment.

Mr. Beekman—I have no objection to it. It is better to quash that, I think. We want to finish this trial to-day and I don't want to go in any lengthy discussion.

The Court—The second count—

Mr. Rimo—With this motion to quash, I would also move to direct the verdict of not guilty.

30 The Court—I will send the case to the jury with instructions they are only to take cognizance of the first count. I say that for the purpose now that in summing up it may eliminate some talk in the summing up.

Thereupon Mr. Rimo sums up to the jury in behalf of the defendant.

Thereupon Mr. Beekman sums up to the jury in behalf of the State.

THE STATE

vs.

MICHAEL CHIACCIO. }

CHARGE TO JURY.

CLEARY, J.: Gentlemen of the Jury, this is an indictment found by the September term of the Grand Jury and charges this defendant that on the 28th day of August in the Township of Franklin, in this county, with doing what is known as receiving stolen goods. This indictment is drawn under the following statute: Any person who shall receive or buy any goods or chattels or chose in action or other valuable thing whatsoever, that shall have been stolen from any other person or taken from him by robbery, or otherwise unlawfully or fraudulently obtained, taken or converted in any manner contrary to the provisions of this act, knowing the thing to have been stolen or taken by robbery or so obtained, taken or converted, whether such stealing or robbery shall have been committed either in the State of New Jersey or in some other state of the United States, and whether such goods, chattels, chose in action or other valuable thing shall be received or bought from the thief, robber or person so obtaining, taking or converting them, or from any other person; shall be guilty of a misdemeanor.

It seems to me that, as the Prosecutor stated a moment ago, because the hour is growing late and because you sat here two days trying this case, that the Court ought to be as brief as possible. There does not seem to me to be much in this case for the jury to determine except a few concrete facts which I think are resolved in rather a comparatively small compass and which may enable you to say without much hesitancy whether or not this defendant is guilty as charged in this indictment. You will recall in the indictment there is another count and as the indictment will be taken out with you to the jury room, it seems to me to be only proper at

this time to call your attention to the fact that the second count in this indictment has been disregarded. The motion made by the prosecution to quash the second count in the indictment has been granted by the Court; so that you only have to consider the first count, which charges the defendant with having received the stolen goods. Now, in order to convict of what is known as receiving stolen goods in the law, two elements are necessary to be proven to your satisfaction. First,

10 the goods or chattels must have been stolen; second, the person who received them must have known that they were stolen. That knowledge on the part of the receiver must be at the time he received the goods and suspicions are not sufficient. His knowledge may be proven by either direct evidence or by facts and circumstances which imply guilty knowledge and such guilty knowledge may be found by the jury, whether the defendant received the goods under such circumstances as would satisfy a man of ordinary intelligence and cau-

20 tion that they were stolen. The circumstances surrounding the receipt of the goods by a person charged with having received them may be taken into consideration by the jury. As I said to you a moment ago, those two essential elements must be proven to your satisfaction beyond a reasonable doubt. In other words, you must be satisfied beyond a reasonable doubt that the goods in question were stolen. After having decided that fact, then you must be satisfied beyond a reasonable doubt that the person charged with the receiving of these goods

30 must have known at the time he received them that they were stolen. Now, the question that immediately arises in your mind is how you are to know what a man's knowledge and the circumstances might be. Of course, there are some things that you cannot tell by direct evidence. You cannot possibly look into a man's mind and find out positively whether or not he knew under the circumstances; but you have the right to consider all of the circumstances surrounding the particular case at point to see whether or not there are such

circumstances there as would call upon a reasonable man to know that the goods that he received had been stolen. For instance; if a junk man is indicted for receiving stolen goods and the State proves that at a certain time of day or night a person brought to his house or to his place of business valuable brass fittings or some other kind of material, giving away the material and says they were given to him or that he found them or that the owner had discarded them, there might be such circumstances surrounding the entire transaction 10 as would lead him as a reasonable man to know or believe that such things would not be thrown away or given away and that he would be called upon to know as a reasonable man that such condition as that would lead him to believe the goods were stolen, or if you found a little child came to your house, we will say, with a valuable bicycle, brand new, and says he found it over on the junk pile, you would be called upon as reasonable men to know that such circumstances as that were suspicious and that you might be accused of receiving stolen 20 goods. Or, if you met a man with a very valuable diamond ring that any man would know to be worth a hundred and fifty dollars, say, and he wanted to sell it to you for some ten or fifteen dollars, the circumstances might be such that a jury under such condition as that would be called upon to say the defendant knew they were stolen goods; and so it is in this case and every case where the defendant is charged with receiving stolen goods. The jury has the right to take into consideration the circumstances under which the goods 30 were received and if they are satisfied from these circumstances, beyond a reasonable doubt, that the defendant or the defendant in this case had or should have had, as a reasonable man, knowledge that these goods were stolen, they would have the right under such circumstances to find the defendant guilty as charged.

The State in this case alleges that on the day in question, the 27th or thereabouts in August of this year, a truck containing a cargo of valuable velours and other

material of that kind, while traveling along a highway in this State, whether in this county or not does not make any difference, or, as a matter of fact, whether in this State or not does not make any difference, that that cargo upon that truck was stolen. The State alleges further that that same cargo was left along the highway, having been taken into some by-road and out-of-the-way place in this county and that there this defendant went and received and took these goods and

10 took them to a place in Philadelphia, where he disposed of them or transferred them to another truck. Now, if you believe these circumstances to be the fact, if you believe these goods were stolen from that truck and you believe afterward that this defendant at the time he was called upon to take these goods into that place knew, or, as a reasonable man should have known from the circumstances, that the goods were stolen, and you believe he went and did take these goods and did take them to Philadelphia, you would be justified under the indictment to find the defendant guilty as charged.

20

The defense in this case is an absolute denial. The defendant says the goods in question that the State has proven or attempt to prove as stolen were not the goods he received on the night in question at all. The defense, as I understand it, is that the cargo upon the truck which was stolen and described by the State police and the other witnesses for the State is a different cargo entirely from the cargo of goods that this defendant received that night upon his truck. He says the goods

30 on that truck were of a different character from the goods that he received; and if you believe that to be true, of course the defendant should be acquitted; because the only charge in this case is that the goods were stolen goods of this character and that these goods were taken by the defendant. Now, if the defendant took an entirely different set of goods altogether, why of course, the State then does not charge he is guilty of receiving, because the State does not make any other claim that any other goods were stolen except the goods described

by the State and its witnesses and that is offered to you by the witnesses and by the exhibits in this case. Now, that's the whole case in a nut shell. Do you believe, as the State has alleged, that this truck was robbed and that the goods were stolen; and do you believe that these same goods, these stolen goods, were taken from that truck and afterwards received by this defendant under the circumstances as the State alleges and with knowledge on his part at the time he received them that they were stolen goods. If you do believe these things you should find the defendant guilty as charged in the indictment. If, upon the other hand, you believe the defendant when he says he was called upon in the due course of his business to go and relieve some truck that had been broken down in New Brunswick or vicinity and in the usual course of his business he did go there and he did load upon his truck a cargo of goods altogether different than alleged by the State, and he took these goods and delivered them to another truck in Philadelphia in the usual course of business, and believe the goods he had on his truck were not stolen and not the goods the State talks about, then, under the law, you should find the defendant not guilty under this indictment.

The only other question of law involved is the question of the burden of proof. The burden of proof in this case and in every other criminal case is upon the State to prove to your satisfaction, beyond a reasonable doubt the defendant's guilt. That means to prove to your satisfaction beyond a reasonable doubt both of the essential elements which constitute the crime with which this defendant is charged. Reasonable doubt is defined as follows: It is not a mere possible doubt because everything relating to human affairs and depending on moral evidence is bound to have some possible or imaginary doubt. It is that state of the case, which after the entire comparison and consideration of all the evidence leaves the minds of jurors in that condition that they cannot say they feel an abiding conviction to

a moral certainty of the truth of the charge. The burden of proof is on the prosecution. If upon such proof there be reasonable doubt remaining, the accused is entitled to the benefit of it by an acquittal. The evidence must establish the truth of the fact to a reasonable and moral certainty, a certainty that convinces and directs the understanding, and satisfies the reason and judgment of those who are bound to act conscientiously upon it. This, we take to be proof beyond a reasonable doubt.

10 Because, if the law should go further than this, and require absolute certainty, it would exclude circumstantial evidence altogether.

Now, gentlemen, these are the things that you have got to decide. As I said a moment ago, if you believe the State has established beyond a reasonable doubt, such as I have attempted to define, that this defendant did take stolen goods, knowing at the time they were stolen, took them into his own possession and received them, then, of course, it will be your duty to find him

20 guilty as charged. If you believe he took other goods or he took these goods in question and did not know at the time that they were stolen, or if you have a reasonable doubt in your mind that any of the elements which I have described to you has not been established, you are bound under the law to give him the benefit of that doubt and acquit him. I might call your attention to the exhibits that are offered in the case, that have been offered by the State, the State not contending that these are actually a part of the cargo that was stolen, but

30 that they are offered as exhibits of a like character as the goods that were stolen. You may take your case and retire, returning to-morrow afternoon at one o'clock.

Thereupon an officer was sworn and the jury retired.

SOMERSET COUNTY COURT OF QUARTER SESSIONS.

THE STATE

vs.

MICHAEL CHIACCIO,

Defendant. }

AFFIDAVIT.

I, George B. Wheaton, a Court Stenographer in the 10
 Courts of the State of New Jersey, state as follows:
 I was the Stenographer at the above trial before Hon.
 Frank L. Cleary, held at the Somerset County Court
 House, Somerville, New Jersey, on October 24th, 1924,
 and reported the testimony there given stenographically
 and have transcribed the same to the best of my knowl-
 edge and understanding.

GEORGE B. WHEATON.

Dated at Maplewood, N. J., February 6th, 1925.

20

Sworn and subscribed to before me, a Notary Public
 of New Jersey, this sixth day of February, 1925.

HAROLD E. REEVE,

[SEAL] Notary Public of New Jersey.

My commission expires June 18, 1925.

SOMERSET QUARTER SESSIONS.

November 28th, 1924.

THE STATE

vs.

MICHAEL CHIACCIO. }

Indictment for
 Receiving Stolen
 Goods.

30

MOTION IN ARREST OF JUDGMENT.

Before Frank L. Cleary, Esq., Judge.

Romulus P. Rimo, Esq., Counsel for the defendant,
 moves for arrest of Judgment in the above state cause,
 for the following reasons:

27 CHI

1. That there was no evidence that the goods alleged to have been found on the defendant were stolen goods.
2. That there is no evidence of the identification of the goods found on the defendant being goods alleged to have been stolen as set out in the indictment.
3. That there is no evidence that the alleged goods found in the possession of the defendant were stolen.
4. That there was no proof of the conviction of the person who is alleged to have stolen the goods.
- 10 5. That there was no evidence or proof given by the person who is alleged to have stolen the goods.
6. That there was no proof of the conviction of the person who stole the goods alleged to have been received by the defendant.
7. That this indictment was found in the Oyer and Terminer along with an indictment for murder and before trial of this cause there was no order on record sending this indictment to the sessions.
- 20 8. That in the trial of the cause there was no evidence that defendant had received goods from the thief or his agent.

The Court ordered the case continued to Friday, December 5th, next.

SOMERSET QUARTER SESSIONS.

December 5, 1924.

30	THE STATE <i>vs.</i> MICHAEL CHIACCIO.	}	Indictment for Receiving Stolen Goods.
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ON MOTION IN ARREST OF JUDGMENT.

Before Frank L. Cleary, Esq., Judge.

Romulus P. Rimo, Esq., Counsel for defendant, added the following reasons to those already submitted to the Court in arrest of Judgment:

"9. That there was no evidence in the trial that the State had made any effort to ascertain the name or whereabouts of the thief."

Denied by the Court.

Prosecutor moved for sentence.

The Court ordered the prisoner to the bar that sentence be imposed, he being accordingly set to the bar the Court do order and adjudge that the prisoner Michael Chiacchio be confined in the State Prison of this State at hard labor for a term of not less than one nor more than 10 three years, and from and after the expiration of that time until the costs of prosecution shall be paid.

Counsel for defendant then handed to the Court a Writ of Error to the Supreme Court.

Bail fixed at \$10,000.

NEW JERSEY SUPREME COURT.

20

<p>THE STATE, <i>Defendant-in-Error,</i></p> <p style="text-align: center;"><i>vs.</i></p> <p>MICHAEL CHIACCIO, <i>Plaintiff-in-Error.</i></p>	}	<p>In Error. On Indictment and Conviction for Re- ceiving Stolen Goods, in Somerset County Quarter Sessions.</p>
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(Filed October 14, 1925.)

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And thereupon, afterwards, to wit, on the 6th day of October, 1925, the said State of New Jersey by James Bowers, Prosecutor of the Pleas of the Court of Somerset, comes into Court and says that there is no error either in the record and proceedings aforesaid or in giving the judgment aforesaid, and he pray that the Court here may proceed to examine as well the record and proceeding as the matters aforesaid

assigned for error, and that the judgment aforesaid, in manner aforesaid given may in all things be affirmed.

JAMES BOWERS,

Prosecutor of the County of Somerset.

NEW JERSEY SUPREME COURT.

10 THE STATE OF NEW JERSEY,

Defendant-in-Error,

vs.

MICHAEL CHIACCIO,

Plaintiff-in-Error.

On Error to Somerset
Quarter Sessions.

ASSIGNMENT OF ERRORS.

(Filed October 14, 1925.)

20 Afterwards, to wit, etc., in the New Jersey Supreme Court comes the said Michael Chiacchio by his attorney, Romulus P. Rimo, and says that the judgment herein should be reversed because in the records and proceedings herein and in the matters contained and noted in the several bills of exception herein and also in the finding of the verdict and the giving of the judgment herein, there is manifest error to the great injury of the plaintiff-in-error, whereby they were prejudiced in maintaining their defense upon the merits in the case as well as in other respects, to wit:

30 1. Because the verdict is clearly against the weight of the evidence.

2. Because the court excluded legal, relevant and competent testimony.

3. Because the trial court refused to quash either or both counts of the indictment after proper motion made by the counsel for the plaintiff-in-error.

4. Because the first count was duplicatus and charged several distinct crimes.

5. Because the trial court permitted evidence offered over objection of goods not proven to be the goods stolen, but only like the goods stolen, and further permitted evidence to go in over objection which should have been offered on direct examinations which had not been offered until redirect examination.

(Re-direct, page 29, D. J. Dunn.)

6. That there was no evidence that the goods alleged to have been found on the defendant were stolen goods. 10

7. That there was no evidence that the goods alleged to have been stolen and alleged to have been in possession of the defendant were the identical goods.

8. That there was no proof of the conviction of the person or persons who were supposed to have stolen the goods.

9. That the person or persons who were supposed to have stolen the goods did not testify to the stealth.

10. That the indictment was found in the Court of Oyer and Terminer along with an indictment for murder and before the trial of this indictment there was no order on the record in the clerk's office sending this indictment to the sessions. 20

11. That in the trial of this cause there was no evidence that the plaintiff-in-error had received the goods from the thief or knew that the goods were stolen.

12. That there was no evidence that the State had made any effort to locate the thief, or that it had located the thief.

13. That the jury failed to give defendant benefit of doubt. 30

Wherefore, said plaintiff-in-error, Michael Chiacchio, prays that the judgment and sentence aforesaid, by reason of the aforesaid errors and all other errors appearing in the record and proceedings aforesaid, and upon the giving of judgment and passing of sentence aforesaid, be reversed, cancelled and held for nothing,

and that the said Michael Chiaccio may be restored to all things by him lost on occasion thereof.

ROMULUS P. RIMO,

Attorney for Plaintiff-in-Error.

Service of copy of the within assignment is hereby acknowledged this 13th day of October, 1925.

JAMES BOWERS,

Attorney of Defendant-in-Error.

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NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY,

Defendant-in-Error,

vs.

MICHAEL CHIACCIO,

Plaintiff-in-Error.

} On Error to Somerset
} Quarter Sessions.

20 SPECIFICATIONS OF CAUSE AND REASONS
FOR REVERSAL.

(Filed October 14, 1925.)

Plaintiff-in-Error assigns the following reasons for causes for the reversal of the verdict and judgment of the conviction on the above-stated action upon the whole record:

1. Because the verdict is clearly against the weight of the evidence.
- 30 2. Because the court excluded legal, relevant and competent testimony.
3. Because the trial court refused to quash either or both counts of the indictment after proper motion made by the counsel for the plaintiff-in-error.
4. Because the first count was duplicatus and charged several distinct crimes.
5. Because the trial court permitted evidence offered over objection of goods not proven to be the goods

stolen but only like the goods stolen and further permitted evidence to go in over objection which should have been offered on direct examinations which had not been offered until re-direct examination. (Re-direct, page —, D. J. Dünn.)

6. That there was no evidence that the goods alleged to have been found on the defendant were stolen goods.

7. That there was no evidence that the goods alleged to have been stolen and alleged to have been in possession of the defendant were the identical goods.

8. That there was no proof of the conviction of the person or persons who were supposed to have stolen the goods.

9. That the person or persons who were supposed to have stolen the goods did not testify to the stealth.

10. That the indictment was found in the Court of Oyer and Terminer along with an indictment for murder and before the trial of this indictment there was no order on the record in the clerk's office sending this indictment to the sessions.

11. That in the trial of this cause there was no evidence that the plaintiff-in-error had received the goods from the thief or knew that the goods were stolen.

12. That there was no evidence that the State had made any effort to locate thief, or that it had located the thief.

13. That the jury failed to give defendant benefit of doubt.

ROMULUS P. RIMO,
Attorney for Plaintiff-in-Error.

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Service of copy of the within Specifications is hereby acknowledged this 13th day of October, 1925.

JAMES BOWERS,
Attorney of Defendant-in-Error.

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03

WRIT OF ERROR.

(Filed March 16, 1926.)

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY—ss.

The State of New Jersey to Our Supreme Court, Greeting: 10

Because in the record and proceedings and also
in the giving of judgment in a certain
[SEAL] plaint, which was in our said Supreme
 Court, before you, between the State of
New Jersey, Prosecutor and Defendant-in-Error, and
Michael Chiaccio, Defendant and Plaintiff-in-Error, in
error to the Somerset County Quarter Sessions Court,
manifest error hath intervened to the great damage of
the said Defendant as by its complaint we are informed; 20
we being willing that the error, if any there be, should,
in due manner, be corrected and full and speedy justice
be done to the parties aforesaid, do command you that
if judgment be thereupon given, then you distinctly and
openly send, under your seal, the record and proceedings
and plaint aforesaid, with all things touching and con-
cerning the same, to our Court of Errors and Appeals
in the last resort in all causes, at Trenton, on the first
day of April, 1926, together with this Writ and the
record and proceedings aforesaid being inspected, we 30
may cause to be done thereupon for correcting that error
what of right and according to the law and custom of
the State of New Jersey ought to be done.

Witness, Our Chancellor and President Judge of our
said Court of Errors and Appeals, at Trenton afore-
said, the twelfth day of March, 1926.

ROMULUS P. RIMO,
Attorney.

THOMAS F. MARTIN,
Clerk.

RETURN.

The answer of the Justices of the Supreme Court of the State of New Jersey within named. The record and proceedings whereof mention is within made, with all things touching and concerning the same, we do certify to the Court of Errors and Appeals, of said State, in a certain schedule to this Writ annexed, as within we are commanded.

10

WM. S. GUMMERE,
C. J.

NEW JERSEY SUPREME COURT.

THE STATE OF NEW JERSEY,
Defendant-in-Error,

v.

20 MICHAEL CHIACCIO,
Plaintiff-in-Error.

} On Error.

ORDER OF AFFIRMANCE AND REMITTITUR.

This cause having been duly argued before this Court at the October Term, A. D. 1925, by James I. Bowers, Prosecutor of the Pleas of the County of Somerset, Counsel for the State of New Jersey, and Romulus P. Rimo, Counsel for the Plaintiff-in-Error, and the Court
30 having considered the same and having examined the records and proceedings of the Somerset Quarter Sessions in the said cause, and finding no error therein,

It is hereby Ordered and Adjudged that the judgment of the Somerset Quarter Sessions Court in the above entitled cause be and the same is hereby affirmed with costs;

And it is further Ordered that the record in said cause be forthwith remitted to the said Somerset Quarter Ses-

sions Court, there to be proceeded with according to law and the practice of said Court.

Entered February 2, 1926.

On motion of

JAMES I. BOWERS,
Prosecutor of the Pleas.

SUPREME COURT CLERK'S CERTIFICATE. 10

I, Edward J. Kelleher, Clerk of the Supreme Court of the State of New Jersey, do certify that the foregoing is a true copy of a rule entered in the minutes of the Court in the above-stated cause.

In testimony whereof I have set my hand and the seal of said Court at Trenton, this fifteenth day [SEAL] of March, A. D. nineteen hundred and twenty-six.

EDWARD J. KELLEHER, 20
Clerk.

WRIT REPEATED.

NEW JERSEY SUPREME COURT.

No. 103, October Term, 1925.

STATE OF NEW JERSEY,
*Defendant-in-Error,**v.*MICHAEL CHIACCIO,
Plaintiff-in-Error.

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OPINION.

(Filed January 21, 1926.)

Submitted October 16, 1925; decided January —, 1926.

Error to Somerset Quarter Sessions.

Before Justices Parker, Minturn and Black.

20 For the plaintiff-in-error, Romulus P. Rimo.

For the defendant-in-error, James I. Bowers, Prosecutor of the Pleas.

PER CURIAM.

The defendant was convicted on an indictment charging him with receiving stolen goods. There is no certificate of the entire record of the proceedings had at the trial under section 136 and, therefore, the case comes before us as on strict writ of error. We notice a certificate made by the official stenographer, but that has no legal efficacy on this phase of the case. *State v. Ramage*, 91 *N. J. L.* 435. Hence, the first point made that the verdict was against the weight of evidence is not before us for consideration, as that point can only be urged when the case is brought up under section 136.

The second part is, "The Court excluded legal, relevant and competent testimony." And the fourth, that the Court admitted illegal evidence for the State over the objection of the defendant. These assignments of

error are futile because they do not specify anything. *State v. Oliver*, 130 *Atl.* 446.

The third point is that the Court refused to quash the indictment. This, however, is not reviewable in error. *State v. Potter*, 83 *N. J. L.* 428. The Court did, in fact, quash the second count of the indictment, but we assume that this assignment is directed to the first count.

The fifth and last point is that the Court of Quarter Sessions had no jurisdiction to try the case because the indictment was found in the Oyer, and there was no order of that Court transmitting it to the Sessions for trial. The answer to this is that section 6 of the Criminal Procedure Act, the Court of Quarter Sessions may receive indictments in the absence of the Justice of the Supreme Court, "and all indictments so received which are not triable in the Court of Quarter Sessions shall be delivered by said Courts to the Courts of Oyer and Terminer in their respective counties." In *Winters v. The State*, 61 *N. J. L.* 613, it was held in the Supreme Court that under this language the Court of Quarter Sessions had power to try the indictment without any order from the Oyer. The case was taken to the Court of Errors and Appeals (*Ib.*) and that Court held that it was not necessary to decide the point because the regularity of the proceeding should have been challenged at the time and was not. Such was the situation in the case at bar; so that, both for the reason given by the Supreme Court in the *Winters* case, which is a precedent for us, and for the reason given by the Court of Errors and Appeals, the objection now taken is untenable.

The judgment will be affirmed.

NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY, <i>Defendant-in-Error,</i> <i>v.</i> MICHAEL CHIACCIO, <i>Plaintiff-in-Error.</i>	}	On Error to Supreme Court.
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ASSIGNMENT OF ERRORS.

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(Filed May 7, 1926.)

Afterwards, in the New Jersey Court of Errors and Appeals, comes the said Michael Chiacchio, by Romulus P. Rimo, his attorney, and says that in the record of the Supreme Court and proceedings aforesaid, and also in the giving of the verdict and judgment aforesaid, there is manifest error in this respect, to wit:

1. That the said Supreme Court affirmed the judgment of the Somerset Quarter Sessions Court, whereas, said
 20 Court should have reversed said judgment.

2. Because the verdict is clearly against the weight of evidence.

3. Because the Court excluded legal, relevant and competent testimony.

4. Because the trial Court refused to quash either or both counts of the indictment after proper motion made by the counsel for the plaintiff-in-error.

5. Because the trial court permitted evidence offered over objection of goods not proven to be the goods
 30 stolen, but only like the goods stolen, and further permitted evidence to go in over objection which should have been offered on direct examination, that was not in fact offered until after, and in redirect examination.

6. Because the Supreme Court refused to review the testimony offered in the trial of the cause on the ground that there was no certificate of the trial judge, when, should the Supreme Court have reviewed such testimony, it would have found on page 128 of the State of the Case, submitted in the New Jersey Supreme Court, and on page 128 of the State of the Case to be sub-

mitted to the New Jersey Court of Errors and Appeals, also on page 129 and page 130 of the State of the Case, the following:

Mr. Beekman—"I offer these various pieces of cloth; also this tag and the bill that has been marked for identification, in evidence. And in addition to that, if the Court has no objection to it and counsel has no objection to it, I would like to introduce a map of the northern section of New Jersey, which covers the section of road over which these operations took place the night of August 28th." 10

Mr. Rimo—"I do not object to the map, I object to the introduction of these pieces of cloth on the ground that they should have been offered previous to this time. There was opportunity and they should have been introduced in direct testimony."

The Court—"Has there been testimony that these pieces of cloth are pieces taken from the shipment?"

Mr. Beekman—"No, absolutely not. They are not introduced for that purpose. One of the witnesses testified that he examined the stuff on the truck of the defendant when he stopped him coming out of this road. He described it, the cloth, he was asked how the plush which he saw at that time corresponded with the plush that was then exhibited to him. He said it did correspond. This particular brown piece was referred to only. And, now, additional proof is in the case to show that this is the type of plush that they manufacture at the Manayunk Plush and was the stuff taken from this truck; that this was the kind of plush that was loaded on that truck; that this is the gentleman here who owns the truck *and that is the kind of stuff that would be on the truck that night*. There is testimony to show there were three types of cloth on the truck, namely, blue, gray and brown of plush and that part of the plush was embossed and part was not embossed, and these are just merely to show the jury the type of cloth that was on that truck, which corresponds in one particular with the cloth this man looked at when he stopped 20 30

the defendant's truck along the road and this is the type of cloth that was recovered. There is no dispute with counsel for the defendant that these people have recovered part of their goods, and these are the goods that they recovered and correspond with the goods that were stolen on that night. *They are simply offered to the jury to show the jury what type of goods they were.*"

The Court—"You wish to object to the introduction of this exhibit with the understanding it is not being
 10 offered as being part of the goods that were taken that night. Simply being offered to show the type of the goods that were shipped on the truck and which were afterwards stolen, and manufactured by this firm, I will allow it under that circumstance. *You may have your exception.*"

(Exhibits marked *S 1*, *S 2*, and *S 3*. The blue plush *S 5* and the gray plush *S 6*.)

Mr. Beekman—"The State rests."

The plaintiff-in-error contends that there could not
 20 have been a conviction in law for receiving the stolen goods alleged to have been stolen, because there was no proof at all that the goods exhibited at the trial would be the very goods alleged to have been stolen from the Manayunk Plush, all of which was taken up under *Point I* of the Brief for Plaintiff-in-error, filed in the Supreme Court, and also taken up squarely and sufficiently as this plaintiff-in-error contends under *Point IV*, which says, "Trial court permitted evidence to go in, over objection, which was irrelevant, immaterial and incompetent." Un-
 30 der said point it was stated that the State produced pieces of goods and the Court permitted the goods to be marked for identification, *which goods when marked had not been proven to be the goods of the person named in the complaint or indictment, nor the goods alleged to have been in the possession of the defendant*; in fact, the State practically conceded that they were not, yet the Court allowed them to go in at the close of the State's case under proper objection with an exception duly allowed and sealed.

7. That there was no evidence that the goods alleged to have been found on the defendant's truck were stolen goods.

8. That there was no evidence that the goods alleged to have been stolen and alleged to have been in possession of the defendant were the identical goods.

9. That there was no proof of the conviction of the person or persons who were supposed to have stolen the goods.

10. That the person or persons who were supposed to have stolen the goods did not testify to the theft. **10**

11. That the indictment was found in the Court of Oyer and Terminer along with an indictment for murder and before the trial of this indictment there was no order on the record in the clerk's office sending this indictment to the sessions.

12. That in the trial of this cause there was no evidence that the plaintiff-in-error had received the goods from the thief or knew that the goods were stolen.

13. That there was no evidence that the State had made no effort to locate the thief or that he had been located. **20**

14. That the jury failed to give defendant the benefit of a reasonable doubt.

15. That the Supreme Court erred in refusing to review the testimony at the trial under section 136 of the Criminal Procedure Act.

16. That the Supreme Court erred in dealing with the second point of the Brief for the Plaintiff-in-error when he said, "The second point is, 'The Court excluded legal, relevant and competent testimony,' and the fourth, 'That the Court admitted an illegal evidence for the State over the objection of the defendant.'" These assignments of error are futile because they do not specify anything. *State v. Oliver*, 130 Atl. 146. **30**

17. Plaintiff-in-error contends that the record shows that the judge of the trial court made a return to the writ of error issued before the Supreme Court to the Somerset Quarter Sessions Court, in which it stated

that the judge to whom the writ of error was addressed in his answer thereto, stated that he sent to the Justices of the Supreme Court at Trenton, in a certain schedule attached to the writ as he was commanded so to do, the record and entire proceedings of the plaint and by the Supreme Court refusing to review the testimony under section 136 of the Criminal Procedure Act, simply because there was no certificate of the trial judge. There was prejudicial and reversible error.

- 10 Wherefore said plaintiff-in-error, Michael Chiaccio, prays that the judgment and sentence aforesaid, by reason of the aforesaid errors and all other errors appearing in the record and proceedings aforesaid, and upon the giving of judgment and passing of sentence aforesaid, be reversed, cancelled, and held for nothing, and that the said Michael Chiaccio may be restored to all things by him lost on occasion thereof, and that a *venire de novo* be issued or ordered.

ROMULUS P. RIMO,

Attorney for Plaintiff-in-Error.

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NEW JERSEY COURT OF ERRORS AND APPEALS.

STATE OF NEW JERSEY,
Defendant-in-Error,

v.

30 MICHAEL CHIACCIO,
Plaintiff-in-Error.

On Error to Supreme Court.

SPECIFICATION OF CAUSES FOR REVERSAL.

(Filed May 7, 1926.)

Plaintiff-in-error assigns the following reasons for reversal of the judgment of the Supreme Court, sustaining the verdict and judgment of conviction in the above-stated cause upon the whole record:

1. That the said Supreme Court affirmed the judgment of the Somerset Quarter Sessions Court, whereas said Court should have reversed said judgment.

2. Because the verdict is clearly against the weight of the evidence.

3. Because the Court excluded legal, relevant and competent testimony.

4. Because the trial court refused to quash either or both counts of the indictment after proper motion made by the counsel for the plaintiff-in-error. 10

5. Because the trial court permitted evidence offered over objection of goods not proven to be the goods stolen, but only like the goods stolen, and further permitted evidence to go in over objection which should have been offered on direct examination, that was not in fact offered until after, and in re-direct examination.

6. Because the Supreme Court refused to review the testimony offered in the trial of the cause on the ground that there was no certificate of the trial judge, when, should the Supreme Court have reviewed such testimony, it would have found on page 128 of the State of the Case, submitted in the New Jersey Supreme Court, and on page 128 of the State of the Case to be submitted to the New Jersey Court of Errors and Appeals, also on page 129 and page 130 of the State of the Case, the following: 20

Mr. Beekman—"I offer these various pieces of cloth; also this tag and the bill that has been marked for identification, in evidence. And in addition to that, if the Court has no objection to it and counsel has no objection to it, I would like to introduce a map of the northern section of New Jersey, which covers the section of the road over which these operations took place the night of August 28th." 30

Mr. Rimo—"I do not object to the map, I object to the introduction of these pieces of cloth on the ground that they should have been offered previous to this time. There was opportunity and they should have been introduced in direct testimony."

The Court—"Has there been testimony that these pieces of cloth are pieces taken from the shipment?"

Mr. Beekman—"No, absolutely not. They are not introduced for that purpose. One of the witnesses testified that he examined the stuff on the truck of the defendant when he stopped him coming out of this road. He described it, the cloth, he was asked how the plush which he saw at this time corresponded with the plush that was then exhibited to him. He said it did correspond. This particular brown piece was referred to only. And, now, additional proof is in the case to show that this is the type of plush that they manufacture at the Manayunk Plush and was the stuff taken from this truck; that this was the kind of plush that was loaded on that truck; that this is the gentleman here who owns the truck *and that is the kind of stuff that would be on the truck that night*. There is testimony to show there were three types of cloth on the truck, namely, blue, gray and brown of plush, and that part of the plush was embossed and part was not embossed, and these are just merely to show the jury the type of cloth that was on that truck, which corresponds in one particular with the cloth this man looked at when he stopped the defendant's truck along the road and this is the type of cloth that was recovered. There is no dispute with counsel for the defendant that these people have recovered part of their goods, and these are the goods that they recovered and correspond with the goods that were stolen on that night. *They are simply offered to the jury to show the jury what type of goods they were.*"

The Court—"You wish to object to the introduction of this exhibit with the understanding it is not being offered as being part of the goods that were taken that night. Simply being offered to show the type of the goods that were shipped on the truck and which were afterwards stolen, and manufactured by this firm, I will allow it under that circumstance. *You may have your exception.*"

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7. That there was no evidence that the goods alleged to have been found on the defendant's truck were stolen goods.

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10. That the person or persons who were supposed to have stolen the goods did not testify to the theft.

11. That the indictment was found in the Court of Oyer and Terminer along with an indictment for murder and before the trial of this indictment there was no

order on the record in the Clerk's office sending this indictment to the sessions.

12. That in the trial of this cause there was no evidence that the plaintiff-in-error had received the goods from the thief or knew that the goods were stolen.

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30 record and entire proceedings of the plaint and by the Supreme Court refusing to review the testimony under Section 136 of the Criminal Procedure Act, simply because there was no certificate of the trial judge. There was prejudicial and reversible error.

Wherefore said plaintiff-in-error, Michael Chiaccio, prays that the judgment and sentence aforesaid, by reason of the aforesaid errors and all other errors appearing in the record and proceedings aforesaid, and upon the giving of judgment and passing of sentence afore-

said, be reversed, cancelled, and held for nothing, and that the said Michael Chiaccio may be restored to all things by him lost on occasion thereof, and that a *venire de novo* be issued or ordered.

ROMULUS P. RIMO,
Attorney for Plaintiff-in-Error.





